

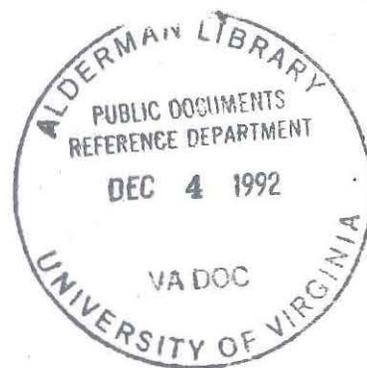
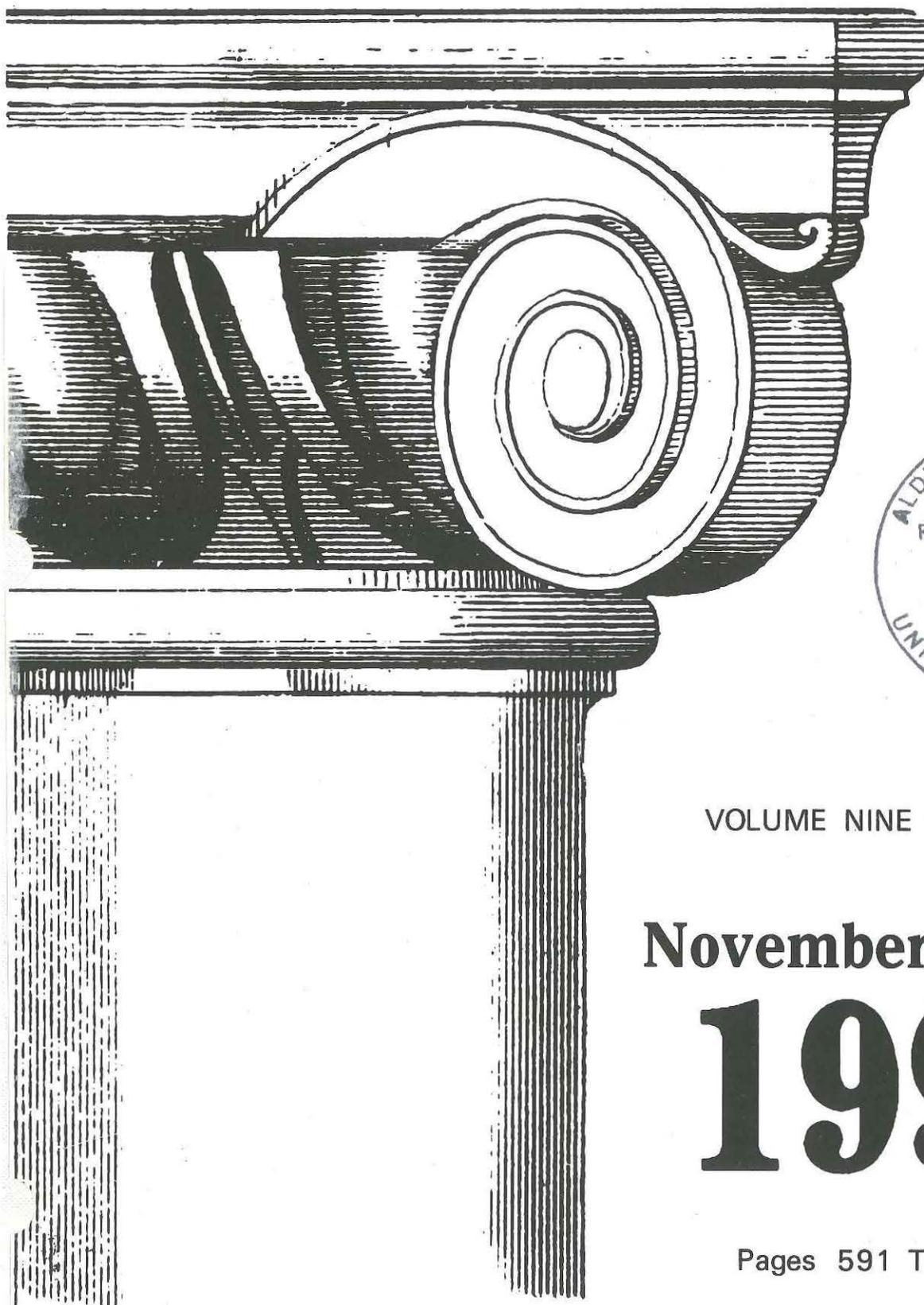
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THE VIRGINIA REGISTER

OF REGULATIONS

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November 30, 1992

1992

Pages 591 Through 758

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.

CITATION TO THE VIRGINIA REGISTER

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July 1992 through September 1993

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER 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 Agriculture and Consumer Services intends to consider promulgating regulations entitled: **VR 115-04-28. Regulations Governing the Oxygenation of Gasoline.** The purpose of the proposed action is to adopt a regulation to supersede an emergency regulation adopted by the Board of Agriculture and Consumer Services on September 30, 1992, governing oxygenation of gasoline.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until December 4, 1992.

Contact: J. Alan Rogers, Program Manager, Office of Weights and Measures, P.O. Box 1163, Room 402, Richmond, VA 23209, telephone (804) 786-2476.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **VR 155-01-2.1. Regulations of the Board of Audiology and Speech Pathology.** The purpose of the proposed action is to (i) delete licensure requirements that become ineffective on December 31, 1992, (ii) add the word "language" to all references of speech pathology, and (iii) incorporate legislative changes which became effective July 1, 1992.

Statutory Authority: §§ 54.1-2400 and 54.1-2602 of the Code of Virginia.

Written comments may be submitted until December 31, 1992.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7390.

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.

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 355-28-100. Regulations for Disease Reporting and Control.** The purpose of the proposed action is to amend the regulations to make childhood lead poisoning reportable and to change the confidential morbidity report form.

Statutory Authority: §§ 32.1-12 and 32.1-35 through 32.1-38 of the Code of Virginia.

Written comments may be submitted until December 2, 1992.

Contact: Diane Woolard, M.P.H., Senior Epidemiologist, Virginia Department of Health, Office of Epidemiology, 1500 East Main Street, Room 113, P.O. Box 2448, Richmond, VA 23219, telephone (804) 786-6261.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending

Notices of Intended Regulatory Action

regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to amend the current rules and regulations of the Virginia Health Services Cost Review Council to reflect changes required by the new methodology.

Statutory Authority: §§ 9-161.1 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until December 15, 1992.

Contact: John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider promulgating regulations entitled: **VR 370-01-002. The Methodology to Measure the Efficiency and Productivity of Health Care Institutions.** The purpose of the proposed action is to promulgate a new methodology to measure the efficiency and productivity of health care institutions as required by § 9-161.1 of the Code of Virginia.

Statutory Authority: §§ 9-161.1 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until December 15, 1992.

Contact: John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Hearing Aid Specialists intends to consider amending regulations entitled **VR 375-01-02. Board for Hearing Aid Specialists Rules and Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to the assessment of their effectiveness, clarity and simplicity. Specifically to (i) clarify § 54.1-1505 A of the Code of Virginia as to a "reasonable charge" for services provided by the hearing aid specialists, and (ii) clarify and simplify § 4.10 1 f of the Board's regulations as to the use of the terminology used in this section to avoid confusion among the users of the services being offered.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until December 4, 1992.

Contact: Gerald W. Morgan, Administrator, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8543.

BOARD OF HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-03.1. Evaluation Criteria and Procedures for Designations by the Board of Historic Resources.** The purpose of the proposed action is to (i) set out those criteria to be used by the board in designating Virginia landmarks, (ii) set out the requirements for public notice and public hearings prior to any designation, and (iii) set out the procedures by which property owners may object to and prevent designation.

Section 10.1-2205 of the Code of Virginia, as amended by the 1992 General Assembly, requires the board to promulgate regulations that set out its evaluation criteria and its procedures for the designation of Virginia landmarks. The same Code section requires that the regulations be consistent with the National Historic Preservation Act and its attendant regulations. Section 10.1-2206.1 of the Code sets out requirements for public notice and public hearings prior to any designation by the board, and it requires that any regulations adopted pursuant to § 10.1-2205 be consistent with those requirements. Finally, § 10.1-2206.2 of the Code makes any designations by the board dependent upon the lack of objection from the owner or majority of owners of the property proposed for designation. The applicable state laws, federal laws, and federal regulations may be reviewed at or obtained (at cost) from the Department of Historic Resources.

In order for the board to carry out its statutory mandate to designate Virginia landmarks, it must adopt regulations setting out criteria and procedures. No alternative to regulations is available. In considering all possible criteria and procedures to be set out in those regulations, the board must remain within the constraints set out in the preceding paragraph. These regulations would affect only those designations made by the board; action by the director of the Department of Historic Resources to nominate property to the National Park Service would be governed by a separate, parallel regulation.

The board requests comments on its intended regulatory action, including any ideas that would assist in the drafting and formation of the proposed regulation. The board also requests comments on the costs and benefits of adopting a regulation setting forth evaluation criteria and procedures; such comments may address the concept generically or

Notices of Intended Regulatory Action

they may assess the relative merits of specific alternatives.

The board will hold public meeting on December 16, 1992 at 2 p.m. in Senate Room A, General Assembly Building, Richmond, Virginia, to receive comments and respond to questions on this intended action. It is the board's intent to have a permanent regulation in place by September 1, 1993.

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

Written comments may be submitted until December 31, 1992, to Margaret T. Peters, Information Officer, 221 Governor Street, Richmond, Virginia.

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

DEPARTMENT OF HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Historic Resources intends to consider promulgating regulations entitled: **VR 392-01-02.1. Evaluation Criteria and Procedures for Nomination of Property to the National Register or for Designation as a National Historic Landmark.** The purpose of the proposed action is to set out those criteria to be used by the director in nominating properties to the National Park Service for inclusion in the National Register or for designation as a National Historic Landmark, and to set out the requirements for public notice and public hearings prior to any nomination.

Section 10.1-2202 of the Code of Virginia, as amended by the 1992 General Assembly, authorizes the director of the department to promulgate regulations that set out evaluation criteria and procedures for nominating property to the National Park Service for inclusion in the National Register of Historic Places or for designation as a National Historic Landmark. The same Code section requires that the regulations be consistent with the National Historic Preservation Act and its attendant regulations. Section 10.1-2206.1 of the Code sets out requirements for public notice and public hearings prior to any nomination by the director, and it requires that any regulations adopted pursuant to § 10.1-2205 be consistent with those requirements. The applicable state laws, federal laws, and federal regulations may be reviewed at or obtained (at cost) from the Department of Historic Resources.

While the Code authorizes the director to promulgate regulations but does not explicitly require those regulations, the department finds that the 1992 General Assembly's intent in establishing that authorization was that regulations should be promulgated. The department consequently finds that no alternative to regulations is

available. In considering all possible criteria and procedures to be set out in those regulations, the director must remain within the constraints set out in the preceding paragraph. These regulations would affect only those nominations made by the director to the National Park Service; action by the Board of Historic Resources to designate Virginia landmarks would be governed by a separate, parallel regulation.

The department requests comments on its intended regulatory action, including any ideas that would assist in the drafting and formation of the proposed regulation. The department also requests comments on the costs and benefits of adopting a regulation setting forth evaluation criteria and procedures; such comments may address the concept generically or they may assess the relative merits of specific alternatives.

The department will hold a public meeting on December 16, 1992, at 2 p.m. in Senate Room A, General Assembly Building, Richmond, Virginia, to receive comments and respond to questions on this intended action. It is the department's intent to have a permanent regulation in place by September 1, 1993.

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

Written comments may be submitted until December 31, 1992, to Margaret T. Peters, Information Officer, 221 Governor Street, Richmond, Virginia.

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing intends to consider amending regulations entitled **VR 495-01-1. Board of Nursing Regulations.** The purpose of the proposed action is to conduct a biennial review of existing regulations as to cost of compliance and propose amendments which may result from the review. Included in the review are requests from (i) the Board of Education to reconsider certification and program approval of Nurse Aide Education Programs in the public schools, and (ii) Tidewater Tech for recognition of the Career College Association as an accrediting agency in § 2.2 A 2 of the regulations.

A public hearing to receive oral comments on the existing regulations will be held on January 27, 1993, at 1:30 p.m. at the Department of Health Professions, Conference Room, 6606 W. Broad Street, Richmond, VA.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until January 27, 1993 at 5 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9909.

BOARD OF PROFESSIONAL COUNSELORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional Counselors intends to consider amending regulations entitled: **VR 560-01-03. Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed action is to adjust renewal and examination fees and to clarify educational and supervision requirements.

Statutory Authority: § 54.1-2400 (6) of the Code of Virginia.

Written comments may be submitted until December 16, 1992.

Contact: Evelyn B. Brown, Executive Director, 6601 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled **VR 615-27-02. Minimum Standards for Licensed Private Child Placing Agencies.** The purpose of the proposed action is to revise certain sections of the standards related to independent living placements, foster and adoptive home studies, and related foster care standards. These are the standards private agencies must meet in order to obtain a license to place children in foster or adoptive homes.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until December 16, 1992, to Doris Jenkins, Division of Licensing Programs, 8007 Discovery Drive, Richmond, VA 23229.

Contact: Peggy Friedenber, Policy Analyst, Bureau of Governmental Affairs, 8007 Discovery Dr., 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 promulgating regulations entitled: **VR 615-43-4.1. Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record.** The purpose of the proposed action is implement the changes in § 63.1-236 of the Code of Virginia, effective July 1, 1992, which allow adults adopted in Virginia to apply to the Commissioner of Social Services for identifying information on their birth families.

Emergency regulations were published in The Virginia Register on August 24, 1992.

Statutory Authority: §§ 63.1-25, 63.1-223, 63.11-226, 63.1-228, 63.1-229, 63.1-236 and 63.1-236.1.

Written comments may be submitted until January 4, 1992, to Sandra A. Sanroma, Foster Care and Adoption Unit, 8007 Discovery Drive, Richmond, Virginia, 23229-8699.

Contact: Margaret J. Friedenber, Legislative Analyst, Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-11-02. Regulations Governing the Detection and Control of Phenylketonuria (REPEALED).

Title of Regulation: VR 355-11-200. Regulations Governing the Newborn Screening and Treatment Program.

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

Public Hearing Date: N/A – Written comments may be submitted through January 29, 1993.

(See Calendar of Events section for additional information)

Summary:

These regulations implement state policy related to screening and treatment of genetic, metabolic, and other diseases identifiable in the newborn period as specified in § 32.1-65 of the Code of Virginia. The existing regulations, now under repeal, shall be replaced by the proposed regulations. These proposed regulations (i) include all diseases added to the Code of Virginia in recent years, (ii) are updated to conform to the most recent medical and public health standards, and (iii) delete certain unnecessary details on procedures for newborn screening, testing and reporting.

VR 355-11-200. Regulations Governing the Newborn Screening and Treatment Program.

§ 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 State Board of Health.

“Commissioner” means the State Health Commissioner.

“Contractor” means the laboratory designated to perform the test methodologies on the newborn screening filter paper.

“Department” means the State Department of Health.

“Director” means the Director of the Division of Maternal and Child Health, State Department of Health.

“Full-term infant” means a live infant born at or after 37 weeks gestation.

“Health care provider” means any physician, nurse, or midwife with initial responsibility for the care of the infant.

“Medically indigent families” means “medically indigent families” as defined by the board in the Regulations Governing Eligibility Standards and Charges for Medical Care Services.

“Newborn screening tests” means the testing for diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia.

“Premature infant” means a live infant born before 37 weeks gestation.

“Treatment” means appropriate management including genetic counseling, consultation, pharmacologic and dietary management for all those newborn infants diagnosed with a disease specified in § 32.1-65 of the Code of Virginia.

§ 2. General information.

A. Authority for regulations.

Section 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia provide the authority of the Board of Health to promulgate regulations for the screening and treatment of diseases identifiable in the newborn period as specified in § 32.1-65 of the Code of Virginia.

B. Purpose of regulations.

The board has promulgated these regulations to establish procedures and clarify the respective responsibilities of the department and physicians, nurses, midwives, administrators of hospitals, and other persons in this Commonwealth in the detection, control and treatment of those diseases specified in § 32.1-65 of the Code of Virginia.

C. Administration of regulations.

These regulations are administered by the following:

1. State Board of Health. The Board of Health is the policy board of the State Department of Health which is obligated to provide for testing of all infants, except for those exempted from testing by law, for those diseases specified in § 32.1-65 of the Code of Virginia,

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to recommend procedures for the treatment of those infants diagnosed as having a specified disease, and to provide treatment for infants in medically indigent families.

2. State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health.

3. Director of the Division of Maternal and Child Health. The Director of the Division of Maternal and Child Health, with the Director of the Division of Children's Specialty Services, subject to the supervision of the Commissioner, shall administer the detection, control and treatment program in the Commonwealth for the diseases specified in § 32.1-65 of the Code of Virginia.

D. Application of regulations.

The regulations shall have general application throughout the Commonwealth.

§ 3. Testing.

A. General.

All newborn infants born in the Commonwealth shall be provided newborn screening tests as specified by § 32.1-65 of the Code of Virginia, except that such tests shall not be given to any infant whose parents or guardian objects in writing thereto on the grounds that the testing conflicts with his religious practice or tenets. The written objection shall be incorporated into the medical record.

B. Specific policies and procedures.

Newborn screening tests shall be performed by the Department of General Services, Division of Consolidated Laboratory Services, or such other contractor as the board may select pursuant to the requirements of the Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). The specific protocols and procedures for newborn screening testing shall be established by agreement between the Department of Health, Division of Maternal and Child Health and the contractor.

C. Applicable time intervals for testing infants.

1. Full-term infants. A specimen shall be taken from each full-term infant for the newborn screening testing and the specimen shall be submitted to the contractor at the time of discharge from the hospital or not later than three days of age. If the delivery is unattended, then the first attending health care provider shall cause the initial newborn screening tests to be performed at the time of the first contact. In those instances where the infant is tested prior to 24 hours of age, the health care provider shall instruct the mother or guardian that the infant shall be retested for the diseases specified in § 32.1-65 of the Code of

Virginia before 14 days of life.

2. Premature infants. Each premature infant shall have the screening test performed at seven days of age, or at the time of discharge from the hospital, whichever is the earlier.

3. Infants requiring transfusions. In those instances where the infant requires a transfusion with any blood product, the blood specimen for the newborn screening tests shall be obtained prior to the transfusion. Another specimen shall be taken from the infant immediately upon development of clinical symptoms consistent with a disease specified in § 32.1-65 of the Code of Virginia or at the time of discharge from the hospital, but not later than 14 days of age.

D. Testing procedures and disposition of blood specimens.

The blood specimen for the screening test shall be collected and identifying information provided in accordance with the instructions on the forms provided, and shall be sent within 24 hours from the time of collection to the contractor for testing. The contractor's name and address shall be stated on the form.

The specialized supplies required for submitting the specimens shall be provided to the health care provider by the contractor upon request from the provider.

§ 4. Reports and notifications.

The laboratory reports will be sent to the hospital or health care provider that submitted the specimen and any other health care provider identified on the laboratory form accompanying the specimen. The Director of the Division of Maternal and Child Health shall be responsible for making the notifications required to discharge the department's responsibility under these regulations. The protocols and procedures for reporting and notification shall be established by agreement between the Department of Health, Division of Maternal and Child Health and the contractor.

§ 5. Services and treatment provided.

The department shall provide the services of appropriate professionals to conduct clinics for the management of all patients with a disease specified in § 32.1-65 of the Code of Virginia. The department shall notify the health care providers identified in § 4 of this regulation of the availability of diagnostic evaluation and treatment services for the diseases specified in § 32.1-65 of the Code of Virginia. Services will be provided to medically indigent families at no direct cost to the family.

* * * * *

Title of Regulation: VR 355-40-600. Regulations for the

Conduct of Human Research.

Statutory Authority: § 32.1-12.1 and Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted through January 31, 1993.

(See Calendar of Events section for additional information)

Summary:

Chapter 603 of the 1992 Acts of Assembly requires the Board of Health to develop regulations for human research to be conducted or authorized by the Department of Health or any facilities or other entities operated, funded or licensed by the department. In accordance with the legislation, the proposed regulations define requirements for obtaining informed consent and require the establishment of human research committees by institutions or agencies conducting or proposing to conduct or authorize human research. The proposed regulations require annual reporting of human research committees to the State Health Commissioner. Human research which is subject to federal regulations is exempt from the regulations.

VR 355-40-600. Regulations for the Conduct of Human Research.

§ 1. Definitions.

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

“Affiliated with the institution” means employed by or contracting with the institution or directly or indirectly involved in the management thereof.

“Commissioner” means the Commissioner of the Department of Health.

“Committee” means human research committee assembled pursuant to § 7 of these regulations by any institution defined herein.

“Department” means the Department of Health.

“Human research” means any systematic investigation utilizing human participants who may be exposed to physical or psychological injury as a consequence of participation and which departs from the application of established and accepted therapeutic methods appropriate to meet the participants’ needs.

“Informed consent” means the knowing and voluntary agreement, without undue inducement or any element of force, fraud, deceit, duress, or other forms of constraint or coercion, of a person who is capable of exercising free

power of choice. For the purposes of human research, the basic elements of information necessary to such consent shall include:

1. A reasonable and comprehensible explanation to the person of the proposed procedures or protocols to be followed, their purposes, including descriptions of any attendant discomforts, and risks and benefits reasonably to be expected;
2. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the individual;
3. An instruction that the person may withdraw his consent and discontinue participation in the human research at any time without prejudice to him;
4. An explanation of any costs or compensation which may accrue to the person and, if applicable, the availability of third party reimbursement for the proposed procedures or protocols; and
5. An offer to answer any inquiries by any individual concerning the procedures and protocols.

In addition to the required elements, the information provided to the individual should also include the following:

1. A statement that the study involves research, and an explanation that includes identification of any procedures which are experimental; the expected duration of the individual’s participation; and a statement describing the extent, if any, to which confidentiality of records identifying the participant will be maintained; and if any data from this study are published, the individual will not be identified without his written permission;
2. A statement that there may be other risks not yet identified;
3. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the individual;
4. A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the individual is otherwise entitled, and the individual may discontinue participation at any time without penalty or loss of benefits to which he is otherwise entitled;
5. An explanation of whom to contact for answers to pertinent questions about the research and research participants’ rights, and whom to contact in the event of a research-related injury; and
6. For research involving more than minimal risk, an explanation as to whether any compensation or

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medical care is available if injury occurs and, if so, what is included or where further information may be obtained.

Information should be provided in a manner that is understandable to the individual with regard to his educational level and language of greatest fluency.

"Institution" or "agency" means any facility, program, or organization owned or operated by the Commonwealth, by any political subdivision, or by any person, firm, corporation, association, or other legal entity.

"Legally authorized representative" means the parent or parents having custody of a prospective participant, the legal guardian of a prospective participant or any person or judicial or other body authorized by law or regulation to consent on behalf of a prospective participant to such person's participation in the particular human research. For the purposes of this regulation, any person authorized by law or regulation to consent on behalf of a prospective participant to his participation in the particular human research shall include an attorney-in-fact appointed under a durable power of attorney, to the extent the power grants the authority to make such a decision. The attorney-in-fact shall not be employed by the person, institution or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing the research shall be qualified to act as a legally authorized representative.

"Minimal risk" means that the risks of harm or discomfort anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the participant.

§ 2. Authority.

These regulations are promulgated under the authority of § 32.1-12.1 and Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

§ 3. Applicability.

These regulations shall apply to the department, including any local health department and to any facility operated, funded or licensed by the department which conducts or which proposes to conduct or authorize research which uses human participants.

§ 4. Policy.

A. No human research may be conducted without informing the participant or his legally authorized representative of the procedures, risks, and discomforts of

the research. The consent of the participant or his legally authorized representative to participate in the research shall be documented in writing and supported by the signature of a witness not involved in the conduct of the research, except as provided for in §§ 10 F and 10 H of these regulations. Special arrangements shall be made for those who need assistance in understanding the consequences of participating in the research.

B. Each human research activity shall be reviewed and approved by a committee as set forth in § 7 of these regulations composed of representatives of varied backgrounds who shall assure the competent, complete, and professional review of human research activities.

C. Every person engaged in the conduct of human research or proposing to conduct human research shall associate himself with an institution or agency having a research review committee, and the human research which he conducts or proposes to conduct shall be subject to review and approval by such committee in the manner set forth in these regulations.

D. Nontherapeutic research using patients or residents within an institution as defined herein is forbidden unless it is determined by the research review committee that such nontherapeutic research will not present greater than minimal risk.

E. The individual conducting the research shall be required to notify all participants of research of the risks caused by the research which are discovered after the research has concluded.

§ 5. Review process for department.

A. Prior to the initiation of a human research project by any component of the department, a description of the proposed human research project shall be submitted to a research review committee established by the department for review and approval. The description shall include a statement of the purpose of the proposed project and justification thereof, the criteria for inclusion of a participant in the research project, a description of what will be done to the participants, and a copy of the informed consent statement.

B. The committee shall report by January 31 of each year to the commissioner on activities of the committee during the previous calendar year. Such reports shall include:

1. A description of each human research project reviewed and approved or disapproved;
2. Any significant deviations from proposals as approved;
3. A list of committee members, their qualifications for service on the committee, and their institutional affiliation; and

4. A copy of the minutes of any committee meetings conducted.

C. The chairman of the committee shall report as soon as possible to the commissioner any violation of the research protocol which led the committee to either suspend or terminate the research.

D. The commissioner may inspect the records of the committee.

E. The commissioner shall report at least annually to the Governor and General Assembly on the human research projects conducted by any component of the department as annually reported to the commissioner by the committee.

§ 6. Review process for institutions or agencies funded or licensed by the department.

A. Prior to the initiation of a human research project by any institution or agency funded or licensed by the department, a description of the proposed human research project shall be submitted to a research review committee for review and approval. The description shall include a statement of the purpose of the proposed project and justification thereof, the criteria for inclusion of a participant in the research project, a description of what will be done to the participants, and a copy of the informed consent statement.

B. When more than one such institution or agency is involved in a research project, the cooperating entities may enter into joint review.

C. Such institutions or agencies having a committee shall report by January 31 of each year to the commissioner on activities of the committee during the previous calendar year. Such reports shall include:

1. A description of each human research project reviewed and approved or disapproved;
2. Any significant deviations from proposals as approved;
3. A list of committee members, their qualifications for service on the committee, and their institutional affiliation; and
4. A copy of the minutes of any committee meetings conducted.

D. The chairman of the committee shall report as soon as possible to the head of such institution or agency and to the commissioner any violation of the research protocol which led the committee to either suspend or terminate the research.

E. The commissioner may inspect the records of the committee.

F. The commissioner shall report at least annually to the Governor and General Assembly on the human research projects conducted by such institutions or agencies as annually reported to the commissioner by the relevant research review committees.

§ 7. Composition of research review committee.

A. Each committee shall have at least seven members, appointed by the head of the institution, with varying backgrounds to provide complete and adequate review of activities commonly conducted by the institution. The committee shall be sufficiently qualified through the maturity, experience, and diversity of its members, including consideration of race, gender and cultural background, to promote respect for its advice and counsel in safeguarding the rights and welfare of participants in human research. In addition to possessing the professional competence necessary to review specific activities, the committee shall be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. If a committee regularly reviews research that has an impact on patients or residents within an institution as defined herein or other vulnerable category of participants, the committee shall have in its membership one or more individuals who are primarily concerned with the welfare of these participants and who have appropriate experience to serve in that capacity.

B. No committee shall consist entirely of members of one profession, and at least one member must be an individual whose primary concerns are in nonscientific areas (e.g., lawyers, ethicists, members of the clergy).

C. Each committee shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.

D. No member of a committee shall participate in the committee's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the committee. The committee has responsibility for determining whether a member has a conflicting interest. The committee size shall be maintained at no fewer than seven persons by appointment of a substitute representative for each member with a conflicting interest.

E. A committee may, at its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the committee. These individuals may not vote with the committee.

F. A quorum of the committee shall consist of a majority of its members including at least one member whose primary concerns are in nonscientific areas.

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G. The committee and the institution shall establish procedures and rules of operation necessary to fulfill the requirements of these regulations.

§ 8. Elements of committee review process.

A. No human research shall be conducted or authorized by the institution or agency unless a research review committee has reviewed and approved the proposed human research project giving consideration to:

1. The necessity and utility of the research;
2. The adequacy of the description of the potential benefits and risks involved and the adequacy of the methodology of the research;
3. The degree of the risk, and, if the research is nontherapeutic, whether it presents greater than minimal risk;
4. Whether the rights and welfare of the participants are adequately protected;
5. Whether the risks to the participants are outweighed by the potential benefits of the research;
6. Whether the voluntary informed consent is to be obtained by methods that are adequate and appropriate to the individual's educational level and language of greatest fluency;
7. Whether the information to be provided is adequate and appropriate in both content and wording for the particular research and for the particular participants of the research relative to their educational level and language of greatest fluency and whether the consent document reasonably reflects full explanation and adequate understanding;
8. Whether the persons proposing to supervise or conduct the particular human research are appropriately competent and qualified; and
9. Whether criteria for selection of participants are equitable, especially in research regarding the future development of mental or physical illness.

B. The committee shall consider research proposals within 45 days after submission to the committee. In order for the research to be approved, it shall receive the approval of a majority of those members present at a meeting in which a quorum exists. A committee shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure committee approval.

C. During the committee review of research projects, no personal identifiers of present or potential participants should be stated.

D. The committee shall approve or develop a written description of the procedure to be followed when a participant has a complaint about a research project in which he is participating or has participated.

E. Any participant who has a complaint about a research project in which he is participating or has participated shall be referred to the committee to determine if there has been a violation of the protocol.

F. The committee shall require reports from approved research projects at least annually to ensure conformity with the approved proposal. The frequency of such reports shall be consistent with the nature and degree of risk of each research project. The committee shall also require a report from the research project at the conclusion of the project.

§ 9. Expedited review of human research projects.

A. The committee is authorized to conduct an expedited review of a human research project which involves no more than minimal risk to the subjects if:

1. Another institution's or agency's human research review committee has reviewed and approved the project; or
2. The review involves only minor changes in previously approved research and the changes occur during the approved project period.

B. Each committee which uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals which have been approved under the procedure.

§ 10. Informed consent.

A. To conduct human research, informed consent of the participant or his legally authorized representative must be obtained, documented in writing, and supported by the signature of a witness not involved in the conduct of research, except as provided for in §§ 10 F and 10 H of these regulations. If the participant is a minor otherwise capable of rendering informed consent, consent shall be subscribed to in writing by both the minor and his legally authorized representative.

B. A legally authorized representative may not consent to nontherapeutic research unless it is determined by the committee that such research will present no more than a minor increase over minimal risk to the participant.

C. An investigator shall seek such consent only under circumstances that provide the prospective participant or the representative sufficient opportunity to consider whether or not to participate and that assures absence of coercion or undue influence. The information that is given to the participant or the representative shall be in language understandable to the participant or the

representative with regard to his educational level and language of greatest fluency.

D. No informed consent form shall include any language through which the prospective participant waives or appears to waive any of his legal rights, including any release of any individual, institution or agency or any agents thereof from liability for negligence.

E. Notwithstanding consent by a legally authorized representative, no person who is otherwise capable of rendering informed consent shall be forced to participate in any human research. In the case of persons suffering from organic brain diseases causing progressive deterioration of cognition for which there is no known cure or medically accepted treatment, the implementation of experimental courses of therapeutic treatment to which a legally authorized representative has given informed consent shall not constitute the use of force.

F. The committee may approve a consent procedure which omits or alters some or all of the elements of informed consent set forth in § 1 of these regulations, or waives the requirement to obtain informed consent provided the committee finds and documents that:

1. The research involves no more than minimal risk to the participants;
2. The omission, alteration or waiver will not adversely affect the rights and welfare of the participants;
3. The research could not practicably be performed without the omission, alteration or waiver; and
4. Whenever appropriate, the participants will be provided with additional pertinent information after participation.

G. Except as provided in subsection H of this section, the consent form may be either of the following:

1. A written consent document that embodies the elements of informed consent required by § 1 of these regulations. This form may be read to the participant or the participant's legally authorized representative, but, in any event, the investigator shall give either the participant or the representative adequate opportunity to read it before it is signed and witnessed; or
2. A short form written consent document stating that the elements of informed consent required by § 1 of these regulations have been presented orally to the participant or the participant's legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Also, the committee shall approve a written summary of what is to be said to the participant or the representative. Only the short form itself is to be signed by the participant or the representative. However, the witness

shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary and a copy of the short form shall be given to the participant or the representative.

H. The committee may waive the requirement that the investigator obtain written informed consent for some or all participants if it finds that the only record linking the participant and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. Each participant will be asked whether he wants documentation linking him to the research, and the participant's wishes shall govern. In cases where the documentation requirement is waived, the committee may require the investigator to provide participants with a written statement explaining the research.

§ 11. Categories of human research exempt from regulation.

Research activities in which the only involvement of human participants will be in one or more of the following categories are exempt from these regulations:

1. The surveillance and investigation by the department into all preventable diseases and epidemics in the Commonwealth and into the means for the prevention of such diseases and epidemics conducted pursuant to § 32.1-39 of the Code of Virginia.
2. Research designed to study on a large scale anonymous vital records and registry data collected pursuant to Chapter 7 (§ 32.1-249 et seq.) of Title 32.1 (Vital Records), § 32.1-64.1 (Virginia Hearing Impairment Identification and Monitoring System), § 32.1-69.1 (Virginia Congenital Anomalies Reporting and Education System), § 32.1-70 (Statewide Cancer Registry), § 32.1-71.1 (Statewide Alzheimer's Disease and Related Disorders Registry), and §§ 32.116.1 and 32.116.1:2 (Emergency Medical Services Patient Care Information System) or similar studies of the effects of proposed social or economic change or methods or systems for the delivery of or payment for social or health services.
3. Research or student learning outcomes assessment conducted in educational settings such as research involving:
 - a. Regular or special education instructional strategies; or
 - b. The effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods; or
 - c. The use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data

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from such tests are recorded in a manner so that participants cannot be identified, directly or through identifiers linked to the participants.

4. Research involving survey or interview procedures unless responses are recorded in such a manner that the participants can be identified, directly or through identifiers linked to the participants, and either:

a. The participant's responses, if they became known outside the research, could reasonably place the participant at risk of criminal or civil liability or be damaging to his financial standing, employability, or reputation; or

b. The research deals with sensitive aspects of the participant's own behavior such as sexual behavior, drug or alcohol use, or illegal conduct.

5. Research involving survey or interview procedures, when the respondents are elected or appointed public officials or candidates for public office.

6. Research involving solely the observation of public behavior, including observation by participants, unless observations are recorded in such a manner that the participants can be identified, directly or through identifiers linked to the participants, and either:

a. The observations recorded about the individual, if they became known outside the research, could reasonably place the participant at risk of criminal or civil liability or be damaging to his financial standing, employability, or reputation; or

b. The research deals with sensitive aspects of the participant's own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct.

7. Research involving the collection or study of existing data, documents, records, or pathological specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner so that participants cannot be identified, directly or through identifiers linked to the participants.

§ 12. Committee records.

A. Documentation of committee activities shall be prepared and maintained and shall include the following:

1. Copies of all research proposals reviewed, scientific evaluations that may accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to participants;

2. Minutes of committee meetings which shall be in sufficient detail to show attendance at the meetings; actions taken by the committee; the vote on these

actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controversial issues and their resolution;

3. Records of continuing review activities;

4. Copies of all correspondence between the committee and the investigators;

5. A list of committee members;

6. Written procedures for the committee; and

7. Statements of significant new findings provided to participants.

B. The records required by these regulations shall be retained for at least three years, and records relating to research which is conducted shall be retained for at least three years after completion of the research. All records shall be accessible for inspection and copying by authorized employees or agents of the department at reasonable times and in a reasonable manner.

§ 13. Applicability of federal policies.

Human research at institutions which are subject to policies and regulations for the protection of human participants promulgated by any agency of the federal government shall be exempt from these regulations. Such institutions shall notify the commissioner annually by January 31 of their compliance with the policies and regulations of federal agencies. The commissioner shall identify institutions exempt from these regulations as reported in accordance with this section in the annual report to the Governor and the General Assembly.

DEPARTMENT OF MINES, MINERALS AND ENERGY

REGISTRAR'S NOTICE: Due to its length, the proposed regulation filed by the Department of Mines, Minerals and Energy is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department Mines, Minerals and Energy.

Title of Regulation: VR 480-03-19. Virginia Coal Surface Mining Reclamation Regulations.

Statutory Authority: §§ 45.1-1.3 4 and 45.1-230 of the Code of Virginia.

Public Hearing Date: February 3, 1993 - 10 a.m.

Written comments may be submitted through February 3, 1993.

(See Calendar of Events section)

for additional information)

Summary:

The Department of Mines, Minerals and Energy proposes to amend its Coal Surface Mining Reclamation Regulations to be consistent with changes in corresponding federal rules, as required by law. The amendments (i) establish requirements for operations where the weight of coal is 16 2/3% or less of the total tonnage of mineral mined; (ii) clarify the applicability of certain reclamation operations; (iii) clarify the notice and permitting requirements for exploration for coal; (iv) establish additional protection for prime farmland; (v) clarify the definition of "road" and identify plans and descriptions to be included in the permit application for the road system for the permit area; (vi) enhance public safety by changing requirements for the operation of impoundments; (vii) clarify the revegetation success standards and provide for the planting of wildlife enhancement shrubs; (viii) clarify the applicability of preparation plants not at the mine site; (ix) delete the definition of support facilities; and (x) make changes for consistency in numbering.

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 AIR POLLUTION CONTROL (STATE BOARD OF)

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution - Emission Standards for Volatile Organic Compounds and Nitrogen Oxides from Stationary Sources.

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

Effective Date: January 1, 1993.

Summary:

The regulation amendments concern provisions covering emission standards for volatile organic compounds (VOC) and nitrogen oxides (NOx) from stationary sources located in certain localities in the Northern Virginia, Richmond and Hampton Roads areas. The regulation amendments (i) will require owners of stationary sources to report the levels of emissions from the sources in order to assess compliance with emission and air quality standards and (ii) will require owners of specified major stationary sources to limit VOC and NOx emissions to a level resultant from the use of reasonably available control technology (RACT) and necessary for the protection of public health and welfare.

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Emission Standards for Volatile Organic Compounds and Nitrogen Oxides from Stationary Sources.

PART I. GENERAL DEFINITIONS.

§ 120-01-01. General.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in § 120-01-02.

B. Unless specifically defined in the Virginia Air Pollution Control Law or in these regulations, terms used shall have the meanings commonly ascribed to them by recognized authorities.

C. In addition to the definitions given in this part, some other major divisions (i.e. parts, rules, etc.) of these regulations have within them definitions for use with that specific major division.

§ 120-01-02. Terms defined.

"*Actual emissions rate*" means the actual rate of emissions of a pollutant from an emissions unit. In general actual emissions shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the most recent two-year period or some other two-year period which is representative of normal source operation. If the board determines that no two-year period is representative of normal source operation, the board shall allow the use of an alternative period of time upon a determination by the board that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

"*Administrative Process Act*" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"*Administrator*" means the administrator of the U.S. Environmental Protection Agency (EPA) or his authorized representative.

"*Affected facility*" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated.

"*Air pollution*" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"*Air quality*" means the specific measurement in the ambient air of a particular air pollutant at any given time.

"*Air quality control region*" means any area designated as such in Appendix B.

"*Air quality maintenance area*" means any area which, due to current air quality or projected growth rate or both, may have the potential for exceeding any ambient air quality standard set forth in Part III within a subsequent 10-year period and designated as such in Appendix H.

"*Alternative method*" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Ambient air quality standard" means any primary or secondary standard designated as such in Part III.

"Board" means the State Air Pollution Control Board or its designated representative.

"Class I area" means any prevention of significant deterioration area designated as such in Appendix L.

"Class II area" means any prevention of significant deterioration area designated as such in Appendix L.

"Class III area" means any prevention of significant deterioration area designated as such in Appendix L.

"Consent agreement" means an agreement that the owner or any other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with these regulations, by mutual agreement of the owner or any other person and the board.

"Consent order" means a consent agreement issued as an order. Such orders may be issued without a hearing.

"Continuous monitoring system" means the total equipment used to sample and condition (if applicable), to analyze, and to provide a permanent continuous record of emissions or process parameters.

"Control program" means a plan formulated by the owner of a stationary source to establish pollution abatement goals, including a compliance schedule to achieve such goals. The plan may be submitted voluntarily, or upon request or by order of the board, to ensure compliance by the owner with standards, policies and regulations adopted by the board. The plan shall include system and equipment information and operating performance projections as required by the board for evaluating the probability of achievement. A control program shall contain the following increments of progress:

1. The date by which contracts for emission control system or process modifications are to be awarded, or the date by which orders are to be issued for the purchase of component parts to accomplish emission control or process modification.
2. The date by which the on-site construction or installation of emission control equipment or process change is to be initiated.
3. The date by which the on-site construction or installation of emission control equipment or process modification is to be completed.
4. The date by which final compliance is to be

achieved.

"Criteria pollutant" means any pollutant for which an ambient air quality standard is established under Part III.

"Day" means a 24-hour period beginning at midnight.

"Delayed compliance order" means any order of the board issued after an appropriate hearing to an owner which postpones the date by which a stationary source is required to comply with any requirement contained in the applicable State Implementation Plan.

"Department" means any employee or other representative of the Virginia Department of Air Pollution Control, as designated by the executive director.

"Dispersion technique"

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

a. Using that portion of a stack which exceeds good engineering practice stack height;

b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack meters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

2. The preceding sentence does not include:

a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

b. The merging of exhaust gas streams where:

(1) The owner demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the

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installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the owner that merging was not significantly motivated by such intent, the board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

c. Smoke management in agricultural or silvicultural prescribed burning programs;

d. Episodic restrictions on residential woodburning and open burning; or

e. Techniques under subdivision 1 c of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

"Emergency special order" means any order of the board issued under the provisions of § 10.1-1309 B, after declaring a state of emergency and without a hearing, to owners who are permitting or causing air pollution, to cease such pollution. Such orders shall become invalid if an appropriate hearing is not held within 10 days after the effective date.

"Emission limitation" means any requirement established by the board which limits the quantity, rate, or concentration of continuous emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission reduction.

"Emission standard" means any provision of Parts IV, V or VI which prescribes an emission limitation, or other requirements that control air pollution emissions.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any air pollutant.

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the satisfaction of the board to have a

consistent and quantitative relationship to the reference method under specified conditions.

"Excess emissions" means emissions of air pollutant in excess of an emission standard.

"Excessive concentration" is defined for the purpose of determining good engineering practice (GEP) stack height under subdivision 3 of the GEP definition and means:

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of § 120-08-02, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivision 2 of the GEP definition, either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subdivision 1 of this definition, except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the board; and

3. For sources seeking credit after January 12, 1979, for a stack height determined under subdivision 2 of the GEP definition where the board requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking

stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subdivision 2 of the GEP definition, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Executive director" means the executive director of the Virginia Department of Air Pollution Control or his designated representative.

"Existing source" means any stationary source other than a new source or modified source.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating and power plants, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means 42 USC 7401 et seq., 91 Stat 685.

"Good engineering practice" (GEP) stack height means the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;
2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under Part VIII,

$$H_g = 2.5H,$$

provided the owner produces evidence that this equation was actually relied on in establishing an emission limitation;

- b. For all other stacks,

$$H_g = H + 1.5L,$$

where:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s) provided that the board may require the use of a field study or fluid model to verify GEP stack height for the source; or

3. The height demonstrated by a fluid model or a

field study approved by the board, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Locality" means a city, town, county or other public body created by or pursuant to state law.

"Malfunction" means any sudden failure of air pollution control equipment, of process equipment, or of a process to operate in a normal or usual manner, which failure is not due to intentional misconduct or negligent conduct on the part of the owner or other person.

"Metropolitan statistical area" means any area designated as such in Appendix G.

"Monitoring device" means the total equipment used to measure and record (if applicable) process parameters.

"Nearby" as used in the definition of good engineering practice (GEP) is defined for a specific structure or terrain feature and

1. For purposes of applying the formulae provided in subdivision 2 of the GEP definition means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

2. For conducting demonstrations under subdivision 3 of the GEP definition means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (H_t) of the feature, not to exceed 2 miles if such feature achieves a height (H_t) 0.8 km from the stack that is at least 40% of the GEP stack height determined by the formulae provided in subdivision 2 b of the GEP definition or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Nitrogen oxides" means all oxides of nitrogen except

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nitrous oxide, as measured by test methods set forth in 40 CFR Part 60.

"Nonattainment area" means any area which is shown by air quality monitoring data or, where such data are not available, which is calculated by air quality modeling (or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant including, but not limited to, areas designated as such in Appendix K.

"One hour" means any period of 60 consecutive minutes.

"One-hour period" means any period of 60 consecutive minutes commencing on the hour.

"Order" means any decision or directive of the board, including special orders, emergency special orders and orders of all types, rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of these regulations. Unless specified otherwise in these regulations, orders shall only be issued after the appropriate hearing.

"Organic compound" means any chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic disulfide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

"PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"Performance test" means a test for determining emissions from new or modified sources.

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

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Prevention of significant deterioration area" means any area not designated as a nonattainment area in Appendix K for a particular pollutant and designated as such in Appendix L.

"Proportional sampling" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in the following EPA regulations:

1. For ambient air quality standards in Part III: the applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does not include a method for which a reference designation has been ~~cancelled~~ canceled in accordance with 40 CFR 53.11 or 40 CFR 53.16.
2. For emission standards in Parts IV and V: Appendix A of 40 CFR Part 60.
3. For emission standards in Part VI: Appendix B of 40 CFR Part 61.

"Regional director" means the regional director of an administrative region of the Department of Air Pollution Control or his designated representative.

"Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials, Standard D323-82, Test Method for Vapor Pressure of Petroleum Products (Reid Method) (see Appendix M).

"Run" means the net period of time during which an emission sampling is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Shutdown" means the cessation of operation of an affected facility for any purpose.

"Source" means any one or combination of the following: buildings, structures, facilities, installations, articles, machines, equipment, landcraft, watercraft, aircraft or other contrivances which contribute, or may contribute, either directly or indirectly to air pollution. Any activity by any person that contributes, or may contribute, either directly or indirectly to air pollution, including, but not limited to, open burning, generation of fugitive dust or emissions, and cleaning with abrasives or

chemicals.

"Special order" means any order of the board issued:

1. Under the provisions of § 10.1-1309:
 - a. To owners who are permitting or causing air pollution to cease and desist from such pollution;
 - b. To owners who have failed to construct facilities in accordance with or have failed to comply with plans for the control of air pollution submitted by them to, and approved by the board, to construct such facilities in accordance with or otherwise comply with such approved plan;
 - c. To owners who have violated or failed to comply with the terms and provisions of any order or directive issued by the board to comply with such terms and provisions;
 - d. To owners who have contravened duly adopted and promulgated air quality standards and policies to cease and desist from such contravention and to comply with such air quality standards and policies; and
 - e. To require any owner to comply with the provisions of this chapter and any decision of the board; or
2. Under the provisions of § 10.1-1309.1 requiring that an owner file with the board a plan to abate, control, prevent, remove, or contain any substantial and imminent threat to public health or the environment that is reasonably likely to occur if such source ceases operations.

"Stack" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct, but not including flares.

"Stack in existence" means that the owner had:

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack; or
2. Entered into binding agreements or contractual obligations, which could not be ~~cancelled~~ canceled or modified without substantial loss to the owner, to undertake a program of construction of the stack to be completed in a reasonable time.

"Standard conditions" means a temperature of 20° C (68° F) and a pressure of 760 mm of Hg (29.92 in. of Hg).

"Standard of performance" means any provision of Part V which prescribes an emission limitation or other requirements that control air pollution emissions.

"Startup" means the setting in operation of an affected facility for any purpose.

"State Implementation Plan" means the plan, including the most recent revision thereof, which has been approved or promulgated by the administrator, U.S. Environmental Protection Agency, under Section 110 of the federal Clean Air Act, and which implements the requirements of Section 110.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M).

"Total suspended particulate (TSP)" means particulate matter as measured by the reference method described in Appendix B of 40 CFR Part 50.

"True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute (API) Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see Appendix M). The API procedure may not be applicable to some high viscosity or high pour crudes. Available estimates of true vapor pressure may be used in special cases such as these.

"Urban area" means any area consisting of a core city with a population of 50,000 or more plus any surrounding localities with a population density of 80 persons per square mile and designated as such in Appendix C.

"Vapor pressure," except where specific test methods are specified, means true vapor pressure, whether measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in API Publication 2517, Evaporation Loss from External Floating-Roof Tanks (see Appendix M).

"Variance" means the temporary exemption of an owner or other person from these regulations, or a temporary change in these regulations as they apply to an owner or other person.

"Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Virginia Register Act" means Chapter 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia.

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"Volatile organic compound" means any organic compound which participates in atmospheric photochemical reactions and is measured by the applicable reference method. The following compounds are exempted from this definition:

1. Methane
2. Ethane
3. 1,1,1-trichloroethane (methyl chloroform)
4. Methylene chloride
5. Trichlorofluoromethane (CFC-11)
6. Dichlorodifluoromethane (CFC-12)
7. Chlorodifluoromethane (CFC-22)
8. Trifluoromethane (FC-23)
9. 1,1,2-trichlorotrifluoroethane (CFC-113)
10. 1,2-dichlorotetrafluoroethane (CFC-114)
11. Chloropentafluoroethane (CFC-115)
12. Dichlorotrifluoroethane (HCFC-123)
13. Tetrafluoroethane (HFC-134a)
14. Dichlorofluoroethane (HCFC-141b)
15. Chlorodifluoroethane (HCFC-142b)

Exclusion of the above compounds in this definition in effect exempts such compounds from the provisions of emission standards for volatile organic compounds. The compounds are exempted on the basis of being so inactive that they will not contribute significantly to the formation of ozone in the troposphere. However, this exemption does not extend to other properties of the exempted compounds which, at some future date, may require regulation and limitation of their use in accordance with requirements of the federal Clean Air Act.

"Volatile organic compound" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

1. This includes any such organic compounds which have been determined to have negligible photochemical reactivity other than the following:

- a. Methane;
- b. Ethane;

- c. Methylene chloride (dichloromethane);
- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (CFC-22);
- i. Trifluoromethane (FC-23);
- j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134a);
- n. 1,1-dichloro 1-fluoroethane (HCFC-141b);
- o. 1-chloro 1,1-difluoroethane (HCFC-142b);
- p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);
- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143a);
- t. 1,1-difluoroethane (HFC-152a); and
- u. Perfluorocarbon compounds which fall into these classes:

(1) Cyclic, branched, or linear, completely fluorinated alkanes;

(2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

2. For purposes of determining compliance with emissions standards, volatile organic compounds shall be measured by the appropriate reference method in accordance with the provisions of § 120-04-03 or § 120-05-03, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as a volatile organic compound if the

amount of such compounds is accurately quantified, and such exclusion is approved by the board.

3. As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the board may require an owner to provide monitoring or testing methods and results demonstrating, to the satisfaction of the board, the amount of negligibly-reactive compounds in the emissions of the source.

4. Exclusion of the above compounds in this definition in effect exempts such compounds from the provisions of emission standards for volatile organic compounds. The compounds are exempted on the basis of being so inactive that they will not contribute significantly to the formation of ozone in the troposphere. However, this exemption does not extend to other properties of the exempted compounds which, at some future date, may require regulation and limitation of their use in accordance with requirements of the federal Clean Air Act.

"Welfare" means that language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well being.

PART II. GENERAL PROVISIONS.

§ 120-02-01. Applicability.

A. The provisions of these regulations, unless specified otherwise, shall apply throughout the Commonwealth of Virginia.

B. The provisions of these regulations, unless specified otherwise, shall apply to only those pollutants for which ambient air quality standards are set forth in Part III or for which emission standards are set forth in Parts IV, V and VI or both.

C. No provision of these regulations shall limit the power of the board to take such appropriate action as necessary to control and abate air pollution in emergency situations.

D. By the adoption of these regulations, the board confers upon the department the administrative, enforcement and decision making authority enumerated therein.

§ 120-02-02. Establishment of regulations and orders.

A. Regulations for the Control and Abatement of Air Pollution are established to implement the provisions of the Virginia Air Pollution Control Law and the federal

Clean Air Act.

B. Regulations for the Control and Abatement of Air Pollution shall be adopted, amended or repealed in accordance with the provisions of § 10.1-1308 of the Virginia Air Pollution Control Law, Articles 1 and 2 of the Administrative Process Act and the Public Participation Guidelines in Appendix E.

C. Regulations, amendments and repeals shall become effective as provided in § 9-6.14:9.3 of the Administrative Process Act, except in no case shall the effective date be less than 60 days after adoption by the board.

D. If necessary in an emergency situation, the board may adopt, amend or stay a regulation as an exclusion under § 9-6.14:6 of the Administrative Process Act, but such rule or regulation shall remain effective no longer than 60 days unless readopted following the requirements of subsection B of this section. The provisions of this subsection are not applicable to emergency special orders; such orders are subject to the provisions of subsection F of this section.

E. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on the specific documents incorporated and their availability may be found in Appendix M.

F. Orders, special orders and emergency special orders may be issued pursuant to § 10.1-1307 D or § 10.1-1309 of the Virginia Air Pollution Control Law.

§ 120-02-03. Enforcement of regulations and orders.

A. Whenever the executive director or his designated representative has reason to believe that a violation of any provision of these regulations or any order has occurred, notice shall be served on the alleged violator or violators, citing the applicable provision of these regulations or the order involved and the facts on which the violation is based. The executive director or his designated representative may act as the agent of the board to obtain compliance through either of the following enforcement proceedings:

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1. Administrative proceedings. The executive director or his designated representative may negotiate to obtain compliance through administrative means. Such means may be a variance, control program, consent agreement or any other mechanism that mandates compliance by a specific date. The means and the associated date shall be determined on a case-by-case basis and shall not allow an unreasonable delay in compliance. In cases where the use of an administrative means is expected to result in compliance within 90 days or less, preferential consideration shall be given to the use of a consent agreement. Unless specified otherwise in these regulations, the administrative means shall be approved by the board.

2. Judicial proceedings. The executive director or his designated representative may obtain compliance through legal means pursuant to § 10.1-1316 or § 10.1-1320 of the Virginia Air Pollution Control Law.

B. Nothing in this section shall prevent the executive director or his designated representative from making efforts to obtain voluntary compliance through conference, warning or other appropriate means.

C. Orders, consent orders, delayed compliance orders, special orders and emergency special orders are considered administrative means, and the board reserves the right to use such means in lieu of or to provide a legal basis for the enforcement of any administrative means negotiated or approved by the executive director or his designated representative under subsection A of this section.

D. Any enforcement proceeding under this section may be used as a mechanism to insure that the compliance status of any source is reasonably maintained by the owner.

§ 120-02-04. Hearings and proceedings.

A. Hearings and proceedings by the board may take any of the following forms:

1. The public hearing and informational proceeding required before considering regulations or variances, in accordance with §§ 10.1-1307 C and 10.1-1308 of the Virginia Air Pollution Control Law. The procedure for a public hearing and informational proceeding shall conform to § 9-6.14:7 of the Administrative Process Act, except as modified by §§ 10.1-1307 C and F and 10.1-1308 of the Virginia Air Pollution Control Law.

2. The informal fact finding proceeding which, with all parties consenting, may be used to ascertain facts upon which decisions of the board are based, in accordance with § 9-6.14:11 of the Administrative Process Act. The procedure for an informal fact finding proceeding shall conform to § 9-6.14:11 of the Administrative Process Act.

3. The formal hearing for the determination of violations, and for the enforcement or review of its orders and regulations, in accordance with § 10.1-1307 D and F of the Virginia Air Pollution Control Law. The procedure for a formal hearing shall conform to § 9-6.14:12 of the Administrative Process Act, except as modified by § 10.1-1307 D and F of the Virginia Air Pollution Control Law.

4. The special order hearing or emergency special order hearing for the determination of violations, and for the enforcement or review of its orders and regulations, in accordance with § 10.1-1309 of the Virginia Air Pollution Control Law. The procedures for the special order hearing or emergency special order hearing shall conform to § 9-6.14:12 of the Administrative Process Act, except as modified by § 10.1-1309 of the Virginia Air Pollution Control Law.

B. Records of hearings by the board may be kept in either of the following forms:

1. Oral statements or testimony at any public hearing or informational proceeding will be stenographically or electronically recorded, and may be transcribed to written form.

2. Formal hearings and hearings for the issuance of special orders or emergency special orders will be recorded by a court reporter, or electronically recorded for transcription to written form.

C. Availability of record of hearings by the board.

1. A copy of the transcript of a public hearing or informational proceeding, if transcribed, will be provided within a reasonable time to any person upon receipt of a written request and payment of the cost; if not transcribed, the additional cost of preparation will be paid by the person making the request.

2. Any person desiring a copy of the transcript of a special order, emergency special order or formal hearing recorded by a court reporter may purchase the copy directly from the court reporter; if not transcribed, the additional cost of preparation will be paid by the person making the request.

§ 120-02-05. Variances.

A. General.

1. Pursuant to § 10.1-1307 C of the Virginia Air Pollution Control Law, the board at its discretion may grant variances to any provision of these regulations after a public hearing in accordance with § 120-02-04 A 1.

2. Notices of public hearings on applications for variances shall be advertised in at least one major newspaper of general circulation in the affected air

quality control region at least 30 days prior to the date of the hearing.

B. Fuel variance.

1. Regardless of any other provision of this section, the executive director may grant a fuel variance for fuel burning equipment from applicable provisions of these regulations if, after a thorough investigation and public hearing, he finds that:

a. The owner, in good faith and prior to the request for the fuel variance, has attempted to comply with applicable provisions of these regulations.

b. The owner has substantial cause to believe he will be unable to obtain the fuel to operate the equipment in compliance with applicable provisions of these regulations.

c. The maximum particulate and sulfur dioxide emissions from fuels permitted in the fuel variance would be the lowest that the available fuels will permit.

d. The need for the requested fuel variance could not have been avoided by the owner.

e. The period of the fuel variance will not exceed the reasonably predicted shortage of fuel which would allow compliance with these regulations, or 120 days, whichever is less.

2. The owner requesting the fuel variance shall submit the following, where appropriate, to the executive director:

a. The requested commencement and termination dates of the fuel variance.

b. The type and quantity of fuel to be used under the requested fuel variance, along with the maximum ash and sulfur content, if any.

c. An affidavit stating why the owner is unable to, or has substantial cause to believe that he will be unable to, obtain fuel which would allow compliance with applicable provisions of these regulations.

d. An estimate of the amount of fuel to be conserved.

e. An estimate of the increased air pollutants that might cause violations of the ambient air quality standards.

f. An estimate, with reasons given, of the duration of the shortage of fuel which would allow compliance with applicable provisions of these regulations.

g. Such other information as the executive director may require to make his findings as provided in subdivision B 1 of this section.

3. Notice of public hearings on applications for fuel variances shall be advertised at least 10 days prior to the date of the hearing, in at least one major newspaper of general circulation in the air quality control region in which the affected source is located.

4. Fuel variances may be granted only for individual sources, and not for categories or classes.

5. No fuel variance shall be granted for more than 120 days. Any request for a variance for a period beyond 120 days shall be governed by the provisions of subsection A of this section, except that the board, where appropriate, may require compliance with any of the conditions and requirements herein.

C. Nothing in this section shall be construed to limit, alter or otherwise affect the obligation of any person to comply with any provision of these regulations not specifically affected by this section.

§ 120-02-06. Local ordinances.

A. Establishment/approval.

1. Any local governing body proposing to adopt or amend an ordinance, relating to air pollution shall first obtain the approval of the board as to the provisions of the ordinance or amendment. The board in approving local ordinances will consider, but will not be limited to, the following criteria:

a. The local ordinance shall provide for intergovernmental cooperation and exchange of information.

b. Adequate local resources will be committed to enforcing the proposed local ordinance.

c. The provisions of the local ordinance shall be as strict as state regulations, except as provided for leaf burning in § 10.1-1308 of the Virginia Air Pollution Control Law.

2. Approval of any local ordinance shall be withdrawn if the board determines that the local ordinance is less strict than state regulations, or if the locality fails to enforce the ordinance.

3. If a local ordinance must be amended to conform to an amendment to state regulations, such local amendment will be made within six months.

B. Reports.

Local ordinances shall provide for reporting such information as may be required by the board to fulfill its

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responsibilities under the Virginia Air Pollution Control Law and the federal Clean Air Act. Such reports shall include, but are not limited to: monitoring data, surveillance programs, procedures for investigation of complaints, variance hearings and status of control programs and permits.

C. Relationship to state regulations.

Local ordinances are a supplement to state regulations. Any provisions of local ordinances which have been approved by the board and are more strict than state regulations shall take precedence over state regulations within the respective locality. It is the intention of the board to coordinate activities among the enforcement officers of the various localities in the enforcement of local ordinances and state regulations. The board will also provide technical and other assistance to local authorities in the development of ambient air quality or emission standards, in the investigation and study of air pollution problems, and in the enforcement of local ordinances and state regulations. The board emphasizes its intention to assist in the local enforcement of local ordinances. If a locality fails to enforce its own ordinance, the board reserves the right to enforce state regulations.

D. Variances.

A local governing body may grant a variance to any provision of its air pollution control ordinance(s) provided that:

1. A public hearing is held prior to granting the variance;
2. The public is notified of the application for a variance by advertisement in at least one major newspaper of general circulation in the affected locality at least 30 days prior to the date of the hearing; and
3. The variance does not permit any owner or other person to take action that would result in a violation of any provision of state regulations unless a variance is granted by the board. The public hearings required for the variances to the local ordinance and state regulations may be conducted jointly as one proceeding.

§ 120-02-07. Circumvention.

A. No owner or other person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air pollutants emitted, conceals or dilutes an emission of air pollutants which would otherwise violate these regulations. Such concealment includes, but is not limited to, either of the following:

1. The use of gaseous diluents to achieve compliance with a visible emissions standard or with a standard

which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

2. The piecemeal carrying out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

B. This section does not prohibit the construction of a stack.

§ 120-02-08. Relationship of state regulations to federal regulations.

A. In order for the Commonwealth to fulfill its obligations under the federal Clean Air Act, some provisions of these regulations are required to be approved by the U.S. Environmental Protection Agency and when approved those provisions become federally enforceable.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing or specifically provide for decisions to be made by the board or department, it may be necessary to have such actions (approvals, determinations, exemptions, exclusions, or decisions) reviewed and confirmed as acceptable or approved by the U.S. Environmental Protection Agency in order to make them federally enforceable. Determination of which state actions require federal confirmation or approval and the administrative mechanism for making associated confirmation or approval decisions shall be made on a case-by-case basis in accordance with U.S. Environmental Protection Agency regulations and policy.

§ 120-02-09. Appeals.

A. Any owner or other person aggrieved by any action of the board taken without a formal hearing, or by inaction of the board, may demand a formal hearing in accordance with § 9-6.14:12 of the Administrative Process Act, provided a petition requesting such hearing is filed with the board. In cases involving actions of the board, such petition shall be filed within 30 days after notice of such action is mailed or delivered to such owner or other person.

B. Prior to any formal hearing, the board shall, provided all parties consent, ascertain the fact basis for its decision in accordance with § 9-6.14:11 of the Administrative Process Act.

C. Any decision of the board resultant from a formal hearing shall constitute the final decision of the board.

D. Any owner or other person aggrieved by a final decision of the board may appeal such decision in accordance with § 10.1-1318 of the Virginia Air Pollution Control Law and § 9-6.14:16 of the Administrative Process Act. Any petition for appeal shall be filled within 30 days after the date of such final decision.

E. Nothing in this section shall prevent disposition of any case by consent.

F. Any petition for a formal hearing or for an appeal by itself shall not constitute a stay of decision or action.

§ 120-02-10. Right of entry.

Whenever it is necessary for the purposes of these regulations, the board may at reasonable times enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigation as authorized by § 10.1-1315 of the Virginia Air Pollution Control Law.

§ 120-02-11. Conditions on approvals.

A. The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with these regulations. Except as specified herein, nothing in these regulations shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to such conditions, the board may automatically cancel such permit or approvals. Without limiting the generality of this section, this section shall apply to: approval of variances, approval of control programs, granting of new or modified source permits and granting of open burning permits.

B. An owner may consider any condition imposed by the board as a denial of the requested approval or permit, which shall entitle the applicant to appeal the decision of the board pursuant to § 120-02-09.

§ 120-02-12. Procedural information and guidance.

A. The board may adopt detailed procedures which:

1. Require data and information in addition to and in amplification of the provisions of these regulations;
2. Are reasonably designed to determine compliance with applicable provisions of these regulations; and
3. Set forth the format by which all data and information shall be submitted.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing, the owner may request information and guidance concerning the proper procedures and methods and the board shall furnish in writing such information on a case-by-case basis.

§ 120-02-13. Delegation of authority.

In accordance with the Virginia Air Pollution Control Law and the Administrative Process Act, the board confers upon the executive director such administrative, enforcement and decision making powers as are set forth

in Appendix F.

§ 120-02-14. Considerations for approval actions.

Pursuant to the provisions of § 10.1-1307 E of the Virginia Air Pollution Control Law, the board, in making regulations and in approving variances, control programs, or permits, shall consider facts and circumstances relevant to the reasonableness of the activity involved and the regulations proposed to control it, including:

A. The character and degree of injury to, or interference with safety, health or the reasonable use of property which is caused or threatened to be caused;

B. The social and economic value of the activity involved;

C. The suitability of the activity to the area in which it is located; and

D. The scientific and economic practicality of reducing or eliminating the discharge resulting from such activity.

§§ 120-02-15 through 120-02-29. Reserved.

§ 120-02-30. Availability of information.

A. Emission data provided to, or otherwise obtained by, the board in accordance with the provisions of these regulations shall be available to the public.

B. Except as provided in subsection A of this section, any records, reports or information provided to, or otherwise obtained by, the board in accordance with provisions of these regulations shall be available to the public, except that:

1. Upon a showing satisfactory to the board by any owner that such records or information, or particular part thereof (other than emission data), if made public, would divulge methods or processes entitled to protection as trade secrets of such owner, the board shall consider such records, reports or information, or particular part thereof, confidential in accordance with the purposes of § 10.1-1314 of the Virginia Air Pollution Control Law except that such records, reports or information, or particular part thereof, may be disclosed to other officers, employees or authorized representatives of the Commonwealth of Virginia and the U.S. Environmental Protection Agency concerned with carrying out the provisions of the Virginia Air Pollution Control Law and the federal Clean Air Act; and

2. Information received by the board in accordance with § 120-02-31, § 120-02-32, Part VII and Part VIII of these regulations shall not be disclosed if it is identified by the owner as being a trade secret or commercial or financial information which such owner considers confidential.

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§ 120-02-31. Registration.

A. The owner of any stationary source to which permits are issued under Part VIII or for which emission standards are given in Parts IV, V or VI shall, upon request of the board, register such source operations with the board and update such registration information. The information required for registration shall be determined by the board and shall be provided in the manner specified by the board. Owners should review the emission standard for their respective source type to identify the exemption levels for purposes of this section.

B. The owner of any stationary source emitting 25 tons per year or more of volatile organic compounds or nitrogen oxides and located in any emissions control area designated in Appendix P shall submit an emissions statement to the board by April 15 of each year, beginning in 1993, for the emissions discharged during the previous calendar year. Emissions statements shall be prepared and submitted in accordance with the applicable procedure in Appendix S.

§ 120-02-32. Control programs.

A. Under the provisions of § 120-02-03 A, the board may require an owner of a stationary source to submit a control program, in a form and manner satisfactory to the board, showing how compliance shall be achieved as quickly as possible.

B. The board [~~shall normally will~~] act within 90 days of receiving an acceptable control program. A public hearing will be held within this period. The hearing shall be held only after reasonable notice, at least 30 days prior to the hearing date, which shall include:

1. Notice given to the public by advertisement in at least one major newspaper of general circulation in the affected air quality control region;
2. Availability of the information in the control program (exclusive of confidential information under the provisions of § 120-02-30) for public inspection in at least one location in the affected air quality control region; and
3. Notification to all local air pollution control agencies having State Implementation Plan responsibilities in the affected air quality control region, all states sharing the affected air quality control region, and the regional administrator of the U.S. Environmental Protection Agency.

C. When acting upon control programs, the board shall be guided by the provisions of the federal Clean Air Act.

D. The board may require owners submitting a control program to submit periodic progress reports in the form and manner acceptable to the board.

E. The board normally will take action on all control programs within 30 days after the date of the public hearing unless more information is required. The board shall notify the applicant in writing of its decision on the control program and shall set forth its reasons therefor.

F. The owner may appeal the decision pursuant to § 120-02-09.

§ 120-02-33. Reserved.

§ 120-02-34. Facility and control equipment maintenance or malfunction.

A. At all times, including periods of startup, shutdown and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment or monitoring equipment, in a manner consistent with good air pollution control practice of minimizing emissions.

B. In case of shutdown or bypassing, or both, of air pollution control equipment for necessary scheduled maintenance which results in excess emissions for more than one hour, the intent to shut down such equipment shall be reported to the board and local air pollution control agency, if any, at least 24 hours prior to the planned shutdown. Such prior notice shall include, but is not limited to, the following:

1. Identification of the specific facility to be taken out of service as well as its location and permit or registration number.
2. The expected length of time that the air pollution control equipment will be out of service.
3. The nature and quantity of emissions of air pollutants likely to occur during the shutdown period.
4. Measures that will be taken to minimize the length of the shutdown or to negate the effect of the outage of the air pollution control equipment.

C. In the event that any affected facility or related air pollution control equipment fails or malfunctions in such a manner that may cause excess emissions for more than one hour, the owner shall, as soon as practicable but no later than four daytime business hours, notify the board by facsimile transmission, telephone or telegraph of such failure or malfunction and shall within two weeks provide a written statement giving all pertinent facts, including the estimated duration of the breakdown. Owners subject to the requirements of §§ 120-04-05 C and 120-05-05 C are not required to provide the written statement prescribed in this paragraph for facilities subject to the monitoring requirements of §§ 120-04-04 and 120-05-04. When the condition causing the failure or malfunction has been corrected and the equipment is again in operation, the owner shall notify the board.

D. In the event that the breakdown period cited in subsection C of this section exists or is expected to exist for 30 days or more, the owner shall, within 30 days of the failure or malfunction and semi-monthly thereafter until the failure or malfunction is corrected, submit to the board a written report containing the following:

1. Identification of the specific facility that is affected as well as its location and permit or registration number.
2. The expected length of time that the air pollution control equipment will be out of service.
3. The nature and quantity of air pollutant emissions likely to occur during the breakdown period.
4. Measures to be taken to reduce emissions to the lowest amount practicable during the breakdown period.
5. A statement as to why the owner was unable to obtain repair parts or perform repairs which would allow compliance with the provisions of these regulations within 30 days of the malfunction or failure.
6. An estimate, with reasons given, of the duration of the shortage of repairs or repair parts which would allow compliance with the provisions of these regulations.
7. Any other pertinent information as may be requested by the board.

E. The [~~procedural requirements provisions~~] of subsection D of this section shall not apply beyond three months of the date of the malfunction or failure. Should the breakdown period exist past the three-month period, the owner may apply for a variance in accordance with § 120-02-05 A.

F. The following special provisions govern facilities which are subject to the provisions of Rule 4-3, Rule 5-3 or Rule 6-1:

1. Nothing in this section shall be understood to allow any such facility to operate in violation of applicable emission standards, except that all such facilities shall be subject to the reporting and notification procedures in this section.
2. Any facility which is subject to the provisions of Rule 6-1 shall shut down immediately if it is unable to meet the applicable emission standards, and it shall not return to operation until it is able to operate in compliance with the applicable emission standards.
3. Regardless of any other provision of this section, any facility which is subject to the provisions of Rule 4-3 or 5-3 shall shut down immediately upon request

of the board if its emissions increase in any amount because of a bypass, malfunction, shutdown or failure of the facility or its associated air pollution control equipment; and such facility shall not return to operation until it and the associated air pollution control equipment are able to operate in a proper manner.

G. No violation of applicable emission standards or monitoring requirements shall be judged to have taken place if the excess emissions or cessation of monitoring activities is due to a malfunction, provided that:

1. The procedural requirements of this section are met or the owner has submitted an acceptable application for a variance, which is subsequently granted;
2. The owner has taken expedient and reasonable measures to minimize emissions during the breakdown period;
3. The owner has taken expedient and reasonable measures to correct the malfunction and return the facility to a normal operation; and
4. The source is in compliance at least 90% of the operating time over the most recent 12-month period.

H. Nothing in this section shall be construed as giving an owner the right to increase temporarily the emission of pollutants or to circumvent the emission standards or monitoring requirements otherwise provided in these regulations.

I. Regardless of any other provision of this section, the owner of any facility subject to the provisions of these regulations shall, upon request of the board, reduce the level of operation at the facility if the board determines that this is necessary to prevent a violation of any primary ambient air quality standard. Under worst case conditions, the board may order that the owner shut down the facility, if there is no other method of operation to avoid a violation of the primary ambient air quality standard. The board reserves the right to prescribe the method of determining if a facility will cause such a violation. In such cases, the facility shall not be returned to operation until it and the associated air pollution control equipment are able to operate without violation of any primary ambient air quality standard.

J. Any owner of an affected facility subject to the provisions of this section shall maintain records of the occurrence and duration of any bypass, malfunction, shutdown or failure of the facility or its associated air pollution control equipment that results in excess emissions for more than one hour. The records shall be maintained in a form suitable for inspection and maintained for at least two years following the date of the occurrence.

PART IV. EMISSION STANDARDS FOR GENERAL PROCESS

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OPERATIONS. (RULE 4-4)

§ 120-04-0401. Applicability and designation of affected facility.

A. Except as provided in subsections C and D of this section, the affected facility to which the provisions of this rule apply is each process operation, each process gas stream and each combustion installation.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. Exempted from the provisions of this rule are the following:

1. Process operations with a process weight rate capacity less than 100 pounds per hour.
2. Any combustion unit using solid fuel with a maximum heat input of less than 350,000 Btu per hour.
3. Any combustion unit using liquid fuel with a maximum heat input of less than 1,000,000 Btu per hour.
4. Any combustion unit equipment unit using gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.

D. The provisions of this rule do not apply to affected facilities subject to other emission standards in this part.

§ 120-04-0402. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Combustion installation" means all combustion units within a stationary source in operation prior to October 5, 1979.

"Combustion unit" means any type of stationary equipment in which solid, liquid or gaseous fuels and refuse are burned, including, but not limited to, furnaces, ovens, and kilns.

"Heat input" means the total gross calorific value of all fuels burned.

"Manufacturing operation" means any process operation

or combination of physically connected dissimilar process operations which is operated to effect physical or chemical changes or both in an article.

"Materials handling equipment" means any equipment used as a part of a process operation or combination of process operations which does not effect a physical or chemical change in the material or in an article, such as, but not limited to, conveyors, elevators, feeders or weighers.

"Physically connected" means any combination of process operations connected by materials handling equipment and designed for simultaneous complementary operation.

"Process operation" means any method, form, action, operation or treatment of manufacturing or processing, including any storage or handling of materials or products before, during or after manufacturing or processing.

"Process unit" means any step in a manufacturing or process operation which results in the emission of pollutants to the atmosphere.

"Process weight" means total weight of all materials introduced into any process unit which may cause any emission of pollutants. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air for all fuels.

"Process weight rate" means a rate established as follows:

- a. For continuous or long-run steady-state process operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.
- b. For cyclical or batch process operations, the total weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

"Reasonably available control technology" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

"Rated capacity" means, the capacity as stipulated in the purchase contract for the condition of 100% load, or such other capacities as mutually agreed to by the board and owner using good engineering judgment.

"Total capacity" means with reference to a combustion installation, the sum of the rated capacities (expressed as heat input) of all units of the installation which must be operated simultaneously under conditions or 100% use

load. 40000 20.00 30.5

§ 120-04-0403. Standard for particulate matter (AQCR 1-6). 50000 25.00 35.4

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any process unit any particulate emissions in excess of the limits in Table 4-4A. 60000 30.00 40.0
70000 35.00 41.3

TABLE 4-4A

Process Lb/Hr	Weight Rate Tons/Hr	Maximum Allowable Emission Rate Lb/Hr
100	0.05	0.551
200	0.10	0.877
400	0.20	1.40
600	0.30	1.83
800	0.40	2.22
1000	0.50	2.58
1500	0.75	3.38
2000	1.00	4.10
2500	1.25	4.76
3000	1.50	5.38
3500	1.75	5.96
4000	2.00	6.52
5000	2.50	7.58
6000	3.00	8.56
7000	3.50	9.49
8000	4.00	10.4
9000	4.50	11.2
10000	5.00	12.0
12000	6.00	13.6
16000	8.00	16.5
18000	9.00	17.9
20000	10.00	19.2
30000	15.00	25.2

80000	40.00	42.5
90000	45.00	43.6
100000	50.00	44.6
120000	60.00	46.3
140000	70.00	47.8
160000	80.00	49.1
200000	100.00	51.3
1000000	500.00	69.0
2000000	1000.00	77.6
6000000	3000.00	92.7

B. Except as provided in subsections C and D of this section, interpretation of the emission standard in subsection A of this section shall be in accordance with Appendix Q.

C. Interpolation of the data in Table 4-4A for process weight rates up to 60,000 lb/hr shall be accomplished by use of the following equation:

$$E = 4.10 P^{0.67}$$

where:

E = emission rate in lb/hr.

P = process weight rate in tons/hr.

D. Interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the following equation:

$$E = 55.0 P^{0.11} - 40$$

where:

E = emission rate in lb/hr.

P = process weight rate in tons/hr.

§ 120-04-0404. Standard for particulate matter (AQCR 7).

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any process unit

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any particulate emissions in excess of the limits in Table 4-4B.

TABLE 4-4B

Process Lb/Hr	Weight Rate Tons/Hr	Maximum Allowable Emission Rate Lb/Hr			
100	0.050	0.46	1800	0.90	3.91
150	0.075	0.66	1900	0.95	4.03
200	0.100	0.85	2000	1.00	4.14
250	0.125	1.03	2100	1.05	4.24
300	0.150	1.20	2200	1.10	4.34
350	0.175	1.35	2300	1.15	4.44
400	0.200	1.50	2400	1.20	4.55
450	0.225	1.63	2500	1.25	4.64
500	0.250	1.77	2600	1.30	4.74
550	0.275	1.85	2700	1.35	4.84
600	0.300	2.01	2800	1.40	4.92
650	0.325	2.12	2900	1.45	5.02
700	0.350	2.24	3000	1.50	5.10
750	0.375	2.34	3100	1.55	5.18
800	0.400	2.43	3200	1.60	5.27
850	0.425	2.53	3300	1.65	5.36
900	0.450	2.62	3400	1.70	5.44
950	0.475	2.72	3500	1.75	5.52
1000	0.500	2.80	3600	1.80	5.61
1100	0.55	2.97	3700	1.85	5.69
1200	0.60	3.12	3800	1.90	5.77
1300	0.65	3.26	3900	1.95	5.85
1400	0.70	3.40	4000	2.00	5.93
1500	0.75	3.54	4100	2.05	6.01
1600	0.80	3.66	4200	2.10	6.08
1700	0.85	3.79	4300	2.15	6.15
			4400	2.20	6.22
			4500	2.25	6.30
			4600	2.30	6.37
			4700	2.35	6.45
			4800	2.40	6.52

4900	2.45	6.60
5000	2.50	6.67
5500	2.75	7.03
6000	3.00	7.37
6500	3.25	7.71
7000	3.50	8.05
7500	3.75	8.39
8000	4.00	8.71
8500	4.25	9.03
9000	4.50	9.36
9500	4.75	9.67
10000	5.00	10.00
11000	5.50	10.63
12000	6.00	11.28
13000	6.50	11.89
14000	7.00	12.50
15000	7.50	13.13
16000	8.00	13.74
17000	8.50	14.36
18000	9.00	14.97
19000	9.50	15.58
20000	10.00	16.19
30000	15.00	22.22
40000	20.00	28.30
50000	25.00	34.30
60000 or more	30.00 or more	40.00

B. Interpretation of the emission standard in subsection A of this section shall be in accordance with Appendix Q.

§ 120-04-0405. Standard for sulfur dioxide.

A. Noncombustion process operations.

No owner or other person shall cause or permit to be discharged into the atmosphere from any process operation

any sulfur dioxide emissions in excess of an in-stack concentration of 2000 ppm by volume.

B. Combustion installations.

1. No owner or other person shall cause or permit to be discharged into the atmosphere from any combustion installation any sulfur dioxide emissions in excess of the following limits:

a. $S = 2.64K$ (AQCR 1 through 6)

b. $S = 1.06K$ (for liquid or gaseous fuels - AQCR 7)

c. $S = 1.52K$ (for solid fuels - AQCR 7)

where:

S = allowable emission of sulfur dioxide

expressed in lbs/hr.

K = actual heat input at total capacity expressed in Btu x 10^6 per hour.

2. Where there is more than one unit in a combustion installation and where the installation can be shown, to the satisfaction of the board, to be in compliance when the installation is operating at total capacity, the installation will be deemed to still be in compliance when the installation is operated at reduced load or one or more units are shut down for maintenance or repair, provided that the same type of fuel with the same sulfur content, or an equivalent, is continued in use.

3. For installations in AQCR 7 at which different fossil fuels are burned simultaneously, whether in the same or different units, the allowable emissions shall be determined by proration using the following formula:

$$\frac{X(1.06) + Y(1.52)}{X + Y}$$

$$PS = K$$

where:

PS = prorated allowable emissions of sulfur dioxide expressed in lb/hr.

X = percentage of actual heat input at total capacity derived from liquid or gaseous fuel.

Y = percentage of actual heat input at total capacity derived from solid fuels.

K = actual heat input at total capacity expressed in Btu x 10^6 per hour.

§ 120-04-0406. Standard for hydrogen sulfide.

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No owner or other person shall cause or permit to be discharged into the atmosphere from any process gas stream any hydrogen sulfide emissions in excess of a concentration greater than 15 grains per 100 cubic feet of gas without burning or removing H₂S in excess of this concentration, provided that SO₂ emissions in the burning operation meet the requirements of § 120-04-0405 A.

§ 120-04-0407. Standard for volatile organic compounds.

A. No owner or other person shall cause or permit to be discharged from any affected facility any *volatile organic compound* emissions in excess of that resultant from using reasonably available control technology.

B. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia (AQCR 7) and or Richmond (AQCR 5) Nonattainment Areas (see Appendix K) Emissions Control Area (see Appendix P) and (ii) [~~have~~ are within a stationary source that has] a theoretical potential to emit ~~sum total~~ [of] 50 tons per year or greater in the Northern Virginia Emissions Control Area or 100 tons per year or greater in the Richmond Emissions Control Area . Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for volatile organic compounds in Part IV, shall be added together to determine theoretical potential to emit.

C. For facilities subject to the provisions of this section, the owners shall within three months of the effective date of this emission standard (i) notify the board of their *eligibility applicability* status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination *and for achieving compliance with the emission standard as expeditiously as possible but not later than May 31, 1995 .*

[~~D. Any emission limits or other requirements necessary to define and enforce reasonably available control technology for applicable source types under this section shall be made state enforceable by a permit issued under Part VIII of these regulations.~~]

§ 120-04-0408. Standard for nitrogen oxides.

A. No owner or other person shall cause or permit to be discharged from any affected facility any nitrogen oxides emissions in excess of that resultant from using reasonably available control technology.

B. Unless the owner demonstrates otherwise to the satisfaction of the board, [compliance with the provisions

of subsection A of this section shall be achieved for the applicable source types by the use of] reasonably available control technology as defined in Appendix T [for the applicable source types is required to comply with the provisions of subsection A of this section] .

C. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia [~~or Richmond~~] Emissions Control Area (see Appendix P) and (ii) [~~have~~ are within a stationary source that has] a theoretical potential to emit [of] 50 tons per year or greater [~~in the Northern Virginia Emissions Control Area or 100 tons per year or greater in the Richmond Emissions Control Area~~] . Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for nitrogen oxides in Part IV, shall be added together to determine theoretical potential to emit.

D. For facilities subject to the provisions of subsection A of this section, the owners shall within three months of the effective date of the emission standard (i) notify the board of their applicability status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination and [for] achieving compliance with the emission standard as expeditiously as possible but no later than May 31, 1995.

E. For facilities to which the provisions of subsection B of this section are applicable, the owners shall within three months of the effective date of the emission standard (i) notify the board of their applicability status, (ii) commit to accepting the emission standard as reasonably available control technology for the applicable facilities or [~~submit to submitting~~] a demonstration as provided in subsection B of this section and (iii) provide a schedule acceptable to the board [for submitting the demonstration no later than January 1, 1994, and] for achieving compliance with the emission standard as expeditiously as possible but no later than May 31, 1995.

[~~F. Any emission limits or other requirements necessary to define and enforce reasonably available control technology for applicable source types under this section shall be made state enforceable by a permit issued under Part VIII of these regulations.~~]

§ 120-04-0408. § 120-04-0409. Standard for visible emissions.

The provisions of Rule 4-1 (Emission standards for visible emissions and fugitive dust/emissions) apply.

§ 120-04-0409. § 120-04-0410. Standard for fugitive dust/emissions.

The provisions of Rule 4-1 (Emission standards for visible emissions and fugitive dust/emissions) apply.

§ ~~120-04-0410~~. § 120-04-0411. Standard for odor.

The provisions of Rule 4-2 (Emission standards for odor) apply.

§ ~~120-04-0411~~. § 120-04-0412. Standard for noncriteria pollutants.

The provisions of Rule 4-3 (Emission standards for noncriteria pollutants) apply.

§ ~~120-04-0412~~. § 120-04-0413. Compliance.

The provisions of § 120-04-02 (Compliance) apply.

§ ~~120-04-0413~~. § 120-04-0414. Test methods and procedures.

The provisions of § 120-04-03 (Emission testing) apply.

§ ~~120-04-0414~~. § 120-04-0415. Monitoring.

The provisions of § 120-04-04 (Monitoring) apply.

§ ~~120-04-0415~~. § 120-04-0416. Notification, records and reporting.

The provisions of § 120-04-05 (Notification, records and reporting) apply.

§ ~~120-04-0416~~. § 120-04-0417. Registration.

The provisions of § 120-02-31 (Registration) apply.

§ ~~120-04-0417~~. § 120-04-0418. Facility and control equipment maintenance or malfunction.

The provisions of § 120-02-34 (Facility and control equipment maintenance or malfunction) apply.

§ ~~120-04-0418~~. § 120-04-0419. Permits.

A permit may be required prior to beginning any of the activities specified below and the provisions of Part V (New and Modified Sources) and Part VIII (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

A. Construction of a facility.

B. Reconstruction (replacement of more than half) of a facility.

C. Modification (any physical change to equipment) of a facility.

D. Relocation of a facility.

E. Reactivation (restart-up) of a facility.

APPENDIX P. VOLATILE ORGANIC COMPOUND AND NITROGEN OXIDES EMISSIONS CONTROL AREAS.

Volatile Organic Compound Emissions Control Areas are geographically defined as follows:

Air Quality Control Region 1	None
Air Quality Control Region 2	None
Air Quality Control Region 3	None
Air Quality Control Region 4	Stafford County
Air Quality Control Region 5	Richmond City Chesterfield County Henrico County
Air Quality Control Region 6	Chesapeake City Hampton City Newport News City Norfolk City Portsmouth City Suffolk City Virginia Beach City
Air Quality Control Region 7	Alexandria City Fairfax City Falls Church City Manassas City Manassas Park City Arlington County Fairfax County Loudoun County Prince William County Stafford County

Emissions Control Areas are geographically defined below by locality for the pollutants indicated.

A. Volatile Organic Compounds.

1. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

2. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Richmond City
Henrico County	

3. Hampton Roads Emissions Control Area.

[James City County*]	Poquoson City*]
[York County*]	Portsmouth City
Chesapeake City	Suffolk City
Hampton City	Virginia Beach City

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Newport News City [Williamsburg City*]
Norfolk City

B. Nitrogen Oxides.

1. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

2. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Richmond City
Henrico County	

3. Hampton Roads Emissions Control Area.

[James City County	Poquoson City]
[York County]	
Chesapeake City	Portsmouth City
Hampton City	Suffolk City
Newport News City	Virginia Beach City
Norfolk City	[Williamsburg City]

[*Emission standards for volatile organic compounds prescribed in Part IV of these regulations shall not be applicable in localities marked by an asterisk.]

APPENDIX S. AIR QUALITY PROGRAM POLICIES AND PROCEDURES.

I. General.

A. In order for the Commonwealth to fulfill its obligations under the federal Clean Air Act, some provisions of these regulations are required to be approved by the U.S. Environmental Protection Agency as part of the State Implementation Plan, and when approved, those provisions become federally enforceable.

B. In cases where these regulations specify that procedures or methods shall be approved by, acceptable to or determined by the board or other similar phrasing or specifically provide for decisions to be made by the board or department, it may also be necessary to have such actions (approvals, determinations, exemptions, exclusions, or decisions) approved by the U.S. Environmental Protection Agency as part of the State Implementation Plan in order to make them federally enforceable. In accordance with U.S. Environmental Protection Agency regulations and policy, it has been determined that it is necessary for the procedures listed in Section II of this appendix to be approved as part of the State Implementation Plan.

C. Failure to include in this appendix any procedure mentioned in the regulations shall not invalidate the applicability of the procedure.

D. Copies of materials listed in this appendix may be examined by the public at the headquarters office of the Department of Air Pollution Control, Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

II. Specific documents.

A. Procedures for Testing Facilities Subject to Emission Standards for Volatile Organic Compounds, AQP-1, July 1, 1991.

B. Procedures for Determining Compliance with Volatile Organic Compound Emission Standards Covering Surface Coating Operations, AQP-2, July 1, 1991.

C. Procedures for the Measurement of Capture Efficiency for Determining Compliance with Volatile Organic Compound Emission Standards Covering Surface Coating Operations, AQP-3, July 1, 1991.

D. Procedures for Maintaining Records for Surface Coating Operations and Graphic Arts Printing Processes, AQP-4, July 1, 1991.

E. Procedures for Preparing and Submitting Emission Statements for Stationary Sources, AQP-8, January 1, 1993.

APPENDIX T. REASONABLY AVAILABLE CONTROL TECHNOLOGY GUIDELINES FOR STATIONARY SOURCES OF NITROGEN OXIDES.

I. General.

[~~A~~] Unless otherwise approved by the board, this appendix defines reasonably available control technology for the purposes of compliance with § 120-04-0408 A for the source types specified herein.

[B. Any emission limits or other requirements necessary to define reasonably available control technology for applicable source types under this appendix shall be made state enforceable by a permit issued under Part VIII of these regulations.]

II. Definitions.

A. For the purpose of these regulations and subsequent amendments of any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this appendix, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to be the capacity rating of the machine or equipment.

"Combustion modification" means any change to the configuration of the burners or the firing method or mechanism of any combustion equipment for the purpose of reducing the emissions of nitrogen oxides. [Acceptable combustion equipment changes within the context of] this term [~~includes~~ include], but [~~is~~ are] not limited to, reburning, burners out of service, flue gas recirculation, fuel substitution, [engine adjustments, engine modifications, fuel modifications] and the addition of over fire air and low nitrogen oxides burner systems.

"Combustion unit" means any furnace, with fuel burning equipment appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat to be utilized by direct heat transfer. This includes, but is not limited to, the following facilities: drying ovens, burnout ovens, annealing furnaces, melting furnaces, holding furnaces, and space heaters.

"Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials for the purpose of creating useful heat.

"Fuel burning equipment" means any furnace, with fuel burning equipment appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat to be utilized by indirect heat transfer or producing power. This includes facilities that are designed as boilers to produce steam or heated water and are designed to burn either fossil fuel or refuse derived fuel. It does not include such facilities if designed primarily to burn raw refuse.

"Fuel burning equipment installation" means all fuel burning equipment units within a stationary source in operation prior to January 1, 1993.

"Gas turbine" means a rotary internal combustion engine fueled by liquid or gaseous fuel.

"Heat input" means the total gross calorific value of all fuels burned.

"Incinerator" means any device, apparatus, equipment, or structure using combustion or pyrolysis for destroying, or reducing the volume of any material or substance.

"Internal combustion engine" means a reciprocating engine which is fueled by liquid or gaseous fuel.

"Process heater" means any fuel burning equipment which is used to produce heat for use in a manufacturing process. This term includes boilers which use a heat transfer medium other than water, but does not include drying ovens, steam generating units, or other drying apparatus.

"Rated capacity" means the capacity as stipulated in the purchase contract for the condition of 100% load, or such other capacities as mutually agreed to by the board and owner using good engineering judgment.

"Refuse derived fuel (RDF)" means fuel produced from solid or liquid waste (includes materials customarily referred to as refuse and other discarded materials) [or both] which has been segregated and classified, with the useable portions being put through a size reduction and classification process which results in a relatively homogeneous mixture.

"Steam generating unit" means any furnace, boiler or other device used for combusting fuel for the purpose of producing steam.

"Total capacity" means, with reference to a fuel burning equipment installation, the sum of the rated capacities (expressed as heat input) of all units of the installation which must be operated simultaneously under conditions of 100% use load.

III. Definition of reasonably available control technology.

A. For the source types listed below, reasonably available control technology is defined as the emission limits specified below based upon the application of combustion modification; however, owners may elect to use any alternative control technology, provided such alternative is capable of achieving the prescribed emission limits.

1. Steam generating units and process heaters.

TABLE T-1
Maximum Allowable Emission Rates for Nitrogen Oxides Emissions from Steam Generating Units and Process Heaters (pounds per million BTU heat input)

Fuel Type	Firing Method		
	Face* and Tangential	Cyclone	Stokers
Coal - wet bottom	1.0	.55	N/A
Coal - dry bottom	.38	N/A	0.4
Oil or Gas or both	.25	.43	N/A
Gas only	.20	N/A	N/A

* Includes wall, opposed and vertical firing methods.

2. Gas turbines. The maximum allowable emission rate for nitrogen oxides from gas turbines is as follows:

TABLE T-2
Maximum Allowable Emission Rates for Nitrogen Oxides Emissions from Gas Turbines (parts per

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million by dry volume corrected to 15% oxygen)

Fuel Type	Turbine Type	
	Simple Cycle	Combined Cycle
Gas	42	42
Oil	65/77*	65/77*

* Limit shall be 65 ppm for fuel bound nitrogen (FBN) less than 0.015% and 77 ppm for FBN greater than or equal to .015%

B. Any demonstration of compliance with the limits in subsection A of this section [~~must~~ shall] be on a daily basis.

C. For the source types and sizes listed below, a demonstration of reasonably available control technology is not required as provided in § 120-04-0408 B.

1. Any steam generating unit, process heater or gas turbine with a rated capacity of less than 100,000,000 BTUs per hour.

2. Any steam generating unit, process heater or gas turbine with an annual capacity factor of less than 5.0%, except that three months following any calendar year during which the capacity factor is 5.0% or greater, the facility shall be subject to § 120-04-0408 A or B, as applicable, and the owner shall comply with § 120-04-0408 D or E, as applicable, except the compliance date shall be two years after approval of the schedule by the board. [Time periods during which a stand-by unit is used to provide replacement services for a unit being altered to comply with the provisions of § 120-04-0408 A or B shall not be used as the basis for a determination that the stand-by unit exceeded the annual capacity factor criteria of 5.0%.]

3. Any combustion unit with a rated capacity of less than 50,000,000 BTUs per hour.

4. Any stationary internal combustion engine with a rated capacity of less than 450 hp of output power.

6. Any incinerator or thermal or catalytic oxidizer used exclusively as air pollution control equipment.

[7. Any generator used solely to supply emergency power to buildings during periods when normal power supplies are interrupted and during periods of scheduled maintenance.]

IV. Emission allocation system.

A. This section applies only to steam generating units and gas turbines within fuel burning equipment

installations not exempted from the requirements of § 120-04-0408 B by Section III C of this appendix.

B. The maximum allowable nitrogen oxides emissions, expressed as pounds per hour, for a fuel burning equipment installation shall be the product of the total capacity and the applicable emission limit specified in Section III A 1.

C. The allowable nitrogen oxides emissions for a fuel burning equipment installation when operating at less than total capacity, shall be the product of the percent load and emission allocation. The percent load shall be the quotient of the actual load and the rated capacity. The emission allocation shall be determined using procedures set forth in subsection D of this section.

D. The emission allocation for each of the fuel burning equipment units of the fuel burning equipment installation shall be its designated portion of the maximum allowable nitrogen oxides emissions from the fuel burning equipment installation when operating at total capacity. The portions shall be proposed by the owner initially and determined in a manner mutually acceptable to the board and the owner. Once accepted by the board, the portions may not be changed without the consent of the board.

COMMONWEALTH OF VIRGINIA BOARD OF REGULATIONS
DEPARTMENT OF AIR POLLUTION CONTROL
5210V10 7/11/84

DOCUMENT CERTIFICATION FORM

(see other side for instructions)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

SIGNATURE: _____ DATE: _____
NAME: _____
TITLE: _____
COMPANY: _____
PHONE: _____

COMMONWEALTH OF VIRGINIA BOARD OF REGULATIONS
DEPARTMENT OF AIR POLLUTION CONTROL
5210V10 7/11/84

DOCUMENT CERTIFICATION FORM

INSTRUCTIONS FOR USE

Various provisions of the Regulations for the Control and Abatement of Air Pollution require that certain documents submitted to the Board or the Department be signed by a responsible official with certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. Documents covered by this requirement include, but are not limited to, permit applications, registrations, emission statements, emission testing and monitoring reports, or compliance certifications. The certification should include the full name, title, signature, date of signature, and telephone number of the responsible official. A responsible official is defined as follows:

1. For a business entity, such as a corporation, association or cooperative, a responsible official is either:
 - (a) the president, secretary, treasurer, or a vice-president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business entity; or
 - (b) a duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.
2. For a partnership or sole proprietorship, a responsible official is a general partner or the proprietor, respectively.
3. For a municipality, state, federal, or other public agency, a responsible official is either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

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

Effective Date: January 1, 1993.

Summary:

The amendments concern provisions covering documents by reference. The amendments incorporate the latest edition of the American Conference of Governmental Industrial Hygienists Handbook and recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), including any reference methods associated with the NSPS and NESHAP. The amendments update Appendix M which lists all of the nonstatutory documents (those other than federal and state laws and regulations) and the primary federal regulations incorporated by reference. This list includes the name, reference number and edition for each document. The edition is being updated to reflect the latest available. Also included for each document is the name and address of the organization from which it may be obtained. The amendments also update Rule 5-5 which contains the list of promulgated federal NSPS and Rule 6-1 which contains the list of promulgated federal NESHAP, including those NSPS and NESHAP recently promulgated and incorporated by reference through this rulemaking.

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

PART V.
ENVIRONMENTAL PROTECTION AGENCY
STANDARDS OF PERFORMANCE FOR NEW
STATIONARY SOURCES (RULE 5-5)

§ 120-05-0501. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR Part 60) designated in § 120-05-0502 are incorporated by reference into these regulations amended by the word or phrase substitutions given in § 120-05-0503. The complete text of the subparts in § 120-05-0502 incorporated herein by reference is contained in 40 CFR Part 60 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-05-0502 identify the specific provisions of the subpart incorporated by reference.

§ 120-05-0502. Designated standards of performance.

Subpart A - General Provisions.

40 CFR 60.1, 40 CFR 60.2, 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11, 40 CFR 60.13 through 40 CFR 60.15, 40 CFR 60.18

(applicability, definitions, notification and record keeping performance tests, compliance, monitoring requirements, modification, and reconstruction, and general control device requirements)

Subpart D - Fossil-Fuel Fired Steam Generators for which Construction is Commenced after August 17, 1971.

40 CFR 60.40 through 40 CFR 60.46

(fossil-fuel fired steam generating units of more than 250 million Btu per hour heat input rate and fossil-fuel fired and wood-residue fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

Subpart Da - Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.

40 CFR 60.40a through 40 CFR 60.49a

(electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel); electric utility combined cycle gas turbines capable of combusting more than 250 million Btu per hour heat input in the steam generator)

Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40b through 40 CFR 60.49b

(industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40c through 60.48c

(industrial-commercial-institutional steam generating units which have a heat input capacity of 100 million Btu per hour or less, but greater than or equal to 10 million Btu per hour)

Subpart E - Incinerators.

40 CFR 60.50 through 40 CFR 60.54

(incinerator units of more than 50 tons per day charging rate)

Subpart Ea - Municipal Waste Combustors.

40 CFR 60.50a through 60.59a

(municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

Subpart F - Portland Cement Plants.

40 CFR 60.60 through 40 CFR 60.64
(~~kiln kilns~~, clinker ~~cooler~~ coolers, raw mill ~~system~~ systems, finish mill ~~system~~ systems, raw mill ~~dryer~~ dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

Subpart G - Nitric Acid Plants.

40 CFR 60.70 through 40 CFR 60.74 (nitric acid production units)

Subpart H - Sulfuric Acid Plants.

40 CFR 60.80 through 40 CFR 60.85
(sulfuric acid production units)

Subpart I - Hot Mix Asphalt Facilities.

40 CFR 60.90 through 40 CFR 60.93
(dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt ~~concrete~~; and the loading, transfer and storage systems associated with emission control systems)

Subpart J - Petroleum Refineries.

40 CFR 60.100 through 40 CFR 60.106
(fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

Subpart K - Storage Vessels for Petroleum Liquids ~~Constructed~~ *for Which Construction, Reconstruction, or Modification Commenced after June 11, 1973, and Prior to May 19, 1978.*

40 CFR 60.110 through 40 CFR 60.113
(storage vessels with a capacity greater than 40,000 gallons)

Subpart Ka - Storage Vessels for Petroleum Liquids ~~Constructed~~ *for Which Construction, Reconstruction, or Modification Commenced after May 18, 1978, and prior to July 23, 1984.*

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Kb - ~~Standards of Performance~~ *for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July*

23, 1984.

40 CFR 60.110b through 40 CFR 60.117b
(storage vessels with capacity greater than or equal to [~~8,700~~ 10,566] gallons)

Subpart L - Secondary Lead Smelters.

40 CFR 60.120 through 40 CFR 60.123
(pot furnaces of more than 550 lb charging capacity, blast (cupola) furnaces and reverberatory furnaces)

Subpart M - Secondary Brass and Bronze Production Plants.

40 CFR 60.130 through 40 CFR 60.133
(reverberatory and electric furnaces of ~~2,205 lb~~ 2205 pound or greater production capacity and blast (cupola) furnaces of 550 lb ~~per hr~~ pounds per hour or greater production capacity)

Subpart N - *Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced after June 11, 1973 : Primary Emissions .*

40 CFR 60.140 through 40 CFR 60.144
(basic oxygen process ~~furnace~~ furnaces)

Subpart Na - *Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced after January 20, 1983 : Secondary Emissions .*

40 CFR 60.140a through 40 CFR 60.145a
(facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs.

Subpart O - Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154
(incinerators that combust wastes containing more than 10% sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than ~~2,205 lb~~ 2205 pounds per day municipal sewage sludge (dry basis))

Subpart P - Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166
(~~dryer~~ dryers , ~~roaster~~ roasters , smelting ~~furnace~~ furnaces, and copper ~~converter~~ converters)

Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176
(~~roaster~~ roasters and sintering ~~machine~~ machines)

Subpart R - Primary Lead Smelters

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40 CFR 60.180 through 40 CFR 60.186
(sintering ~~machine machines~~ , sintering machine discharge ~~end ends~~ , blast ~~furnace furnaces~~ , dross reverberatory ~~furnace furnaces~~ , electric smelting ~~furnace furnaces~~ and ~~converter converters~~)

Subpart S - Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195
(potroom groups and anode bake plants)

Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.204
(reactors, filters, evaporators , and ~~hotwells hot wells~~)

Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214
(evaporators, ~~hotwells hot wells~~ , acid sumps , and cooling tanks)

Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224
(~~reactor reactors~~ , granulators, dryers, coolers, screens, and mills)

Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234
(mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills , and facilities which store run-of-pile triple superphosphate)

Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.244
(storage or curing piles, conveyors, elevators, screens and mills)

Subpart Y - Coal Preparation Plants.

40 CFR 60.250 through 40 CFR 60.254
(plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems , and coal transfer and loading systems)

Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266
(electric submerged arc furnaces which produce

silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276
(electric arc furnaces and dust-handling ~~equipment systems that produce carbon, alloy or specialty steels~~)

Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a
(~~facilities in steel plants that produce carbon, alloy, or specialty steels: electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems that produce carbon, alloy, or specialty steels~~)

Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285
(digester ~~system systems~~ , brown stock washer ~~system systems~~ , multiple effect evaporator ~~system systems~~ , black liquor oxidation ~~system systems~~ , recovery ~~furnace furnaces~~ , smelt dissolving ~~tank tanks~~ , lime kilns, condensate ~~stripper strippers~~ and kraft pulping operations)

Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296
(glass melting ~~furnace furnaces~~)

Subpart DD - Grain Elevators.

40 CFR 60.300 through 40 CFR 60.304
(grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers , and all grain handling operations)

Subpart EE - *Surface Coating of Metal Furniture Surface Coating Operations* .

40 CFR 60.310 through 40 CFR 60.316
(metal furniture surface coating operations in which organic coatings are applied)

Subpart FF - (Reserved)

Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335
(stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344
(each rotary lime kiln)

Subparts II through JJ - (Reserved)

Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374
(lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386
(each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart)

Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397
(prime coat operations, guide coat operations, and top-coat operations)

Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404
(phosphate rock plants which have a maximum plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorous production)

Subpart OO - (Reserved)

Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424
(ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactum by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435
(publication rotogravure printing presses, except proof presses)

Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447
(pressure sensitive tape and label material coating lines)

Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456
(surface coating operations in large appliance coating lines)

Subpart TT - Metal Coil Surface Coating Operations.

40 CFR 60.460 through 40 CFR 60.466
(metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

Subpart UU - Asphalt Processing and Asphalt Roofing Manufacturing Manufacture .

40 CFR 60.470 through 40 CFR 60.474
(each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

Subpart VV - Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry.

40 CFR 60.480 through 40 CFR 60.489
(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496

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(beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506
(total of all loading racks at a bulk gasoline terminal which deliver *liquid* product into gasoline tank trucks)

Subparts YY through ZZ - (Reserved)

Subpart AAA - New Residential Wood Heaters.

40 CFR 60.530 through 40 CFR 60.539b
(each wood heater year manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990 heaters)

Subpart BBB - Rubber Tire Manufacturing Industry.

40 CFR 60.540 through 40 CFR 60.548
(each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

Subparts CCC through EEE - (Reserved)

Subpart CCC - (Reserved)

Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

40 CFR 60.560 through 40 CFR 60.566
(For polypropylene and polyethylene manufacturing using a continuous process that emits continuously or intermittently: all equipment used in the manufacture of these polymers. For polystyrene manufacturing using a continuous process that emits continuously: each material recovery section. For poly(ethylene terephthalate) manufacturing using a continuous process that emits continuously: each polymerization reaction section; if dimethyl terephthalate is used in the process, each material recovery section is also an affected facility; if terephthalic acid is used in the process, each raw materials preparation section is also an affected facility. For VOC emissions from equipment leaks: each group of fugitive emissions equipment within any process unit, excluding poly(ethylene terephthalate) manufacture.)

Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585
(each rotogravure printing line used to print or coat

flexible vinyl or urethane products)

Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

40 CFR 60.590 through 40 CFR 60.593
(each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart HHH - Synthetic Fiber Production Facilities

40 CFR 60.600 through 40 CFR 60.604
(each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

40 CFR 60.610 through 40 CFR 60.618
(each air oxidation reactor not discharging its vent stream into a recovery system and each combination of an air oxidation reactor or two or more air oxidation reactors and the recovery system into which the vent streams are discharged any of which were constructed, modified, or reconstructed after October 21, 1983)

Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625
(facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning; dryers, washers, filters, stills, and settling tanks)

Subpart KKK - Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

40 CFR 60.630 through 40 CFR 60.636
(each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

Subpart LLL - Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

40 CFR 60.640 through 40 CFR 60.648
(facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

Subpart MMM - (Reserved)

Subpart NNN - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

40 CFR 60.660 through 40 CFR 60.668
(each distillation unit not discharging its vent stream into a recovery system, each combination of a distillation unit or of two or more units and the recovery system into which their vent streams are discharged ~~any of which were constructed, modified, or reconstructed after December 30, 1983~~)

Subpart OOO - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676
(facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station)

Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685
(each rotary spin wool fiberglass insulation manufacturing line)

Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.

40 CFR 60.690 through 40 CFR 60.699

(individual drain systems, oil-water separators, and aggregate facilities in petroleum refineries ~~for which construction, modification, or reconstruction is commenced after May 4, 1987~~)

Subpart RRR - (Reserved)

Subpart SSS - Magnetic Tape Coating Facilities.

40 CFR 60.710 through 40 CFR 60.718
(each coating operation and each piece of coating mix preparation equipment)

Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

40 CFR 60.720 through 40 CFR 60.726
(each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

Subpart UUU - (Reserved).

Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.

40 CFR 60.740 through 40 CFR 60.748

(each coating operation and any onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of supporting substrates ~~for which construction, modification, or reconstruction begins after April 30, 1987~~)

Appendix A - Reference Methods.

Method 1 - Sample and velocity traverses for stationary sources.

Method 1A - Sample and velocity traverses for stationary sources with small stacks or ducts.

Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

Method 2A - Direct measurement of gas volume through pipes and small ducts.

Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

Method 2C - Determination of stack gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

Method 2D - Measurement of gas volumetric flow rates in small pipes and ducts.

Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

Method 4 - Determination of moisture content in stack gases.

Method 5 - Determination of particulate emissions from stationary sources.

Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

Method 5B - Determination of nonsulfuric acid particulate matter from stationary sources.

Method 5C - (Reserved)

Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

Method 5F - Determination of nonsulfate particulate matter from stationary sources.

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Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

Method 5H - Determination of particulate emissions from wood heaters from a stack location.

Method 6 - Determination of sulfur dioxide emissions from stationary sources.

Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

Method 7 - Determination of nitrogen oxide emissions from stationary sources.

Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.

Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.

Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion colorimetric method.

Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).

Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

Method 9 - Visual determination of the opacity of emissions from stationary sources.

Alternate Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

Method 10 - Determination of carbon monoxide emissions from stationary sources.

Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries.

Method 10B - Determination of carbon monoxide emissions from stationary sources.

Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

Method 12 - Determination of inorganic lead emissions from stationary sources.

Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

Method 15A - Determination of total reduced sulfur emissions from sulfur recovery plants in petroleum refineries.

Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

Method 16B - Determination of total reduced sulfur emissions from stationary sources.

Method 17 - Determination of particulate emissions from stationary sources (instack filtration method).

Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates and electric utility steam generators.

Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.

Method 21 - Determination of volatile organic compounds leaks.

Method 22 - Visual determination of fugitive emissions from material processing sources and smoke emissions from flares.

Method 23 - Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources.

Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

Method 26 - Determination of hydrogen chloride emissions from stationary sources.

Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

Method 28 - Certification and auditing of wood heaters.

Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

Appendix B - Performance specifications.

Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 4A - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring

system in stationary sources.

Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

Performance Specification 7 - Specifications and test procedures for hydrogen sulfide continuous emission monitoring systems in stationary sources.

Appendix C - Determination of Emission Rate Change.

Appendix D - Required Emission Inventory Information

Appendix E - (Reserved)

Appendix F - Quality Assurance Procedures.

Procedure 1 - quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

Appendix G - (Not applicable)

Appendix H - (Reserved)

Appendix I - Removable label and owner's manual.

§ 120-05-0503. Word or phrase substitutions.

In all the standards designated in § 120-05-0502 substitute:

A. Owner or other person for owner or operator.

B. Board for Administrator.

C. Board for U.S. Environmental Protection Agency (except in references).

D. § 120-05-03 for § 60.8.

E. § 120-05-05 C for § 60.7(c).

PART VI. ENVIRONMENTAL PROTECTION AGENCY NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (RULE 6-1)

§ 120-06-0101. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61) designated in § 120-06-0102 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in § 120-06-0103. The complete text of the subparts in § 120-06-0102 incorporated herein by reference is contained in 40 CFR Part 61 (see Appendix M). The 40 CFR section numbers appearing under each

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subpart in § 120-06-0102 identify the specific provisions of the subpart incorporated by reference.

§ 120-06-0102. Designated emission standards.

Subpart A - General Provisions.

40 CFR 61.01 through 40 CFR 61.02 and 40 CFR 61.12 through 40 CFR 61.15
(applicability, definitions, compliance, emission tests, monitoring, modification)

Subpart B - Radon ~~222~~ Emissions from Underground Uranium Mines.

40 CFR 61.20 through 40 CFR ~~61.28~~ 61.26

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart C - Beryllium.

40 CFR 61.30 through 40 CFR 61.34

Subpart D - Beryllium Rocket Motor Firing.

40 CFR 61.40 through 40 CFR 61.44

Subpart E - Mercury.

40 CFR 61.50 through 40 CFR 61.55

Subpart F - Vinyl Chloride.

40 CFR 61.60 through 40 CFR 61.71

Subpart G - (Reserved)

Subpart H - Emissions of Radionuclides Other than Radon From Department of Energy (DOE) Facilities.

40 CFR 61.90 through 40 CFR ~~61.98~~ 61.97

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart I - Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H.

40 CFR 61.100 through 40 CFR ~~61.108~~ 61.109

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.

40 CFR 61.110 through 40 CFR 61.112

Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.

40 CFR 61.120 through 40 CFR 61.127

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart L - Benzene Emissions From Coke By-Product Recovery Plants.

40 CFR 61.130 through 40 CFR 61.139

Subpart M - Asbestos.

40 CFR 61.140 through 40 CFR ~~61.156~~ 61.157

NOTE: Under § 40.1-51.20 of the Code of Virginia, the Virginia Department of Labor and Industry also holds authority to enforce the following: 40 CFR 61.140, Applicability; 40 CFR 61.141, Definitions; 40 CFR 145, Standard for demolition and renovation; 40 CFR 61.146, Standard for spraying; 60 CFR 148, Standard for insulating materials; 60 CFR 150, Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations except subsection (a)(4); and 40 CFR 154, Standard for active waste disposal, except subsection (d); and 40 CFR 156, Cross-reference to other asbestos regulations.)

Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.

40 CFR 61.160 through 40 CFR 61.165

Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.

40 CFR 61.170 through 40 CFR 61.177

Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

40 CFR 61.180 through 40 CFR 61.186

Subpart Q - Radon Emissions From Department of Energy Facilities.

40 CFR 61.190 through 40 CFR 61.193

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart R - Radon Emissions From Phosphogypsum Stacks.

40 CFR 61.200 through 40 CFR 61.205

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart S - (Reserved).

Subpart T - Radon Emissions From the Disposal of Uranium Mill Tailings.

40 CFR 61.220 through CFR 61.225

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart U - (Reserved).

Subpart V - Equipment Leaks (Fugitive Emission Sources).

40 CFR 61.240 through 40 CFR 61.247

Subpart W - Radon ~~222~~ Emissions from ~~Licensed Uranium~~ Operating Mill Tailings.

40 CFR 61.250 through 40 CFR 61.252

NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.

Subpart X - (Reserved)

Subpart Y - Benzene Emissions From Benzene Storage Vessels.

40 CFR 61.270 through 40 CFR 61.277

Subparts Z-AA - (Reserved)

Subpart BB - Benzene Emissions From Benzene Transfer Operations.

40 CFR 61.300 through 40 CFR 61.306

Subparts CC-EE - (Reserved)

Subpart FF - Benzene Waste Operations.

40 CFR 61.340 through 40 CFR 61.358

Appendix B - Test Methods.

Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge

incinerators.

Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

Method 103 - Beryllium screening method.

Method 104 - Determination of beryllium emissions from stationary sources.

Method 105 - Determination of mercury in wastewater treatment plant sewage sludges.

Method 106 - Determination of vinyl chloride from stationary sources.

Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

Method 108 - Determination of particulate and gaseous arsenic emissions.

Method 108A - Determination of arsenic content in ore samples from nonferrous smelters.

Method 108B - Determination of arsenic content in ore samples from nonferrous smelters.

Method 108C - Determination of arsenic content in ore samples from nonferrous smelters.

Method 111 - Determination of polonium-210 emissions from stationary sources.

(NOTE: Authority to enforce the above test method is being retained by EPA and it is not incorporated by reference into these regulations.)

Method 114 - Test methods for measuring radionuclide emissions from stationary sources.

(NOTE: Authority to enforce the above test methods is being retained by EPA and it is not incorporated by reference into these regulations.)

Method 115 - Monitoring for radon-222 emissions.

(NOTE: Authority to enforce the above test method is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix C - Quality assurance procedures.

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Procedure 1 - Determination of adequate chromatographic peak resolution.

Procedure 2 - Procedure for field auditing gas cylinder analysis.

Appendix D - Methods for estimating radionuclide emissions.

(NOTE: Authority to enforce the above methods is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix E - Compliance procedures methods for determining compliance with subpart I.

(NOTE: Authority to enforce the above methods is being retained by EPA and it is not incorporated by reference into these regulations.)

§ 120-06-0103. Word or phrase substitutions.

In all of the standards designated in § 120-06-0102 substitute:

A. Owner or other person for owner or operator.

B. Board for Administrator.

C. Board for U.S. Environmental Protection Agency (except in references).

D. Part VIII and § 120-06-05 A for §§ 61.05(a), 61.07 and 61.09.

E. § 120-06-03 for § 61.14.

APPENDIX M. DOCUMENTS INCORPORATED BY REFERENCE.

I. General.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and non-statutory documents incorporated by reference and their availability may be found in Section II.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR ~~(1990)~~ (1991) in effect July 1, ~~1990~~ 1991. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR Part 35.20 means Section 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this appendix any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this appendix may be examined by the public at the headquarters office of the Department of Air Pollution Control, Eighth Floor, Ninth Street Office Building, Richmond, Virginia between 8:30 a.m. and 4:30 p.m. of each business day.

II. Specific documents.

A. Code of Federal Regulations.

1. The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, ~~1990~~ 1991, are incorporated herein by reference.

a. 40 CFR Part 40 - National Primary and Secondary Ambient Air Quality Standards.

(1) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(2) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(3) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(4) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(5) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.

(6) Appendix F - Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(7) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate

Matter Collected from Ambient Air.

(8) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.

(9) *Appendix I - Reserved.*

(10) Appendix J - Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere.

(11) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

b. 40 CFR Part 58 - Ambient Air Quality Surveillance.

Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

c. 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

(1) Subpart A - General Provisions.

(a) § 60.1 - Applicability.

(b) § 60.2 - Definitions.

(c) § 60.7 - Notification and record keeping.

(d) § 60.8 - Performance tests.

(e) § 60.11 - Compliance with standards and maintenance requirements.

(f) § 60.13 - Monitoring requirements.

(g) § 60.14 - Modification.

(h) § 60.15 - Reconstruction.

(i) § 60.18 - General control device requirements.

(2) Subpart D - Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

(3) Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

(4) Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

(5) *Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating*

Units.

(6) Subpart E - Standards of Performance for Incinerators.

(7) *Subpart Ea - Standards of Performance for Municipal Waste Combustors.*

(8) Subpart F - Standards of Performance for Portland Cement Plants.

(9) Subpart G - Standards of Performance for Nitric Acid Plants.

(10) Subpart H - Standards of Performance for Sulfuric Acid Plants.

(11) Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.

(12) Subpart J - Standards of Performance for Petroleum Refineries.

(13) Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids ~~Constructed for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973 and Prior to May 19, 1978.~~

(14) Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids ~~Constructed for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.~~

(15) Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

(16) Subpart L - Standards of Performance for Secondary Lead Smelters.

(17) Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.

(18) Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.

(19) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983.

(20) Subpart O - Standards of Performance for Sewage Treatment Plants.

(21) Subpart P - Standards of Performance for

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Primary Copper Smelters.

~~(20)~~ (22) Subpart Q - Standards of Performance for Primary Zinc Smelters.

~~(21)~~ (23) Subpart R - Standards of Performance for Primary Lead Smelters.

~~(22)~~ (24) Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.

~~(23)~~ (25) Subpart T - Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

~~(24)~~ (26) Subpart U - Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

~~(25)~~ (27) Subpart V - Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

~~(26)~~ (28) Subpart W - Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.

~~(27)~~ (29) Subpart X - Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

~~(28)~~ (30) Subpart Y - Standards of Performance for Coal Preparation Plants.

~~(29)~~ (31) Subpart Z - Standards of Performance for Ferroalloy Production Facilities.

~~(30)~~ (32) Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

~~(31)~~ (33) Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.

~~(32)~~ (34) Subpart BB - Standards of Performance for Kraft Pulp Mills.

~~(33)~~ (35) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

~~(34)~~ (36) Subpart DD - Standards of Performance for Grain Elevators.

~~(35)~~ (37) Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.

(38) Subpart FF - Reserved.

~~(36)~~ (39) Subpart GG - Standards of Performance for Stationary Gas Turbines.

37 (40) Subpart HH - Standards of Performance for Lime Manufacturing Plants.

(41) Subpart II - Reserved.

(42) Subpart JJ - Reserved.

~~(38)~~ (43) Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.

~~(39)~~ (44) Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.

~~(40)~~ (45) Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.

~~(41)~~ (46) Subpart NN - Standards of Performance for Phosphate Rock Plants.

~~(42)~~ (47) Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.

~~(43)~~ (48) Subpart QQ - Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

~~(44)~~ (49) Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

~~(45)~~ (50) Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.

~~(46)~~ (51) Subpart TT - Standards of Performance for Metal Coil Surface Coating.

~~(47)~~ (52) Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

~~(48)~~ (53) Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

~~(49)~~ (54) Subpart WW - Standards of Performance for the Beverage Can Surface Coating Industry.

~~(50)~~ (55) Subpart XX - Standards of Performance for Bulk Gasoline Terminals.

(56) Subpart YY - Reserved.

(57) Subpart ZZ - Reserved.

~~(51)~~ (58) Subpart AAA - Standards of Performance for New Residential Wood Heaters.

~~(52)~~ (59) Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.

(60) Subpart CCC - Reserved.

(61) Subpart DDD - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

(62) Subpart EEE - Reserved.

~~(53)~~ (63) Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

~~(54)~~ (64) Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.

~~(55)~~ (65) Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.

~~(56)~~ (66) Subpart III - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Processes.

~~(57)~~ (67) Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.

~~(58)~~ (68) Subpart KKK - Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

~~(59)~~ (69) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

(70) Subpart MMM - Reserved.

~~(60)~~ (71) Subpart NNN - Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

~~(61)~~ (72) Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.

~~(62)~~ (73) Subpart PPP - Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.

~~(63)~~ (74) Subpart QQQ - Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems.

(75) Subpart RRR - Reserved.

~~(64)~~ (76) Subpart SSS - Standards of Performance for Magnetic Tape Coating Facilities.

~~(65)~~ (77) Subpart TTT - Standards of Performance

for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

(78) Subpart UUU - Reserved.

~~(66)~~ (79) Subpart VVV - Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.

~~(67)~~ (80) Appendix A - Reference Methods.

(a) Method 1 - Sample and velocity traverses for stationary sources.

(b) Method 1A - Sample and velocity traverses for stationary sources with small stacks or ducts.

(c) Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

(d) Method 2A - Direct measurement of gas volume through pipes and small ducts.

(e) Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

(f) Method 2C - Determination of stack gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

(g) Method 2D - Measurement of gas volumetric flow rates in small pipes and ducts.

(h) Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

(i) Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

(j) Method 4 - Determination of moisture content in stack gases.

(k) Method 5 - Determination of particulate emissions from stationary sources.

(l) Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

(m) Method 5B - Determination of nonsulfuric acid particulate matter from stationary sources.

(n) Method 5C - Reserved.

~~(n)~~ (o) Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

~~(o)~~ (p) Method 5E - Determination of particulate emissions from the wool fiberglass insulation

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manufacturing industry.

~~(p)~~ ~~(q)~~ Method 5F - Determination of nonsulfate particulate matter from stationary sources.

~~(q)~~ ~~(r)~~ Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

~~(r)~~ ~~(s)~~ Method 5H - Determination of particulate emissions from wood heaters from a stack location.

~~(s)~~ ~~(t)~~ Method 6 - Determination of sulfur dioxide emissions from stationary sources.

~~(t)~~ ~~(u)~~ Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

~~(u)~~ ~~(v)~~ Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

~~(v)~~ ~~(w)~~ Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

~~(w)~~ ~~(x)~~ Method 7 - Determination of nitrogen oxide emissions from stationary sources.

~~(x)~~ ~~(y)~~ Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.

~~(y)~~ ~~(z)~~ Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

~~(z)~~ ~~(aa)~~ Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.

~~(aa)~~ ~~(bb)~~ Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion chromatographic method.

~~(bb)~~ ~~(cc)~~ Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).

~~(cc)~~ ~~(dd)~~ Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

~~(dd)~~ ~~(ee)~~ Method 9 - Visual determination of the opacity of emissions from stationary sources.

~~(ee)~~ ~~(ff)~~ Alternative Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

~~(ff)~~ ~~(gg)~~ Method 10 - Determination of carbon monoxide emissions from stationary sources.

~~(gg)~~ ~~(hh)~~ Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries

~~(hh)~~ ~~(ii)~~ Method 10B - Determination of carbon monoxide emissions from stationary sources.

~~(ii)~~ ~~(jj)~~ Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

~~(jj)~~ ~~(kk)~~ Method 12 - Determination of inorganic lead emissions from stationary sources.

~~(kk)~~ ~~(ll)~~ Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

~~(ll)~~ ~~(mm)~~ Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

~~(mm)~~ ~~(nn)~~ Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

~~(nn)~~ ~~(oo)~~ Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

~~(oo)~~ ~~(pp)~~ Method 15A - Determination of total reduced sulfur emissions from sulfur recovery plants in petroleum refineries.

~~(pp)~~ ~~(qq)~~ Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

~~(qq)~~ ~~(rr)~~ Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

~~(rr)~~ ~~(ss)~~ Method 16B - Determination of total reduced sulfur emissions from stationary sources.

~~(ss)~~ ~~(tt)~~ Method 17 - Determination of particulate emissions from stationary sources (in-stack filtration method).

~~(tt)~~ ~~(uu)~~ Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

~~(uu)~~ ~~(vv)~~ Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates from electric utility steam generators.

~~(vv)~~ ~~(ww)~~ Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from

stationary gas turbines.

~~(ww)~~ (xx) Method 21 - Determination of volatile organic compounds leaks.

~~(xx)~~ (yy) Method 22 - Visual determination of fugitive emissions from material sources and smoke emissions from flares.

(zz) Method 23 - Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources.

~~(yy)~~ (aaa) Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

~~(zz)~~ (bbb) Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

~~(aaa)~~ (ccc) Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

~~(bbb)~~ (ddd) Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

~~(ccc)~~ (eee) Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

(fff) Method 26 - Determination of hydrogen chloride emissions from stationary sources.

~~(ddd)~~ (ggg) Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

~~(eee)~~ (hhh) Method 28 - Certification and auditing of wood heaters.

~~(fff)~~ (iii) Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

~~(68)~~ (81) Appendix B - Performance Specifications.

(a) Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

(b) Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

(c) Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

(d) Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

~~(e)~~ Performance Specification 4A - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

~~(e)~~ (f) Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring systems in stationary sources.

~~(f)~~ (g) Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

~~(h)~~ Performance Specification 7 - Specifications and test procedures for hydrogen sulfide continuous emission monitoring systems in stationary sources.

~~(69)~~ (82) Appendix C - Determination of Emission.

(83) Appendix D - Required Emission Inventory Information.

(84) Appendix E - Reserved.

~~(70)~~ (85) Appendix F - Quality Assurance Procedures.

Procedure 1 - Quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

(86) Appendix H - Reserved.

~~(71)~~ (87) Appendix I - Removable label and owner's manual.

d. 40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants.

(1) Subpart A - General Provisions.

(a) § 61.01 - Applicability.

(b) § 61.02 - Definitions.

(c) § 61.12 - Compliance with standards and maintenance requirements.

(d) § 61.13 - Emission tests and waiver of emission tests.

(e) § 61.14 - Monitoring requirements.

(f) § 61.15 - Modification.

(2) Subpart C - National Emission Standard for Beryllium.

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(3) Subpart D - National Emission Standard for Beryllium Rocket Motor Firing.

(4) Subpart E - National Emission Standard for Mercury.

(5) Subpart F - National Emission Standard for Vinyl Chloride.

(6) Subpart G - Reserved.

~~(6)~~ (7) Subpart J - National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.

~~(7)~~ (8) Subpart L - National Emission Standard for Benzene Emissions From Coke By-Product Recovery Plants.

~~(8)~~ (9) Subpart M - National Emission Standard for Asbestos.

~~(9)~~ (10) Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

~~(10)~~ (11) Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

~~(11)~~ (12) Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

(13) Subpart S - Reserved.

(14) Subpart U - Reserved.

~~(12)~~ (15) Subpart V - National Emission Standard for Equipment Leaks (Fugitive Emission Sources).

~~(13)~~ (16) Subpart W - National Emission Standard for Radon-222 Emissions from Licensed Uranium Mill Tailings.

(17) Subpart X - Reserved.

~~(14)~~ (18) Subpart Y - National Emission Standard for Benzene Emissions from Benzene Storage Vessels.

(19) Subpart Z - Reserved.

(20) Subpart AA - Reserved.

~~(15)~~ (21) Subpart BB - National Emission Standard for Benzene Emissions from Benzene Transfer Operations.

(22) Subpart CC - Reserved.

(23) Subpart DD - Reserved.

(24) Subpart EE - Reserved.

~~(16)~~ (25) Subpart FF - National Emission Standard for Benzene Waste Operations.

~~(17)~~ (26) Appendix B - Test Methods.

(a) Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

(b) Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

(c) Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

(d) Method 103 - Beryllium screening method.

(e) Method 104 - Determination of beryllium emissions from stationary sources.

(f) Method 105 - Determination of mercury in wastewater treatment plant sewage sludge.

(g) Method 106 - Determination of vinyl chloride from stationary sources.

(h) Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

(i) Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

(j) Method 108 - Determination of particulate and gaseous arsenic emissions.

(k) Method 108A - Determination of arsenic content in ore samples from nonferrous samples.

(l) Method 108B - Determination of arsenic content in ore samples from nonferrous smelters.

(m) Method 108C - Determination of arsenic content in ore samples from nonferrous smelters.

~~(18)~~ (27) Appendix C - Quality Assurance Procedures.

(a) Procedure 1 - Determination of adequate chromatographic peak resolution.

(b) Procedure 2 - Procedure for field auditing GC analysis.

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

B. U.S. Environmental Protection Agency.

1. The documents specified below from the U.S. Environmental Protection Agency are incorporated herein by reference.

a. Guideline on Air Quality Models (revised), EPA-450/2-78-027R, OAQPS No. 1.2-080, July 1986, as amended by Supplement A, PB88150958, July 1987.

b. Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. 999-AP-13, PB190235, 1965 PB82250721, 1980.

2. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.

C. U.S. government.

1. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987, (U.S. Government Printing Office stock number 041-001-00-314-2).

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

D. American Society for Testing and Materials (ASTM).

1. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

a. D323-82, "Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.

b. D97-87, "Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the 1989 Annual Book of ASTM Standards.

2. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (215) 299-5400.

E. American Petroleum Institute (API).

1. The following document from the American Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Third Edition,

1989.

2. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; phone (202) 682-8000.

F. American Conference of Governmental Industrial Hygienists (ACGIH).

1. The following document from the ACGIH is incorporated herein by reference: ACGIH Handbook - Threshold Limit Values for Chemical Substances in the Work Environment Adopted by ACGIH with Intended Changes for ~~1990-1991~~ 1991-1992.

2. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211; phone (513) 661-7881.

G. National Fire Prevention Association (NFPA).

1. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

a. NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1985 Edition.

b. NFPA 30, Flammable and Combustible Liquids Code, 1987 Edition.

c. NFPA 30A, Automotive and Marine Service Station Code, 1987 Edition.

2. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; phone (617) 770-3000.

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Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution. Public Participation Procedures (Appendix E).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1308 of the Code of Virginia.

Effective Date: January 1, 1993.

Summary:

The regulation amendments revise the public participation guidelines to (i) allow for supplemental public participation; (ii) allow for petitions from persons to request the adoption, amendment, or repeal of regulations; (iii) require the use of an ad hoc advisory group or standing committee unless the board authorizes otherwise; (iv) change and expand the information provided in the notice of intended regulatory action and notice of public comment; (v) require the preparation of additional supporting

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documentation and analyses; and (vi) require board approval prior to the withdrawal of a regulatory proposal once the board has approved a proposed regulation.

APPENDIX E. PUBLIC PARTICIPATION GUIDELINES PROCEDURES .

§ 1. General.

A. The procedures in Section H § 2 of this appendix shall be used for soliciting the input of interested parties persons in the initial formation and development , amendment or repeal of regulations and any revision thereto in accordance with the Administrative Process Act. These procedures shall not only be utilized prior to the formation and drafting of regulations, but shall be utilized during the entire formation, promulgation and final adoption process. This appendix does not apply to regulations exempted from the provisions of the Administrative Process Act [(§ 9-6.14:4.1 A and B)] or excluded from the operation of Article 2 of the Administrative Process Act [(§ 9-6.14:4.1 C)] .

B. At the discretion of the board or the department, the procedures in § 2 of this appendix may be supplemented [by any means and in any manner] to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these procedures shall not affect the validity of any regulation otherwise adopted in accordance with this appendix.

[D. Any person may petition the board for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The board shall provide a written response to such petition within 180 days from the date the petition was received.]

§ 2. Public participation procedures.

A. The department shall establish and maintain a Regulation Development list consisting of parties persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Prepare Notice of Proposed Regulatory Action, which will include:

1. Subject of the proposed regulation.
2. Identification of the entities that will be affected.
3. Discussion of the need and purpose of the proposed regulation and the issues involved.
4. Regulatory alternatives.
5. Regulatory constraints.
6. Tentative determinations by the agency, if any.
7. Listing of applicable laws or regulations, and location where these documents can be reviewed or obtained.
8. Timetable for reaching a decision.
9. Request for comments from interested parties.
10. Request for volunteers to serve on ad hoc advisory group (whenever appropriate).
11. Notification of time and place of public meeting.
12. Name, address and telephone number of staff person to be contacted for further information.

C. Obtain Board approval of the notice.

D. Schedule a public meeting to receive views and comments and answer questions of the public. The meeting will be held no less than thirty days following publication of the notice and will normally be held in Richmond; but if the intended regulation will apply only to a particular area of the state, the meeting will be held in the area affected.

E. Disseminate notice to the public via:

1. Distribution by mail to parties on Regulation Development List.
2. Publication in the Virginia Register.
3. Press release to media.

F. Whenever the Board considers it appropriate form ad hoc advisory group to make recommendations on the proposed regulation. The ad hoc advisory group shall be

formed so as to give a balanced representation of interested parties.

G. After consideration of public input, draft regulation (in consultation with ad hoc advisory group) and prepare documentation for the Governor's Office.

H. Present draft regulation to Board and request authority for public hearing.

I. Schedule a public hearing to receive public comments on draft regulation. The hearing shall be at the end of a 60 day public comment period. As a minimum, there shall be at least one hearing in the Richmond area; and additional hearings may be held throughout the state as Board policy may dictate. A Board member will be present at the hearing in the Richmond area if the Board expects the public testimony to be significant. Draft regulation to advisory group and to all who attended the public meeting or submitted comments.

K. Submit regulation to a 60 day public hearing/comment period by forwarding the following documents to the Virginia Registrar of Regulations:

1. Notice of public hearing/comment period, which must contain the following:

- a. The date, time and place of the hearing.
- b. The subject, substance, issues, basis and purpose of the regulation.
- c. The legal authority of the agency to act.
- d. The name, address and telephone number of an individual to contact for further information.

2. Full text of regulation.

3. Summary of regulation.

4. Statement of basis, purpose and impact.

L. Concurrently with the preceding step, submit required documentation to the Governor's Office.

M. Registrar of Regulations publishes the hearing notice in Virginia Register and in Richmond area newspapers and in consultation with the Board publishes the hearing notice in newspapers in other regions of the state with the minimum requirement being that the notice be published in at least one major newspaper of general circulation in each Air Quality Control Region affected. Registrar of Regulations also publishes documents listed in subsection K 1 through 4 above in the Virginia Register.

N. During the public comment period, the regulation is reviewed by the following:

1. The public

2. The Governor

3. The Legislature

4. Cabinet Secretary

5. The Attorney General

O. Following the public hearing the remaining steps in the adoption process are carried out in accordance with the provisions of the Administrative Process Act.

B. Whenever the board so directs or upon its own initiative, the department may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The department [may shall] form an ad hoc advisory group [or utilize a standing advisory committee] to assist in the drafting and formation of the proposal [unless the board specifically authorizes the department to proceed without utilizing an ad hoc advisory group or standing advisory committee]. When an ad hoc advisory group is formed, such ad hoc advisory group shall [be appointed from groups and individuals registering interest in working with the department include representatives of the regulated community and the general public] .

D. The department shall issue a notice of intended regulatory action whenever it considers the adoption, amendment or repeal of any regulation.

1. The notice of intended regulatory action shall include at least the following:

a. A brief statement as to the need for regulatory action.

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the department in the drafting and formation of any proposed regulation developed pursuant to the notice of intended regulatory action.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The department shall hold at least one public meeting [when considering the adoption of new regulations: in the case of a proposal to amend or repeal existing regulations, the executive director, in his sole discretion, may dispense with the public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the board specifically authorizes the department to proceed without holding a public meeting] .

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In those cases where a public meeting(s) will be held, the notice of intended regulatory action shall also include the date, not to be less than 30 days after publication in the Virginia Register [of Regulations], time and place of the public meeting(s).

3. The public comment period for notices of intended regulatory action under this section shall be no less than 30 days after publication of the notice of intended regulatory action in the Virginia Register of Regulations.

E. The department shall disseminate the notice of intended regulatory action to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list established under subsection A of this section.

F. After consideration of public input, the department may prepare the draft proposed regulation and [~~prepare the notice of public comment and~~] any supporting documentation required for review. If an ad hoc advisory group has been established, the draft proposed regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the notice of intended regulatory action shall be distributed to the ad hoc advisory group during the development of the draft proposed regulation. This summary or copies of the comments received in response to the notice of intended regulatory action shall also be distributed to the board.

G. Upon approval of the draft proposed regulation by the board, the department [~~may, at its discretion, shall~~] publish [~~the a~~] notice of public comment and the proposal for public comment.

H. The notice of public comment shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the proposal may be obtained, and the name, address, and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the department and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the department is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the department for implementation and enforcement.

(4) Beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses [, as defined in § 9-199 of the Code of Virginia,] or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement [~~why~~ as to whether] the department believes that the proposed regulation is the least burdensome alternative to the regulated entities [that fully meets the stated purpose of the proposed regulation].

f. A schedule setting forth when, [~~within two years~~] after the effective date of the regulation, the department will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Administrative Process Act to receive comments on the proposed regulation. (In those cases in which the department elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Administrative Process Act.) The hearing(s) may be held at any time during the public comment period [and, whenever practicable, no less than 10 days prior to the close of the public comment period]. The hearing(s) may be held in such location(s) as the department determines will best facilitate input from

interested persons.

I. The public comment period shall close no less than 60 days after publication of the notice of public comment in the Virginia Register [of Regulations] .

J. The department shall disseminate the notice of public comment to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate.

2. Distribution by mail to persons on the list established under subsection A of this section.

K. The department shall prepare a summary of comments received in response to the notice of public comment and [the department's response to the comments received. The department shall] submit [~~it~~ or the summary and the department response and] , if requested, submit the full comments to the board. [~~Both~~] The summary [, the department response,] and the comments shall become a part of the department file [and after final action on the regulation by the board, made available, upon request, to interested persons] .

[L. If the department determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the board, the department shall present to the board for its consideration a recommendation and rationale for the withdrawal of the proposed regulation.

[~~L. M.~~] Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

[§ 3. Transition.

A. All regulatory actions for which a notice of intended regulatory action has been published in the Virginia Register prior to January 1, 1993, shall be processed in accordance with the public participation guidelines in effect prior to January 1, 1993.

B. All regulatory actions for which a notice of intended regulatory action has not been published in the Virginia Register prior to January 1, 1993, shall be processed in accordance with this appendix.]

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.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2103 of the Code of Virginia.

Effective Date: January 1, 1993.

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of this action is to repeal VR 173-01-00, Public Participation Guidelines and adopt VR 173-01-00:1, Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the guidelines (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Chesapeake Bay Local Assistance Board, and (iii) require the performance of certain analyses.

VR 173-01-00:1 Public Participation Guidelines.

§ 1. Definitions.

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

"Act" means the Chesapeake Bay Preservation Act, [~~§§ 10.1-2100 through 10.1-2115~~ Chapter 21 (§ 10.1-2100 et seq. of Title 10.1] of the Code of Virginia.

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Chesapeake Bay Local Assistance Department established pursuant to the Chesapeake Bay Preservation Act.

"Board" means the Chesapeake Bay Local Assistance Board established pursuant to the Chesapeake Bay Preservation Act.

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"Director" means the [executive] director of the Chesapeake Bay Local Assistance Department or his designee.

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

Unless specifically defined in the Chesapeake Bay Preservation Act or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act [(§ 9-6.14:4.1 A and B)] or excluded from the operation of Article 2 of the Administrative Process Act [(§ 9-6.14:4.1 C)].

B. At the discretion of the board or the agency, the procedures in § 3 may be supplemented [~~by any means and in any manner~~] to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

[D. Any person may petition the board for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The board shall provide a written response to such petition within 180 days from the date the petition was received.]

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the board so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency [~~may shall~~] form an ad hoc advisory group [or utilize a standing advisory committee] to assist in the drafting and formation of the proposal [unless the board specifically authorizes the agency to proceed without utilizing an ad hoc advisory group or standing advisory committee]. When an ad hoc advisory group is formed, such ad hoc advisory group shall [~~be appointed from groups and individuals registering interest in working with the agency~~] include representatives of the regulated community and the general public [].

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include at least the following:

- a. A brief statement as to the need for regulatory action.
- b. A brief description of alternatives available, if any, to meet the need.
- c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.
- d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting [~~when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the board specifically authorizes the agency to proceed without holding a public meeting~~]

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register of Regulations, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this

section shall be no less than 30 days after publication of the NOIRA in the Virginia Register [of Regulations] .

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and [~~prepare the notice of public comment (NOPC) and~~] any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the [~~approving authority board~~] .

G. Upon approval of the draft proposed regulation by the [~~approving authority board~~] the agency [~~may, at its discretion, shall~~] publish [~~the NOPC a Notice of Public Comment (NOPC)~~] and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the

public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement [~~why~~ as to whether] the agency believes that the proposed regulation is the least burdensome alternative to the regulated community [that fully meets the stated purpose of the proposed regulation] .

f. A schedule setting forth when, [~~within two years~~] after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice [shall indicate that the evidential hearing] will be held in accordance with § 9-6.14:8 [of the Code of Virginia.] The hearing(s) may be held at any time during the public comment period [and, whenever practicable, no less than 10 days prior to the close of the public comment period] . The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register of Regulations.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of

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Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and [the agency's response to the comments received. The agency shall] submit [~~it or~~, the summary and agency response and], if requested, submit the full comments to the [~~approving authority board~~] . [~~Both~~] The summary [, the agency response,] and the comments shall become a part of the agency file [and, after final action on the regulation by the board, made available, upon request, to interested persons] .

[L. If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the board, the agency shall present to the board for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.]

[~~L. M.~~] Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

[§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register of Regulations prior to January 1, 1993, shall be processed in accordance with the VR 173-01-00 Public Participation Procedures.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register of Regulations prior to January 1, 1993, shall be processed in accordance with this regulation (VR 173-01-00:1).]

DEPARTMENT OF CONSERVATION AND RECREATION

Board of Conservation and Recreation

Title of Regulation: VR 215-00-00. Regulatory Public Participation Procedures.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-107 of the Code of Virginia.

Effective Date: December 30, 1992.

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development

of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of this action is to adopt VR 215-00-00. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, VR 215-00-00. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

VR 215-00-00. Regulatory Public Participation Procedures.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Department of Conservation and Recreation, including staff, etc., established pursuant to Virginia law that implements programs and provides administrative support to the approving authority.

"Approving authority" means the Board of Conservation and Recreation, the collegial body (board), established pursuant to Virginia law as the legal authority to adopt regulations.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

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

"Virginia law" means the provisions found in the Code of Virginia or the Virginia Acts of Assembly authorizing the approving authority, director, or agency to make regulations or decide cases or containing procedural requirements thereof.

Unless specifically defined in Virginia law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act [(§ 9-6.14.4.1 A and B)] or excluded from the operation of Article 2 of the Administrative Process Act [(§ 9-6.14.4.1 C)] .

B. At the discretion of the approving authority or the director, the procedures in § 3 may be supplemented [~~by any means and in any manner~~] to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

[D. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.]

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon the director's initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency [~~may shall~~] form an ad hoc advisory group [or utilize a standing advisory committee] to assist in the drafting and formation of the proposal [

unless the approving authority specifically authorizes the director to proceed without utilizing an ad hoc advisory group or standing advisory committee] . When an ad hoc advisory group is formed, such ad hoc advisory group shall [~~be appointed from groups and individuals registering interest in working with the agency~~] include representatives of the regulated community and the general public] .

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

- a. A brief statement as to the need for regulatory action.
- b. A brief description of alternatives available, if any, to meet the need.
- c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.
- d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting [~~when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the approving authority specifically authorizes the director to proceed without holding a public meeting~~] .

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register of Regulations.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.
2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and [~~prepare the~~

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notice of public comment (NOPC) ~~and~~] any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency [~~may, at its discretion,~~ shall] publish [~~the NOPC~~ a Notice of Public Comment (NOPC)] and the proposal for public comment.

H. The NOPC shall include, at least, the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement [~~why~~ as to whether] the agency believes that the proposed regulation is the least burdensome alternative to the regulated community [that fully meets the stated purpose of the proposed regulation] .

f. A schedule setting forth when, [~~within two years~~] after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14.7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice [shall indicate that the evidential hearing] will be held in accordance with § 9-6.14.8 of the Code of Virginia.) The hearing(s) may be held at any time during the public comment period [and, whenever practicable, no less than 10 days prior to the close of the public comment period] . The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

1. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and [the agency's response to the comments received. The agency shall] submit [~~it~~ , the summary and agency response and] , if requested, submit the full comments to the approving authority. [~~Both~~] The summary [, the agency response,]

and the comments shall become a part of the agency file [and after final action on the regulation by the approving authority, made available, upon request, to interested persons] .

[L. If the director determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the director shall present to the approving authority for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.]

[~~L. M.~~] Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

[§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with the VR 215-01-00. Public Participation Guidelines.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with this regulation (VR 215-00-00. Regulatory Public Participation Procedures).]

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.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Effective Date: December 30, 1992.

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of this action is to repeal VR 215-01-00. Public Participation Guidelines and adopt VR 217-00-00. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary

information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, VR 217-00-00. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the department, and require the performance of certain analyses.

VR 217-00-00. Regulatory Public Participation Procedures.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Department of Conservation and Recreation including staff, etc., established pursuant to Virginia law that implements programs and provides administrative support to the approving authority.

"Approving authority" means the Director of the Department of Conservation and Recreation established pursuant to Virginia law as the legal authority to adopt regulations.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

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

"Virginia law" means the provisions found in the Code of Virginia or the Virginia Acts of Assembly authorizing the approving authority, director, or agency to make regulations or decide cases or containing procedural requirements thereof.

Unless specifically defined in Virginia law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act [§ 9-6.14:1 A and B] or excluded from the operation of Article 2 of the Administrative Process Act [§ 9-6.14:4.1 C].

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B. At the discretion of the approving authority, the procedures in § 3 may be supplemented [~~by any means and in any manner~~] to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

[D. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.]

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency [~~may shall~~] form an ad hoc advisory group [or utilize a standing advisory committee] to assist in the drafting and formation of the proposal [unless the director as the approving authority specifically authorizes the agency to proceed without utilizing an ad hoc advisory group or standing advisory committee] . When an ad hoc advisory group is formed, such ad hoc advisory group shall [~~be appointed from groups and individuals registering interest in working with the agency~~] include representatives of the regulated community and the general public] .

D. The agency shall issue a notice of intended

regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

- a. A brief statement as to the need for regulatory action.
- b. A brief description of alternatives available, if any, to meet the need.
- c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.
- d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting [~~when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director in his sole discretion, may dispense with the public meeting~~ whenever it considers the adoption, amendment or repeal of any regulation unless the director as the approving authority specifically authorizes the agency to proceed without holding a public meeting] .

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.
2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and [~~prepare the notice of public comment (NOPC) and~~] any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency [~~may, at its discretion,~~ shall] publish [~~the NOPC~~ a Notice of Public Comment (NOPC)] and the proposal for public comment.

H. The NOPC shall include, at least, the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed

regulation addresses, and a statement [~~why~~ as to whether] the agency believes that the proposed regulation is the least burdensome alternative to the regulated community [that fully meets the stated purpose of the proposed regulation] .

f. A schedule setting forth when, [~~within two years~~] after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14.7.1 to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice [shall indicate that the evidential hearing] will be held in accordance with § 9-6.14.8.) The hearing(s) may be held at any time during the public comment period [and, whenever practicable, no less than 10 days prior to the close of the public comment period] . The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and [the agency's response to the comments received. The agency shall] submit [~~it~~ ~~or~~ the summary and agency response and], if requested, submit the full comments to the approving authority. [~~Both~~] The summary [, the agency response,] and the comments shall become a part of the agency file [and after final action on the regulation by the director as the approving authority, made available, upon request, to interested persons] .

[L. If the director as the approving authority determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation, the director shall state in writing a rationale for the withdrawal of the proposed regulation.]

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[~~E. M.~~] Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

[§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with the VR 215-01-00. Public Participation Guidelines.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with this regulation (VR 217-00-00. Regulatory Public Participation Procedures).]

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.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-603.18, 10.1-605 and 10.1-637 of the Code of Virginia.

Effective Date: December 30, 1992.

Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of proposed regulations, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of this action is to repeal VR 625-00-00. Public Participation Guidelines and adopt VR 625-00-00:1. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, VR 625-00-00:1. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

VR 625-00-00:1. Regulatory Public Participation Procedures.

§ 1. Definitions.

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

“Administrative Process Act” means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

“Agency” means the Department of Conservation and Recreation, including staff, etc., established pursuant to Virginia law that implements programs and provides administrative support to the approving authority.

“Approving authority” means the Virginia Soil and Water Conservation Board, the collegial body (board), established pursuant to Virginia law as the legal authority to adopt regulations.

“Director” means the Director of the Department of Conservation and Recreation or his designee.

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

“Virginia law” means the provisions found in the Code of Virginia or the Virginia Acts of Assembly authorizing the approving authority, director, or agency to make regulations or decide cases or containing procedural requirements thereof.

Unless specifically defined in Virginia law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act [§ 9-6.14:1 A and B] or excluded from the operation of Article 2 of the Administrative Process Act [§ 9-6.14:4.1 C] .

B. At the discretion of the approving authority or the director, the procedures in § 3 may be supplemented [~~by any means and in any manner~~] to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

[D. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation.

The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.]

§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon the director's initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency [~~may~~ shall] form an ad hoc advisory group [or utilize a standing advisory committee] to assist in the drafting and formation of the proposal [unless the approving authority specifically authorizes the director to proceed without utilizing an ad hoc advisory group or standing advisory committee]. When an ad hoc advisory group is formed, such ad hoc advisory group shall [~~be appointed from groups and individuals registering interest in working with the agency include representatives of the regulated community and the general public~~] .

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:
 - a. A brief statement as to the need for regulatory action.
 - b. A brief description of alternatives available, if any, to meet the need.
 - c. A request for comments on the intended regulatory action, to include any ideas to assist the

agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting [~~when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the approving authority specifically authorizes the director to proceed without holding a public meeting~~] .

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and [~~prepare the notice of public comment (NOPC) and~~] any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency [~~may, at its discretion, shall~~] publish [~~the NOPC a Notice of Public Comment (NOPC)~~] and the proposal for public comment.

H. The NOPC shall include, at least, the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

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2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement [~~why~~ as to whether] the agency believes that the proposed regulation is the least burdensome alternative to the regulated community [that fully meets the stated purpose of the proposed regulation] .

f. A schedule setting forth when, [~~within two years~~] after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14.7.1 of the

Code of Virginia to receive comments on the proposed regulation. (In those cases where the agency elects to conduct an evidential hearing, the notice [shall indicate that the evidential hearing] will be held in accordance with § 9-6.14.8.) The hearing(s) may be held at any time during the public comment period [and, whenever practicable, no less than 10 days prior to the close of the public comment period] . The hearing(s) may be held in such location(s) as the agency determine will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and [the agency's response to the comments received. The agency shall] submit [~~the~~ the summary and agency response and] , if requested, submit the full comments to the approving authority. [~~Both~~] The summary [, and the agency response,] and the comments shall become a part of the agency file [and after final action on the regulation by the approving authority, made available, upon request, to interested persons.

[L. If the director determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the director shall present to the approving authority for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.]

[~~E. M.~~] Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with the VR 625-00-00. Public Participation Guidelines.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to December 30, 1992, shall be processed in accordance with this regulation (VR 625-00-00:1. Regulatory Public Participation Procedures).]

MARINE RESOURCES COMMISSION

Title of Regulation: VR 450-01-0045. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia.

Effective Date: January 1, 1993.

Summary:

These guidelines set forth the manner in which the Habitat Management Division of VMRC, consistent with the other agencies within the Natural Resources Secretariat, will ensure that interested parties have the necessary information to participate in the formation and development of regulations in conformance with the Virginia Administrative Process Act. The ability to petition the commission for the adoption, amendment or repeal of a regulation is provided as is a requirement to use ad hoc or standing advisory committees when drafting proposed regulations.

VR 450-01-0045. Public Participation Guidelines.

§ 1. Authority.

Section 28.1-27 and Chapter 2.1 (§ 62.1-13.1 et seq.) of Title 62.1 of the Code of Virginia.

§ 2. Purpose.

These guidelines establish the manner in which the Habitat Management Division will solicit public input prior to and during the guideline or general permit development process, from formation and promulgation, to final adoption.

§ 3. Proposed guideline/general permit.

All proposals prior to formation and drafting will be submitted to the commission for authorization to proceed with the public review process.

§ 4. Procedures.

A. Mailing list.

1. The division will develop a list of parties interested in the development of guidelines and general permits.
2. A list of appropriate newspapers and other relevant

media will be maintained.

B. Advisory committee.

The Habitat Management Advisory Committee established in response to Senate Joint Resolution No. 133, 1987 Session, will be consulted in the development of new or revised guidelines or general permits.

§ 6. Notice of intended regulatory action.

1. Whenever the division intends to promulgate a general permit or guidelines or make substantial change to existing guidelines, a notice of intended regulatory action will be:

a. Published in the Virginia Register of Regulations

and

b. Mailed to all parties on the mailing list.

2. The notice of intended regulatory action will include:

a. The type of regulatory action being considered,

b. The title of the document,

c. The purpose of the proposed document,

d. The last date for submittal of written comments and the person to receive comments,

e. The statutory authority for the proposed action,

f. Other pertinent information, and

g. A contact person for additional information.

D. Public meetings in the formulation stage.

1. The division may schedule public meetings to receive public views and comments and answer questions on contemplated actions.

2. Reasonable notice of any public meetings will be:

a. Published in the Virginia Register of Regulations,

b. Mailed to all parties on the mailing list, and

c. Advertised in appropriate newspapers.

3. The division may consolidate notice of any public meetings scheduled with the notice of intended regulatory action.

E. Proposals that emerge from the public formulation process described above will be placed on an appropriate commission agenda for authorization to proceed through

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the complete regulatory promulgation process as outlined in the Administrative Process Act.

§ 1. Authority.

Sections 9-6.14:7.1 and [~~62.1-13.4~~ 28.2-103] of the Code of Virginia.

§ 2. Definitions.

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

“Administrative Process Act” means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

“Commission” means the Marine Resources Commission.

“Commissioner” means the Commissioner of Marine Resources or his designee.

“Division” means the Habitat Management Division of the Commission.

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

Unless specifically defined in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 3. General.

A. The procedures in § 4 of this regulation shall be used by the division for soliciting the input of interested persons in the initial formation and development, revision, or repeal of [~~guidelines or general permits~~ regulations] in accordance with the Administrative Process Act. This regulation does not apply to regulations exempt from the provisions of the Administrative Process Act [(§ 9-6.14:4.1 A and B)] or excluded from the operation of Article 2 of the Administrative Process Act [(§ 9-6.14:4.1 C)].

B. At the discretion of the commission, the procedures in § 4 may be supplemented [~~by any means and in any manner~~] to provide additional public participation in the regulation adoption process.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

[D. Any person may petition the commission for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;

2. Petitioner's mailing address and telephone number;

3. Petitioner's interest in the proposed action;

4. Recommended regulation or addition, deletion or amendment to a specific regulation;

5. Statement of need and justification for the proposed action;

6. Statement of impact on the petitioner and other affected persons; and

7. Supporting documents, as applicable.

The commission shall provide a written response to such petition within 180 days from the date the petition was received.

§ 4. Public participation procedures.

A. The division shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment, or repeal of [~~guidelines or general permits~~ regulations].

B. Whenever the commission so directs or upon its own initiative, the division may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The commissioner [~~may appoint~~ shall form] an ad hoc advisory group [or utilize a standing advisory committee] to assist the division in the drafting and formation of [~~proposals~~ the proposal unless the commission specifically authorizes the division to proceed without utilizing an ad hoc advisory group or standing advisory committee]. When an ad hoc advisory group is formed, such ad hoc advisory group shall [~~be appointed from groups and individuals registering interest in working with the agency.~~ include representatives of the regulated community and the general public.]

D. The [~~commission~~ division] shall issue a notice of intended regulatory action (NOIRA) whenever [~~the~~ division it] considers the adoption, amendment or repeal of any [~~general permit or guideline~~ regulation].

1. The NOIRA shall include at least the following:

a. A brief statement as to the need for regulatory action,

b. A brief description of alternatives available, if any, to meet the need,

c. A request for comments on the intended regulatory action, to include any ideas to assist the division in the drafting and formation of any proposed regulation developed pursuant to the NOIRA,

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The division shall hold at least one public meeting [~~when considering the adoption of new guidelines or general permits. In the case of a proposal to amend or repeal existing guidelines or general permits, the commissioner, in his sole discretion, may dispense with the public meeting.~~ whenever it considers the adoption, amendment or repeal of any regulation unless the commission specifically authorizes the division to proceed without holding a public meeting.]

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRA's under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The division shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the division may prepare the draft proposed regulation [~~and prepare the notice of public comment (NOPC)~~] and any supporting documentation required for review. If an ad hoc advisory group [~~had~~ has] been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the commission.

G. Upon approval of the draft proposed [~~guideline or general permit~~ regulation] by the commission, the division [~~may, at its discretion, shall~~] publish [~~the a~~ Notice of Public Comment (NOPC)] and the proposal for public comment.

H. The NPOC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained, and name, address and telephone number of the individual to contact for further information about the proposed [~~guideline or general permit~~ regulation] .

2. A description of provisions of the proposed [

~~guideline or general permit~~ regulation] .

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. Statement of purpose. Why the [~~guideline or general permit~~ regulation] is proposed and the desired end result or objective of the [~~guideline or general permit~~ regulation] .

b. Estimated impact.

(1) Number and types of regulated entities or persons.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the [~~guideline or general permit~~ regulation] . Such qualitative data shall include, if possible, an example or examples of the impact of the proposed [~~guideline or general permit~~ regulation] on a typical member(s) of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the [~~guideline or general permit~~ regulation] is designed to produce.

c. An explanation of need for the proposed [~~guideline or general permit~~ regulation] and potential consequences that may result in the absence of the [~~guideline or general permit~~ regulation] .

d. An estimate of the impact of the proposed [~~guideline or general permit~~ regulation] upon small businesses, as defined in § 9-199 of the Code of Virginia, or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed [~~guideline or general permit~~ regulation] addresses, and a statement [~~why~~ as to whether] the agency believes that the proposed [~~guideline or general permit~~ regulation] is the least burdensome alternative to the regulated community [that fully meets the stated purpose of the proposed regulation] .

f. A schedule setting forth when, within two years after the effective date of the [~~guideline or general permit~~ regulation] , the agency will evaluate it for

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effectiveness and continued need.

5. The time, date and location of at least one public hearing held in conformance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed [~~guideline or general permit~~ regulation] . The hearing(s) may be held at any time during the public comment period [and, whenever practicable, no less than 10 days prior to the close of the public comment period] . In those cases in which the commission elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia. The hearing(s) may be held in such location(s) as the commission determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register of Regulations.

J. The division shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the State Capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The division shall prepare a summary of comments received in response to the NOPC and [the division's response to the comments received. The division shall] submit [~~the~~ the summary and agency response and] if requested, submit the full comments to the commission. [~~Both~~] The summary [, the agency response,] and the comments shall become a part of the agency file [and after final action on the regulation by the commission, made available upon request, to interested persons] .

[L. If the division determines that the process to adopt, amend or repeal any regulation should be terminated after the approval of the draft regulation by the commission, the division shall present to the commission for their consideration a recommendation and rationale for the withdrawal of the proposed regulation.]

[~~L. M.~~ M.] Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

[§ 5. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register of Regulations prior to

January 1, 1993, shall be processed in accordance with VR 450-01-0045, Public Participation Guidelines, effective June 2, 1987.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register of Regulations prior to January 1, 1993, shall be processed in accordance with this revised regulation.]

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

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

Title of Regulation: VR 460-01-29. Coordination of Medicaid with Medicare and Other Insurance.
VR 460-02-2.2100:1. Groups Covered and Agencies Responsible for Eligibility Determination.
VR 460-02-2.6100:1. Eligibility Conditions and Requirements.
VR 460-03-2.6101:1. Income Eligibility Levels.

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

Effective Date: January 1, 1993.

Summary:

The purpose of this action is to amend the Plan for Medical Assistance concerning the provision of Medicaid eligibility to Specified Low-Income Medicare Beneficiaries.

The sections of the State Plan for Medical Assistance affected by this action are preprinted page 29, Attachment 2.2 A, Attachment 2.6 A, and Supplement 1 to Attachment 2.6 A.

Section 4501 of OBRA 90 amended § 1902(a)(10)(E) of the Social Security Act to mandate coverage of a new group of eligibles effective January 1, 1993. This new group called Specified Low-Income Medicare Beneficiaries (SLMB) are individuals who meet all of the eligibility requirements for Qualified Medicare Beneficiary (QMB) status except for having income in excess of the QMB income limit. SLMBs may have income no greater than 110% of the federal poverty level. However, effective January 1, 1995, the income limit for SLMBs will increase to 120% of the federal poverty limit.

Additional requirements for SLMB eligibility are:

1. Eligibility can be retroactive up to three calendar months prior to the month of application (unlike QMBs).

2. The SLMB is eligible for Medicaid payment of the Part B premium only. Medicaid will not pay for any coinsurance or deductibles or any Part A premiums.

3. Cost of living increases in Social Security Title II benefits (COLAs) are disregarded in determining income eligibility through the month following the month in which the annual federal poverty level update is published. The new poverty level becomes effective the first of the following month for this group. For SLMBs without Title II benefits, the new poverty levels become effective no later than the date of its publication in the Federal Register.

Qualified Medicare Beneficiaries are those individuals who are eligible for Medicare Part A (hospitalization) coverage, whose income is no more than the poverty level, and whose resources do not exceed \$4,000 for a single person and \$6,000 for a couple. Eligible recipients receive Medicaid coverage of Medicare premiums, coinsurance, and deductibles.

Based on available demographic information and prior experience with similar poverty level increases, it is estimated there will be approximately 4,000 new recipients for payment of the Medicare Part B premium. The monthly Medicare Part B premium in 1993 is expected to be \$36.60 and in 1994 is expected to be \$41.10. Expenditures for this new group of eligibles is projected to be \$1,537,000 (\$768,500 GF) in calendar year '93 and \$3,452,000 (\$1,726,200 GF) in calendar year '94. In 1995, there will be an increase to 120 percent of the poverty level, thereby increasing this new group of eligibles by another 4,000 individuals and costing an additional \$2,212,800 (\$1,106,400 GF) in calendar year '95. FY 93 - FY 94 funding is included in the DMAS budget through the forecast which includes this mandate.

VR 460-01-29. Coordination of Medicaid with Medicare and Other Insurance.

§ 3.2 Coordination of Medicaid with Medicare and Other Insurance.

(a) Premiums

(1) Medicare Part A and Part B

Qualified Medicare Beneficiaries (QMB). (Citation: 1902 (a)(10)(E) and 1905 (p) of the Act)

The Medicaid agency pays Medicare Part A premiums (if applicable) and Part B premiums for individuals in the QMB group defined in Item A.26 of Attachment

2.2-A, by the following method:

- Group premium payment arrangement for Part A
- Buy-In agreement for
 - Part A Part B
- Other arrangements described below.

Medicare Part B. (Citation: 1902(a)(10)(E)(iii)) The Medicaid agency pays Medicare Part B premiums for individuals in the SLMB group defined in item 27 of Attachment 2.2-A through § 1843 of the Act, except that premiums based on eligibility may be retroactive for up to 3 months.

VR 460-02-2.2100:1. Groups Covered and Agencies Responsible for Eligibility Determination.

Agency*: IV-D

Citation: 1902(a)(10)(E)(iii)

Groups Covered:

27. Specified low-income Medicare beneficiaries.

a. Who are entitled to hospital insurance benefits under Medicare Part A:

b. Whose income does not exceed the income level (established at an amount up to 100% of the Federal income poverty level) specified in Supplement 1 to Attachment 2.6-A for a family of the same size effective on January 1, 1993, and 120% on January 1, 1995.

c. Whose resources do not exceed twice the maximum standards under SSI.

*Agency that determines eligibility for coverage.

VR 460-02-6100:1. Eligibility Conditions and Requirements.

If an individual receives a Title II benefit, any amounts attributable to the most recent increase in the monthly insurance benefit as a result of a Title II COLA is not counted as income during a "transition period" beginning with January, when the Title II benefit for December is received, and ending with the last day of the month following the month of publication of the revised annual federal poverty level.

For individuals with Title II income, the revised poverty levels are not effective until the first day of the month following the end of the transition period.

g. Qualified disabled and working individuals. (Citation: 1905(s) of the Act)

In determining countable income for qualified disabled

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and working individuals covered under 1902(a)(10)(E)(ii) of the Act, the methods of the SSI program are used.

h. Specified low-income Medicare Beneficiaries. (Citation: 1902(a)(10)(E)(iii))

In determining countable income for specified low-income Medicare beneficiaries covered under 1902(a)(10)(E)(iii) of the Act, the methods of the SSI program are used.

* * * * *

5. h. Qualified Medicare beneficiaries covered under § 1902(a)(10)(E)(i) of the Act. (Citation: 1905(p)(1)(C) and (D) and 1902(r)(2) of the Act)

The agency uses the following methods for treatment of resources:

- The methods of the SSI program only.
- The methods of the SSI program and/or more liberal methods as described in Supplement 8b to Attachment 2.6-A.

i. For qualified disabled and working individuals covered under § 1902(a)(10)(E)(ii) of the Act, the agency uses SSI program methods for the treatment of resources. (Citation: 1905(s) of the Act)

j. For COBRA continuation beneficiaries, the agency uses the following methods for treatment of resources:

- The methods of the SSI program.
- More restrictive methods applied under section 1902(f) of the Act as described in Supplement 5 to Attachment 2.6-A.

k. For specified low-income Medicare beneficiaries covered under 1902(a)(10)(E)(iii) of the Act, the agency uses SSI program methods for the treatment of resources. (Citation: 1902(a)(10)(E)(iii))

* * * * *

c. Special low-income Medicare beneficiaries. (Citation: 1902(a)(10)(E)(iii))

Coverage is available no earlier than the first day of the third month prior to the month of application if all eligibility requirements are met in those months. The eligibility determination is valid for:

- 12 months.
- 6 months.
- months (no less than 6 months and no more than

12 months).

VR 460-03-2.6101:1. Income Eligibility Levels.

E. Income Eligibility Levels-Mandatory Group of Specified Low-Income Medicare Beneficiaries with Incomes Up to Federal Poverty Line.

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(a)(10)(E) of the Act are as follows:

Based on 110%, and updated annually, of the official federal nonfarm income poverty line:

<u>Size of Family Unit</u>	<u>Poverty Guideline</u>
1	\$ 7,491
2	10,109



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

November 12, 1992

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

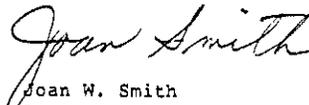
RE: VR 460-01-29; Coordination of Medicaid with Medicare
VR 460-02-2.2100; and Other Insurance; Medicaid Eligible
VR 460-02-2.6100; Groups and Requirements.
& VR 460-03-2.6101.

Dear Mr. Kozlowski:

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

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

Sincerely,


Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

BOARD OF SOCIAL WORK

Title of Regulation: VR 620-01-2. Regulations Governing the Practice of Social Work.

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

Effective Date: December 30, 1992.

Summary:

The final regulations of the Board of Social Work establish the requirements governing the practice of social work in the Commonwealth of Virginia. They include the educational and experiential requirements necessary for licensure; provide criteria for the written examination; set the standards of practice; and establish procedures for the disciplining of licensed social workers. The regulations govern two classes of licensees, licensed social worker and licensed clinical social worker, as well as continuing provisions for statutorily defined associate social worker and registered social worker as grandfathered licensee classes.

The proposed regulations were published in the Virginia Register on July 13, 1992. Following the close of the public comment period on September 13, 1992, the board prepared a summary of the comments received as well as board responses to the comments.

VR 620-01-2. Regulations Governing the Practice of Social Work.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Accredited school of social work" is defined as means a school of social work accredited by the Council on Social Work Education.

"Applicant" is defined as means a person who has submitted a completed application for licensure as a social worker with the appropriate fees.

"Board" is defined as means the Virginia Board of Social Work.

"Candidate for licensure" is defined as means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.

"Clinical course of study" is defined as means graduate

course work which includes courses in human behavior and social environment, social policy, research, clinical practice with individuals, families, groups and a clinical practicum which focuses on diagnostic, prevention and treatment services.

"Exemption from requirements of licensure" is defined in § 54.1-3701 of the Code of Virginia.

"Supervision" is defined as means the relationship between a supervisor and supervisee which is designed to promote the development of responsibility and skill in the provision of social work services. Supervision is the inspection, critical evaluation, and direction over the services of the supervisee. Supervision shall include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation.

[§ 1.2. Public participation guidelines.

A. Mailing list.

The Board of Social Work will maintain a list of persons and organizations who will be mailed the following documents as they become available.

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulations.
3. Final regulation adopted.

B. Being placed on list.

Any person or organization wishing to be placed on the mailing list may be added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons and organizations on the list will be provided all information stated in subsection A of these guidelines. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice of intent to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person or organization to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia

Register.

D. Information proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceedings will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceedings will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceedings may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

After any meeting of the board or any subcommittee or advisory committee where the formulation or adoption of regulations occurs, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

G. Advisory committees.

The board may appoint committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.]

§ 1.3. [§ 1.2. § 1.3.] Fees.

A. The board has established fees for the following:

- 1. Registration of supervision \$25
- 2. Annual renewal of supervision 25
- 3. Application processing 65
- 4. Examinations and reexaminations:
 - Written [90 75]
 - Oral - 75
- 5. Initial license: prorated portion of
 biennial license fee for
 unexpired part of biennium
- 6. Biennial license
 - a. Registered social worker 35

- b. Associate social worker 35
- c. Licensed social worker 125
- d. Licensed clinical social worker 125
- 7. Penalty for late renewal fee 10
- 8. Endorsement to another jurisdiction 10
- 9. Additional or replacement licenses 10
- 9- 10. Additional or replacement wall
 certificates 15
- 10- 11. Returned check 15

B. Examination fees shall be paid as follows:

1- Written examination fee shall be mailed directly to the examination service no later than 60 days prior to the examination administration.

2- Oral examination fee shall be mailed to the board office with the work sample. Check is to be made payable to the Treasurer of Virginia.

**PART II.
 REQUIREMENTS FOR LICENSURE.**

§ 2.1. General requirements.

A. No person shall practice as a social worker or clinical social worker in the Commonwealth of Virginia except as provided for in the Code of Virginia or these regulations.

B. The individual obtaining the two years of required experience shall not call himself a licensed clinical social worker, solicit clients, bill for his services, or in any way represent himself as a [licensed] clinical social worker until such time that a license has been issued.

C. Licensure by this board to practice as a social worker or clinical social worker shall be determined by examination.

D. Every applicant for examination for licensure by the board shall:

- 1. Meet the education and experience requirements prescribed in § 2.2 or § 2.3 of these regulations for the category of practice in which licensure is sought.
- 2. Have official transcripts documenting required academic coursework and degrees attained submitted directly from the appropriate institutions of higher education to the board not less than 90 days prior to the date of the written examination.

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3. Submit to the board, not less than 90 days prior to the date of the written examination:

a. A completed application, on forms provided by the board;

b. Documented evidence of having fulfilled the experience requirements of § 2.2; *Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of § 2.2 or § 2.3;* and

c. The application fee prescribed in § 1.3 [~~1.2~~ 1.3] of these regulations.

§ 2.2. Education and experience requirements.

A. For a licensed social worker:

1. Education. The applicant shall hold a bachelor's or a master's degree from an accredited school of social work, documented as prescribed in § 2.1 C 2. Graduates of foreign institutions shall establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

2. Experience. Applicants shall meet applicable requirements for experience depending on their educational background, as provided in subdivisions a and b of this subdivision:

a. Bachelor's degree applicants shall have had two years of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board.

(1) Full-time experience in casework management and supportive services is defined as a total of 3000 hours of work experience acquired in no less than two years.

(2) Part-time equivalent experience in casework management and supportive services is defined as at least 3000 hours of work experience acquired in no less than four years.

b. Master's degree applicants are not required to have professional experience in the field.

e. Registration of supervised post-bachelor's degree experience shall be required as provided in subdivision (1) of this subdivision.

(1) An individual who proposes to obtain supervised post-bachelor's degree experience in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such experience:

(a) Be registered on a form provided by the board and completed by the supervisor and supervised individual; and

(b) Pay the annual registration-of-supervision fee as prescribed by the board.

(2) The supervisor providing supervision under this subsection shall:

(a) Be a licensed social worker with a Master's degree; or

(b) Be a licensed clinical social worker; or

(c) Be an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed social worker or a licensed clinical social worker constitutes an undue burden on the applicant; and

(d) Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board.

(3) Applicants must document successful completion of their supervised experience on appropriate forms at the time of application. Supervised experience obtained prior to the implementation of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

(4) The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.

(5) Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

(6) The individual acting as supervisor:

(a) Shall be knowledgeable about the diagnostic assessment and treatment plan of cases assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision;

(b) Shall not provide supervision of activities for which the applicant has not had appropriate education;

(c) Shall not provide supervision for activities for which the supervisor is not qualified; and

(d) Shall, on an annual basis, provide to the board documentation of the hours attained by the supervisee of social work practice for which the supervisor has been responsible. On the same form on which this information is recorded, the

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supervisor shall list the number of hours of face-to-face supervision received during the reporting period as well as evaluate the supervisee in the areas of professional ethics and professional competency.

(7) At the time of application, applicants shall provide to the board documentation of the supervised experience from all supervisors, or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board:

(a) Applicants whose former supervisor is deceased or whose whereabouts is unknown shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation, or partnership in which the applicant was supervised, and

(b) The affidavit shall specify dates of employment, job responsibilities, the supervisor's name (and last known address), and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

(c) Individuals may obtain the required supervised experience without registration provided such experience:

(a) Is obtained in an exempt setting; and
(b) Meets all other requirements of the board for supervised experience as set forth in this subsection.

B. For a licensed clinical social worker:

1. Education: The applicant shall hold a minimum of a master's degree from an accredited school of social work, documented as prescribed in § 2.1 C 2. Graduates of foreign institutions shall establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

a. The degree program shall have included a graduate clinical course of study; or

b. The applicant shall provide documentation of having completed specialized experience, coursework or training acceptable to the board as equivalent to such sequence of courses.

2. Experience: The applicant shall have had two years of full-time post-master's degree experience in the delivery of clinical services as prescribed in subdivision a of this subdivision, or the equivalent in part-time experience. The post-master's experience, whether full or part-time, shall be under supervision satisfactory to the board as prescribed in § 2.2 B 2 c.

e. Full-time experience in the delivery of clinical

services is defined as a total of 2,000 hours of work experience required in no less than two years.

(1) Of these 2,000 hours, 15 hours per week shall be spent in face-to-face client contact, for a total of 1,380 hours in the two-year period.

(2) The remaining hours may be spent in activities supporting the delivery of clinical services.

b. Part-time equivalent experience in the delivery of clinical services is a total of 2,000 hours of work experience acquired in no more than four years. Of the 2,000 hours, 1,380 hours shall be spent in face-to-face client contact.

c. Except as provided in § 2.2 B 2 e below, an individual who proposes to obtain supervised post-graduate experience in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such experience:

(1) Be registered on a form provided by the board and completed by the supervisor and the supervised individual; and

(2) Pay the annual registration-of-supervision fee prescribed by the board.

d. The supervisor providing supervision under subdivision e above shall:

(1) Be a licensed clinical social worker; or

(2) Be an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is licensed clinical social worker constitutes an undue burden on the applicant; and

(3) Be responsible for the clinical activities of the prospective applicant once the supervisory arrangement is accepted by the board.

e. Applicants must document successful completion of their supervised experience on appropriate forms at the time of application. Supervised experience obtained prior to the effective date of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

f. An individual who does not become a candidate for licensure after four years of supervised training in a nonexempt setting shall submit evidence to the board showing why the training should be allowed to continue.

g. The experience shall include at least 100 hours of face-to-face supervision during the two-year period.

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A minimum of one hour of individual face-to-face supervision per week shall be provided for the two years.

h. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

i. The individual obtaining the two years of required experience shall not call himself a licensed clinical social worker, solicit clients, bill for his services, or in any way represent himself as a clinical social worker until such a license has been issued.

j. The licensed clinical social worker acting as supervisor shall:

(1) Be knowledgeable about the diagnostic assessment and treatment plans for clients assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision;

(2) Provide supervision only for those activities for which the applicant has had appropriate education;

(3) Provide supervision only for those activities for which the supervisor is qualified; and

(4) Provide, on an annual basis, to the board, documentation of the supervisee's direct client contact and supervisory hours for which the supervisor was responsible. The supervisor shall evaluate the supervisee in the areas of professional ethics, knowledge of theory base, and professional competency, noting any limitations observed regarding the supervisee's skills and practice.

k. Applicants shall provide to the board documentation of the supervised experience from all supervisors, or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board:

(1) Applicants for licensure who have worked full-time for a minimum of two years in the delivery of clinical social work services need document only their full-time employment as long as the requirement in § 2-2 B 2 a (1) has been met;

(2) Applicants for licensure who have worked part-time in the delivery of clinical services will need to document the experience prescribed in both subdivisions (1) and (2) of § 2-2 B 2 a, covering a period not more than four years;

(3) Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised;

and

(4) The affidavit shall specify dates of employment, job responsibilities, supervisor's name (and last address, if known), and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

l. Individuals may obtain the required supervised experience without registration or reporting of supervision provided such experience:

(1) Is obtained in an exempt setting; and

(2) Meets all other requirements of the board for supervised experience as set forth in § 2-2 B 2.

§ 2.2. Education and experience requirements for licensed clinical social worker.

A. Education.

The applicant shall hold a minimum of a master's degree from an accredited school of social work, documented as prescribed in § 2.1 D 2. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council of Social Work Education.

1. The degree program shall have included a graduate clinical course of study; or

2. The applicant shall provide documentation of having completed specialized experience, coursework or training acceptable to the board as equivalent to a clinical course of study.

B. Experience.

The applicant shall have had two years of full-time post-master's degree experience in the delivery of clinical services or the equivalent in part-time experience. The post-master's degree experience, whether full- or part-time, shall be under supervision satisfactory to the board as prescribed in these regulations.

1. Full-time experience in the delivery of clinical services is defined as a total of 3,000 hours of work experience acquired in no less than two years.

a. Of these 3,000 hours, 15 hours per week shall be spent in face-to-face client contact, for a total of 1,380 hours in the two-year period.

b. The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.

2. Part-time equivalent experience in the delivery of clinical services for a total of 3,000 hours of work

experience.

a. Of the 3,000 hours, 1,380 hours shall be spent in face-to-face client contact.

b. The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.

3. Supervision and experience obtained prior to the effective date of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

4. An individual who does not become a candidate for licensure after four years of supervised training in a nonexempt setting shall submit evidence to the board showing why the training should be allowed to continue.

C. Supervision requirements for applicants in nonexempt settings.

1. An individual who proposes to obtain supervised post-graduate experience in a nonexempt setting in Virginia shall, prior to the onset of such supervision [and annually thereafter for each succeeding years of experience] :

a. Be registered on a form provided by the board and completed by the supervisor and the supervised individual; and

b. Pay the [annual] registration-of-supervision fee prescribed by the board.

2. The supervisor providing supervision under subdivision 1 of this subsection shall be:

a. A licensed clinical social worker with at least five years post-MSW clinical experience, or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed clinical social worker with at least five years post-MSW clinical experience constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to licensed clinical social worker supervision; and

b. Be responsible for the clinical activities of the prospective applicant once the supervisory arrangement is accepted.

3. The experience shall include at least 100 hours of face-to-face supervision during the two-year period. A minimum of one hour of individual face-to-face supervision per week shall be provided for the two years.

4. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

D. The licensed clinical social worker acting as supervisor shall:

1. Be knowledgeable about the diagnostic assessment and treatment plan for clients assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision.

2. Provide supervision only for those activities for which the applicant has had appropriate education.

3. Provide supervision only for those activities for which the supervisor is qualified.

4. Provide, to the board, on an annual basis, documentation of the supervisee's direct client contact and supervisory hours for which the supervisor was responsible. The supervisor shall evaluate the supervisee's knowledge in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of eminent danger, and implementing a professional and ethical relationship with clients.

5. Provide documentation, on forms provided by the board, that the supervisee is at least minimally competent in the areas listed in subdivision 4 of this subsection before the supervisee will be eligible to take the written examination.

E. Documentation of supervised experience.

At the time of application for licensure, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.

1. Applicants for licensure who have worked full time for a minimum of two years in the delivery of clinical social work services need document only their full-time employment provided the experience requirement has been met.

2. Applicants for licensure who have worked part time in the delivery of clinical services will need to document the experience as prescribed in § 2.2 B 2.

3. Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised.

4. The affidavit shall specify dates of employment, job

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responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

F. Supervision requirements for applicants in exempt settings.

Individuals may obtain the required supervision and experience without registration of supervision provided such experience:

1. Is obtained in an exempt setting.
2. Meets all other requirements of the board for supervised experience as set forth in these regulations.

§ 2.3. Education and experience requirements for licensed social worker.

A. Education.

The applicant shall hold a bachelor's or a master's degree from an accredited school of social work, documented as prescribed in § 2.1 D 2. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

B. Experience - master's degree applicants.

Master's degree applicants are not required to have professional experience in the field.

C. Experience - bachelor's degree applicants.

Bachelor's degree applicants shall have had two years of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board.

1. Full-time experience in casework management and supportive services is defined as a total of 3,000 hours of work experience acquired in no less than two years.
2. Part-time equivalent experience in casework management and supportive services is defined as at least 3,000 hours of work experience acquired in no less than four years.

D. Supervision requirement for bachelor's degree applicant in nonexempt settings.

1. An individual who proposes to obtain supervised post-bachelor's degree experience in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such

experience:

- a. Be registered on a form provided by the board and completed by the supervisor and supervised individual; and
- b. Pay the annual registration-of-supervision fee as prescribed by the board.

2. The supervisor providing supervision shall be:

- a. A licensed social worker with a master's degree, or a licensed clinical social worker, or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed social worker with a master's degree or a licensed clinical social worker constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to supervision listed above; and
- b. Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board.

3. Supervision and experience obtained prior to the implementation of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.

4. The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.

5. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

E. The individual acting as supervisor shall:

1. Be knowledgeable about the diagnostic assessment and treatment plan of cases assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision.
2. Provide supervision only for those activities for which the applicant has had appropriate education.
3. Provide supervision only for those activities for which the supervisor is qualified.
4. Provide to the board, on an annual basis, documentation of the supervisee's social work practice and supervisory hours for which the supervisor was responsible. The supervisor shall evaluate the supervisee in the areas of professional ethics and professional competency.

F. Documentation of supervised experience.

1. At the time of application, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.

2. Applicants whose former supervisor is deceased or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive office of the agency, corporation, or partnership in which the applicant was supervised.

3. The affidavit shall specify dates of employment, job responsibilities, the supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

G. Supervision requirements for applicant in exempt setting.

Individuals may obtain the required supervised experience without registration of supervision provided such experience:

1. Is obtained in an exempt setting.
2. Meets all other requirements of the board for supervised experience as set forth in these regulations.

PART III. EXAMINATIONS.

§ 3.1. General examination requirements.

A. The board may waive the written examination if the applicant has been certified or licensed in another jurisdiction by standards and procedures equivalent to those of the board.

B. An applicant for licensure by the board as a social worker or clinical social worker shall pass a written examination and an applicant for licensure as a clinical social worker shall pass a written and oral examination at times prescribed by the board.

C. Examination schedules.

A written examination and an oral examination shall be administered at least twice each year. The board may schedule such additional examinations as it deems necessary.

1. The executive director of the board shall notify all candidates in writing of the time and place of the examinations for which they have been approved to sit, and of the fees for these examinations.

2. The candidate shall submit the applicable fees following the instructions under § 1.3 [1.2 1.3] B.

3. If the candidate fails to appear for the examination without providing written notice at least two weeks before the examination, the examination fee shall be forfeited.

§ 3.2. Written examination.

A. The written examination comprises an examination consisting of standardized multiple-choice questions. These questions may cover all or some of the following areas: human growth and development, social work practice with individuals, families, couples and groups, supervision, social policy, administration, social work research, community organization and planning, and ethical principles of social work practice in addition to other areas deemed relevant to the board.

B. The board will establish passing scores on the written examination.

§ 3.3. Oral examination: clinical social worker candidates only.

Successful completion of the written examination requirements shall be a prerequisite to taking the oral examination for the clinical social worker license.

A. Candidates who sit for the clinical social worker written licensure examination shall submit to the board office a work sample prepared in accordance with the requirements outlined in subsection D of this section.

B. Candidates who pass the written examination will be notified by the board of the time and place of the oral examination.

C. The oral examination shall consist of a face-to-face interview by the board or its designees of the candidate for the purpose of determining the minimal competence of the candidate:

1. Evaluating the applicant's professional competence and
2. Determining the candidate's clinical skills as demonstrated in a work sample or through another examination format as prescribed by the board.

D. The work sample of a candidate for examination for licensure as a clinical social worker shall conform to the following requirements:

1. The work sample shall:

- a. Present material drawn from the candidate's practice within the last 12 months immediately preceding the date of the oral examination;
- b. Be typical of the practice area in which the candidate intends to engage as a clinical social worker.

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2. The work sample shall be typed, double-spaced, on one side of the paper only, and within an absolute limit of six pages in length. Six clearly readable copies of the work sample shall be submitted to the board.

3. The work sample shall present an orderly, sequential treatment based on the candidate's understanding of the problem described. The work sample shall:

- a. State dates of treatment, including the frequency of the sessions;
- b. Provide a clear statement of the problem in such a way as to demonstrate the client's description of the problem and to substantiate the candidate's assessment of the problem;
- c. Substantiate the diagnostic assessment made;
- d. Show clearly the flow of the treatment process based upon the candidate's conceptual understanding of the problem and the diagnosis; and
- e. Demonstrate the role played by the candidate in facilitating the treatment process and the client's progress; the theory base and the social work principles utilized with the client.

4. Candidates who submit a work sample but do not take the next scheduled oral examination may use this sample for the subsequent oral examination period only.

5. Failure to meet the criteria above may result in the applicant being denied permission to take the oral examination.

E. A majority decision of the board will determine whether a candidate has passed the oral examination.

F. Reexamination will be required on the failed oral examination. After paying the reexamination fee, a candidate may be reexamined only once within a 12-month period.

PART IV. LICENSURE RENEWAL; REINSTATEMENT. ADDITIONAL DOCUMENTATION OF COMPETENCE.

§ 4.1. *Candidates who took and failed [the an] oral examination.*

Candidates who have previously taken and failed an oral examination administered by the Board of Social Work [must shall] reapply and submit [a letter the appropriate form] from their supervisor stating that the candidate meets the minimum competency levels in the six skill areas as follows:

1. *Skill in the application of an identified theory base.*

2. *Skill in the application of a differential diagnosis.*

3. *Skill in establishing and monitoring a treatment plan.*

4. *Skill in the development and appropriate use of the professional relationship.*

5. *Skill in assessing the client for risk of eminent danger and taking appropriate and necessary action to protect the safety of the client, the public, and the social worker when necessary.*

6. *Skill in implementing a professional and ethical relationship with clients.*

PART V. LICENSURE RENEWAL; REINSTATEMENT.

§ 4.1. § 5.1. Biennial renewal of licensure.

A. All licensees shall renew their licenses on or before June 30 of each odd-numbered year and pay the renewal fee prescribed by the board.

B. Failure to receive a renewal notice from the board shall not relieve the licensee from the renewal requirement.

§ 4.2. § 5.2. Late renewal.

A social worker or clinical social worker whose license has expired may renew that license within four years after its expiration date by:

1. Providing evidence of having met all applicable requirements.

2. Paying:

a. The late renewal fee prescribed by the board; and

b. The renewal fee prescribed by the board for each renewal period during which the license was expired.

§ 4.3. § 5.3. Reinstatement.

A social worker or clinical social worker who fails to renew the license for four years or more and who wishes to resume practice shall reapply and be reexamined for licensure.

§ 4.4. § 5.4. Renewal of registration for associate social workers and registered social workers.

The registration of every associate social worker and registered social worker with the former Virginia Board of

Registration of Social Workers under former § 54-775.4 of the Code of Virginia shall expire on June 30 of each odd-numbered year.

1. Each registrant shall return the completed application before the expiration date, accompanied by the payment of the renewal fee prescribed by the board.
2. Failure to receive the renewal notice shall not relieve the registrant from the renewal requirement.

PART ~~V~~. VI. COMMITTEES.

~~§ 5-1~~. § 6.1. Examining and advisory committees.

The board may establish advisory and examining committees to assist it in carrying out statutory responsibilities.

1. The committees may assist in evaluating the professional qualifications of applicants and candidates for licensure and renewal of licenses and in other matters the board deems necessary.
2. The committees may assist in the evaluation of the mental or emotional competency, or both, of any licensee or applicant for licensure when such competence is an issue before the board.

PART ~~VI~~. VII. STANDARDS OF PRACTICE.

~~§ 6-1~~. § 7.1. Professional conduct.

Persons whose activities are regulated by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Be able to justify all service rendered to clients as necessary for diagnostic or therapeutic purposes.
3. Practice only within the competency areas for which they are qualified by training or experience, or both.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of social work.
5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
6. Ensure that clients are aware of fees and billing arrangements before rendering services.

7. Keep confidential their counseling relationships with clients, with the following exceptions: (i) when the client is a danger to self or others; and (ii) when the social worker is under court order to disclose information.

8. Disclose therapy records to others only with the written consent of the client.

9. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.

10. Not engage in dual relationships with clients that might compromise the client's well-being or impair the social worker's objectivity and professional judgment (to include such activities as counseling close friends or relatives, engaging in sexual intimacies with a client).

11. Maintain clinical records on each client. The record shall include identifying information to substantiate diagnosis and treatment plan, client progress, and termination. The clinical record shall be preserved for at least five years post termination.

~~§ 6-2~~. § 7.2. Grounds for denial, revocation, suspension, or denial of renewal of license.

Action by the board to deny, revoke, suspend or decline to renew a license shall be in accordance with the following:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;
2. Procurement of license by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public. In the event a question arises concerning the continued competence of a licensee, the board will consider evidence of the following continuing education in one or more of the following categories as a demonstration of effort to maintain minimum competence to engage in practice:
 - a. Evidence of continuing education in one or more of the following categories:
 - (1) a. Academic social work courses taken for credit or audited.
 - (2) b. Continuing education offered by accredited social work education programs, other accredited educational programs, and other providers, including professional associations, agencies and private entrepreneurs:
 - (a) (1) Seminars, institutes, workshops, or

Final Regulations

mini-courses oriented to the enhancement of social work practice, values, skills and knowledge; and

~~(b)~~ (2) Cross-disciplinary offering from medicine, law, and the behavioral sciences if they are clearly related to the enhancement of social work practice, values, skills and knowledge.

~~(3)~~ c. Planned self-directed study in collaboration with other professionals;

~~(a)~~ (1) Independent study in a social work curriculum area or a closely related field. Examples include a planned reading program, individual supervision or consultation; and

~~(b)~~ (2) The content and plan of instruction developed by the licensee.

~~(4)~~ d. Publication of books, papers, or presentations given for the first time at a professional meeting;

~~(5)~~ e. Other professional activities, including:

~~(a)~~ (1) Preparation for the first time of an academic social work course, in-service training workshop or seminar, or other professional seminar; and

~~(b)~~ (2) Research not resulting in publication.

~~(6)~~ f. Social work-related academic courses such as mental health, health and social work research, psychology, human growth and development, and child and family development.

4. Being unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition;

5. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of § ~~6-1~~ 7.1, standards of practice;

6. Performing functions outside the board-licensed area of competency;

7. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of these regulations.

~~§ 6-3.~~ § 7.3. Reinstatement following disciplinary action.

Any person whose license has been suspended, revoked, or denied renewal by the board under the provisions of § ~~6-2~~ 7.2 may, in order to be eligible for reinstatement, (i) submit a new application to the board for a license, (ii) pay the appropriate application fee, and (iii) submit any other credentials as prescribed by the board.

The board, at its discretion, may, after a hearing, grant the reinstatement.

The applicant for reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement.

REGISTRATION NO. 18
 RSC BOARD OF SOCIAL WORKERS

Services rendered by the applicant under your supervision. Include population of clients, assessments used, and counseling techniques used. For example: assessments and intake interviews; developed treatment plans; provided individual, group and family counseling; crisis intervention; conduct discharge, referral and follow-up services; maintenance of case records.

Supervision provided to Applicant. Provide detailed information. For example: assess counseling skills; review treatment plans; monitor assessments, case records; supervise family interventions and family groups; monitor discharge planning, crisis intervention and referrals; maintenance of case records; discussed ethical relationships with clients and ethical issues.

REGISTRATION NO. 18
 RSC BOARD OF SOCIAL WORKERS

COMMONWEALTH OF VIRGINIA - DEPARTMENT OF HEALTH PROFESSIONS

VIRGINIA BOARD OF SOCIAL WORK

VERIFICATION OF CLINICAL SUPERVISION FORM

This form is to be completed by the supervisor when supervision is completed and applicant seeks verification of supervised clinical experience towards licensure as a clinical social worker.

NAME OF APPLICANT: _____
 NAME OF SUPERVISOR: _____
 BUSINESS ADDRESS: _____
 Type of License: _____ License No: _____
 State Where Licensed: _____
 If not licensed in Virginia, submit copy of valid license. _____

Dates the applicant was under your supervision:
 From: Mo. Day Yr. To: Mo. Day Yr.

- Total Number of Hours Applicant Worked Per Week: _____
 1. Number of hours per week of individual face-to-face clinical supervision: _____
 2. Total number of hours of individual face-to-face clinical supervision: _____

Final Regulations

PROVISIONAL REGULATIONS
 Adopted on 11-11-89

7. Case Management and Record Keeping

Supervisee maintains appropriate clinical records and client data, and understands the circumstances under which various records can be released.

YES NO

8. Professional Identity and Ethics

Supervisee uses supervision and shows continuing development of clinical skills.

YES NO

Supervisee demonstrates knowledge of strengths and limitations of a clinical social worker and the distinctive contributions of other mental health and health professionals.

YES NO

Supervisee makes appropriate referrals to other health providers and resources in the community.

YES NO

Supervisee knows and understands the laws related to life-threatening situations, child abuse, elder abuse, physical abuse, etc.

YES NO

Supervisee understands and has discussed the ethics of confidentiality and other legal and ethical issues.

YES NO

In your opinion, has the supervisee demonstrated competency in clinical social work practice sufficient for licensing and the independent practice as a clinical social worker?

DECLARATION OF SUPERVISOR:

I was the applicant's _____ (Direct Supervisor) or _____ (Off-Site Supervisor)

I declare that, to the best of my knowledge, the foregoing is true and correct.

Supervisor's Signature

Date

PROVISIONAL REGULATIONS

To complete the supervision requirements, applicants must demonstrate a minimum competency in the areas listed below. Please circle your evaluation of the supervisee's competencies in each area listed.

1. Application of an Identified Theory Base

Supervisee was able to demonstrate skill in the application of an identified theory base, and was able to comprehend the concepts or major features of the approach.

YES NO

2. Application of a Differential Diagnosis

Supervisee was able to demonstrate skill in the application of a differential diagnosis, and was able to apply client symptoms and behaviors in formulating a diagnosis.

YES NO

3. Establishing and Monitoring a Treatment Plan

Supervisee was able to demonstrate skill in establishing and monitoring a treatment plan, and was able to apply the components of the treatment plan to the diagnostic assessment.

YES NO

4. Development and Appropriate Use of the Professional Relationship

Supervisee was able to demonstrate skill in the development and appropriate use of the professional relationship, and was able to apply the necessary skills to develop a professional relationship in the phases of the treatment process.

YES NO

5. Assessing the Client for Risk of Eminent Danger and Taking Appropriate and Necessary Action to Protect the Safety of the Client, Others, the Public, and the Social Worker when Necessary

Supervisee was able to demonstrate skill in assessing the client for risk of eminent danger and taking appropriate and necessary action to protect the safety of the client, others, the public, and the social worker when necessary. Supervisee was able to apply the criteria for actual or potential risk of a client or professional practice situation and provide the appropriate steps to be taken.

YES NO

6. Implementing a Professional and Ethical Relationship with Clients

Supervisee was able to demonstrate skill in implementing a professional and ethical relationship with clients, and was able to apply the appropriate professional and ethical responsibilities in relation to a client situation.

YES NO

TO BE COMPLETED BY SUPERVISOR
 Name: _____
 Phone: (____) _____
 Business Address: _____

Professional license: _____ License No.: _____
 State Where Licensed: _____ Date License Received: _____
 If not licensed in Virginia, submit copy of valid license.
 Do you have five years post-MSW clinical experience? Yes _____ No _____

SUPERVISION TO BE PROVIDED: Provide detailed information of supervision to be given.
 For example: assess counseling skills; review treatment plans; monitor assessments,
 case records and statistics; supervise family interventions and family groups;
 monitor discharge planning; case follow-up; crisis intervention and referrals;
 provide case management and maintenance of case records.

DECLARATION OF SUPERVISOR:
 I am the trainee's _____ (Direct Supervisor) - or - _____ (Off-Site Supervisor).
 As supervisor, I assume responsibility for the clinical functioning of the individual
 supervised under my supervision.

 Signature of Supervisor

 Date

DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF SOCIAL WORKERS
 6606 West Broad Street, Fourth Floor
 Richmond, Virginia 23210-1000

REGISTRATION OF SUPERVISION
POST-GRADUATE DEGREE SUPERVISED EXPERIENCE
 THIS FORM IS TO BE COMPLETED BY THE TRAINEE AND SUPERVISOR

TO BE COMPLETED BY TRAINEE
 Check One: _____ Initial Registration _____ Add Supervisor _____ Change Supervisor _____
 Name: _____
 Home Address: _____
 Business Address: _____
 Telephone No: Home (____) _____ Work (____) _____
 Social Security Number: _____ Birth Date: _____

EDUCATION: List in chronological order the name and location of each graduate school
 or other institution where graduate course work has been completed. GRADUATE SCHOOL
 TRANSCRIPTS MUST BE SUBMITTED DIRECTLY TO THE BOARD OFFICE FROM THE GRADUATE INSTITU-
 TION(S) PRIOR TO APPROVAL OF SUPERVISION.

Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			

FIELD INSTRUCTION: List in chronological order the field instruction you have had

Agency or Organization	Dates (Mo./Yr.)		Hours Per Week	Duties
	From	To		

**DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF SOCIAL WORK**
6606 West Broad Street, Fourth Floor
Richmond, Virginia 23230-1717

ANNUAL EVALUATION OF SUPERVISION

[This form is to be completed by the supervisor annually in order to determine the professional competency and ethics of the trainee under your supervision. Please return the completed form to the Board office.]

NAME OF SUPERVISEE: _____

NAME OF SUPERVISOR: _____

SUPERVISOR'S BUSINESS ADDRESS: _____

Type of License: _____ License No.: _____

State where Licensed: _____

Date the trainee began supervision: Month _____ Day _____ Year _____

Total number of hours trainee works per week: _____

1. Number of hours per week of individual face-to-face clinical supervision: _____

2. Total number of hours of individual face-to-face clinical supervision accrued to date: _____

SUPERVISORS ARE REQUIRED TO EVALUATE THE TRAINEE IN THE FOLLOWING AREAS:

1. Is the trainee able to demonstrate skill in the application of an identified theory base and comprehend the concepts or major features of the approach?
Always _____ Usually _____ Sometimes _____ Rarely _____
2. Is the trainee able to demonstrate skill in the application of a differential diagnosis, and able to apply client symptoms and behaviors in formulating a diagnosis?
Always _____ Usually _____ Sometimes _____ Rarely _____
3. Is the trainee able to demonstrate skill in establishing and monitoring a treatment plan, and able to apply the components of the treatment plan to the diagnostic assessment?
Always _____ Usually _____ Sometimes _____ Rarely _____
4. Is the trainee able to demonstrate skill in the development and appropriate use of the professional relationship, and is able to apply the necessary skills to develop a professional relationship in the phases of the treatment process?
Always _____ Usually _____ Sometimes _____ Rarely _____
5. Is the trainee able to demonstrate skill in assessing the client for risk of imminent danger and taking the appropriate and necessary action to protect the safety of the client, others, the public, and the social worker?
Always _____ Usually _____ Sometimes _____ Rarely _____
6. Is the trainee able to demonstrate skill in implementing a professional and ethical relationship with clients, and was able to apply the appropriate professional and ethical responsibilities in relation to a client situation?
Always _____ Usually _____ Sometimes _____ Rarely _____

COMMENTS: _____

EMERGENCY REGULATIONS

BOARD OF NURSING HOME ADMINISTRATORS

Date: November 4, 1992

Title of Regulation: VR 500-01-2:1. Emergency Regulations of the Board of Nursing Home Administrators.

Preamble:

Statutory Authority: §§ 54.1-113, 54.1-2400 and 54.1-3101 of the Code of Virginia.

The Board of Nursing Home Administrators currently is experiencing a budget deficit for the 1992-94 biennium of \$106,942. The Board has voted to reduce budget expenditures by 10%+ in order to assist in reducing the deficit. However, projected revenues will not reduce the deficit by June 30, 1992 and the Board is proposing emergency amendments to the Regulations of the Board of Nursing Home Administrators (VR 500-01-2:1) to allow immediate fee increases to meet responsibility for the deficit. The Board is proposing additional emergency amendments to its regulations which will amend the continuing education requirements to reduce administrative costs while still providing regulatory oversight of the program.

Effective Dates: November 4, 1992 through November 3, 1993.

I recommend approval of this emergency regulation of the Board of Nursing Home Administrators. The regulation is necessary for the Board to continue to operate within fiscal requirements established in the Code of Virginia. It increased fees which must be paid by licensees and preceptors - and ultimately by the public - to meet substantial costs incurred in the administration and enforcement of mandatory continuing education requirements and it modifies those requirements.

The Board of Nursing Home Administrators has experienced a 710% increase in disciplinary cases over the past year, mainly as a result of noncompliance with continuing education requirements, and the costs of adjudicating these cases has exceeded budget projections. The Board initiated the continuing education requirement in 1989 with amendments in August, 1990 and September, 1992. Noncompliance with the continuing education requirements has been extensive. Twenty percent (134) of licensees failed to comply for the 1991 licensure period. Fourteen percent (93) of licensees chose not to renew their licenses in 1992 as a result of continuing education or chose to voluntarily surrender their licenses after notification of violation of the requirements. Therefore, revenue expectations for the biennium will not be met at the same time that the Board is experiencing administrative cost increases in adjudication and monitoring and tracking of the continuing education program.

The emergency regulation will expire one year from the effective date, or upon the promulgation for revised regulations under the provisions of the Administrative Practice Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: October 7, 1992

The Board approved the emergency regulation on September 17, 1992.

I recommend approval of the above emergency regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: October 22, 1992

VR 500-01-2:1. Emergency Regulations of the Board of Nursing Home Administrators.

I approve the proposed regulation. (See comments.*)

/s/ Lawrence Douglas Wilder
Governor
Date: November 2, 1992

PART I. GENERAL PROVISIONS.

* I concur with the adoption of this emergency regulation. However, my approval is conditioned upon the Board of Nursing Home Administrators conducting a thorough review of the need and effectiveness of the mandatory continuing education requirement. Additionally, this review should focus on how to make this requirement beneficial to administrators as well as to the citizens using nursing facilities. Another key element of this investigation should be to make administration of the continuing education requirement less costly while remaining effective. This study shall be concluded prior to promulgating permanent regulations.

I acknowledge receipt of this emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations

Article 1. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meanings, unless the content indicates otherwise:

"Applicant" means a person applying to sit for an examination or applying for licensure by the board.

"Administrator-in-training program (A.I.T.)" means the

Emergency Regulations

apprenticeship program which consists of 2,080 hours of continuous training in nursing home administration in a licensed nursing home.

“Administrator-of-record” means the licensed nursing home administrator designated in charge of the general administration of the facility and identified as such to the facility’s licensing agency.

“Administrator-in-training applicant” means a person applying for approval to enter the administrator-in-training (A.I.T.) program.

“Board” means the Board of Nursing Home Administrators.

“Continuing education” means the educational activities which serve to maintain, develop, or increase the knowledge, skills, and performance generally recognized as relevant to the nursing home administrator’s professional responsibilities.

“Department” means the Department of Health Professions.

“Direct supervision” means directing the activities and course of a subordinate’s performance.

“Executive director” means the board administrator for the Board of Nursing Home Administrators.

“Full-time employment” means employment of at least 37 1/2 hours per week.

“N.A.B.” means the National Association of Boards of Examiners for Nursing Home Administrators.

“National examination” means a test used by the board to determine competency of candidates for licensure.

“Nursing home administrator” means any individual licensed by the Board of Nursing Home Administrators.

“Nursing home” means any public or private facility required to be licensed as a nursing home under the provisions of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia and the regulations of the Board of Health.

“Practicum” means a course of study as part of a degree or post-degree program designed especially for the preparation of candidates for licensure as nursing home administrators that involves supervision by an accredited college or university of the practical application of previously studied theory. The practicum shall be served under a preceptor registered with the board.

“Preceptor” means a nursing home administrator currently licensed in Virginia approved by the board to conduct an administrator-in-training (A.I.T.) program.

“State examination” means a test used by the Board of Nursing Home Administrators to determine competency of a candidate relevant to regulations and laws in Virginia for purposes of licensure.

Article 2. Legal Base.

§ 1.2. The following legal base describes the authority of the Board of Nursing Home Administrators to prescribe regulations governing nursing home administrators in the Commonwealth of Virginia:

Title 54.1:

Chapter 1 (§ 54.1-100 through 54.1-114);

Chapter 24 (§ 54.1-2400 through 54.1-2403);

Chapter 25 (§ 54.1-2500 through 54.1-2510); and

Chapter 31 (§ 54.1-3100 through 54.1-3103)

of the Code of Virginia.

Article 3. Purpose.

§ 1.3. These regulations establish the standards for qualifications, training, examination, licensure, and practice of persons as administrators-in-training; nursing home administrators; and preceptors in the Commonwealth of Virginia.

Article 4. Applicability.

§ 1.4. Individuals subject to these regulations are (i) nursing home administrators, (ii) applicants, (iii) administrators-in-training, and (iv) preceptors.

Article 5. Public Participation Guidelines.

§ 1.5. Mailing list.

The executive director of the board shall maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. Notice of intent to promulgate regulations;
2. Notice of public hearings or informational proceedings, the subject of which is proposed or existing regulations; and
3. Final regulations when adopted.

§ 1.6. Additions and deletions to mailing list.

- A. Any person wishing to be placed on the mailing list

Emergency Regulations

shall have his name added by writing to the board.

B. The board may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations.

C. Those on the list may be periodically requested to indicate their desire to continue to receive documents or to be deleted from the list.

D. When mail is returned as undeliverable, persons shall be deleted from the list.

§ 1.7. Notice of intent.

A. At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:7.1 of the Code of Virginia, the board shall publish a notice of intent.

B. The notice shall contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any persons to provide written comment on the subject matter.

C. The notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.8. Informational proceedings or public hearings for existing rules.

A. At least once each biennium, the board shall conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Notice of such proceeding shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. The proceeding may be held separately or in conjunction with other informational proceedings.

§ 1.9. Petition for rulemaking.

A. Any person may petition the board to adopt, amend, or delete any regulation.

B. Any petition received within 10 days prior to a board meeting shall appear on the agenda of that meeting of the board.

C. The board shall have sole authority to dispose of the petition.

§ 1.10. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 1.11. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for citizen and professional participation in the formation, promulgation, adoption, and review of regulations.

PART II. OPERATIONAL RESPONSIBILITIES.

Article 1. Posting of License and Licensure.

§ 2.1. An individual shall have a valid nursing home administrator's license issued by the Board of Nursing Home Administrators in order to engage in the general administration of a nursing home.

§ 2.2. Each licensee shall post his license in a main entrance or place conspicuous to the public in the facility in which the licensee is administrator-of-record.

Article 2. Records.

§ 2.3. Accuracy of information.

A. All changes of mailing address or name shall be furnished to the board within five days after the change occurs.

B. All notices required by law and by these regulations to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and shall not relieve the licensee, trainee, or preceptor of the obligation to comply.

PART III. FEES.

Article 1. Initial Fees.

§ 3.1. The applicant shall submit ALL fees below which apply:

1. Application for A.I.T. program	\$150	\$188
2. Preceptor application fee	\$100	\$125
3. Application fee for license to practice nursing home administration	\$125	\$156
4. Fee to sit for state examination	\$100	\$125

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- 5. Fee to sit for national examination ~~\$150~~ \$188
- 6. Verification of licensure requests from other states
..... \$ 50 \$ 63

Article 2. Renewal Fees.

§ 3.2. Renewal fees received by the board no later than the expiration date (see § 4.1).

The following annual fees shall be paid as applicable and received by the board no later than the expiration date for license and preceptor registration renewal (see § 4.4):

- 1. Nursing home administrator license renewal
..... ~~\$100~~ \$125
- 2. Preceptor registration renewal \$ 50 \$ 63

§ 3.3. Late renewal fees.

The following late fees shall be paid as applicable and received by the board within six months following the initial expiration date (see § 4.4):

- 1. Nursing home administrator late license renewal
..... ~~\$150~~ \$175
(~~\$100~~ \$125 renewal and \$50 penalty fee)
- 2. Preceptor late registration renewal \$ 75 \$ 88
(\$ 50 \$ 63 renewal and \$25 penalty fee)

Article 3. Reinstatement Fees.

§ 3.4. The board, in its discretion, may reinstate a license that was not renewed within six months of the initial expiration date provided certain conditions are met.

NOTE: There may be additional fees for nursing home administrator license reinstatement depending upon the conditions approved by the board for reinstatement (see § 4.7).

The board, in its discretion, may reinstate a preceptor registration that was not renewed within six months of the initial expiration date (see § 4.8).

If the board approves reinstatement the following applicable reinstatement fees shall be paid.

- 1. Nursing home administrator reinstatement (See NOTE under § 3.4) ~~\$200~~ \$225
- 2. Preceptor reinstatement ~~\$100~~ \$113

Article 4. Other Fees.

§ 3.5. Duplicates.

Duplicate licenses or wall certificates shall be issued by the board after the licensee submits to the board a signed affidavit that a document has been lost, destroyed, or the applicant has had a name change.

- A. Duplicate license \$ 25 \$ 31
- B. Duplicate wall certificates \$ 50 \$ 63

§ 3.6. Additional fee information.

A. There shall be a fee of \$ 25 \$ 31 for returned checks.

B. Fees shall not be refunded once submitted.

PART IV. RENEWALS.

Article 1. Expiration Dates.

§ 4.1. The following shall expire on March 31 of each calendar year:

- 1. Nursing home administrator license; and
- 2. Preceptor registration.

§ 4.2. A licensee who fails to renew his license by the expiration date shall have an invalid license. See §§ 4.5 and 4.7.

§ 4.3. A preceptor who fails to renew his registration by the expiration date shall not serve as a preceptor. See §§ 4.6 and 4.8.

Article 2. Renewal and Reinstatement.

§ 4.4. Renewal received by the board no later than the expiration date.

A. A person who desires to renew his license or preceptor registration for the next year shall, not later than the expiration date:

- 1. Return the renewal notice;
- 2. Submit the applicable fee(s) prescribed in § 3.2;
- 3. Notify the board of any changes in name and address; and
- 4. Submit the continuing education documentation prescribed in §§ 8.1 through 8.8 of these regulations.

B. The requirements in subsection A above shall be received in the board office or the bank lock box no later

Emergency Regulations

than the expiration date. Postmarks shall not be considered.

§ 4.5. Late renewal for nursing home administrator license.

A. A person who fails to renew his license by the expiration date shall, within six months of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board;
2. Submit the applicable fee prescribed in § 3.3;
3. Notify the board of any changes in name and address; and
4. Submit the continuing education documentation prescribed in §§ 8.1 through 8.8 for the previous calendar year.

The requirements in subsection A shall be received in the board office within six months of the initial expiration date. Postmarks shall not be considered.

B. A candidate for late renewal who does not meet the requirements in subsection A above shall reinstate as prescribed in § 4.7.

§ 4.6. Late renewal for preceptor registration.

A. A person who fails to renew his preceptor registration by the expiration date shall, within six months of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board;
2. Submit the applicable fee prescribed in § 3.3; and
3. Notify the board of any changes in name and address.

The requirements of this subsection A shall be received in the board office within six months of the initial expiration date. Postmarks shall not be considered.

B. A preceptor who fails to renew within six months of the initial expiration date shall reinstate as prescribed in § 4.8.

§ 4.7. Reinstatement for nursing home administrator license.

The board, in its discretion, may reinstate a license that was not renewed as prescribed in §§ 4.4 and 4.5 as follows:

An applicant for nursing home administrator license reinstatement shall:

1. Apply as a new applicant on forms provided by the board; and

2. Submit the applicable reinstatement fee prescribed in § 3.4; and

3. Meet one or more of the following requirements as determined by the board at the time of application for reinstatement. All applications for reinstatement shall be reviewed by the Credentials Committee and the applicant shall be notified of which of the following requirements must be met:

a. Submit evidence of attendance at 20 classroom hours of continuing education for each year of expiration and for the year preceding expiration if continuing education requirements were not met for that year. (NOTE: See § 8.3 B and C for possible exception to the 20 hour requirement);

b. Requalify for licensure under the requirements for initial licensure in effect at the time of application for reinstatement (see § 5.1). NOTE: Such requalification does not include retaking of the state and national examinations but may include more stringent qualifications than were in effect at the time of original application for licensure);

c. Retake and pass the state and national examinations (see fees under § 3.1).

§ 4.8. Reinstatement of preceptor registration.

The board, in its discretion, may reinstate a preceptor registration that was not renewed as prescribed in § 4.6 as follows:

An applicant for preceptor registration reinstatement shall:

1. Apply as a new applicant on forms provided by the board;

2. Meet the current requirements for preceptor approval in effect at the time of application for reinstatement (see §§ 6.8 through 6.9); and

3. Submit the applicable reinstatement fee prescribed in § 3.4.

PART V. REQUIREMENTS FOR LICENSURE.

Article 1. Qualifications.

§ 5.1. One of the following sets of qualifications is required for licensure:

1. Degree and practicum experience.

Emergency Regulations

a. Applicant holds a baccalaureate or higher degree in nursing home administration or a health administration field from an accredited college or university; and

b. Applicant has completed a 400-hour practicum (see § 1.1) in nursing home administration as part of the degree program under the supervision of a preceptor registered by the board; and

c. Applicant has received a passing grade on the state examination and the national examination.

OR

2. Certificate program.

a. Applicant holds a baccalaureate or higher degree from an accredited college or university; and

b. Applicant has completed successfully a program with a minimum of 21 semester hours study in long-term care administration from an accredited college or university. The program shall be one that has been recognized by the board and shall include a minimum of 15 semester hours of academic courses related to long-term care administration; and

c. Applicant has completed successfully a 400-hour practicum (see § 1.1) as part of the certificate program under the supervision of a preceptor registered by the board; and

d. Applicant has received a passing grade on the state examination and the national examination.

OR

3. Administrator-in-training program.

a. Applicant has successfully completed 2,080 hours, or the approved equivalent thereof (see § 6.3), of continuous training in an A.I.T. program; and

b. Applicant has received a passing grade on the state examination and the national examination.

OR

4. Endorsement. The board may issue a Virginia license to any person by endorsement when the person:

a. Holds a current unencumbered license from any state or the District of Columbia;

b. Meets one of the following:

(1) Has practiced nursing home administration for one year; or

(2) Complies with all regulations of the Board of Nursing Home Administrators governing nursing home administration licensure in Virginia; or

(3) Has education and experience equivalent to qualifications required by these regulations and has provided written evidence of those qualifications at the time of application for licensure; and

c. Has successfully completed the state examination.

Article 2.

Application Process.

§ 5.2. An individual seeking licensure as a nursing home administrator, approval as a preceptor, or seeking examination/reexamination shall submit simultaneously:

1. Application provided by the board;

2. Additional documentation as may be required by the board to determine eligibility of the applicant; and

3. The applicable fee(s) prescribed in § 3.1.

§ 5.3. All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

National examination scores will also be accepted from the examining authority.

§ 5.4. An applicant for examination shall submit the application package not less than 45 days prior to an examination date. The application package shall be received in the board office on the examination application deadline date. Postmarks will not be considered.

§ 5.5. Waiver of time limits.

The board may, for good cause, waive the time requirement in § 5.4 for the filing of any application. The burden of proof which demonstrates good cause rests with the applicant.

Article 3.

General Examination Requirements.

§ 5.6. Failure to appear.

The applicant shall forfeit the examination fee if unable to sit for the examination for any reason.

§ 5.7. Reexamination.

Any person failing an examination may reapply for a

Emergency Regulations

subsequent examination, and shall pay the examination fee prescribed in § 3.1 with each application filed.

§ 5.8. Scheduling early examinations.

A. An applicant may request to take the scheduled examination most closely preceding the expected completion of the required formal education requirement or the A.I.T. program.

B. All such requests shall be in writing.

C. Approval of the written request by the board shall be required prior to submitting the application and fee for examination (see §§ 5.2, 5.4 and 3.1).

D. Application for licensure shall be submitted after the applicant completes the qualifications for licensure.

PART VI. ADMINISTRATOR-IN-TRAINING PROGRAM.

Article 1. Trainee Requirements and Application Process.

§ 6.1. To be approved as an administrator-in-training, a person shall:

1. Have received a passing grade on a total of 60 semester hours of education from an accredited college or university;
2. Obtain a preceptor currently approved by and registered with the board to provide training;
3. Submit the fee prescribed in of § 3.1;
4. Submit the application provided by the board; and
5. Submit additional documentation as may be required by the board to determine eligibility of the applicant.

All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.

Article 2. Training Program.

§ 6.2. The A.I.T. program shall consist of 2,080 hours or its approved equivalent (see § 6.3) of continuous training to be completed within 24 months. Extension may be granted by the board on an individual case basis.

§ 6.3. An A.I.T. applicant with prior health care work experience may request approval to receive a maximum

1,000 hours of credit toward the total 2,080 hours as follows:

1. Applicant shall have been employed full-time for four of the past five consecutive years immediately prior to application as an assistant administrator or director of nursing.
2. The employment described above shall have been in a facility as prescribed in § 6.4.
3. Applicants with experience as a hospital administrator shall have been employed full-time for three of the past five years immediately prior to application as a hospital administrator-of-record or an assistant hospital administrator in a hospital setting having responsibilities in all of the following areas:
 - a. Regulatory;
 - b. Fiscal;
 - c. Supervisory;
 - d. Personnel; and
 - e. Management.

§ 6.4. Training shall be conducted only in:

1. A nursing home, licensed by the Department of Health, Commonwealth of Virginia; or
2. An institution licensed by the Virginia Mental Health, Mental Retardation and Substance Abuse Services Board in which long-term care is provided; or
3. A certified nursing home owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or
4. A certified nursing home unit located in and operated by a general or special hospital licensed under procedures of Rules and Regulations for Licensure of General and Special Hospitals of the Virginia Department of Health.

§ 6.5. Training shall be under the direct supervision of a certified preceptor (see §§ 6.8 and 6.9).

§ 6.6. Not more than two A.I.T.'s may be supervised per approved and registered preceptor at any time.

§ 6.7. An A.I.T. shall be required to serve full time weekday, evening, and weekend shifts to receive training in all areas of nursing home operation.

Article 3. Qualifications and Application Process to Train: Preceptors.

Emergency Regulations

§ 6.8. An individual shall be approved by and registered with the board prior to serving as a preceptor.

§ 6.9. The board shall approve and register only preceptors to give training who:

1. Have a full, unrestricted, and current Virginia nursing home administrator license;
2. Are employed full-time in the facility where training occurs (see § 6.4);
3. Have served for a minimum of two of the past three years immediately prior to the preceptorship as a full-time administrator in accordance with § 6.4 or as an approved preceptor in another state;
4. Submitted the fee prescribed in subdivision 2 of § 3.1;
5. Submitted the applications provided by the board; and
6. Submitted additional documentation as may be required by the board to determine eligibility of the applicant.

All required parts of the application package shall be submitted at the same time. An incomplete package shall be returned.

EXCEPTION: Preceptors submitting information which documents preceptorship served in another state, may have the other state send information directly to the licensing authority. That policy is acceptable to the board.

Article 4. Administration of A.I.T. program.

§ 6.10. Prior to the beginning of the A.I.T. program, the preceptor shall develop and submit to the board for approval, a training plan which shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall include the Core of Knowledge as defined by Title XVIII and Title XIX of the Social Security Act and published in the Federal Register on February 2, 1989, and the Domains of Practice as appended to these regulations. (See Appendices I and II.) The training plan developed by the board or an alternate plan may be used.

§ 6.11. The preceptor shall maintain progress reports on forms prescribed by the board for each month of training.

§ 6.12. The A.I.T.'s certificate of completion plus the accumulated original monthly reports shall be submitted by the preceptor to the board within 30 days following the completion of the A.I.T. program.

§ 6.13. If the preceptor fails to submit the reports required in § 6.12, the A.I.T. shall forfeit all credit for training. The

board may waive such forfeiture.

§ 6.14. If the A.I.T. program is terminated prior to completion, the trainee and the preceptor shall submit the following information to the board within five working days:

1. Preceptor.
 - a. All required monthly progress reports prescribed in § 6.11; and
 - b. Written explanation of the causes of program termination.
2. A.I.T. The A.I.T. shall submit written explanation of the causes of program termination.

§ 6.15. If the program is interrupted because the approved and registered preceptor is unable to serve, the A.I.T. shall notify the board within five working days and shall obtain a new preceptor who is registered with the board.

§ 6.16. Credit for training shall resume when a new preceptor is obtained and approved and registered by the board.

§ 6.17. If an alternate training plan or set of goals is developed, it shall be submitted to the board for approval before A.I.T. resumes training.

PART VII. REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

Article 1. Unprofessional Conduct.

§ 7.1. The board may refuse to admit a candidate to any examination; refuse to issue or renew a license or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty for any of the following causes:

1. Conducting the practice of nursing home administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;
2. Demonstrated inability or unwillingness to maintain a facility in accordance with the Virginia Department of Health Rules and Regulations for the Licensure of Nursing Homes in Virginia;
3. Failure to comply with federal, state, or local laws and regulations governing the operation of a nursing home;

Emergency Regulations

4. Conviction of a felony related to the practice for which the license was granted;
5. Failure to comply with any regulations of the board;
6. Failure to comply with continuing education requirements;
7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse;
8. Failure to comply with board's regulations on preceptorship while serving as a preceptor.

PART VIII. CONTINUING EDUCATION.

§ 8.1. As a prerequisite to renewal of a license or reinstatement of a license, each licensee shall be required to take continuing education related to health care administration.

§ 8.2. Continuing education shall consist of training programs, seminars, and workshops directly related to the following:

1. Nursing home administration;
2. Long term care;
3. Resident care;
4. Physical resource management;
5. Laws, regulatory codes, and governing boards;
6. Courses to gain knowledge in departmental areas;
7. Core of Knowledge in Appendix I; and
8. Domains of Practice in Appendix II.

§ 8.3. Continuing education requirements for each calendar year.

A. An administrator who holds a license on January 1 of any calendar year shall attend 20 classroom hours of continuing education for that calendar year.

B. An administrator whose initial date of licensure is between April 1 and July 31 of any calendar year shall attend 10 classroom hours of continuing education for the calendar year in which initial licensure takes place.

C. An administrator whose initial date of licensure is between August 1 and December 31 of any calendar year shall not be required to attend continuing education for the calendar year in which initial licensure takes place.

§ 8.4. Continuing education hours, documentation, and signed completed affidavit of completion shall be submitted as one package and received in the board office no later than January 15 of the calendar year following the year in which the courses were required to be taken. Postmarks will not be considered.

§ 8.5. Administrators shall submit evidence of having obtained continuing education credit by:

1. Forwarding copies of certificates or transcripts issued, signed, and dated by the course provider showing the classroom hours attended; and
2. Forwarding an affidavit of completion signed by the administrator on forms provided by the board.

§ 8.4. The licensee shall retain in his personal files complete documentation of continuing education as specified in subsections 1 and 2 of § 8.5.

§ 8.5. IF CONTACTED FOR AN AUDIT, the licensee shall forward by the date requested the following:

1. Completed and signed affidavit of completion provided by the Board;
2. Evidence of attendance provided by the vendor for each course taken. Evidence of attendance shall include:
 - a. Date(s) the course was taken;
 - b. Hours attended;
 - c. Participant's name;
 - d. Vendor's signature.

§ 8.6. Only classroom hours shall be accepted.

§ 8.7. Credit per course shall only be given for 30-minute increments.

§ 8.8. The continuing education hours shall be current to the calendar year in which they were required.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

October 30, 1992

ADMINISTRATIVE LETTER NO. 1992-21

TO: ALL LICENSED PROPERTY AND CASUALTY INSURERS

RE: HURRICANE ANDREW

The State Corporation Commission Bureau of Insurance is concerned by recent reports that a major property and casualty insurer has suggested using the losses from Hurricane Andrew as the basis to raise rate levels.

While the Bureau recognizes the importance of maintaining insurer solvency, no evidence has thus far been presented to indicate that there is any justification for widespread rate increases to Virginia policyholders as a result of Hurricane Andrew, Hurricane Iniki, or other recent catastrophe losses.

The purpose of this letter is to request that all insurers exercise restraint in reacting to these tragic natural disasters. I would urge you to consider whether any proposed rate increases are actuarially justified and fairly applied. The Bureau is currently monitoring, and will continue to monitor, both filed rate increases and premium increases applicable to individual insureds to determine compliance with this request and the need for further regulatory action.

I have discussed this matter with the Attorney General of Virginia and I understand that she will also be writing to you to outline her particular concerns regarding this matter.

/s/ Steven T. Foster
Commissioner of Insurance

* * * * *

October 30, 1992

ADMINISTRATIVE LETTER 1992-22

TO: ALL HEALTH MAINTENANCE ORGANIZATIONS

RE: COMPLIANCE WITH VIRGINIA CODE SECTION 38.2-4311.

Effective July 1, 1992, Virginia Code Section 38.2-4311 was amended as follows:

Each health maintenance organization shall file with the Commission a list of the current providers who have executed a contract directly with the health maintenance organization or indirectly through an

intermediary organization. The list shall include names and localities of all providers who have signed a contract with the health maintenance organization or an intermediary organization. The list shall be updated by the health maintenance organization as of each calendar quarter ending December 31, March 31, June 30 and September 30, and shall be filed on or before March 1, May 15, August 15 and November 15 respectively each year.

Starting with the third quarter 1992, ending September 30, 1992, all HMOs licensed to do business in Virginia must file provider lists on or before the due dates as listed above. The provider lists must comply with the requirements of Virginia Code Section 38.2-4311.A and include both the name and business address of each provider.

Please also note that although Subsection 38.2-4311.A no longer requires the filing of provider contracts with the State Corporation Commission, all provider contracts must comply with the mandatory contract provisions set forth by Subsection 38.2-4311.B in regard to holdharmless provisions, termination, and assignment. A new Subsection 38.2-4311.C extends these requirements to intermediary organizations. In addition, a new Subsection 38.2-4311.D requires that each health maintenance organization and each intermediary organization be responsible for maintaining its executed contracts enabling it to provide health care services. These contracts shall be available for the review of the State Corporation Commission for a period of five years after the expiration of any such contract.

The new filing and contract retention set forth by Virginia Code Section 38.2-4311 supplement and replace the old filing requirements provided by Section 12.C of the Commission's Rules Governing Health Maintenance Organizations (Regulation 28).

Questions regarding this administrative letter should be directed to:

Susan S. Smith
Senior Insurance Examiner
State Corporation Commission
Bureau of Insurance
P. O. Box 1157
Richmond, Virginia 23209
(804) 786-4602

/s/ Steven T. Foster
Commissioner of Insurance

The Legislative RECORD

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DIVISION OF LEGISLATIVE SERVICES 

Special Subcommittee to Review Virginia's Firearms Laws

September 10, 1992, Richmond

Chairman Gladys B. Keating of the House Committee for Militia and Police appointed a special ad hoc subcommittee to review the Commonwealth's firearms' statutes and, following a series of public hearings, to propose whatever legislation may be deemed necessary to make these laws more effective

Of particular concern is the tarnishing of Virginia's reputation by widespread media references to Virginia as the "gun runners' state." According to federal prosecutors and law-enforcement personnel, drug dealers from Washington, D.C., New York City, and other large northern cities habitually drive to Virginia to purchase large quantities of firearms. These weapons are then sold for a considerable profit on the streets of jurisdictions that have strict firearms laws. The dealers then purchase illegal drugs relatively inexpensively and bring them back to Virginia to resell, again for a lucrative profit.

The special subcommittee has specifically asked speakers to address the following questions:

- Why are the laws passed by the General Assembly to regulate guns not working?
- What can be done to correct or change these laws?
- Can the lucrative "guns for drugs for more guns" trade be stopped? If so, how?
- Why do the entrepreneurs in that trade come to Virginia rather than to Delaware where the laws regulating guns are similar?
- How can we reconcile the constitutional right to bear arms with society's need for protection from gun-related crimes?

A number of speakers representing the City of Richmond called for long-term measures to make it more difficult for criminals to get guns. It was noted that of 116 homicides in Richmond during 1991, 75% were committed with handguns. Although acknowledging that the Commonwealth's instant background check statute has been of great help, city officials strongly encouraged enactment of legislation to impose a statewide waiting period on firearm purchases and to limit the number of firearms that can be purchased within a given period.

The U.S. Attorney for the Eastern District of Virginia, Richard Cullen, testified that Virginia has become a "nationwide embarrassment" and is recognized as a major gun running state. To buttress this assertion, he noted that over 50% of the firearms used to commit violent crimes in Washington D.C. during 1989 and 1990, which could be traced by the Bureau of Alcohol, Tobacco and Firearms, originated in Virginia. Pointing out that a small minority of offenders are committing a large majority of violent crimes, Mr. Cullen called for truth in sentencing legislation and measures to lengthen incarceration periods for violent offenders. He stressed that, in his opinion, limiting the number of guns that can be purchased in a 30-day period would have the greatest impact on stifling gun running.

A number of individuals asked that the subcommittee not propose any new firearms

control legislation, contending that what is needed is stricter enforcement of existing laws. They also spoke of a need to educate children in the use of guns and the fact that automobile accidents kill more people than do guns. Several speakers also expressed their opinions that proposals being considered by this subcommittee would violate the Second Amendment to the United States Constitution.

Among those speaking against new firearms legislation was Larry Pratt, executive director of Gun Owners of America. Gun dealers were also represented.



October 16, 1992, Virginia Beach

The second public hearing was attended by approximately 200 spiritedly vociferous opponents of any new firearms control legislation. Of the 60 or so speakers from this group, all noted that they were NRA members and that their attendance had been solicited by that organization.

Only three speakers, including the president of Virginians Against Hand Gun Violence, called for additional firearms controls. These individuals urged enactment of legislation to provide a five-day cooling off period, limit the number of firearms that can be purchased per calendar month, and ban the sale of military assault weapons.

Future Meetings

The special subcommittee will hold additional public hearings in Wytheville on November 9 and in Fairfax on December 1.



The Honorable Gladys B. Keating, *Chairman*
Legislative Services contact: Oscar R. Brinson

Special Subcommittee Studying the Desirability of Legalizing Riverboat Gambling in Virginia



October 28, 1992, Richmond

The Special Subcommittee of the Committee on General Laws Studying Riverboat Gambling held a public hearing to receive comments on the prospect of authorizing a riverboat gaming industry on Virginia's waterways.

Proponents

Proponents articulated the positive aspects of riverboat gambling, which include increased tax revenue to both state and local

governments, greater flow of tourist dollars into the state, privately financed waterfront improvement projects, expanded tax bases for local communities, higher hotel and motel occupancy rates, and more jobs (see Table 1). In the Tidewater area, establishment of a tasteful riverboat gambling attraction is perceived to be the perfect complement to that area's tourist portfolio. In Virginia Beach, where hospitality industry owners are locked in a fierce battle for oceanfront vacation dollars with resorts like Myrtle Beach, Ocean City and the Outer Banks, the presence of waterway gaming would dramatically tip the balance of power in favor of Virginia. In addition, Virginia's entire hospitality industry would benefit by stretching the tourist season well beyond its present limits, thereby creating additional jobs. Other benefits to Virginia include investment in the ailing

	St. Louis	Illinois	Virginia
# of vessels	5	10	5
Direct jobs	5,400	6,095	4,000-5,000
Indirect jobs	4,116	4,646	3,000-4,000
Total Jobs	9,516	10,741	7,000-9,000
Average annual earnings from direct jobs	\$25,000	\$23,000	\$24,000
Combined annual earnings from direct jobs	\$135,000,000	\$140,185,000	\$96,000,000- \$120,000,000
Annual state revenue*	\$68,000,000	\$90,000,000	\$45,000,000- \$68,000,000
Annual local revenue	\$20,300,000	\$30,000,000	\$15,000,000- \$20,300,000
Direct economic impact	\$130,000,000	\$329,000,000	\$130,000,000- \$165,000,000
Indirect economic impact	\$158,000,000	\$399,000,000	\$158,000,000- \$200,000,000
Total Economic impact	\$288,000,000	\$728,000,000	\$288,000,000- \$365,000,000

*Does not include revenue from application and license fees.

Figure 1. Projected economic impact of riverboat gambling. Sources: Fleischman-Hillard Research and Micro Economics Ltd. (St. Louis); Illinois Economic and Fiscal Commission (Illinois). The job and revenue estimates for Virginia are based on the models employed in these studies.

shipbuilding industry; it is projected that approximately \$150,000,000 would be invested in vessel construction alone. As in other areas of economic development, Virginia's community college system could develop training programs for gaming employees to learn the skills required.

In addition to the economic development aspects of riverboat gambling, proponents argue that today the gaming industry is the most highly regulated, carefully screened, and professionally managed entertainment attraction in America. The reputation enjoyed by Virginia government in its regulatory efforts has historically been among the best in the nation. With the advent of computer technology and cashless wagering systems,

proponents argue that Virginia can create a riverboat gambling industry that reflects its heritage.

Opponents

Representatives of the Citizens for the Integrity in Government and the Virginia Assembly of Independent Baptists expressed concern about the direction Virginia is going with regard to gambling. They argued that production of goods is the better way to relieve the burden of a recession. It was pointed out that the Virginia Assembly of Independent Baptists has adopted a resolution against the expansion of gambling in this area.

As the public hearing drew to a close, the subcommittee indicated that a perception existed that the horse-racing industry was silently spearheading opposition to riverboat gambling. The subcommittee stated that it wanted to open up a healthy dialogue and, if the horse-racing industry has facts and figures that riverboat gambling would hurt the prospects for a racetrack in Virginia, then they should come forward and present their views to the subcommittee.

Next Meeting

A third meeting of the riverboat gambling subcommittee has been tentatively set, at which the Virginia State Police will make a presentation about the problems that have arisen in other jurisdictions that have legalized riverboat gambling.



The Honorable Glenn R. Croshaw, *Chairman*
Legislative Services contact:
 Maria J.K. Everett

SJR 54: Workers' Compensation Claims Processing Times

September 25, 1992, Richmond

SJR 54

The joint subcommittee was established by the 1992 Session of the General Assembly to study processing times associated with claims received, managed, and adjudicated by the Virginia Workers' Compensation Commission. Reflecting on a 1990 report of the Joint Legislative Audit and Review Commission (JLARC), which generally recommended that the Workers' Compensation Commission take affirmative steps to improve claims processing times, the General Assembly adopted SJR 54 to determine "whether reasonable progress has been achieved."

Initial Meeting

Subcommittee members were presented with an overview of the workers' compensation system by Charles G. James, chairman of the Workers' Compensation Commission.

Mr. James described the Workers' Compensation Act as a compromise between employers and employees. Under the act, employers give up the fault basis of liability and common law defenses in exchange for immunity from personal injury actions and relatively fixed costs. Employees relinquish the right to bring common law damage actions against their employers in exchange for an efficient and equitable system of compensation.

Mr. James outlined the internal structure of the commission, reviewed the nature of its duties, and briefly reviewed the scope of the act before making the following observations: (i) the workers' compensation system is adversarial by nature, given the interests of the parties and the complexity of the issues; (ii) most claims are resolved without a formal hearing, despite the nature of the system; and (iii) the commission is dedicated to shortening claims processing times.

Following Mr. James' presentation, the commission's chief deputy commissioner, Larry D. Tarr, provided the subcommittee with a detailed explanation of the claims process and reviewed steps taken by the commission to reduce claims processing times.

Mr. Tarr told the subcommittee that there are several factors that determine how quickly a claim is processed, including the number of claims, the amount of litigation, and the inherent complexity of the workers' compensation system.

Commission records indicate that between 180,000 and 200,000 claims have been established per year since 1989. While most reported injuries are relatively minor, approximately 60,000 of these accidents each year require that a detailed report be submitted to the commission. Because hearings may be required over a number of years and claims remain "active" for the lifetime of the worker, the commission's workload necessarily involves claims from prior years.

After noting that "the slowest, costliest and least effective way to resolve a claim is by litigation," Mr. Tarr stated that current projections are that there will be 38% more cases initially referred to judicial hearing in 1992 than in 1988, and the number of opinions written by deputy commissioners will have increased by nearly 33% over the same period (see Figure 1).

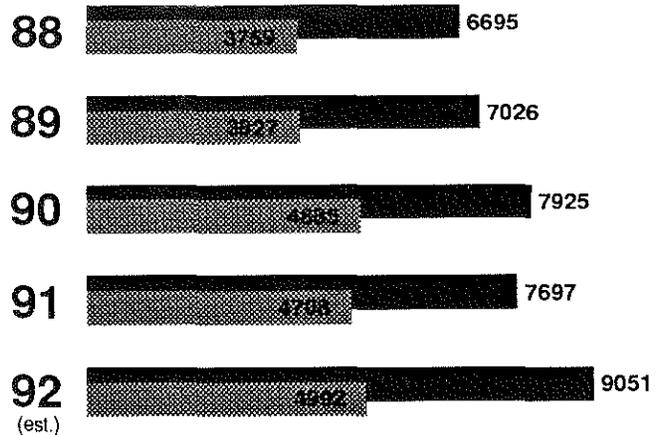


Figure 1. Cases referred (solid color) and opinions rendered (shaded), hearing and non-hearing cases combined, 1988-92. Source: Virginia Workers' Compensation Commission.

The amount of litigation in workers' compensation cases can be largely attributed to the complexity of the system, where cases can involve difficult issues of causation, diagnosis, extent of disability, and credibility, for which an independent fact-finder is needed. The participation of employees, employers, insurers, physicians, attorneys, and the courts contributes to delays in the process. Sharp increases in medical costs have served to intensify and increase disputes, as well.

The commission began a systematic examination of its procedures for claims processing in 1991, resulting in a restructuring of the claims process that has yielded significant improvements. According to Mr. Tarr, "the philosophy which unites the entire process is that our goal has shifted

toward resolving cases if at all possible, rather than simply placing them on the hearing docket.”

Administrative changes made by the commission include: (i) reorganizing the two departments that deal primarily with claims; (ii) investing significantly in automation and computerization; (iii) reviewing, revising, updating, and eliminating forms; (iv) placing greater emphasis on ensuring that insurers report accidents to the commission; (v) adding, reassigning, and training personnel; and (vi) utilizing dispute resolution at all stages of the process.

In 1991, the commission’s Dispute Resolution Department approved more than 3,000 settlements at an estimated value of \$57 million. Mr. Tarr also reported that in 1992, it is estimated that the time from when a case is referred for a hearing until an opinion is issued has averaged 120 days, down from 148 days in 1991. He commented that increased emphasis on the use of dispute resolution is generally favored by most participants.

The subcommittee also received 1992 projections of the number of days to resolve disputed cases for claims not requiring a hearing (68 days), resolved at the deputy commissioner level (171 days) and appealed to the commission (303 days). This information is summarized in Figure 2.

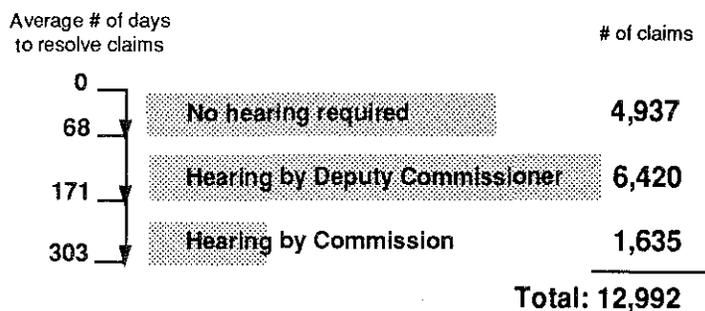


Figure 2. Resolution of disputed claims, 1992 (projected). Source: Virginia Workers’ Compensation Commission.

Two other witnesses appeared before the subcommittee at its initial meeting. Each offered recommendations that would generally make the claims process more favorable for the injured worker, who, it was said, “has the deck stacked against him.” Chairman Goode suggested that written comments be made to the subcommittee with respect to such recommendations so that the panel could study them in greater detail.

Future Meetings

The subcommittee scheduled a public hearing in Lynchburg on October 29 to receive citizen input on the issues before the panel. Chairman Goode indicated that a third, and presumably final, meeting would be held in Richmond.

October 29, 1992, Lynchburg

At its second meeting, the joint subcommittee convened a public hearing in Lynchburg to receive public input on issues relating to claims processing times in workers’ compensation cases.

Twenty speakers addressed the panel. Many were citizens who had been injured in the course of their employment, some of whom are affiliated with Concerned Citizens to Improve Workers’ Compensation Laws (CIWC of Virginia). Representatives of the business community, including employers, insurers, and affiliated associations, also provided their perspectives on the process. In addition, attorneys representing claimants and attorneys representing insurance companies (and/or employers) appeared before the subcommittee.

Injured Workers

Some employees who had been injured at work testified that their problems with the workers’ compensation claims process began at the time of their accidents. Many lacked basic knowledge of their “rights” under the Workers’ Compensation Act and did not receive prompt attention or cooperation from their employers. The subcommittee was told that receiving immediate medical care was difficult for some injured workers, records were badly handled by employers, and, in a few instances, the workers’ compensation system was bypassed altogether.

Most of the witnesses who did not like the way their claims were handled cited insurers (and their attorneys) as the primary source of their problems. Common complaints included initial and ongoing delays by insurance carriers, who, it was said, initiate multiple postponements of hearings in a “criminal conspiracy with employers to deny and delay” benefits to injured workers. The subcommittee was told that many decisions in favor of claimants are appealed on minor technicalities or simply to prolong the process. Under current law, an appeal for a review opinion by the Workers’ Compensation Commission or an appeal from the Commission to the Virginia Court of Appeals operates as a suspension of the award. As a result, several workers testified that they were faced with financial hardship while their cases were being appealed. One witness summarized the process by stating that “the system doesn’t benefit employers or employees; it benefits doctors and insurance companies.”

Attorneys

The subcommittee also heard testimony from attorneys who represent injured workers in workers’ compensation cases. It was asserted that much of the delay in the process can be

attributed to actions by employers and their insurance companies (and the attorneys representing them) who appeal "the vast majority" of cases won by claimants. It was suggested that "frivolous" appeals could be mitigated if Virginia law were changed to permit claimants to receive awarded benefits during an appeal and to require employers to pay attorneys fees when a claimant prevails in a disputed case. In addition, an attorney testified that the Virginia Court of Appeals should be petitioned to hear cases appealed from the Workers' Compensation Commission. Current law grants an automatic right of such an appeal.

Employers

Representatives of the business community emphasized that the large majority of workers' compensation claims are resolved without dispute. In cases involving disputes, it was recommended that the Workers' Compensation Commission's Dispute Resolution Department—established in 1991—continue to be emphasized as a way to reduce claims processing times. Employers told the subcommittee

that they are concerned about cases involving employees who attempt to engage the workers' compensation system for injuries that are not work-related. It was asserted that some employees "abuse the system" because they view it as a general health care program; others simply make fraudulent claims. The cost of workers' compensation insurance was also cited as a major concern of several speakers.

Witnesses representing business interests generally did not favor proposals to continue employee benefits during appeal of an award, provide that employers pay attorneys fees for prevailing claimants, and increase fines and penalties when employers do not meet reporting requirements. However, an insurance company claims adjuster stated that employers are not being consistently fined for failure to file reports under current statutory requirements. She also suggested that fines be increased for successive offenses. Current law provides that employers failing to make required reports are "liable for a penalty of not more than \$250 for each failure."

Final Meeting

The panel has scheduled a work session for late November as its final meeting. The subcommittee is required to report its findings and recommendations to the Governor and the 1993 Session of the General Assembly.



The Honorable Virgil H. Goode, Jr., *Chairman*
Legislative Services contact: Mark C. Pratt

SB 412/HB 1186 and SB 333/HB 642: Workers' Compensation Insurance Special Subcommittee



October 6, 1992, Richmond

The special subcommittee of members from the Senate Commerce and Labor Committee and the House Corporations, Insurance and Banking Committee convened its second meeting to continue its discussion of legislation carried over until the 1993 Session relating to the regulation of workers' compensation insurance rates.

Staff Review

The panel began its meeting by having staff review the legislative proposals and the work of the subcommittee thus far.

Under current law, workers' compensation insurance rates are set by the State Corporation Commission (SCC) through a "prior approval" process. This means that rates are

subject to actuarial review and approval by order of the SCC. A hearing before the SCC is held as a result of application by the National Council on Compensation Insurance (NCCI), a rate service organization which files "final rates" on behalf of all insurers writing workers' compensation insurance in the Commonwealth, as well as many other states.

Final rates include provisions for "prospective loss costs," which are estimates of future loss payments (and include claims handling and legal defense costs), as well as provisions for other expenses (e.g., overhead, agent commissions) and profit. Evidence is presented to the SCC by, among others, NCCI, the Office of the Attorney General, and the SCC's Bureau of Insurance. Upon completion of a hearing, the SCC either (i) approves the filing as submitted or with any modifications it deems appropriate or (ii) disapproves the filing.

Staff informed the subcommittee that a rate case had been presented before the SCC since its last meeting. The SCC granted the industry an average rate increase of 14.7%. NCCI was seeking a 27.8% increase. The new rates went into effect on September 1, 1992.

Carry-Over Legislation

As introduced, SB 412/HB 1186 would limit NCCI to filing only prospective loss costs and supplementary rate information on behalf of workers' compensation insurers under a "delayed effect" statute, which requires that filings be made at least 60 days prior to their effective date and be subject to actuarial review. Insurers would be required to make separate final rate filings with the SCC based on their own general expense experience and desired profit.

In other words, prospective loss costs filed by the NCCI would be subject to actuarial review by the SCC, but expenses and profits would be filed by individual insurers under "file and use" provisions, which provide for filings to be effective on or after the date they are received without actuarial review. However, under the proposal, the final rate (including expense and profit information) would be subject to actuarial review if the SCC were to declare this line of insurance "non-competitive."

The other legislation before the subcommittee (SB 333/HB 642) would require the SCC to provide an allowance for dividends and deviations to be included in the final rates set for workers' compensation insurance. Under current law, uniform percentage decrease deviations are to be used only after they are approved by the SCC.

In the past—and in the recent rate case—the SCC has not permitted deviations to be included in determining the allowance for underwriting profit and contingencies when it sets rates. The bill would require the commission to do so.

Testimony of the Proponents

Proponents of the legislation presented nine witnesses to testify in favor of the legislative proposals. The presentation was coordinated by Anthony F. Troy, on behalf of the American Insurance Association.

The subcommittee was told that the workers' compensation insurance market in Virginia is deteriorating because of "substandard profits." Proponents cited USF&G's recent departure from the Virginia market, a growing reluctance among insurers to write new business, less use of dividends and deviations, and the growth of the Commonwealth's "assigned risk plan" (Virginia Workers' Compensation Insurance Plan) as evidence of the market's problems.

It was asserted that workers' compensation insurance is the only "competitive" line of property and casualty insurance that is fully regulated by the SCC. If enacted, the legislation before the subcommittee would continue to require that prospective loss costs be subject to actuarial review and approval by the SCC because they are "the big unknown." Because workers' compensation claims are potentially payable many years into the future, it is necessary to pool claims data in order to generate reliable statistical information. That is the function of a ratings bureau such as NCCI. It is appropriate, then, proponents maintained, that the SCC regulate the prospective loss costs component of the rate.

Under the proposal, insurers would file their own final rates based upon their individual expenses and desired levels of profit. That is also appropriate, according to proponents, because insurers have widely variant expense experiences depending on their level of efficiency and their business practices and do not need to rely on pooled data from a ratings

bureau for such information. Moreover, they asserted, competitive forces—not regulators—should dictate profit margins.

Proponents testified that SB 412/HB 1186 is a conservative approach to the problems in the workers' compensation insurance market. As introduced, the legislation stipulates that the prospective loss costs component of the rate continue to be subject to SCC actuarial review and approval, requires that individual insurers file final rates with the SCC, and provides that full regulatory review would go back into effect if competition does not prove to be an effective regulator of rates.

The subcommittee was told that the legislative proposals under consideration would benefit insureds by providing: (i) greater variation in rates; (ii) increased incentive for loss control and safety programs; (iii) improved availability; and (iv) reduced inefficiencies in the marketplace.

Comments from the SCC

Steven T. Foster, commissioner of the Bureau of Insurance, appeared on behalf of the SCC to respond to questions from the subcommittee. Commissioner Foster told the panel he believed that the 14.7% rate increase recently approved by the SCC was appropriate because, in his opinion, current law "does not permit insurers to add to the base rate an amount that they could choose to give back in dividends and deviations." He said that the SCC attempts to calculate a rate that provides insurers with a return on equity (after taxes) of 13%, but indicated that insurers are not collecting the full dollar of premium because they are "giving away profits" in the form of dividends and deviations.

Responding to a question from a subcommittee member, Commissioner Foster testified that SB 412/HB 1186 is supported by the SCC, with one important reservation. He told the panel that the SCC is very concerned about the impact the legislation would have on small employers in the assigned risk plan that "don't deserve to be there."

The subcommittee had previously received testimony indicating that an ever-increasing number of "good" risks are being placed in the assigned risk plan. According to the commissioner, such employers have not been experi-

encing any substantive difference between being in the plan versus being in the "voluntary" market with the exception of, perhaps, a lesser level of service. However, as part of the recent rate case, the SCC approved a 10% "surcharge" on employers in the plan (NCCI had requested a 25% differential). Under the legislation, the SCC will continue to file a final rate for risks in the assigned risk plan. As a result, in the short term, some good risks in the assigned risk plan will be unfairly penalized. It is intended, however, that the rate for assigned risks will become self-supporting over time.

To combat these concerns, Commissioner Foster informed the subcommittee that the SCC intends to begin using its statutory authority under Va. Code § 65.2-821 to make rules and regulations for the assignment of risks "that will provide for certain safeguards as to how these risks get into the assigned risk plan." In addition, he asked the subcommittee to consider a proposal which would permit the SCC to

disclose information to interested persons (e.g., insurers and agents) about an assigned risk. Current law (Va. Code § 65.2-823) prohibits such disclosure; thus, insurers and agents have no way of knowing the characteristics of the employers in the assigned risk plan. The commissioner indicated that insurers having such information might be willing to write coverage for many small employers currently in the plan.

Next Meeting

Due to the length of the meeting, subcommittee members and scheduled witnesses agreed to hold other testimony over until the panel's next session. It was announced that a presentation by the Attorney General's office would be the first item on the agenda at the next meeting. The July 1992 issue of *The Legislative Record* contains a discussion of prior testimony from the Office of the Attorney General with regard to its position on the issues before this subcommittee.

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The Honorable Alson H. Smith, Jr., *Chairman*
The Honorable Richard L. Saslaw, *Chairman*
Legislative Services contact: Mark C. Pratt

HJR 247: Joint Subcommittee Studying Human Immunodeficiency Virus (AIDS)

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September 25, 1992, Richmond

Originally established in 1988, the Joint Subcommittee Studying Human Immunodeficiency Virus opened its first 1992 interim meeting with a summary of the joint subcommittee's 22 legislative proposals and many successful budget amendments, spanning the 1989 through 1992 Sessions. It was noted that, among its legislative proposals, only two had been unsuccessful, with one of these two having been revised and passed during the session following its initial introduction (see HB 1973, 1989, and HB 815, 1990). The joint subcommittee also received a summary of the federal Comprehensive AIDS Resources Emergency Act of 1990 (Ryan White Care Act) and a list of Virginia statutes relating to HIV/AIDS, most of which resulted from its work.

Medicaid Expenditures

Patricia Godbout, deputy director, Department of Medical Assistance Services, pro-

vided the subcommittee with current figures for Medicaid expenditures for recipients using AZT. Ms. Godbout emphasized that Medicaid does not maintain data by diagnosis; that is, the AIDS data can only be based on the Medicaid expenditures linked to individuals who have, at any time, been treated with AZT, a drug used to enhance the immune response of AIDS patients. Therefore, any HIV-infected patients who are not on AZT would not be included in the cost data, and the actual expenditures for HIV-infected recipients may be much greater than those calculated by linking AZT treatment.

Medicaid expenditures for AZT patients increased 89% between fiscal years 1991 and 1992, with the average cost per patient rising from \$9,246 in 1991 to \$11,170 in 1992. Substantial increases were also reported for outpatient expenditures (140%), home health services (136%), and drug costs (117%).

Corrections

Dr. Balvir L. Kapil, chief physician, Department of Corrections, addressed the impact of HIV infection on the Commonwealth's correctional system. Dr. Kapil stated that AIDS education has been provided to all targeted employees, with educational sessions regularly held throughout the state for new and other employees. Every inmate also receives

information on AIDS upon entering the system; opportunities to discuss concerns with trained counselors are available at each facility. Dr. Kapil noted the cooperation of the Central Virginia AIDS Services & Education organization in developing new programs and new curricula at some large institutions housing HIV-infected inmates.

The number of inmates known to be HIV infected has continued to increase significantly. Accumulated data indicate that the number of known cases of AIDS among inmates has increased from 4 in 1985 to 42 in 1991, with the year-to-date total for 1992 at 51. The number of known cases of HIV infection among inmates has increased from 3 in 1985 to 109 in 1991, with the year-to-date total for 1992 at 164. Since 1985, 10 deaths attributable to AIDS have been recorded among inmates. Because of the increase in demand for outpatient services for HIV-infected inmates, the department is examining the feasibility of conducting HIV clinics at the Powhatan Correctional Center infirmary.

Dr. Kapil spoke at length about the department's grave concerns related to the resurgence of tuberculosis, particularly multiple-drug-resistant TB, a virulent form of bacteria that can cause death in 70% to 90% of infected individuals. Although TB was previously considered virtually eradicated in this country, the Centers for Disease Control now estimates an increase of 16% since 1985, with persons with HIV and other immunosuppressed individuals more likely to develop tuberculosis after exposure, and TB infection three times more likely to be found in prison populations. Only six cases of active TB and two cases of multiple-drug-resistant TB have been identified in the Virginia correctional system in the last year. However, because of the possible severity of an epidemic (outbreaks with deaths have been reported in other states), the Departments of Corrections and Health will implement a full-fledged TB surveillance program, consisting of TB skin testing of all inmates and at-risk employees. Retesting of all individuals initially testing negative will be conducted annually. Individuals testing positive to the skin test will be advised to be tested for HIV infection because of the significant link between TB and HIV. Chest X-rays and preventive drug therapy will be provided to inmates as necessary.

Contagious Disease Training

Pursuant to HJR 184 and SJR 49, the Committee on Training of the Criminal Justice Services Board was requested to coordinate a study of contagious disease training for public safety personnel. Judge Robert L. Simpson, Jr., of Virginia Beach General District Court, chairman of the committee established to conduct this study, presented its findings and recommendations. Judge Simpson described the broad representation on the committee and the study process, which included committee meetings, detailed communications, constituent canvassing, and literature research.

The federal Occupational Safety and Health Administration/Virginia Occupational Safety and Health (OSHA/VOSH) standards on training were cited as well as the federal Americans with Disabilities Act and the constantly changing, complex work environment in the diverse public safety arena, which includes fire, police, and health care personnel. Judge Simpson stated that the appropriate training in prevention of transmission of communicable diseases may not be the same in each of these areas. He noted that the recommendations were intended to be a stabilizing influence while providing flexibility and complementing state and federal law. He emphasized that, although the OSHA regulations require training only in

prevention of transmission of bloodborne pathogens, the committee has recommended that training include airborne pathogen disease prevention, particularly to address the resurgence of tuberculosis. The committee also recommended that volunteers, who are not specifically covered by the OSHA/VOSH regulations, be provided training in the same manner as paid employees. The committee concluded, Judge Simpson said, that moral and ethical obligations and liability concerns indicate that volunteers should be afforded the same consideration, protection, and training as their paid counterparts.

Insurance Regulations

Robert L. Wright, insurance supervisor, Life and Health Division, State Corporation Commission, reviewed the status of regulations governing underwriting practices and coverage limitations and exclusions for AIDS. These regulations, which have been in effect since May 1, 1990, were specifically authorized through HB 1971 of 1989, a joint subcommittee recommendation. If based on symptoms disclosed in an application of life or health insurance, an adverse underwriting decision is not permitted under the regulations; however, if the symptoms are confirmed through the use of medical records or HIV-related tests, an adverse underwriting decision is permissible.

Education

Edward Carr, deputy superintendent, Department of Education, reported that the department has continued to broaden the scope and breadth of educational programs on HIV prevention through coordinated efforts with other national and state agencies. These programs are aimed at reducing at-risk behavior among children and youths through dissemination of materials, technical assistance, and teacher training.

In addition to the work with educators, more than 600 young people serving as peer advisors or peer facilitators heard presentations on HIV, other sexually transmitted diseases, the value of postponing sexual intercourse, recognizing sexual responsibility, and ways to prevent and reduce at-risk behavior among teens. The department has also awarded mini-grants to youth advocate coalitions and school divisions.

In conformance with a cooperative agreement with the CDC and the Governor's Drug Policy Office, the department conducted the 1992 Virginia Youth Risk Behavior Survey of 1,636 high school students. The survey report will be available later this year. A middle school survey has also been developed and piloted. To be conducted biennially, the surveys will be used in a surveillance system to assess at-risk behavior among adolescents, monitor such behavior, and assist in the development of future curricula, student education programs, and teacher in-service programs.

A survey to assess the availability and effectiveness of HIV education conducted in 1992 has indicated that 7-12 grade students receive HIV/AIDS education in 134 of the 135 school divisions. This survey indicated an increase in grade 7 HIV/AIDS education, but a decrease in HIV/AIDS education in grades 11/12. Although 72% of respondents rated their HIV/AIDS prevention programs as "very effective" or "effective," 28% indicated need for improvement or rated their HIV/AIDS prevention program as "ineffective." The department recommended that various levels of HIV/AIDS education for school division personnel be developed through an appropriation of state funds (\$150,000-\$200,000) for HIV/AIDS in-service workshop/training sessions to be delivered through a comprehensive school health education approach.

Health Professions

Bernard L. Henderson, director, Department of Health Professions, presented an update on the issue of infection control/HIV-infected professionals. Mr. Henderson stated that the public concern about infection control and HIV-infected professionals, although understandable, may have been overstated. In accordance with the federal legislation requiring certification of compliance with the CDC infection control guidelines, the Boards of Medicine, Nursing, and Dentistry were directed, in July 1991, to determine appropriate actions for enforcement. Each of these boards has taken the necessary steps to make noncompliance with the CDC guidelines enforceable as unprofessional conduct; that is, subject to all available board penalties. Announcements of these actions have been published.

Epidemic Statistics

Epidemic statistics and Department of Health activities were discussed by Dr. Grayson Miller, director, Office of Epidemiology. In Virginia, 3,173 AIDS cases have been reported since May 1982, with 424 reported this year and 1992 total cases estimated at 836; 672 cases were reported in 1991. Dr. Miller also provided detailed statistics on AIDS in Virginia, including age and race data on victims, most frequent modes of transmission, and the localities most affected by the AIDS epidemic.

Patient Services and Community Education

Dr. Miller emphasized the need to tailor specific educational messages for minorities and young people. The department has made special efforts to educate minorities through special programs and has aggressively promoted public service announcements designed for people of various ages, cultures, and educational backgrounds. The pattern of marked increases in calls to the AIDS hotline and requests for information, counseling, and testing, which have occurred following the announcements of Magic Johnson and Arthur Ashe, were described.

The Department of Health administers the AIDS Services and Education Grants for direct patient services and broad-based community AIDS education, another of the joint subcommittee's initiatives. Seven organizations received a total of \$200,000 this year.

The AZT funding initiated by the joint subcommittee in 1990 enables the department to provide AZT to eligible asymptomatic HIV-infected patients. The drug program has recently been expanded to include eight other anti-HIV medications through Ryan White Care Act funding. The crucial role of the AIDS service organizations in education and other support services was applauded. Ryan White Care Act funds now support five care consortia for outpatient care, pediatric care, case management, transportation, nutritional support, medication, and hospice care.

In closing, Dr. Miller reiterated profound concerns about adolescents and how to convince them of the dangers of at-risk behavior, the difficulties in getting the message to injecting drug users, and the increase in HIV-infected women, largely attributable to sexual transmission from infected drug users.

Next Meeting

Prior to adjournment, the joint subcommittee agreed to schedule two more meetings during this interim, with the next meeting consisting of a morning work session and an afternoon public hearing. During this meeting, to be held in Norfolk, various reports may be scheduled, including an update on the implementation of the Commonwealth's comprehensive plan.



The Honorable Joan H. Munford, *Chairman*
Legislative Services contact: Norma E. Szakal

HJR 180: Joint Subcommittee Studying Maternal and Perinatal Drug Exposure and Abuse

September 11, 1992, Richmond

The second 1992 interim meeting of the joint subcommittee convened with a summary of the plans for the conference on perinatal substance abuse. Jointly sponsored by the joint subcommittee and the office of the Governor (using funds from the Drug-Free Schools and Communities Act), the conference, *Perinatal Drug Exposure: Putting the Pieces Together*, was held in Richmond on October 23 and 24. The conference facilitated dialogue, collaboration, and long-term relationships among the many disciplines working with substance-abusing women and their children in the Commonwealth.

The joint subcommittee was informed that the report on women's substance abuse treatment programs requested in 1990 will be completed in the next few weeks by Dr. John S. Graude, director, Office of Substance Abuse Services, Department of Mental Health, Mental Retardation and Substance Abuse Services (MHMRSAS).

Federal Funding

Mellie Randall, substance abuse program consultant with MHMRSAS, reviewed the changes in the federal block grant funding for alcohol and drug abuse. Ms. Randall noted that mental health and substance abuse services have been separated by the new legislation. Mental health services, which formerly comprised 15.83% of the funds, will be awarded 20.6% under the Reorganization Act of 1992. Funding for prevention activities currently focusing on high-risk youth and pregnant women will remain funded at 20% but will be limited to "primary" prevention services to persons with no history of abuse and risk reduction activities.

Treatment funds remain at 35% for alcohol and 35% for drug abuse treatment, with the present 17.5% set-aside for injecting-drug-user treatment removed; however, outreach is required of programs providing services to injecting drug users, and states with an AIDS rate of 10/100,000 or more must set aside 2-5% of the funds for services to persons with AIDS contracted through injection drug use. States must also test and provide treatment for persons who have tuberculosis. Ms. Randall noted the redundancy of these requirements with programs within the Department of Health. The 10% set-aside for women's services has been revised to require states to increase by 5% the amount spent on pregnant women and women with dependent children; states must also provide prenatal care and child care for women in treatment. Ms. Randall stated that DMHMRSAS has already begun working with the Department of Health to coordinate overlapping requirements.

Foster Care and Adoption

A presentation on the service framework of foster care and adoption was provided by Rick Pond, program manager, Foster Care and Adoption Unit, Department of Social Services. Based on the permanency planning premise that every child deserves a caring, legally recognized and continu-

ous family in which to mature, the foster care program is focused on services to prevent removal of children from their homes and, when a child must be removed, to reunite the child with his birth parents/prior custodians. Among the 6,028 children in foster care in March 1992, 50.9% (3,803) were targeted for return home, through services concentrated on eliminating the conditions leading to the child's removal. Placement with relatives, requiring transfer of custody/legal responsibility and discontinuance of foster care payments, was the goal for 4% (241) these children. Twenty percent (1,206) of foster children were assigned adoption as a goal, requiring termination of parental rights/responsibilities after expiration of a reasonable period of time (usually 12 months) in which efforts to remedy the conditions leading to removal have been unsuccessful. For 9.1% (550) foster children, the goal was permanent foster care, requiring a long-term commitment to keep the child by the foster parents, giving the foster parents more rights than regular foster care, and preventing removal of the child without a court order. Continued foster care, a goal used only when all other goals are ruled out, was the objective for 14.2% (854) foster children; children in this category are vulnerable, without long-term adult commitment, and frequently teenagers.

Mr. Pond stated that in most cases, foster care services are terminated at age 18; however, children with disabilities or children in secondary educational or vocational training programs may remain in foster care until age 21. Kinship or relative care, when custody is assumed by the state and the child is placed with a relative, was described as a challenge created by societal changes. These societal changes are most apparent in large metropolitan cities, and many of the children are drug exposed.

Issues related to kinship care demonstrate a double-edged dilemma, with positive and potentially negative components (e.g., placement is more likely to be with a familiar person with whom the child has a bond; the parent may feel free to visit the child in a familiar setting;

however, a physically abusive parent may have direct access to the child or family relations may break down due to difficulties created by drug abuse). Unresolved questions related to kinship care include: Are children placed with relatives in a safer situation than they were when living with their parents? Do parents visit their children more or less when the placement is in a kinship home? Do the families in these placements have access to needed services? Is permanency planning accorded the same consideration in kinship placements as in traditional foster care placements? Should a separate goal be established for children in kinship care situations? Should relative homes continue to be required to meet the same standards for approval as other foster homes?

Mr. Pond noted that permanency goals should be the same for children in kinship placements as in traditional foster care and that kinship care-givers should be encouraged to assume custody or adopt the child. He stated that current policies need to be clarified to ensure that local agencies are aware of the scope of services that can be offered to children in kinship care placements through the use of prevention funds. Further, the feasibility of using prevention funds to maintain the family after custody is transferred and establishing a new goal of preparing foster children for living independently, when relatives are unable or unwilling to assume custody, should be examined; and the adequacy of prevention funding to provide these services and the level and effectiveness of appropriate financial assistance for children in kinship care should be evaluated.

Norplant

Medicaid Norplant utilization data were updated for the subcommittee by Michael Jurgensen, policy and planning supervisor, Department of Medical Assistance Services. Mr. Jurgensen stated that Medicaid coverage of Norplant, a reversible, five-year, low dose, progestin-only contraceptive for women, was authorized in April 1991. Estimates prior to implementation of coverage for Norplant utilization and expenditures were between 1,200 and 12,000 recipients, with a 15% removal rate during the first year of use, 12% thereafter. Medicaid reimbursement for Norplant is \$350, up to \$90 for the actual implantation of the device, and \$84 for its removal. In fiscal year 1992, DMAS claims data indicate that 2,585 implants and 80 removals were reimbursed, at

a total cost of \$1,165,964 (general fund expenditures, with 90% federal funding provided, would be \$116,596) and an average cost per patient of \$438.93 (general fund expenditures would be \$43.89/patient). These calculations do not include initial or follow-up office visits. Removals during the first quarter of FY 92 grew from 0.86% in the first quarter to 4.8% in the last quarter. Nearly 50% of the patients were between 20-25 years old.

Project LINK

Following adjournment of the formal meeting, joint subcommittee members proceeded to a joint meeting with the Project LINK State Advisory Council. Project LINK is a community-based, interagency demonstration project focused on coordinating and enhancing existing services to meet the many needs of substance-using pregnant women, mothers and their children, and at-risk women of childbearing age. Presentations from the Project LINK coordinators and personnel and the program evaluators included detailed descriptions of LINK clients, procedures, and services.

Next Meeting

A December meeting of the joint subcommittee is planned for the review of the issues and discussion of possible legislative proposals. At that time, the subcommittee will also evaluate the effectiveness of the October conference (*Perinatal Substance Exposure: Putting the Puzzle Together*).



The Honorable Marian Van Landingham, *Chairman*
Legislative Services contact: Norma E. Szakal

HJR 361: Joint Subcommittee Studying the Imposition of Business License Tax on Nonprofit Hospitals, Colleges, and Universities



October 26, 1992, Richmond

After hearing from nonprofit hospital representatives at its September meeting, the joint subcommittee turned its attention to the nonprofit colleges and universities during its second meeting in 1992. Representatives from the higher education community as well as the Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) addressed the joint subcommittee.

Nonprofit Colleges

J. Michael Mullen, deputy director of the State Council on Higher Education, voiced the concern that allowing localities to levy the BPOL tax on private colleges and universities would result in tuition increases. This, in turn, could have an impact on the Commonwealth's general fund, assuming the tuition assistance grant (TAG) program was enlarged in order

to award a larger grant to private higher education students seeking such assistance. Therefore, Mr. Mullen opposed allowing localities to levy the BPOL tax on nonprofit colleges and universities.

The president of the Council of Independent Colleges in Virginia (CICV), Robert B. Lambeth, Jr., suggested two ways to keep private colleges and universities off the localities' BPOL tax roles. First, the current exemption could be made permanent. Second, the definition of "business, trade or profession" found in the *Code* could be amended to exclude nonprofit colleges and universities. In explaining why either one of these approaches should be taken, Mr. Lambeth answered questions that arose during the joint subcommittee's first meeting in September 1991. With 24 of 25 institutions replying to a survey, the total gross unrelated business income (UBI) for 1990-91 was \$1,218,721 while the net UBI was a loss of \$178,377. Expenses of earning the UBI were greater than the income produced. Sources of such UBI ranged from snack bars and catering for outside groups to farm activities.

Some of the nonprofit colleges and universities pay a service fee on real property rented to noncollege personnel. Also, many contribute funds to local fire departments and rescue squads.

Finally, all the nonprofit colleges and universities contribute through community service to their localities. In some areas, the nonprofit institution of higher education is the only such institution located there. There are close ties and much involvement between these colleges and the public school systems. From an economic standpoint, these institutions provide jobs as well as money spent in the community by parents, students and faculty. Last but not least are the cultural offerings which otherwise might not be available or certainly would not be as plentiful.

The presidents of Ferrum College, Eastern Mennonite College, and Marymount College each emphasized the particular strengths their institutions added to their respective communities, including economic development and community service through student and faculty involvement. They also emphasized that they would have to pass on, through tuition increases, any BPOL tax levied, thereby placing the burden on the students and their parents. Finally, Alice Miles, a parent of a student at Emory and Henry College, spoke about the difficulty of paying for college expenses today and how any increase could prevent many students from going to the college of their choice.

Local Government

Betty Long of VML and Ellen Davenport of VACO emphasized that they do not believe the localities will jump on the bandwagon to levy the BPOL tax if the exemption is eliminated. However, the option of levying the tax should be made available to the localities in order to keep the tax base broader if they decide it is necessary.

After hearing all the speakers, the joint subcommittee recommended an extension of the sunset of the current exemption for four years, until July 1, 1997. The joint subcommittee did not want to make the exemption permanent, choosing the four-year extension to give everyone more time to determine the best long-term solution.

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The Honorable Jay W. DeBoer, *Chairman*
Legislative Services contact: Joan E. Putney

HJR 83: Joint Subcommittee Studying the Uses of Camp Pendleton

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October 26, 1992, Virginia Beach

The Joint Subcommittee Studying the Uses of Camp Pendleton held its initial meeting at Camp Pendleton.

Background

Camp Pendleton, located along the Atlantic Ocean and south of the Virginia Beach resort strip, serves as the State Military Reservation. It is an approved military training site, which the Virginia Army National Guard uses for federal national defense training and state emergency assistance training. The type of training performed at Camp Pendleton varies depending on the unit using the facility. The Camp Pendleton property consists of about 600 acres, approximately one-half of which is used by the Guard.

The charge of the subcommittee is to investigate (i) the use presently being made of the territory comprising Camp Pendleton, (ii) the needs of the Virginia National Guard for training space and facilities, (iii) the needs of the communities contiguous to Camp Pendleton for land to be used for public purposes, the negotiations for which have taken place between the city and the Commonwealth, and (iv) the degree to which, and conditions under which, portions of Camp Pendleton could be used for public purposes.

Camp Pendleton has been studied by the legislative branch previously, most recently by the Joint Legislative Audit and Review Commission (JLARC), which issued a report in 1979 (HD 3). The JLARC report recommended against moving the Guard's base but found that the main base area alone was sufficient to support the Guard's military training. The report stated that almost one-half of the Camp Pendleton property was leased to Virginia Beach for recreational and municipal facilities and that a 162-acre forest tract could be disposed of without affecting the training activities of the Guard.

Current Uses

Mayor Meyera E. Oberndorf and Bob Matthias, assistant to the city manager, made presentations on behalf of the City of Virginia Beach. The city would like to purchase surplus land outside of the main base and utilize this land to the benefit of the city as a whole. The mayor stated that the city would like to turn the area into a tourist mecca by building a new golf course and by expanding existing tourist attractions. The mayor further stated, however, that she had no interest in jeopardizing the training of the Guard at their Camp Pendleton site.

Mr. Matthias outlined the current uses of the Camp Pendleton property, which, in addition to the main base area, includes several parcels leased to the city. The uses include 288 acres for the Redwing Golf Course, the Owls' Creek Boat Ramp, the Virginia Marine Science Museum, an elementary school, a fire station, a fire training center, the Owls' Creek Tennis complex, and the Pendleton Child Service Center.

Public Hearing

The subcommittee then opened up the hearing to allow for comments from interested citizens. Several Virginia Beach residents, mostly either from nearby residential areas or representing the business community, addressed the subcommittee. Some stressed the city's need for additional recreational areas, specifically more golf courses, stating that Virginia Beach is unable to compete for golfing tourists with areas such as Myrtle Beach, which can offer extensive golf packages. Other speakers told of the need for additional access to the beach area of Camp Pendleton and the need for better parking and public facilities. Chairman Croshaw appointed a special subcommittee to address some of the specific concerns raised by area residents.

Future Meetings

The subcommittee will next meet in Richmond during December, with the date and location to be announced.



The Honorable Glenn R. Croshaw, *Chairman*
Legislative Services contact: Jeffrey F. Sharp

HJR 24: Commission on Capital Financing



October 1, 1992, Richmond

The Commission on Capital Financing, which held its first full meeting in October, will examine the following issues:

1. The formation of a new, state-funded revolving loan fund to meet the special financing needs of rural small business;
2. The restructuring of existing regional or statewide financing programs to provide greater access for small businesses;
3. Methods of removing structural obstacles, such as taxes and subsidies, to ecologically healthy economic development;
4. Special technical assistance needs of small, ecologically healthy business enterprises;
5. The effectiveness of support for small business in comparison with the recruitment of larger, externally based employers; and
6. Methods for encouraging private sector support for local small business.

At the October meeting, staff briefed the commission on the work and status of several other studies related to the work of the commission. The commission expressed particular interest in the proposed Blue Ridge Region Development Bank, which is being studied by the Blue Ridge Economic Development Commission, and requested that more information regarding the proposed development bank be presented at the next meeting.

Small Business Financing

Also addressing the commission was Anna Mackley, financial services representative with the Virginia Small Business Financing Authority (VSBFA). Ms. Mackley discussed the various programs the authority is involved with to achieve its objective of assisting Virginia small businesses in getting financing otherwise unavailable to them because of size, location, age, or the prevailing bank environment. Through the VSBFA Industrial Development Bond Program, certain small businesses can obtain low-interest, long-term financing of acquisition of land, buildings, and equipment. The VSBFA loan guaranty program offers short-term bank financing for inventory, accounts receivable, and short-term fixed assets. Also, small businesses can obtain bank financing for export sales through the VSBFA Eximbank export program.

Development Centers

Finally, Gerald L. Hughes, Jr., director of the Longwood Small Business Development Center (LSBDC), made a presentation to the commission. According to Mr. Hughes, the sole objective of the LSBDC, which is part of the Virginia Small Business Development Center's program, is to help Virginia businesses prosper and increase job opportunities by offering assistance to Virginians in starting a business, expanding a business, or solving business related problems. Some of the specific

services provided by the LSBDC, as well as other centers around the state, include client counseling, business plan preparation, market research, financial analysis, strategic planning, and various educational, research, and community service projects. In response to questions from the commission, Mr. Hughes explained some of the difficulties he sees small businesses facing with regard to obtaining necessary financing to start or expand a business.

Future Meetings

The commission announced two public hearings, on October 30 in Abingdon and on November 6 in Farmville, to hear testimony from those involved in small businesses. The next full meeting of the commission is scheduled for November 30 in Richmond.



The Honorable Clarence E. Phillips, *Chairman*
Legislative Services contact: Jeffrey F. Sharp

Special Subcommittee Studying Trial and Appeal of Capital Cases and Procedural Safeguards in Those Cases



October 14, 1992, Richmond

The special subcommittee of the House Courts of Justice Committee studying the trial and appellate procedures of capital cases and procedural safeguards in those cases held its third meeting and began reviewing responses to some of the concerns previously raised and proposals offered to address others.

Capital Case Counsel

The subcommittee heard from O. P. Pollard, executive director of the Public Defender Commission. The members had raised some questions concerning the means whereby attorneys were solicited to apply for certification to defend capital cases and handle those cases on appeal and in collateral proceedings. The subcommittee was advised that additional efforts have been undertaken to reach a larger pool of potential candidates and, as of October 8, 1992, 431 applications had been received. Of that number, 113 were not qualified in any category. Many of the attorneys who failed to qualify in one or more categories did so only because of a lack of the specialized training required. Accordingly, the Public Defender Commission plans to sponsor some training sessions and is working to attract additional sponsorship for such training.

Capital Study Group

An ad hoc group of attorneys and others interested in modifying various death penalty procedures, calling themselves the Capital Study Group, presented a list of 14 proposed statutory changes, which they urged

would help ensure fairness in capital case proceedings, prevent the execution of a prisoner who is actually innocent, and make the representation of capital case defendants more attractive to qualified defense attorneys. The proposals included changes in waiver rules the group deemed overly technical, "plain error" appellate review of death cases, a new procedure for the judicial review of evidence newly discovered after expiration the 21-day jurisdictional period, and a more lax rule for the presentation of successive habeas corpus petitions.

Other proposals dealt with the fees paid capital appellate counsel and the services available to assist trial counsel. Still another group of proposals outlined modifications in the manner in which capital juries are instructed on mitigation evidence and parole rules and the language of the standard sentencing verdict form.

Reply from the Opposition

Some feel that current capital case procedures are adequate and appropriate. Those interests, represented at the meeting by Commonwealth's Attorneys, indicated that they had only just received the proposals of the Capital Study Group and requested time to review them and present a full response at a later meeting. Chairman Woodrum agreed to the request and asked again that the various interested groups meet and attempt to determine what, if any, issues could be the subject of some consensus or agreement. The groups expressed a willingness to do so and are expected to get together prior to the next meeting of the subcommittee.

Future Meeting

The next meeting of the subcommittee is scheduled for December 17 at 2:00 p.m. in Richmond. At that meeting, the subcommittee expects to hear whether any agreement has been reached among the interested parties. The agenda will also include an opportunity for those opposed to modifications in capital case procedures to present their responses to the Capital Study Group proposals.



The Honorable Clifton A. Woodrum, *Chairman*
Legislative Services contact:
Frank S. Ferguson

HJR 178: Study of the Necessity for Improvements in Erosion and Sediment Control Programs

September 24, 1992, Danville

The third meeting of the joint subcommittee featured presentations on the relationship between the Coastal Zone Management Act and Virginia's erosion and sediment control (E&S) law, approaches adopted by other states, and an analysis of complaints received by the Division of Soil and Water Conservation.

Enforceable Policies Requirement of CZMA

Section 6217 of the Coast Zone Management Act of 1972 (CZMA) requires states to develop and implement an "approvable" non-point source pollution management program to restore and protect coastal waters. An approvable program must include "enforceable policies," which are the methods by which the state assures the federal government that its proposed actions can be implemented. The consequences of a state's failure to develop and implement an approvable program include the withholding of up to 30% of the state's grant funds under Section 319 of the Water Pollution Control Act and Section 306 of CZMA.

Anne D. Brooks of the Council on the Environment outlined the operation of the CZMA in Virginia and warned that the existing E&S law may not pass federal scrutiny. The CZMA requirement that a state exert control over private and public land and water uses and natural resources in the Coastal Zone may be met by one of these methods: state establishment of criteria for local implementation, direct state water and land use planning, or case by case review of land and water use decisions. Virginia's Coastal Resources Management Program is a "networking" program, under which the Council on the Environment coordinates six state agencies and eight programs. The program was approved by the Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA) in 1986 and currently provides Virginia with federal funding of over \$2.3 million. One of the eight activities included in Virginia's Program is nonpoint pollution con-

trol, administered by the Department of Conservation and Recreation by setting state standards for local implementation.

Federal regulations provide that where the state sets standards for local implementation of a program, it must be able to assure compliance. The E&S law was approved with the assumption that the state could control local activities to assure compliance. Ms. Brooks expressed concern that, with the implementation of Section 6217 of the CZMA, federal review will focus on the state's E&S program. Adequate local enforcement of E&S programs will not satisfy the enforceable policies requirement; the issue that NOAA and EPA will address is whether the state has the ability to stop violations.

Review of Other State Programs

The E&S laws of five states—Delaware, Maryland, North Carolina, South Carolina, and Georgia—provide examples of the range of state involvement in local program enforcement. Staff compared these laws to Virginia's law and noted that each provides the state with methods of overseeing local program implementation that are not authorized under Virginia's E&S law.

All of the states surveyed shared the framework of Virginia's law, which establishes statewide standards and gives localities or soil and water conservation districts the option of applying for certification of local programs that meet these standards. Their principal difference with Virginia's E&S law is the ability of these other states, after a local program is approved by the state, to decertify all or portions of the local program if the locality fails to adequately implement or enforce its program. As previously reported to the joint subcommittee, the Virginia law does not provide this remedy.

A second feature common to each of the five states studied was the power of the state agency to bring enforcement actions against violators of the E&S law. Typical of such provisions is Maryland's law, which provides that when the state agency receives notice of a violation, it must respond and refer the complaint to the locality. If the locality fails to act, the state agency may issue a stop work order, seek an injunction, or pursue other remedies against the violator. An interesting feature of Georgia's law provides that where the locality has failed to secure compliance with the E&S law and the state initiates an enforcement action, the locality may be held liable for the state's costs, including attorneys' fees.

Several of the states surveyed also provide that any person injured by a violation of the state law or local ordinance may bring a civil action against the violator. Private remedies may include an injunction (as in Delaware) or both damages and an enforcement order (as in North Carolina).

Personnel administering the laws in these states have praised the provisions of their E&S laws that allow the state to revoke local delegation of elements of programs that are not being adequately administered as an

effective means of compelling improved implementation. Finally, it was noted that in four of the states surveyed, the E&S laws have been amended recently (between 1985 and 1992) to increase the ability of the state to oversee local program implementation.

Characterization of E&S Complaints

James W. Cox of the Division of Soil and Water Conservation presented an analysis of the 193 complaints received by the division in the 1991-1992 fiscal year. In 44 instances, the complaint was found not to involve a violation of a local ordinance or state law. Several complaints were found to involve more than one type of violation. The most common violations were found to be inadequate inspections (78), followed by inadequate enforcement (72), projects started without an approved E&S plan (58), and inadequate plan review (42). Other problem areas included post-development runoff problems (35), possible conflicts of interest (24), and inadequate local ordinances (4).

Mr. Cox also submitted a list of possible options to address each of the problem areas identified for consideration by the joint subcommittee. Options mentioned included increased training of inspectors and plan reviewers; certification programs for reviewers, inspectors and contractors; increasing the state role in enforcement; and rescinding state approval of inadequately implemented local program elements.

Public Hearing

At a public hearing following the business meeting, the joint subcommittee heard 15 speakers comment on various aspects of E&S programs. Issues raised included the need for more training of local officials and education of contractors, the exemptions for certain single-family dwellings and agriculture, and the need for the state to step in where a locality cannot or will not administer its program effectively. Several citizens expressed concern about the increased sedimentation in Smith Mountain Lake. Others applauded the growing awareness of the issue and cited new ordinances in Bedford and Franklin Counties as positive steps to controlling erosion and sedimentation.

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The Honorable W. Tayloe Murphy, Jr.
Chairman
Legislative Services Contact:
Franklin D. Munyan

Coal Subcommittee of the Coal and Energy Commission

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September 16, 1992, Richlands

The coal subcommittee's meeting focused on the effects of Appalachian Power Company's planned high-voltage power transmission line on economic development in Southwest Virginia. Subcommittee Chairman Ford C. Quillen expressed concerns that APCO's 765 KV line, to run from Wyoming, West Virginia, to Cloverdale, will discourage the development of power generating facilities in the region by allowing the utility to import electricity from its affiliates in the midwest.

Overview of Electrical Energy in Virginia

Carl Zipper of the Virginia Center for Coal and Energy Research outlined the electrical energy power sources, uses, and capacity of APCO and Virginia Power. Both companies have internal loads that exceed their internal power generation by about 10,000 GWHrs, though they cover their deficits by different approaches. APCO relies primarily on purchasing power from generators on American Electric Power (AEP) system, and Virginia Power relies on a mix of purchasing power from other utilities and from nonutility generators. Dr. Zipper's data indicate that the rates and production expenses of Virginia Power's electricity are higher than APCO's.

The cost of Virginia Power's out-of-state power purchases totalled \$218.7 million in 1991, while the comparable figure for APCO's Virginia service territories was estimated between \$138.1 million and \$301.5 million. The total cost of buying power to cover Virginia's generating

deficit ranges between \$356 million and \$520 million. Dr. Zipper then discussed whether paying for power produced out-of-state is detrimental and noted that APCO may have saved its rate-payers money as a result of the low cost of power produced by its AEP affiliates. His projections indicate that APCO's Virginia power production deficit will increase to 13,419 GWHrs by 2001. APCO plans to build two coal-fired baseload plants with 900 MW of capacity each by 2011, though it is premature to address their locations.

Figure 1 shows the location of existing and proposed transmission lines. Dr. Zipper noted that the 765 KV Wyoming to Cloverdale connection is a critical link in Virginia Power's long-range plans. If power generating facilities are to be built in Southwest Virginia, transmission capacity is a critical constraint. Two additional hurdles to locating power plants in Southwest Virginia mentioned include APCO's ability to build larger plants in West Virginia due to greater availability of water, and the fact that a

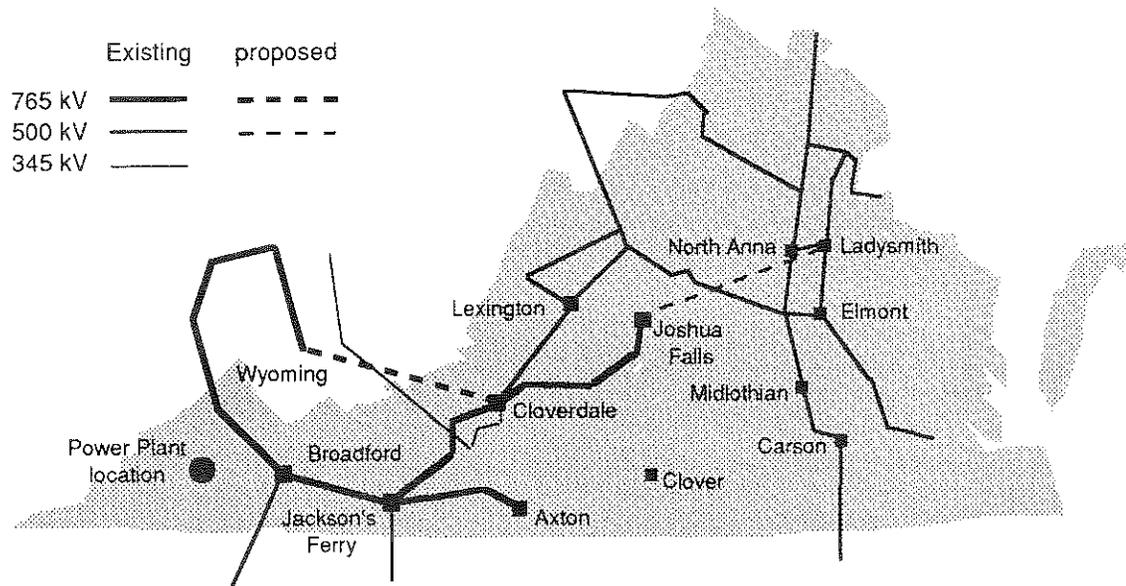


Figure 1. Appalachian Power and Virginia Power transmission lines. Source: VCCER.

plant built in Virginia would optimally be located near its major service areas (Roanoke and Danville) to reduce transmission distances.

Approval of the proposed 765 KV line will neither cause nor prevent the construction of power generating facilities in Southwest Virginia. It is an important factor, however, that will affect power usage trends in Virginia long into the future. Dr. Zipper concluded that the odds of a plant being built in the region are greater with the new line than without it, because such a plant will not be constructed without the ability to transmit the power to Virginia Power's grid.

SCC Staff Perspective

William F. Stephens of the State Corporation Commission (SCC) provided the subcommittee with the view of SCC staff on the need for additional transmission capacity and concluded that of the options available to APCO to meet the needs of its rate-payers, the transmission line is the most favorable. The \$250 million cost of the line will result in a net cost to rate-payers of approximately \$7 million. Building gas-fired combustion turbine (CT) plants in Virginia would cost five times as much as building the transmission line, and building coal-fired facilities would cost five times more than CT plants.

Mr. Stephens noted that Virginia's coal industry would benefit from the proposed transmission line by avoiding higher rates for electricity that would result from development of an alternative and by the possibility of being able to wheel 500 MW of power to Virginia Power over the line. SCC staff noted that APCO's likely response if the line is not built will be the construction of CT plants near Roanoke or Lynchburg due to the mandate that utilities use the least-cost option in installing equipment and infrastructure.

Mr. Stephens concurred with Dr. Zipper's conclusion that the chances of a nonutility generating plant being built in Southwest Virginia are greater if the proposed 765 KV line is built than if it is not, because it will provide a mechanism for transmitting power from the region that currently does not exist. He stressed the primary benefit of the line, however, will be holding down the power rates that APCO charges its Virginia customers.

APCO has withdrawn its application with the West Virginia Public Service Corporation for approval of the portion of the Wyoming-Cloverdale line located within that state, and has indicated it will refile its application in January 1993. If the application is revised to relocate the line, APCO's pending application with the SCC will have to be refiled. However, the issue of the need for the line may not need to be reexamined. Deborah Ellenberg, staff attorney for the SCC, noted that it will probably be several months before the hearing examiner submits his report on the Virginia portion of the transmission line to the SCC Commissioners.

Opposition Group Attacks Plan

James McNeely, representing Common Ground, Inc., a West Virginia-based organization, disputed APCO's position that it needs the capacity the proposed line would provide. According to Mr. McNeely, the transmission line would allow APCO and AEP to dump thousands of

megawatts of midwest-produced electricity into Virginia. He warned that the utility should not depend on approval of the West Virginia portion of the line.

APCO's Need for the Transmission Line

Charles A. Simmons of Appalachian Power defended its proposal for the 765 KV line. The line is needed to enable the utility to continue to meet its obligation to provide reliable and economical service to its customers. APCO's approach of building large coal-fired plants on the major streams in the northwest part of its service territory has resulted in its Virginia customers being dependent on transmission for their power supply. Mr. Simmons noted that load projections show that by the winter of 1998-1999, the failure of a single critical line will result in overloading of the transmission system south and east of Charleston, West Virginia.

The proposed line would also produce secondary benefits to the coal-mining regions of Southwest Virginia. APCO has committed to set aside 25% of the additional capacity of the system (approximately 500 MW) for use by independent power producers seeking eastern markets for their power. Mr. Simmons stated that his company lacks the transmission capacity to enter into long-term contracts to wheel power with a high degree of reliability without this reinforcement program.

The best thing that APCO can do for the region, according to Mr. Simmons, is to maintain a low cost energy source for economic development. If the utility builds 3400 MW of baseload coal-fired capacity in Southwest Virginia (which is the amount needed to provide performance comparable to that of the 765 KV line under a double contingency), rates would increase by 106%, assuming that the cost is spread over both Virginia and West Virginia rate-payers. If the West Virginia PSC disapproved the spreading of the cost over its rate-payers, the effect on Virginia's rate-payers would be even greater.

Impact of Federal Energy Legislation on Coal Industry

Stuart Sanderson, attorney with the American Mining Congress in Washington, D.C., concluded the meeting with an update on the pending federal energy legislation. The House and Senate have each passed

comprehensive energy laws, and the bills are currently before a conference committee charged with resolving their differences. Features of the House bill which would affect the coal mining industry include:

- Defining "valid existing rights" in the Surface Mining Control and Reclamation Act of 1977 (SMCRA) in a manner that would prohibit mining within certain distances of churches, dwellings, roads, national forests, and other properties;

- Amending SMCRA to require operators of underground coal mines to replace private water supplies damaged by their operations, as is currently required with surface coal mining; and

- Reauthorizing the Abandoned Mine Land fund, by which the tax paid by mine operators would be extended to 2010.

Additional features of the House bill would require utilities to include an analysis of externalities, including perhaps the environmental impacts of carbon fuels, in their least-cost planning, and provide for voluntary reductions of greenhouse gases. The Senate version also establishes a fund for medical benefits for certain retired coal miners. The provision, proposed by Senator Rockefeller, would be funded by approximately \$70 million per year in interest on existing AML monies.



The Honorable Ford C. Quillen, *Chairman*

Legislative Services contact:

Franklin D. Munyan

SJR 103: Joint Subcommittee Studying Pollution Prevention



September 17, 1992, Richmond

The second meeting of the Joint Subcommittee Studying Pollution Prevention focused on the implementation of voluntary waste reduction programs by Virginia industry. The remarks by speakers indicate that many businesses have implemented programs to reduce or eliminate pollution at its source. The growing investment in pollution prevention reflects a recognition that it is a cost-effective alternative to pollution control and disposal approaches.

Market Incentives vs. Regulatory Mandates

Timothy G. Hayes, chairman of the Virginia Chamber of Commerce's Natural Resources Committee, noted that companies throughout the United States have for years voluntarily undertaken such pollution-prevent-

ing measures as process changes, chemical substitutions, and closed loop recycling in order to improve efficiency and reduce the costs of waste disposal. The passage of the federal Pollution Prevention Act in 1990 evidences a shift from voluntary program implementation toward a more mandatory approach to pollution prevention.

Mr. Hayes cautioned that although pollution prevention may make sense to some companies, for others the cost of retooling or changing their processes may make it unfeasible. Other factors that may make a company's implementation of source reduction activities difficult include the absence of alternatives to existing processes and materials and the shortage of capital required to revamp their operations.

Consequently, Mr. Hayes urged that any action undertaken by the Commonwealth focus on incentives that will enhance the economic benefits of pollution prevention, without penalizing companies that are unable to afford the costs of such programs. Any initiatives should include input from the business community and should be coordinated with existing regulatory programs. Mandatory toxics use reduction requirements, he urged, should be avoided except where their economic and technological feasibility has been clearly established. Finally, any programs should be implemented on a schedule that will not cause adverse economic impacts.

Carol Raper of the Virginia Manufacturers Association echoed Mr. Hayes' position that voluntary, market-based pollution prevention programs are preferable to the arbitrary imposition of requirements. The VMA submitted a list of recommendations for incentives to assist the private sector in overcoming existing barriers to the implementation of pollution prevention. Economic incentives include exemptions of pollution prevention projects from sales and property taxation, investment tax credits, rapid depreciation, and state loans and grants. Other incentives supported by the VMA include education and technical assistance, audits by state agencies, funding pilot programs, regulatory flexibility, promotion of waste-to-fuel projects, expansion of the Governor's Award Program, and establishment of advisory groups within state agencies.

Companies with Pollution Prevention Programs

Six companies reported to the subcommittee on impressive declines in waste generation produced by their pollution prevention programs. Dorothy Bowers of Merck & Co., Inc., urged that any pollution prevention law not impede voluntary reductions. Specifically, in-process recycling methods such as solvent distillation and recovery ought not be discouraged through adoption of a narrow definition of "pollution prevention." She applauded New Jersey's program, which requires industries to develop a pollution prevention plan but does not set specific reduction goals or penalize facilities that do not successfully implement their plans.

The trademarks of a good law, according to Ms. Bowers, are a focus on reducing nonproduct output, relying on voluntary implementation by companies, and building trust and partnerships between government and industry. Waste reduction will not be realized by major technological breakthroughs. Rather, it will be discovered by people taking the time to analyze their processes and realizing that, as it has for Merck, pollution prevention pays.

Other companies repeated the theme that money spent on pollution prevention programs has resulted in substantial savings. Success stories include:

■ Huntsman Chemical, which has saved \$1.2 million at its Chesapeake plant and \$5.5 million in all plants. Reducing the waste sent to landfills has saved \$346,000 in tipping fees.

■ Hoechst Celanese, which set aside \$149 million for waste reduction projects at its Narrows plant (and \$500 million company-wide). The program has resulted in a 39% reduction in emissions of the 17 chemicals covered by SARA Title III through August 1992, with an anticipated reduction of 82% by 1996.

■ Solite Corporation, based in Ashland, which burns solvents produced by other manufacturers as fuel in its quarries in Buckingham and Pittsylvania Counties, thereby saving energy resources and reducing the amount of hazardous waste that would otherwise need to be treated or disposed of.

■ Allied Signal, whose program is based on the Chemical Manufacturers Association's Responsible Care Program. Emissions of ammonium sulfate at its Hopewell plant have been cut from 43 million pounds in 1988 to a projected total of 5.2 million pounds in 1992.

One factor cited by several speakers as the impetus for adoption of their pollution prevention programs is the emissions reporting requirement of SARA Title III. The results focused attention on the amounts of waste generated. Because the results are available to the public, many companies reviewed their procedures and established reduction goals in order to improve their corporate image while saving money and improving efficiency.

At its next meeting, the joint subcommittee will examine pollution prevention programs implemented in other states and hear from environmental organizations.



The Honorable R. Edward Houck, *Chairman*
Legislative Service contact: Franklin D. Munyan

HJR 107: Blue Ridge Economic Development Commission

September 29, 1992, Roanoke

In lieu of its September meeting, the Blue Ridge Economic Development Commission chose to cosponsor and attend the leadership conference sponsored by the I-81 Corridor Council, the Center on Rural Development, and the VPI&SU Public Service Division. The conference, entitled *Strategic Development of Western Virginia: An Investment in Tomorrow*, was also cosponsored by Forward Southwest Virginia, Inc.

The conference provided a forum for information sharing, discussion and agenda setting regarding four major topics:

- Growth and management;
- Work force quality;
- Tourism; and
- Child care.

Area leaders such as James D. McComas, president of VPI&SU; Ronald E. Carrier, president of JMU; and Walter Rugaber, publisher of the *Roanoke Times and World News*, set the stage for the discussion by offering their comments and suggestions for the future of the region. These comments were followed by concurrent workshops and the formulation of a strategic agenda for investing in Western Virginia's future. Sponsors of the conference agreed to review the agenda to determine what, if any, legislation should be introduced during the 1993 Session.

October 10, 1992, Blacksburg

After a welcome by President James D. McComas of VPI&SU, the October meeting of the commission focused on the issue of housing in the region.

Housing and Economic Development

The link between housing and economic development was explored by Ted Koebel, director of the Virginia Center for Housing Research at Virginia Tech. When an industry looks for a new location, its primary concern is the quality of life offered by its potential location, and housing is an integral component of quality of life. Therefore, housing issues become paramount to economic developers. Mr. Koebel noted that due to the recession, there is no shortage of housing in the Blue Ridge region, and the housing that exists is more affordable than in other parts of the Commonwealth. The problem is not a lack of housing, but rather a lack of financial resources. Peoples' incomes are not allowing them to purchase or rent the available housing. More jobs appear to be the answer for the region, not more housing.

Homebuilders' Concerns

Homebuilding in the region was addressed by Lewis C. Jamison, president-elect of the Homebuilders Association of Virginia (HBAV).

Bruce Cunningham, vice president of HBAV, also addressed the commission. Mr. Jamison and Mr. Cunningham are the first officers of the 4,400 member organization from the Blue Ridge region in almost 22 years.

They agreed that there is no housing shortage in the area but that buyer confidence is lacking. Other concerns of homebuilders are the (i) provision of affordable housing, (ii) availability of infrastructure to support housing projects, (iii) special housing needs of the elderly, (iv) local governments' responses to housing issues such as schools and infrastructure, and (v) opportunities housing offers to the Commonwealth's young people.

As for solutions to these concerns, Mr. Jamison offered that the state needs to encourage cooperation and communication between local governments and the housing industry and between local planning commissions and the industry to discuss the concerns of the parties. He also recommended more interaction between state agencies and industry concerning regulations and regulatory actions and more cooperation between the Virginia Department of Transportation (VDOT) and industry concerning the development of new roads. Commissions such as the Blue Ridge Economic Development Commission may also be helpful to homebuilders.

Home Financing

Housing financing was also addressed at the meeting by several banking representatives. Betty Forbes, senior vice-president of Central Fidelity Bank (CFB), emphasized CFB's willingness to loan money for home purchases. In 1992, CFB created a mortgage subsidiary, which will have loaned \$350 million by the end of the year.

Lack of consumer confidence is a problem in the housing industry and the economy in general. The consumer is trying to get his financial house in order, and lenders must catch the consumer's imagination, according to Ms. Forbes. She suggested loan guarantees for infrastructure and tax credits for low-income developers and first-time home buyers.

The Federal Housing Tax Credit Program, which is operating in Virginia, was explained by Paul Norris, president of Dominion Bankshares CDC. Dominion Bankshares has teamed up with the Virginia Housing Development Authority (VHDA) and the Department of Housing and Community Development to increase affordable rental housing via a "state equity fund." The fund is an investment vehicle for corporations, allowing them to ultimately invest in affordable housing.

The nonprofit housing alternative was addressed by Karl Bren, nonprofit affairs director at VHDA. Nonprofits are created to provide affordable housing; however, they are different from traditional lenders in that they operate with a "whole person" philosophy. Nonprofits do outreach work to find people in need of affordable housing and provide services in addition to housing. The goal of nonprofits is

to keep housing affordable, so the housing in place continues to service those it was intended to service. Nonprofits view housing as a mechanism which empowers people, allowing them to be better citizens and ultimately creating a better Commonwealth.

According to Mr. Bren, the Commonwealth needs to attack the problem of lack of indoor plumbing, support regional cooperation, confer with the business community, and support the Virginia Housing Partnership Fund.

Future Meetings

The commission met on November 10 at Dabney S. Lancaster Community College in Clifton Forge. On December 14, the commission will meet in Roanoke at Western Virginia Community College to finalize its 1993 recommendations.



The Honorable Joan H. Munford, *Chairman*
Legislative Services contact: Edie T. Conley

HJR 106: Joint Subcommittee Studying the Virginia Public Procurement Act



September 24, 1992, Richmond

At its second meeting of 1992, the subcommittee received testimony from representatives of the state's mandatory sources for procurements: Virginia Industries for the Blind (VIB), the sheltered workshops, Virginia Correctional Enterprises (VCE), and the Department of Information Technology (DIT).

Virginia Industries for the Blind (VIB)

Don Cox, commissioner of the Virginia Department for the Visually Handicapped, which oversees VIB, and Joseph A. Bowman, executive assistant, presented an overview of VIB, including the fact that it has been in operation for over 50 years, providing employment opportunities for blind persons and enabling them to lead productive and independent lives. They also noted that § 2.1-450 of the *Code of Virginia* requires that the Commonwealth purchase from VIB.

Mr. Bowman provided data on current staff at VIB at Richmond and VIB at Charlot-

tesville, including number and age of workers and average earnings. Due to legislative initiatives in 1989, VIB production workers were added to the state's "excepted" category of state employees. Along with this classification came the responsibility for VIB to offer competitive wages and benefits, without additional general funds to provide them. Benefits to full-time employees include hospitalization, vacation leave, sick leave, educational and rehabilitation leave, and civil leave. Other state programs such as the SEAS program, Credit Union membership, direct deposit, and the purchase of U.S. Savings Bonds are available to these employees. Production workers enjoy the same 11 state holidays as other state employees, and hospitalization programs include life insurance and cancer intensive care provisions.

Many of the blind or visually impaired VIB workers have secondary disabilities, such as diabetes, mental retardation, substance abuse, and other disabling conditions. Many of these workers have combinations of disabilities, or a combination of age and disability, making it extremely difficult for them to find outside employment in an atmosphere where statistics tell us that 70% of all blind people of working age are either unemployed or underemployed. Efforts are made to place workers whose skills are competitive with the general workforce in outside employment, but the worker must be trained to a point where he is capable of outside employment, outside employment must be available, and most of all, the blind worker must want to seek outside employment.

One of the items VIB provides for the Commonwealth is writing instruments. Due to complaints from users regarding the quality and

selection of pens, the Division of Purchases and Supply (DPS) has established, at VIB's request, a "writing instrument users committee" to advise VIB on issues of concern. The price of stick pens is one of the first issues to be addressed by this committee, which first met in mid-October.

Sheltered Workshops

Another mandatory source for state purchasing are the sheltered workshops, also called rehabilitation facilities, in which mentally retarded adults benefit by performing useful, remunerative, productive work. Wes Ferington, president of the Virginia Association of Rehabilitation Facilities (VARF), explained to the subcommittee that people with mental retardation receive the following benefits from working:

- increased self-esteem, self-reliance and self-image;
- skill acquisition;
- opportunities for socialization;
- economic empowerment; and
- opportunity to model appropriate behaviors.

Thus, the mission of VARF is "to promote valued employment options for Virginians with disabilities."

A 1991 study commissioned by the Department of Rehabilitative Services and performed by an independent firm hired by VARF revealed that 4,000 people with disabilities are employed by these providers, with an additional 1,397 people on waiting lists for service. Also, from 1988 to 1991, these providers placed 1,783 people with disabilities in competitive jobs in private industry.

Mr. Ferington urged the subcommittee to be cognizant of the value of the state procurement mandate for his organizations and to maintain the current law as it pertains to sheltered workshops.

Virginia Correctional Enterprises (VCE)

John W. McCluskey, chief deputy director for the Department of Corrections, presented several television news clips, entitled "Factory Behind the Fences," to the subcommittee. These clips displayed the furniture and license plate operations in Virginia's prisons, which are a major part of VCE, another mandatory state contracting source.

After the viewing, Mr. McCluskey elaborated on VCE, which has been in operation for 58 years. VCE's facilities are geographically dispersed throughout the Commonwealth at 12 different sites and provide in excess of 600 products and services, including wood and metal furniture, signs, tags and plates, seating, systems furniture, clothing, and footwear. Services such as printing, silkscreening, data entry, meat processing, and laundry are also performed by VCE, which currently employs 1,417 inmates and in fiscal year 1992 had sales of \$20.6 million.

According to Mr. McCluskey, VCE offers service, quality, and fair prices to its customers as well as being a critical management tool for the Department of Corrections (DOC). VCE also provides inexpensive inmate activities for DOC while it pays its own way. The inmates benefit from the program as they learn to work in an environment that emulates the outside

world. Research by the Department of Justice reveals that inmates who work obtain jobs faster upon release, start at higher salaries, and are less likely to be incarcerated again.

Thus, Mr. McCluskey asked the subcommittee to consider the value of VCE to the prison environment, as well as to the Commonwealth, and to maintain VCE as a mandatory source for state purchasing.

Computer Hardware and Software

Mandatory state contracts for computer hardware and software were addressed by J. Westwood Smithers, director of the Department of Information Technology (DIT), and Thomas L. Goodbody, DIT's director of procurement and contracting. Both emphasized that the mandatory nature of these contracts result in the Commonwealth's receiving the best possible pricing for the total government structure and that these contracts should, therefore, remain mandatory.

Real Estate Procurements

Procurements of real estate was also addressed at the September meeting. Senator Russell and Peter Clay, president of DPC Development, explained that real estate transactions are expressly excluded from the Virginia Public Procurement Act. This has resulted in a system that is unfair to offerors and does not produce competitive prices for the Commonwealth.

Following this presentation, the subcommittee agreed to consider revising the current system during the upcoming session. Senator Russell will offer potential revisions at the subcommittee's November meeting.



October 22, 1992, Blacksburg

The joint subcommittee held a public hearing at Virginia Tech to receive comments regarding the Commonwealth's procurement policies and procedures. Nine interested persons addressed the subcommittee on a number of issues, including the benefits of mandatory contracts, the problems with mandatory con-

tracts, the operations of VCE and VIB, concerns with procurement policies implemented by DPS, and the most beneficial use of state purchasing dollars.

Following these comments, the subcommittee agreed to meet two more times prior to the 1993 Session and to request an extension of the study, due to the number of issues revealed during its first three meetings.

Future Meetings

On November 16, the subcommittee plans to tour VCE's operation at Greensville Correctional Center, followed by a meeting in the center's conference room. The subcommittee will also meet in Richmond, in the General Assembly Building, on January 11, 1993, to discuss potential legislation.



The Honorable Joan H. Munford, *Chairman*
Legislative Services contact: Edie T. Conley

SJR 104: Joint Subcommittee to Study Cost-Effective Measures Which Will Enable Virginia to Comply with the 1990 Clean Air Act



October 8, 1992, Fairfax

Beginning with presentations by representatives of the Department of Air Pollution Control (DAPC), the Department of Motor Vehicles (DMV), and the U.S. Environmental Protection Agency (EPA), the subcommittee heard from 35 speakers on the general subject of Virginia's implementation of the federal Clean Air Act Amendments of 1990. While agency comments and testimony of most other speakers concentrated on motor vehicle emissions inspection and maintenance (I/M) programs, some presentations (most notably those by representatives of motor vehicle manufacturers and dealers) focused on proposals for a low emission vehicle (LEV) program for Northern Virginia, and a few addressed implementation of the Clean Air Act Amendments generally.

I/M Programs

DAPC and EPA representatives urged the replacement of Northern Virginia's existing I/M program (conducted through a decentralized network of relatively numerous stations that perform both inspections and repairs) with a more rigorous "enhanced" I/M program (conducted through a centrally administered network of relatively few stations that carry out inspections but do not make repairs). This position was generally supported by spokesmen for environmental groups and representatives of firms involved with centrally administered I/M programs in other states. Those advocating a centralized, inspection-only I/M

program based their recommendations on the system's relatively low cost of administration and high volume of pollution reduction.

This view was not shared by representatives of owners and operators of filling stations, automotive repair shops, and emissions inspection stations; motor vehicle dealers; and other speakers who favored an enhanced I/M program for Northern Virginia that would continue to be carried out through a decentralized network of inspection/repair stations. In support of their views, these speakers stressed the greater convenience of having both inspections and repairs performed at one location at the same time, the economic hardships that changing to a centralized inspection-only system would impose on operators of existing inspection/repair facilities, and what some speakers felt was an unfair bias of EPA against decentralized systems generally. Several speakers felt that, notwithstanding EPA's views to the contrary, decentralized inspection/repair facilities could achieve pollution reductions comparable to those of centralized inspection-only systems and do so at lower cost.

While conceding that the federal act required only a basic I/M program for the greater Richmond area, DAPC urged the subcommittee to go beyond this mandatory minimum and require for Central Virginia the same type of I/M program recommended by DAPC for Northern Virginia. Doing so, DAPC urged, would not only make for greater administrative convenience, but also result in additional improvement in air quality while allowing for further population growth, greater economic development, and increased motor vehicle travel in the region. Those speaking in opposition to this recommendation did so on the same grounds adduced in opposition to DAPC's I/M recommendations for Northern Virginia, with the additional argument that only a basic-level (rather than an enhanced-level) I/M program was required for greater Richmond by the 1990 act.

LEV Program for Northern Virginia

Several speakers, most notably representative of motor vehicle dealers, motor vehicle manufacturers, and petroleum companies, expressed their opposition to DAPC's recommendation of an LEV program for

Northern Virginia. They pointed to disagreement as to whether the 1990 act would permit (i) the imposition of such a program in only a portion of the state and (ii) an LEV program that did not involve the use of special low emission fuel (sometimes called "green gas"). Opponents of an LEV program also cited the program's cost to consumers, its impact on motor vehicle dealers, and its relatively small contribution to air quality improvement as reasons to reject the program. Conversely, LEV supporters favored the program because of the high proportion of Northern Virginia's air pollution attributable to motor vehicles and the need to supplement air quality improvements expected through I/M programs with other specifically motor vehicle-related clean air strategies.

Scrapping Older Vehicles

DAPC and DMV also presented the findings of their joint study of a motor vehicle "scrappage" program for Virginia. Under such a program, the Commonwealth would provide a bounty for owners of older, dirtier motor vehicles who voluntarily retired their vehicles and replaced them with newer, cleaner models. While conceding that such a program would achieve relatively small improvements in air quality (especially in comparison with I/M programs), DAPC felt the program's benefits would outweigh its relatively modest cost and should be included in Virginia's total plan for implementing the 1990 federal Clean Air Act Amendments. No speakers opposed establishment of such program.



The Honorable Elmo G. Cross, Jr., *Chairman*

Legislative Services contact: Alan B. Wambold

HJR 205: Joint Subcommittee Studying the Possibility of Having Public and Private Employees Temporarily Switch Workplaces



October 16, 1992, Richmond

At its second meeting, the subcommittee received testimony from departments that already employ some form of "employee loan" program and from private sector employees who would be interested in participating in such a program.

Current Loan Programs

George Urquhart, deputy director, Plans Division, Virginia Department of Emergency Services, discussed a unique situation that exists in his agency, whereby Virginia Power has entered into a contract with an individual to provide services to the Commonwealth. The individual is paid by Virginia Power, in accordance with his contract; however, he is supervised and reports to the Department of Emergency Services. The program does not involve a swap or exchange, but rather is one of resource addition.

Two years ago, the City of Richmond instituted a program of employee loans and exchanges. John L. Bracy, director of human resources for the city, explained that the program allows employees to be loaned to other city departments, to departments in other Virginia cities, and even to other countries. For example, the city is currently arranging an exchange with a municipality in England. Also, the city recently loaned an employee to the City of Hopewell for three months to serve as assistant city manager. The employee was offered a job and is now permanently employed by the City of Hopewell.

Private Sector's Response

Representatives from CSX and C & P offered their support for exchange or loan programs. Mark Aron, senior vice president for law and public affairs at CSX, explained that since such programs prove to be valuable, CSX would be willing to help develop and implement the program. He added that an "interchange program" may help to alleviate the adversarial position that currently exists between the public and private sectors. However, such a program would also increase the public sector employee's awareness of the disparity between public and private sector wages.

James R. Werner, manager of government relations for C & P Telephone, added that C & P is very interested in an exchange program with the Commonwealth and local governments and would be willing to participate once the program has been established.

Further Deliberations

The subcommittee also reviewed responses submitted by the cabinet secretaries concerning the implementation of such a program. All of the responses were positive.

After hearing all of the testimony and reviewing the background information, the subcommittee agreed to meet in Richmond on November 30 at 1:00 p.m. to review draft legislation to implement an employee interchange program in the Commonwealth.



The Honorable Mitchell Van Yahres, *Chairman*

Legislative Services contact: Edie T. Conley

HJR 13: Joint Rules Subcommittee Studying Changes in the Legislative Sessions

October 22, 1992, Richmond

The Joint Rules Committee's Study of the Legislative Process, originally established in the 1991 Session, was continued by the 1992 Session, and the work of the committee was divided among two subcommittees. Chairman Andrews explained that his subcommittee would be looking at legislative procedures and processes used during the sessions, and the second subcommittee, chaired by Delegate C. Richard Cranwell, would be concentrating on legislative activities undertaken during the interim. Both subcommittees are seeking to improve existing procedures to enhance the general operations of the legislature. For its organizational meeting, staff presented background material on the major items on the subcommittee's agenda, and members held a roundtable discussion to determine primary issues and to develop a work plan for the next meeting.

Committee and Subcommittee Scheduling

Working with an increasing volume of legislation each year and the constitutional time restrictions on the length of sessions, committee and subcommittee scheduling has become critical in managing the overall work of the General Assembly. Delegate Robert B. Ball, Chairman of House Appropriations, commented that the current committee schedule was working effectively, but that the growth in the number of standing subcommittees was placing serious constraints on legislators' time during the session. Chairman Andrews pointed out that the current rules of the House and Senate do not properly address subcommittees and concluded that some guidance is needed regarding their establishment, duties, and limitations. Recognizing that solving the subcommittee scheduling problem would require the expertise of the House and Senate Clerks' offices, the subcommittee requested Susan Clarke Schaar, Clerk of the Senate, and Bruce Jamerson, Clerk of House of Delegates, to examine the issue more closely and to bring a proposal back to the subcommittee

at its next meeting. The subcommittee agreed that input from the standing committee chairmen should be sought during the process.

Reconvened Session

Article V, Section 6, of the Constitution of Virginia was amended in 1980 to require the General Assembly to reconvene after each regular or special session to consider measures vetoed by the Governor or returned by the Governor with suggestions for amendment. Since the first reconvened session, the number of bills amended by the Governor has steadily increased to approximately 11% of the bills passed during the regular session. In addition, many questions have arisen regarding the proper constitutional interpretation of the section. The subcommittee agreed that a revision of these constitutional provisions is needed to clarify what options and timetables are available to the Governor and the General Assembly in responding to the actions of the other on legislation passed during regular and special sessions. Also, specific provisions are needed to clarify the procedure of severing the Governor's amendments. In order to properly evaluate the effectiveness of current procedures, Chairman Andrews requested staff to find out the original intent for establishing the reconvened session. Was it designed as a means to allow the legislature to override the Governor's veto, or was it designed to correct technical errors in legislation through the Governor's amendments? Also, the subcommittee requested staff to obtain the assistance of A. E. Dick Howard, a constitutional authority, in drafting the proposed revision.

Agenda Items for Future Meetings

The subcommittee discussed its work plan for future meetings. First among the items to be addressed at the next meeting is an examination of the adequacy of the fiscal note process and the possibility of creating a fiscal office within the Division of Legislative Services, which would independently prepare fiscal impact statements prior to the introduction of legislation. Currently, under Executive Order Number Twelve (1990), the Department of Planning and Budget coordinates with other executive agencies to assess the fiscal and policy implications of proposed legislation. Two major problems with the current process were noted among the members:

- The present system does not provide cost estimates to the legislature in as timely a manner as desirable. Since fiscal notes are prepared after legislation is introduced, many notes are not available when the bill first comes before a committee for consideration.
- Executive agencies do not identify all bills with a potential fiscal impact. The fiscal impact may not be apparent on the face of the bill. For instance, a measure requiring mandatory sentencing for a particular offense may have an indirect fiscal impact because of the need for additional correctional facilities.

The subcommittee agreed that ideally a fiscal note should be prepared when a request for legislation is received by the Division of Legislative Services to ensure that the patron is fully aware of all legal and fiscal implications of the proposed bill. However, current law requires those requests to remain confidential if a member so desires and a waiver of this confidentiality would be necessary before legislative staff could seek information from other sources, such as the executive branch agencies. For the next meeting, the subcommittee requested staff to determine how the fiscal note system is set up in Virginia and in other states and what costs would be involved in transferring responsibility for preparing the fiscal notes to the legislative branch.

Two other topics were mentioned for consideration at the next meeting—the procedural resolution and examination of § 30-5, relating to automatic court continuances during continuous sessions. Currently, § 30-5 allows continuances whenever the legislature is in session, which would

include the time when the General Assembly is in recess but has not technically adjourned sine die. During 1991, such a situation arose when the General Assembly stood in recess from the special sessions on redistricting for the entire year.

Next Meeting

The subcommittee will hold its next meeting on December 1.



The Honorable Hunter B. Andrews, *Chairman*
Legislative Services contact: Ginny A. Edwards

HJR 244: Joint Subcommittee on Enhancing End-use Recycling Markets



September 29, 1992, Richmond

The joint subcommittee's second meeting included both a business meeting and a public hearing. The agenda for the business meeting included a presentation on Bear Island Paper Company's de-inking project and a staff presentation concerning other state's approaches to market development.

Generating Markets for Old Newspapers

Bear Island Paper Company is Virginia's only newsprint producer. It currently produces an average of 625 tons of high quality newsprint each day. The company has been producing newsprint since 1979, and its mill was the first ever designed to produce newsprint using a thermo-mechanical pulping process and southern pine. This process avoids the use of chemicals, thus producing newsprint using mainly wood and water.

Though market conditions of the newsprint manufacturing business are the worst in years, Bear Island will break ground for a newspaper recycling facility, which should be operational by February 1994. The facility will cost about \$34 million and use as its raw material approximately 60,000 tons of old newspapers and magazines per year (20% of the tons generated in Virginia). It will produce 125 tons per day of recycled fiber. It is anticipated by company officials that by the end of 1993, all of the newsprint sheet produced will contain 20% or more recycled content.

Robert A. Ellis, assistant to the vice president and general manager of Bear Island Paper Company, emphasized that the best way to enhance markets for recyclables and ultimately reduce the amount of solid waste that goes into landfills is through voluntary industry efforts, like those discussed in the report of the Virginia Recycled Newsprint Advisory Task Force. Mr. Ellis noted that during the last few years significant amounts of

old newspapers have been removed from the waste stream. In 1991, about 52% of old newspapers were recovered and recycled. Today, according to the Environmental Protection Agency, 4.6% of the material in landfills is old newspaper, compared to 8% in 1986.

Old newspapers are recycled into a variety of products. Approximately 30% are used to produce newsprint, with another 20% used for paperboard products. Other uses include animal bedding, building insulation, and exports for recycling. The number of recycled newsprint mills has increased from 9 to 24 over the last three years, and 12 more mills are expected to begin operation by 1994. This will result in increasing the capacity of recycled newsprint to over nine million tons, four times what it was in 1989.

The Virginia Recycled Newsprint Advisory Task Force, of which Mr. Ellis is a member, issued a report in 1991 that included the adoption of voluntary goals for the use of recycled newsprint. He informed the subcommittee that the state's newspapers have exceeded the 1992 goal of 15% recycled fiber.

Mr. Ellis concluded his presentation with the following recommendations:

■ Continue addressing the newsprint issues through the task force approach. This represents an effective partnership of government, industry, and consumers and has resulted in the increased use of recycled newsprint.

■ Government should continue to take specific measures that help companies recycle, including tax credits and permit streamlining.

■ In order to ensure a useable product, local collection programs should "source separate" old newspapers and magazines.

■ Avoid unnecessary or harmful mandatory content laws. The voluntary approach is working and the use of recycled newsprint has increased. There is no need for government intervention. Mills like Bear Island that do invest in recycling capacity should not be penalized by the passage of laws that set requirements higher than the retrofitted mills can produce.

States' Approaches to Market Development

Staff presented a synopsis of three states' programs that represent different approaches to market development. The programs of Minnesota, Pennsylvania and Florida all are oriented to market development, but differ in incentives, public/private cooperation, and funding.

Minnesota

Minnesota has recognized that the state should be a "player" in the market. There is a 10% price preference for recycled products, with particular emphasis on construction material. The state provides both sales and property tax reductions for the purchase or operation of recycling equipment. Recycling grants of up to \$50,000 are available to businesses for feasibility studies on the use of post-consumer materials and up to \$30,000 for used tire feasibility studies. Loans are available to companies that process waste tires. Under the tire program a firm can apply for a loan of up to \$1.5 million or 90% of the eligible costs.

In judging what elements of their program have been the most successful, Minnesota officials have indicated that the technical assistance for emerging or expanding businesses to develop potential new markets, offered by the Office of Waste Management, is particularly effective. The other program component that

has been widely accepted is financial assistance in the form of grants and low-interest loans made available to businesses, nonprofit organizations, and local governments for recycling market development. In 1991, \$2 million was awarded for nine projects. Currently 38 projects are under consideration for funding.

In order to further promote market development, Minnesota established the Market Development Coordinating Council, whose responsibilities include coordination of the state's recycling market development programs, revision of development strategies, advice on loan and grant expenditures, and evaluation of the impact of current market development.

One market development program consists of three forms of financial assistance: the county grant and loan program, the capital loan program, and the directed research and feasibility study grant program. A grant under the county grant and loan program may be made to a county for projects to improve the quality of recyclable materials, create or expand capacity for use of recyclables by manufacturers, or increase the demand for recycled products.

The capital loan program is available to both profit and nonprofit private sector companies. Loans of up to \$500,000 or 50% eligible capital costs, whichever is less, can be made for projects that create or expand capacity for use of recycled materials in manufacturing, or provide end-use markets for materials collected in Minnesota's recycling program.

Research institutions and private organizations are eligible to apply for grants for initiatives that support regional, state, or county efforts in market development. Research institutions may receive funds covering 100% of eligible costs and private organizations 50%.

To further enhance the market development, Minnesota has developed a "Buy Recycled" program. Information is provided on recycled products, and how and where they may be purchased. The state also has a clearinghouse of research on markets and products.

Pennsylvania

Pennsylvania has developed a recycling program with a three-fold purpose: (i) to stimulate the recycling industry, (ii) to protect the environment, and (iii) to further the recycling goals of the Commonwealth. A recycling fund has been established as the source of funding for the state's recycling program. The fund is capitalized through a per-ton surcharge on solid waste disposed of in Pennsylvania. Originally the fund was used to assist community recycling programs. Since 1979, such programs have received almost \$70 million for capital costs. The focus of the fund recently changed to one of providing assistance in market development.

In an effort to link recycling and economic development, a program has been instituted called the Recycling Economic Development Program, which has two components: (i) **recycling business development**, which provides specific incentives to stimulate the development of the recycling manufacturing industry, and (ii) **product demand incentives**, to provide incentives to help increase the market driven demand for products made with recycled materials.

The Recycling Business Development Program, designed to complement the state's mandatory recycling programs, incorporates two strategies: (i) funding of a new loan program (the Recycling Incentive Development Account), and (ii) targeting the recycling manufacturing industry. The loan

program will be funded at \$5.4 million annually, with \$5 million generated through solid waste disposal fees.

The other financial incentive to be provided by this program will be a public/private grant program. Approximately \$2 million will be set aside to support public/private partnership marketing projects. The grants are structured to encourage local government cooperation with the private sector. The grant funds will be used by the locality to purchase processing equipment, but the locality may lease the equipment to a private processor.

The second major component of the Recycling Economic Development Program is product demand development. The goal is to increase the demand for recycled materials and the prices of these materials. Several initiatives form the product demand segment:

- An increase of state and local procurement of post-consumer recycled content products;
- Education and labeling initiatives designed to increase consumer purchases of products with recycled content; and
- An increase in the commitment of the private sector to using recycled materials in the manufacture of products.

To stimulate consumer demand, the state has begun a "buy recycled" campaign, designed to heighten consumer awareness of the recycled content in products and in packaging. The state also has made efforts to encourage private businesses, local governments, and not-for-profit organizations to purchase recycled goods.

In addition to these initiatives, Pennsylvania continues to administer a variety of loan and grant programs. Like Minnesota, the state provides business loans available to companies for the purchase or upgrading of equipment or machinery used to process post-consumer material. Grants are available to assist in the development of cooperative marketing activities. Eligible projects include cooperative recycling efforts or any project that seeks to regionalize collection services or share a recycling facility.

Florida

Florida has recently embarked upon a new recycling program called "closed loop," which entails a market strategy combining the bid process for waste removal with government procurement. The plan encourages market development by emphasizing business incentives rather than state mandates. According to the plan, the state will designate recycling business ventures that would bid competitively to remove specific recyclable materials from state institutions and then sell these recycled materials back to the state. Thus, the designation "closed loop" system.

The first venture will be recycling spent fuels, a contract worth about \$18 million. Florida will recycle its fuel and buy back recycled antifreeze

and refined oil. The state is also conducting a paper inventory in preparation for a paper venture. In an effort to heighten consumer awareness, any product manufactured in the closed loop program will be designated as made from Florida waste. The business ventures must also offer the products on the private market and cannot rely on the state for their total market. In order for the state to "close the loop" through its purchase of goods made with recycled materials, agencies like general services and transportation will review their specifications and make some modifications. In other cases, specifications for new products will have to be developed.

Even prior to initiation of the closed loop program, Florida had instituted several market development incentives. The state has a sales tax exemption on the purchase of recycling machinery, and state agencies allow a 10% price preference for the purchase of recycled products, with particular emphasis on construction materials.

Public Hearing

The subcommittee held a hearing to receive comments from the public on ways to enhance end-use markets. Individuals representing a wide range of organizations testified or submitted written comments.

Future Meetings

The subcommittee has scheduled its next meeting for November 17 at the Capitol Building in Richmond. Various trade associations will testify on the projected trends for recycled material and the present and potential capacity to use recycled materials.



The Honorable Kenneth R. Plum, *Chairman*
Legislative Services contact: Martin G. Farber

HJR 100: Joint Subcommittee Studying The Use of Vehicles Powered by Clean Transportation Fuels

October 26, 1992, Richmond

The subcommittee heard a briefing on (i) developments in the use of natural gas as a motor fuel, (ii) the role of alternatively fueled vehicles in the newly adopted National Energy Strategy, (iii) implementation of the Governor's energy program, (iv) liquified petroleum gas (LPG/propane) as an alternative motor fuel, and (v) clean fuel vehicle fleets as a part of Virginia's implementation of the federal Clean Air Amendments of 1990.

Alternatively Fueled Vehicles

Mike Carlin, representing Washington Gas, reviewed for the subcommittee the considerable strides alternatively fueled vehicles have made since the beginning of the group's work in 1990. He pointed out that while two years ago energy companies were practically the only users of alternatively fueled vehicles, this is no longer the case. The Post Office, United Parcel Service, Giant Foods, and several local governments and local school divisions have begun converting vehicles to alternative fuels, using bi-fuel vehicles, and purchasing or planning to purchase dedicated alternative fuel vehicles. The number of dedicated alternatively fueled vehicles is likely to continue to increase, both in response to a clean fuels programs in several states and also in response to the clean fuel fleet requirements of the federal Clean Air Amendments of 1990. Mr. Carlin estimated that by the end of the century, approximately 150,000 vehicles in the District of Columbia and its Maryland and Virginia suburbs would be powered by alternative fuels.

Greg Zilberfarb, also representing Washington Gas, urged the subcommittee to recommend legislation to further promote the use of alternative fuels by providing (i) additional financial resources for the Alternative Fuels Revolving Fund administered by the Virginia Department of Transportation, (ii) tax incen-

tives to encourage private investment in alternative fuels infrastructure, (iii) tax credits to offset at least a portion of the higher cost of alternatively fueled vehicles, and (iv) a system of tax stamps or vehicle decals (whose cost would be based on vehicle weight) as a means of taxing fuels used by alternatively fueled vehicles.

National Energy Strategy

Deborah Estes, representing the American Gas Association, briefed the subcommittee on the portions of the National Energy Strategy (signed into law by President Bush on October 24) relating to alternative fuels. In particular, she drew the members' attention to the clean fuel fleet portions of the strategy and its system of tax incentives for purchase of alternatively fueled vehicles and construction of fueling stations. The subcommittee's staff was requested to prepare a summary of these portions of the strategy for discussion at its next meeting.

Local Government Fleet Conversions

Kathy J. Reynolds, assistant director for administration of the Virginia Department of Mines, Minerals, and Energy, brought the subcommittee up to date on the department's program of making grants to assist local governments in converting their vehicle fleets to alternative fuels. Ms. Reynolds reported that all programs assisted through these grants have been to local governments with a "private sector partner" and that all have involved compressed natural gas. She also explained that the department was seeking from the federal Department of Energy that agency's grounds for rejecting several Virginia applications for federal financial assistance in alternative fuels projects.

Propane

Tim Chase of Commonwealth Propane presented the members with data on propane (liquified petroleum gas) as an alternative motor fuel. Stressing that because of its low emissions, propane has long been used to power forklifts and similar machinery used in warehouses and other enclosed spaces, Mr. Chase felt it was important that propane be a major "player" in the alternative fuels "game." He pointed out that propane refueling stations are not dependent on underground pipelines, that fueling a propane-powered vehicle takes about the same time as fueling a gasoline-powered vehicle, and that propane fuel is available throughout Virginia. Propane companies are seeking local governments interested in using propane to fuel their fleet vehicles and hope to qualify for state and federal financial assistance for propane-based alternative fuel projects.

Clean Air Act

The meeting's concluding presentation was made by Deanna C. Sampson, representing the Virginia Department of Air Pollution Control. She outlined for the members the elements of legislation that would be required to implement those portions of the federal Clean Air Amendments of 1990 relating to clean fuel fleet vehicles. Under the federal act, Virginia will have to enact legislation to require that beginning with the 1998 model year, certain minimum percentages of vehicle fleets in the Northern Virginia ozone nonattainment area operate on alternative fuels. This legislation would include all fleets of 10 or more centrally fueled vehicles. For the 1998 model years, 30% of light duty vehicles in these fleets would have to be powered by alternative fuels. This minimum would increase to 50% for the 1999 model year and to 70% for the 2000 and succeeding model

years. For heavy duty vehicles, 50% of centrally fueled fleet vehicles would have to be powered by alternative fuels, beginning with the 1998 model year. The department and the subcommittee's staff will prepare draft legislation on this subject for consideration at the group's next meeting.



The Honorable Arthur R. Giesen, Jr., *Chairman*

Legislative Services contact: Alan B. Wambold

GOVERNOR

EXECUTIVE ORDER NUMBER TWENTY-THREE (90) (REVISED)

Preamble

This Executive Order was signed in September of 1990; however, the Order was never published. Accordingly, the reviews of regulations prior to this date have followed the mandates of this Executive Order or that of Executive Order Number 5 (86).

This revision incorporates the provisions of the original draft of Executive Order Number 23 (90).

REVIEW OF REGULATIONS PROPOSED BY STATE AGENCIES

By virtue of the authority vested in me by Section 9-6.14:9.1 of the Code of Virginia and by other laws of this Commonwealth, I hereby establish procedures for the review of all new or revised regulations proposed by state agencies. This executive order sets out the process and procedures to be followed during the review of proposed regulations.

While recognizing that the state government has an affirmative and inescapable duty to create and enforce appropriate regulations that protect and promote the public safety and welfare, it is the policy of the Commonwealth of Virginia to conduct required regulatory activities in a manner that does not unnecessarily intrude into legitimate functions of private enterprise and individual citizens.

Because regulations are an important instrument of government control, it is vital that such regulations, both in form and substance, reflect a consistent, rational regulatory philosophy and are absolutely reasonable, necessary, and essential to achieve the required objective. Rational regulatory policy requires that regulations be subject to evaluation when drafted and prior to issuance. Therefore, as required by law, this review will consist of: 1) a review by the Office of the Attorney General to ensure statutory authority exists for the proposed regulations; 2) a) a review first by the appropriate Secretary and then b) by the Governor to determine if the proposed regulations are necessary to protect the public health, safety, and welfare; and 3) an examination for clarity of the proposed regulations by the Governor.

APPLICABILITY

This executive order applies to the new and revised regulations proposed by state agencies in accordance with the Administrative Process Act (Section 9-6.14:1 et seq. of the Code of Virginia).

I. AGENCY RESPONSIBILITIES

A. General Responsibilities:

The agency shall follow the requirements in this order

to ensure regulations are evaluated when drafted and prior to issuance.

1. The agency head shall meet with the appropriate Secretary on all regulations before the agency files the Notice of Comment Period and before the proposed regulations are submitted to the Registrar of Regulations, Department of Planning and Budget (DPB), and Governor's Office. The Secretary shall ensure that the regulations are reasonable, necessary, and in his discretion absolutely essential to meet the required objective. In the event the Secretary determines that the proposed regulations fail to meet the criteria, the agency head will make every effort to revise them in a manner acceptable to the Secretary.

2. The head of each state agency that promulgates and enforces regulations shall appoint an Agency Regulatory Coordinator whose name and title shall be forwarded to the Governor's Office, appropriate Secretary, DPB, and Registrar of Regulations. The agency head will ultimately be held accountable for assuring that all mandated requirements are met.

3. The Coordinator should be knowledgeable as to the requirements and intent of:

a. The Administrative Process Act (Section 9-6.14:1 et seq., Code of Virginia);

b. The Virginia Register Act (Section 9-6.15 et seq., Code of Virginia);

c. The Governor's objectives for preparation and review of regulations; and

d. The meaning and expectations concerning the criteria for analysis of the proposed regulations.

4. The Coordinator shall serve as the agency's liaison with the Virginia Registrar of Regulations.

5. The Coordinator also shall conduct quality-control reviews of all proposed regulations and regulatory review packages to ensure that review criteria are met.

6. Each agency that promulgates regulations must prepare and adhere to written public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. These guidelines are required by Section 9-6.14:7.1 of the Administrative Process Act. Because public participation guidelines are regulations themselves, they should be submitted for review as new or proposed regulations as set forth in this executive order.

B. Pre-Review Submission:

Governor

Each agency shall submit a draft regulatory review package meeting the requirements of this executive order to the appropriate Secretary prior to the agency head's meeting with the Secretary on the regulations.

1. The draft regulatory review package shall include:

- a. a copy of the proposed regulations;
- b. a copy of the regulations submission package (which will be submitted to the Registrar's Office during the review phase);
- c. a copy of the written assurance from the Office of the Attorney General which states that the agency has statutory authority to issue the proposed regulations;
- d. an explanation of how clarity and simplicity were assured in drafting the regulations;
- e. a statement describing alternative approaches that were considered to meet the need the proposed regulations address, and agency assurance that the proposed regulations are the least burdensome available alternative;
- f. a schedule setting forth when, within two years after the regulations are promulgated, the agency will evaluate them for effectiveness and continued need; and
- g. a detailed fiscal impact of the regulations to include: projected cost to the state for implementation and enforcement of regulations, the source of funds to address all identified fiscal impacts, number and types of regulated entities or persons affected, and projected costs to regulated entities.

2. If the package does not meet these requirements, the material will be returned to the Agency Regulatory Coordinator with a notation of the draft package's shortcomings. The agency then must prepare a corrected package and re-submit it to the Secretary for review.

Note: This procedure will be repeated until the agency submits a satisfactory package. Agency heads ultimately will be responsible for the submission of complete regulatory review packages.

C. Regulatory Review Submission:

Each agency shall submit a regulatory review package meeting the requirements of Section B above, along with a completed copy of the Secretary's "Statement of Assurance" (Attachment 1), to DPB and to the Governor's Office at the same time it files the Notice of Comment Period and proposed regulations with the Registrar of Regulations. As such, this portion of the review process

shall run concurrently with the public comment period required under the Administrative Process Act.

D. Final Proposed Regulation Review Submission:

After the agency has revised the proposed regulations, based on comments received during the public comment period, the agency will prepare the final proposed regulations.

1. If the agency has revised the proposed regulations, the agency shall obtain written assurance from the Office of the Attorney General which states that the agency has statutory authority to issue the final proposed regulations.
2. The agency must provide a copy of the proposed final regulations, any applicable public comments, and, if the proposed regulations were revised, the Office of the Attorney General's written assurance, to DPB and the Governor's Office. The copy must be provided simultaneously with the agency's submission to the Registrar before the 30-day final adoption period mandated by Section 9-6.14:9.1 of the Code of Virginia.

II. RESPONSIBILITIES OF THE SECRETARIES

A. Pre-Review Submission Responsibilities:

The Secretary shall meet with the agency head on all regulations before the agency files the Notice of Comment Period and submits the proposed regulations to the Registrar of Regulations, DPB, and the Governor's Office to ensure that the regulations are reasonable, necessary, and are in his discretion absolutely essential to achieve the required objective.

1. The Secretary shall confirm to the Governor's Office, with a copy to DPB, by issuing a "Statement of Assurance" (Attachment 1), that the regulations are reasonable, necessary, and in his discretion absolutely essential to achieve the required objective. The Secretary shall provide the respective agency head with a copy of the statement.
2. If the Secretary does not agree that the regulations meet the test of necessity, reasonableness, and are essential to achieve the required objective, then the agency head will propose alternatives to the regulations.
3. If the Secretary requests DPB to provide assistance during the initial review of the draft regulatory package, and takes exception with the results of DPB's review, the Secretary may appeal the determination to the Governor's Office.

B. Regulatory Review Responsibilities:

During the public comment period under the Administrative Process Act, the Secretary shall receive

comments and recommendations on all regulations from DPB and shall comment on all regulations. The Secretary shall send all comments to the Governor's Office and consult with the Governor's Office on regulations identified by DPB as having major programmatic or other substantive changes or as being contrary to state objectives.

C. Final Proposed Regulation Review Responsibilities:

The Secretary will review DPB recommendations on the proposed final regulations, provide comments, and send to the Governor's Office any suggested recommendations.

D. General Responsibilities:

Each Secretary may issue guidelines, following discussions with the Governor's Office, which address the unique requirements of each Secretary in the review process required by the provisions of this executive order.

III. RESPONSIBILITIES OF THE GOVERNOR

A. General Responsibilities:

The Governor's Office shall have overall responsibility for the Executive Branch regulatory review process. The Governor's Office shall issue and clarify all procedures and guidance to be followed during the review process.

B. Pre-Review Submission Responsibilities:

The Governor's Office, through the Secretaries as heretofore provided, shall ensure that all regulations are reasonable, necessary, and in its discretion absolutely essential to achieve the required objective.

C. Regulatory Submission Review and Final Proposed Regulations Review Responsibilities:

The Governor's Office will ensure it meets its responsibility for review of proposed regulations by accomplishing the following:

1. The Governor's Office receives the Secretary's "Statement of Assurance" that the regulations meet the test of necessity, reasonableness, and are essential to achieve the required objective.
2. The Governor's Office receives copies from each agency of proposed regulations, regulatory review packages (including public participation guidelines), and also receives comments from the Secretary and DPB.
3. The Governor's Office reviews and approves or modifies the Secretary's and DPB's comments on proposed regulations.
4. The Governor's Office reviews regulatory packages and comments of the Secretary, DPB, Office of the

Attorney General, and the public, according to the criteria contained in Section 9-6.14:9.1, Code of Virginia.

5. The Governor comments on each regulatory review package pursuant to Section 9-6.14:9.1, Code of Virginia. The Governor's Office will send comments to the Registrar, with a copy to the appropriate Secretary, DPB, and the agency.

IV. RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING AND BUDGET

A. Pre-Review Submission Responsibilities:

Upon request from the Secretary, DPB will provide assistance during the Secretary's initial review of the draft regulatory package. If DPB assists the Secretary in the initial review, DPB will conduct an initial screening to determine whether the draft regulatory review package meets the minimum standards set out in this executive order.

B. Regulatory Review Submission Responsibilities:

The appropriate DPB section will review the agency's Regulatory Review Submission filed with the Notice of Comment Period. DPB will prepare comments, including recommended amendments or modifications, if appropriate. At a minimum, two weeks before the close of the public comment period, DPB will send comments to the appropriate Secretary.

C. Final Proposed Regulation Review Responsibilities:

After the agency has submitted the final, revised regulations, DPB will compare the proposed final regulations with the original review package, and public, Office of the Attorney General, and previous executive department comments, to determine what portions of the regulations have been reworked. If the agency has not made the recommended changes or has not adequately answered public comments, DPB will notify the appropriate Secretary and propose recommendations in writing.

This executive order supersedes Executive Order Number 5 (86), Review of Regulations Proposed by State Agencies, issued January 30, 1986, by Governor Gerald L. Baliles. Notwithstanding this fact, any regulation which prior to this date has been reviewed in accordance with the provisions of this Executive Order or Executive Order Number 5 (86) is hereby deemed to have complied with this Executive Order.

This executive order will become effective upon its signing and will remain in full force and effect until June 30, 1994 unless rescinded or amended by further executive order.

Given under my hand and the Seal of the

Governor

Commonwealth of Virginia on this 1st day of October,
1992.

/s/ Lawrence Dougals Wilder
Governor

ATTACHMENT 1
EXECUTIVE ORDER NUMBER TWENTY-THREE (90)

STATEMENT OF ASSURANCE
ON ALTERNATIVES TO REGULATIONS

On _____, _____, _____
Date Name of Agency Head Title of Agency Head
of the _____ and I met and discussed the regulations on
Agency Name
_____, which are numbered _____.
Subject of Regulations Numbers of Regulations

I concur that the regulations are reasonable, necessary, and in my discretion absolutely essential to achieve the required objective.

Signature of Secretary

Secretary of _____

I do not agree that the regulations are reasonable, necessary and in my discretion absolutely essential to achieve the required objective. The agency will:

a) revise the regulation(s) by doing the following: _____

_____ or

b) not issue the regulation(s) but will do the following: _____

Signature of Secretary

Secretary of _____

(DPB) Form RR10

**GOVERNOR'S COMMENTS ON PROPOSED
REGULATIONS**

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: **VR 230-30-001. Minimum Standards
for Jails and Lockups.**

Governor's Comment:

The State Board of Corrections should carefully consider and address the comments submitted by (1) the Department of Planning and Budget, (2) localities impacted by these proposals, and (3) the public. I am withholding my final opinion on the merits of these proposed amendments until such time as these matters have been addressed and a final proposal is recommended.

/s/ Lawrence Douglas Wilder
Date: November 6, 1992

DEPARTMENT OF HEALTH (BOARD OF)

Title of Regulation: **VR 355-18-014. Waterworks Operation
Fee.**

Governor's Comment:

I presently do not object to initial draft of this regulation. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: November 9, 1992

DEPARTMENT OF STATE POLICE

Title of Regulation: **VR 545-00-01. Public Participation
Policy.**

Governor's Comment:

I do not object to the initial draft of this regulation; however, I will reserve my final opinion until after the public has expressed its views and the Department has made any necessary changes in response thereto.

/s/ Lawrence Douglas Wilder
Governor
Date: October 30, 1992

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 CRIMINAL JUSTICE SERVICES

† Notice to the Public

In accord with the Anti-Drug Abuse Act of 1988 (Public Law 100-690, Title VI, Subtitle C), the Department of Criminal Justice Services announces its intention to submit an application for federal funds to the Bureau of Justice Assistance, U.S. Department of Justice.

The application will be submitted not later than December 4, 1992, and will request \$10,015,000 in federal funds, which is Virginia's allocation for federal fiscal 1993 under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

The Department of Criminal Justice Services will use these funds to make grants to localities and state agencies to support drug control and criminal justice system improvement projects.

In addition to the Standard Form 424, "Application For Federal Assistance," the application to the Bureau of Justice Assistance contains a statewide drug and violent crime strategy which analyzes the state's drug and violent crime problems, identifies needs and priorities, and indicates ways the Department proposes to use the federal funds to address the needs and priorities.

Public review of the application and comment on it are invited. Single copies may be obtained by contacting Richard Hall-Sizemore, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 371-6507.

DEPARTMENT OF HEALTH

Alternative Discharging Regulations

The Virginia Department of Health is soliciting public comment on the Alternative Discharging Sewage Treatment Regulations, VR 355-34-400 adopted July 30, 1992. Five

public hearings were held between May 18, 1992 and June 10, 1992 on these regulations. During this time the Department of Health heard and responded to many concerns of citizens and special interest groups.

After the public comment period, it became increasingly apparent that several specific issues in the regulations may not have been resolved as completely as possible. In particular, the Department of Health is soliciting additional comment on the following areas:

1. How recreational waters should be defined and what standards should be applied to measure health risks associated with the recreational use of waters receiving wastewater effluent.
2. What mechanisms should be applied to assure the continued proper operation, maintenance and repair of discharging systems after they are installed. How can these mechanisms be assured when a property is sold?

Comments concerning any other aspect of these regulations will also be accepted. Comments must be received by the Health Department prior to 4:00 p.m. on January 29, 1993. Comments should be sent to Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Suite 117, Richmond, Virginia 23218.

UNIVERSITY OF VIRGINIA

Institute of Law, Psychiatry & Public Policy

Public Notice

The Sixteenth Annual Symposium on Mental Health and the Law will be held April 1-2, 1993, at the Richmond Hyatt (Thursday-Friday). The symposium is sponsored by The University of Virginia Institute of Law, Psychiatry and Public Policy; the Division of Continuing Education; the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services and the Office of the Attorney General. The symposium will be held at the Richmond Hyatt Hotel in Richmond, Virginia. Continuing education credit, including medical and legal, will be available. For further information contact: Bettie Amiss, Administrator, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, Virginia 22901; telephone (804) 924-5435.

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.

"Major modification," line 4, change "pemirt conditiion" to "permit condition"

Page 327, column 2, § 120-08-03 M 10, line 6, change "CFR Part 15" to "CFR Part 51"

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

ERRATA

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution - New and Modified Stationary Sources.

Publication: 9:3 V.A.R. 289-336 November 2, 1992.

Corrections to Final Regulation:

Page 293, column 1, § 120-08-01 D 3 a (2), line 2, strike *corporation* and insert *business entity*

Page 306, column 1, § 120-08-02 F 3 a (2), line 3, after [~~(b)~~] insert *(ii)*

Page 318, column 2, § 120-08-03 B 3 (c), Definition of

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
☒ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE



DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

December 1, 1992 - 9:30 a.m. – Open Meeting
The Virginia Association of Homes for Adults, Inc., Suite 101, United Way Building, 224 West Broad Street, Richmond, Virginia. ☒

Business will include further discussion on the goals and objectives for the Virginia Long-Term Care Ombudsman Program.

Contact: Etta V. Hopkins, Assistant Ombudsman, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271/TDD ☎ or toll-free 1-800-552-3402.

Long-Term Care Council

† **December 11, 1992 - 9 a.m. – Open Meeting**
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A general business meeting of the council.

Contact: Cathy Saunders, Director, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2912.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

December 8, 1992 - 9 a.m. – Open Meeting
Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. ☒

At this regular meeting, the board plans to discuss legislation, regulations, and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed 30 minutes.

Contact: Roy E. Seward, Secretary to the Board, Washington Building, Room 211, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Virginia Corn Board

December 3, 1992 - 10 a.m. – Open Meeting
Colonial Williamsburg Lodge, P.O. Box 1776, Williamsburg, Virginia. ☒

The board will meet in regular session to discuss issues related to the Virginia corn industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Marine Products Board

December 1, 1992 - 5:30 p.m. – Open Meeting
Nick's Steak & Spaghetti House, Route 17, Gloucester Point, Virginia. ☒

The board will meet to receive reports from the Executive Director of the Virginia Marine Products board on finance, marketing, past and future program planning, publicity/public relations, and old and new business. At the conclusion of other business, the board will entertain public comments for a period not

to exceed 30 minutes.

Contact: Shirley A. Estes, 544 Denbigh Boulevard, Suite B, Newport News, VA 23602, telephone (804) 874-3474.

Virginia Small Grains Board

December 4, 1992 - 10 a.m. - Open Meeting
Department of Agriculture, Washington Building, 1100 Bank Street, Richmond, Virginia. ☒

This will be the first meeting of the board. This will be an organizational meeting to discuss items related to small grains. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Soybean Board

December 1, 1992 - 10 a.m. - Open Meeting
Colonial Williamsburg Lodge, P.O. Box 1776, Williamsburg, Virginia. ☒

The board will meet in regular session to discuss issues related to Virginia soybean industry.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIR POLLUTION CONTROL BOARD)

† **December 4, 1992 - 9 a.m. - Open Meeting**
General Assembly Building, Senate Room A, Richmond, Virginia. ☒

The board will consider appointments to the advisory board, a local burning ordinance for Spotsylvania County, SIP revisions for PSD Permit Program, revised I/M Program, Clean Fuel Fleet Program alternatives, and a local ordinance for Botetourt County concerning hazardous waste incineration.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

† **December 8, 1992 - 8 p.m. - Open Meeting**
Radford Municipal Building, 619 First Street, Radford, Virginia. ☒

A meeting to receive public comment on a request by New River Castings to modify their iron foundry in Radford.

Contact: Donald L. Shepherd, Director, Virginia Department of Air Pollution Control, Executive Office

Park, Suite D, 5338 Peters Creek Road, Roanoke, VA 24019, telephone (703) 857-7328.

ALCOHOLIC BEVERAGE CONTROL BOARD

† **December 7, 1992 - 9:30 a.m. - Open Meeting**
† **December 21, 1992 - 9:30 a.m. - Open Meeting**
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND LANDSCAPE ARCHITECTS

December 3, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to: (i) approve minutes from September 3, 1992 meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) conduct regulatory review.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Interior Designers

December 18, 1992 - 1 p.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes from November 20, 1992 meeting; (ii) review applications; and (iii) review correspondence.

Contact: Willie Fobbs, III, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

December 2, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review minutes from September 2, 1992 meeting; (ii) review correspondence (iii) review enforcement files; and (iv) conduct regulatory review.

Contact: Willie Fobbs, III, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Calendar of Events

ASAP POLICY BOARD - ROCKINGHAM/HARRISONBURG

† **December 10, 1992 - 7 p.m.** – Open Meeting
ASAP Office, 44 East Market Street, Harrisonburg, Virginia.

A quarterly meeting.

Contact: Pam Simmons, Director, 44 E. Market St.,
Harrisonburg, VA 22801, telephone (703) 434-0154.

ATHLETIC BOARD

† **December 8, 1992 - 10 a.m.** – Open Meeting
3600 West Broad Street, Conference Room #2, Richmond,
Virginia.

A meeting to discuss privatization of professional
boxing and the deregulation of amateur boxing.

Contact: Doug Beavers, Assistant Director, 3600 W. Broad
St., Richmond, VA 23230, telephone (804) 367-8507.

AUCTIONEERS BOARD

† **December 1, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia.

A meeting to conduct board business and other
matters that may require board action.

Contact: Geralde W. Morgan, Administrator, 3600 W. Broad
St., Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **December 10, 1992 - 9:30 a.m.** – Open Meeting
Brookfield Center Office Park, 6606 West Broad Street,
Richmond, Virginia. ☒

A called board meeting.

Contact: Meredyth P. Partridge, Executive Director, 6606
W. Broad St., 4th Floor, Richmond, VA 23230, telephone
(804) 662-7390.

BOARD FOR BARBERS

† **December 7, 1992 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review
correspondence; (iii) review and disposition of
enforcement cases; and (iv) conduct routine board

business.

Contact: Roberta L. Banning, Assistant Director, 3600 W.
Broad Street, Richmond, VA 23230-4917, telephone (804)
367-8590.

BOARD FOR BRANCH PILOTS

December 10, 1992 - 9:30 a.m. – Open Meeting
The Virginia Port Authority, 600 World Trade Center,
Norfolk, Virginia. ☒

The regular quarterly meeting of the board to
consider routine business.

Contact: Willie Fobbs, III, Assistant Director, Department
of Commerce, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8514.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

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 ☎

CHILD DAY-CARE COUNCIL

† **December 10, 1992 - 9 a.m.** – Open Meeting
Koger Executive Center, West End, Blair Building,
Conference Rooms A and B, 8007 Discovery Drive,
Richmond, Virginia. ☒ (Interpreter for the deaf provided
upon request)

The council will meet to discuss issues, concerns and
programs that impact child care centers, camps,
school age programs, and preschool/nursery schools.
The public comment period will be 1 p.m. instead of
10 a.m. Please call ahead of time for possible changes
in meeting time.

Contact: Peggy Friedenber, Legislative Analyst, Office of
Governmental Affairs, Department of Social Services, 8007
Discovery Dr., Richmond, VA 23229-8699, telephone (804)
662-9217.

DEPARTMENT OF COMMERCE (BOARD OF)

December 4, 1992 - 10:30 a.m. – Public Hearing
Roanoke City Council Chambers, Room 450, 215 Church Ave., S.W., Roanoke, Virginia

December 10, 1992 - 10:30 a.m. – Public Hearing
General Assembly Building, House Room D, Richmond, Virginia.

January 4, 1993 – 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 Department of Commerce intends to repeal regulations entitled VR 190-05-1. **Asbestos Licensing Regulations** and adopt new regulations entitled VR 190-05-1:1. **Asbestos Licensing Regulations**. The proposed regulations include a "Standard of practice and conduct" section to establish guidelines for professionalism and grounds for disciplinary action within the regulated disciplines. To eliminate duplication, a "General entry and renewal requirements" section has been added and requirements for an asbestos worker and supervisor license have been combined. Changes also require employers, with employees exempted from licensure, to develop and maintain a safety program, as opposed to training, to enhance the quality and safety of asbestos work. The proposed regulations set training provider criteria for record keeping, certificate information, length of training, training upgrade, number and ratio of instructors to students, primary instructor approval, use of videos, and training course approval.

For Asbestos Analytical Laboratory Licensure, participation in the PAT program will be extended to each branch facility and each on-site analyst will be required to register with the AIHA Analyst Registry. After April 1, 1993, project designer applicants will need to submit an experience form (Form A) with their application.

For clarification purposes, the following definitions have been added or altered: "Asbestos," "Asbestos Project," "Asbestos Project Design," "Asbestos Management Plan," "Demolition," "Full Approval," "Occupied," "Preliminary Review," "Primary Instructor," "Removal," "Site," "Substantial Change," and "Structure."

In addition, fees have been lowered for an Asbestos Contractors license, an RFS Asbestos Contractors license, an Asbestos Analytical laboratory license, and for training course evaluations.

Statutory Authority: §§ 54.1-500 through 54.1-517 of the Code of Virginia.

Contact: Kent Steinruck, Regulatory Boards Administrator,

Department of Commerce, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-2567.

† **February 1, 1993 - 10 a.m.** – Open Meeting
Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A regular quarterly meeting of the board. Agenda items likely to include a report and discussion of current General Assembly bills with an impact upon agency operations; reports of subcommittees on occupational and professional continuing education, and citizen members of regulatory boards at the agency.

Contact: Alvin D. Whitley, Staff Assistant to the Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

COMPENSATION BOARD

November 30, 1992 - 5 p.m. – Open Meeting

December 30, 1992 - 5 p.m. – Open Meeting

Room 913/913A, 9th Floor, Ninth Street Office Building, 202 North Ninth Street, Richmond, Virginia. ☐ (Interpreter for the deaf provided upon request.)

A routine meeting to conduct business of the Compensation Board.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886/TDD ☐

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

† **December 18, 1992 - Noon** – Open Meeting

Planning Commission Conference Room, Fifth Floor, City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☐

BOARD FOR CONTRACTORS

December 15, 1992 - 10 a.m. – Open Meeting

December 16, 1992 - 10 a.m. – Open Meeting

December 17, 1992 - 10 a.m. – Open Meeting

Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

Calendar of Events

A formal hearing (Tomac Corporation) regarding alleged violations of the regulations of the Board for Contractors.

Contact: A.R. Wade, Assistant Director of Investigation and Adjudication, 3600 W. Broad St., Richmond, VA, telephone (804)367-0946.

† **January 13, 1993 - 9 a.m. – Open Meeting**
3600 West Broad Street, Richmond, Virginia. ☐

A regular quarterly meeting of the board to address policy and procedural issues, review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in Executive Session.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

Complaints Committee

December 9, 1992 - 9 a.m. – Open Meeting
3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

The Board for Contractors Complaints Committee will meet to review and consider complaints filed by consumers against licensed contractors.

Contact: A.R. Wade, Assistant Director of Investigation and Adjudication, 3600 W. Broad St., 5th Floor, Richmond, VA, telephone (804) 367-0136.

Applications Review Committee

† **January 5, 1993 - 9 a.m. – Open Meeting**
3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☐

A regular meeting to review applications with convictions and/or complaints for Class A contractors licenses and Class B contractors registrations.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

Recovery Fund Committee

† **January 6, 1993 - 9 a.m. – Open Meeting**
3600 West Broad Street, Richmond, Virginia. ☐

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in Executive Session.

Contact: Holly Erickson, Assistant Administrator, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

December 16, 1992 - 10 a.m. – Open Meeting
Board of Corrections, Board Room, 6900 Atmore Drive, Richmond, Virginia. ☐

A regular monthly meeting of the board 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.

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January 30, 1993 – Written comments may be submitted through this date.

February 10, 1993 - 10 a.m. – Public Hearing
6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to **repeal** regulations entitled **VR 230-01-003, Regulations Governing the Certification Process**, and **adopt** regulations entitled **VR 230-01-003:1, Regulations Governing the Certification Process**. The proposed regulation establishes guidelines for certification evaluation, frequency, appeals and types of certification awarded the program. These standards will replace VR 230-01-003, Rules and Regulations Governing the Certification Process.

Statutory Authority: §§ 53.1-5, 53.1-68, 53.1-141, 53.1-178 and 53.1-182 of the Code of Virginia.

Contact: Cynthia J. Evans, Certification Analyst, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3237.

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January 30, 1993 – Written comments may be submitted through this date.

February 10, 1993 - 10 a.m. – Public Hearing
6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to **repeal** regulations entitled **VR 230-30-004, Standards for Adult Community Residential Services**, and **adopt** regulations entitled **VR 230-30-004:1, Standards for Community Residential Programs**. The proposed regulation establishes the minimum standards that must be met for a facility or program to be properly certified to operate. These standards will replace VR 230-30-004, Adult Community Residential Services Standards.

Statutory Authority: §§ 53.1-5 and 53.1-178 of the Code of

Virginia.

Contact: R.M. Woodard, Regional Manager, 302 Turner Road, Richmond, VA 23225, telephone (804) 674-3732.

BOARD FOR COSMETOLOGY

December 7, 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

Committee on Criminal Justice Information Systems

† **December 10, 1992 - 10 a.m.** – Open Meeting
Governor's Cabinet Conference Room, 9th Street Office Building, 6th Floor, Richmond, Virginia. ☒

A meeting to discuss projects and business of the committee.

Contact: Paula J. Scott Dehetre, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

BOARD OF DENTISTRY

† **December 11, 1992 - 8:30 am.** – Open Meeting
6606 West Broad Street, Richmond, Virginia. ☒

Informal conferences.

Contact: Nancy Durrett, Acting Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906

VIRGINIA INTERAGENCY COORDINATING COUNCIL ON EARLY INTERVENTION

† **December 9, 1992 - 9 a.m.** – Open Meeting
James Madison Building, First Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Virginia Interagency Coordinating Council (VICC), according to PL 102-119 Part H early intervention program for disabled infants and toddlers and their families, is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency to develop

and implement a statewide interagency early intervention program.

Contact: Dr. Michael Fehl, Director, MR Children/Youth Services, Virginia Department of MHMRAS, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

DEPARTMENT OF EDUCATION (BOARD OF)

December 10, 1992 - 7 p.m. – Public Hearing
Grace E. Metz Middle School, 9700 Fairview Avenue,
Manassas, Virginia.

December 10, 1992 - 7 p.m. – Public Hearing
Granby High School, 7101 Granby Street, Norfolk, Virginia.

December 10, 1992 - 7 p.m. – Public Hearing
Radford School Board Office, 1612 Wadsworth Street,
Radford, Virginia.

December 10, 1992 - 7 p.m. – Public Hearing
Thomas Jefferson High School, 4100 West Grace Street,
Richmond, Virginia.

January 15, 1993 – 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 Education intends to amend regulations entitled: **VR 270-01-0002. Regulations Governing the Educational Program for Gifted Students.** This proposed regulation amends the existing regulations governing the educational program for gifted learners in Virginia. The changes reflect the most current literature and research relative to the identification of and programming for gifted students. These regulations are being promulgated to ensure that gifted students in kindergarten through grade 12 are identified and provided with an education program that will enable them to achieve to their abilities.

Statutory Authority: § 22.1-253.13:1 of the Code of Virginia.

Contact: Valerie Barrett, Associate Specialist, Gifted Programs, P.O. Box 2120, 20th Floor, Richmond, VA 23216, telephone (804) 225-2652.

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

† **December 9, 1992 - 6 p.m.** – Open Meeting
Ogden Martin Systems of Alexandria/Arlington, Inc., 5301 Eisenhower Avenue, Alexandria, Virginia. ☒

A meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

Calendar of Events

Contact: Charles W. McRorie, Emergency Preparation Coordinator, 900 Second St., Alexandria, VA 22314, telephone (703) 838-3825 or (703) 838-5056/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

December 3, 1992 - 5:30 p.m. – Open Meeting
† **January 7, 1993 - 5:30 p.m.** – Open Meeting
† **February 4, 1993 - 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 - HANOVER COUNTY

December 8, 1992 - 9 a.m. – Open Meeting
Hanover Fire Company 5, Route 1004 at Route 301 North, Hanover, Virginia. ☎

A meeting to conduct the following business:

1. LEPC update.
2. Report from Chairman.
3. Report on Superfund sites - Route 735 & Route 629.
4. Preplanning for Hazardous Material - Full Exercise for 1993.
5. Old business/new business.
6. 15-minute discussion period.

Contact: John F. Trivellin, Hazardous Materials Coordinator, P.O. Box 470, Hanover County, VA 23069, telephone (804) 798-8554 or (804) 730-6195.

LOCAL EMERGENCY PLANNING COMMITTEE - HENRICO COUNTY

December 3, 1992 - 7 p.m. – Open Meeting
The Henrico County Public Safety Building, Division of Fire, Parham and Hungary Spring Roads, Richmond, Virginia. ☎

A meeting to satisfy requirements of the Superfund Amendment and Reauthorization Act of 1986.

Contact: W. Timothy Liles, Assistant Emergency Services Coordinator, Division of Fire, P.O. Box 27032, Richmond, VA 23273, telephone (804) 672-4906.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

December 2, 1992 - 3 p.m. – Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A general meeting.

Contact: L.A. Miller, Fire Chief, Winchester Fire & Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 662-2298.

VIRGINIA FIRE SERVICES BOARD

† **December 11, 1992 - 9 a.m.** – Open Meeting
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **December 10, 1992 - 9 a.m.** – Open Meeting
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

† **December 10, 1992 - 10 a.m.** – Open Meeting
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **December 10, 1992 - 1 p.m.** – Open Meeting
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807 Parham Road, Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD FOR GEOLOGY

December 18, 1992 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, (804) 367-9753/TDD ☎

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

† **December 14, 1992 - 10:30 a.m. – Open Meeting**
† **December 15, 1992 - 10:30 a.m. – Open Meeting**
The Hyatt Hotel, 6624 West Broad Street, Richmond, Virginia. ☒

A general meeting.

Contact: Abria M. Singleton, Executive Secretary, The Commonwealth Building, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9816 or (804) 367-6283/TDD ☎

GOVERNOR'S TASK FORCE ON FUELS TAX EVASION

November 30, 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, Room 710, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6615.

STATE BOARD OF HEALTH

† **December 10, 1992 - 10 a.m. – Open Meeting**
The Jefferson, Franklin and Adams Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session will be held. An informal dinner will begin at 6:30 p.m.

† **December 11, 1992 - 9 a.m. – Open Meeting**
The Jefferson, Franklin and Adams Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Susan R. Rowland, Assistant to the Commissioner, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

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† **January 29, 1993 –** 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 Health intends to repeal regulations entitled **VR 355-11-02. Rules and Regulations Governing the Detection and Control of Phenylketonuria (PKU)**, and adopt regulations entitled **VR 355-11-200. Regulations Governing Newborn Screening and Treatment Program**. The purpose of the proposed Rules and Regulations Governing the Newborn Screening and Treatment Program is to clarify the respective responsibilities of the Department of Health, Division of Consolidated Laboratory Services, physicians, midwives, nurses, administrators of hospitals and other agencies, and persons in the Commonwealth in the detection, control, and treatment of newborn infants identified with diseases as specified in § 32.1-65 of the Code of Virginia.

STATEMENT

Basis: Section 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia mandate newborn screening of specific genetic, metabolic, and other diseases of the newborn.

The regulations, as authorized by § 32.1-12 and Article 7 of Chapter 2 of Title 32.1 of the Code of Virginia, establish the authority of the Board of Health to make regulations relating to screening and treatment of genetic, metabolic, and other diseases identifiable in the newborn period as specified in § 32.1-65 of the Code of Virginia.

Issues: The rules and regulations require revision in order to reflect the latest guidelines for newborn screening as recommended by the Committee on Genetics of the American Academy of Pediatrics (AAP) and the most recent medical literature. The recommendations of the AAP seek to minimize morbidity and mortality associated with the diseases specified in their guidelines by maximizing the number of infants tested, thereby yielding more reliable results. There is also a need for revision based on the increase of the number of tests from two to

Calendar of Events

seven due to amendments to the Code of Virginia in 1984, 1986 and 1989.

Substance:

A. Testing of infants.

The intent of the revisions referencing testing is to assure that all infants born in the Commonwealth are screened for the diseases specified in the Code of Virginia (§ 32.1-65) during the optimum testing time frame. This will decrease variability of results, provide more accurate results, and result in less lag time in initiating follow-up and treatment. To accomplish this task, the following changes are necessary:

1. All references to phenylketonuria shall be deleted and reworded to encompass all diseases of the newborn as specified in the Code.
2. Clarification of the optimum applicable time intervals for testing of infants who are (i) full-term, (ii) premature, (iii) tested under 24 hours of age.
3. Inclusion of a requirement for the testing of infants requiring transfusion.
4. Addition of "guardian" as an adult responsible for the infant.
5. Clarification of the disposition of specimen.
6. Addition of statement which gives responsibility to the health care provider for notifying the parent or guardian of the need to have the infant retested when deemed necessary.

B. Reporting and notification.

Infants are lost to follow-up due to information not reaching the appropriate person or agency. This problem has led to many manhours employed in tracking the infant and primary care provider, thus delaying initiation of confirmation testing or appropriate therapy. Therefore, there is a need to improve the notification process and infant tracking system. This will be accomplished by inclusion of reference to a health care provider to which results will be sent and the addition of a statement indicating that specific policies are to be "defined in a memorandum of understanding and joint operating procedures manual established by the Department of Health, Division of Maternal and Child Health and the Department of General Services, Division of Consolidated Laboratory Services." To this end, any references to policies and procedures are deleted to eliminate the necessity of repeated revisions.

C. Services and treatment.

The original document is worded to indicate provisions of services by professionals for the management of

patients with phenylketonuria (PKU) only. The intent of the proposed changes is to assure that services and treatment are available to all infants in the Commonwealth diagnosed with a disease specified in the Code. To this end, the following modifications are made:

1. Deletion of PKU and addition of "diseases as specified in § 32.1-65 of the Code of Virginia."
2. Addition of clause noting the responsibility of the Department to notify providers of the availability of services for the prior mentioned diseases.
3. Revision of statement regarding services provided to medically indigent families to include all diseases as specified in the Code of Virginia.

Estimated Impact: These revisions to the regulation will impact on the manner in which infants are screened, followed, and treated in the Commonwealth for the genetic, inborn error, and hemoglobinopathic diseases specified in § 32.1-65 of the Code of Virginia. Specifically, the revisions will enhance care to the infants by improving the current test practices, with no increase in utilization of resources and little, if any, increase in cost.

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

Contact: Alice Linyear, MD, MPH, Director, Division of Maternal and Child Health, P.O. Box 2447, Suite 136, Richmond, VA 23218, telephone (804) 786-7367.

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† **January 31, 1993** – 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 Health intends to adopt regulations entitled **VR 355-40-600. Regulations for the Conduct of Human Research.** Chapter 603 of the 1992 Acts of Assembly (House Bill 220) requires the Board of Health to develop regulations for human research to be conducted or authorized by the Department of Health or any facilities or other entities operated, funded or licensed by the department. In accordance with the legislation, the proposed regulations define requirements for obtaining informed consent and require the establishment of human research committees by institutions or agencies conducting or proposing to conduct or authorize human research. The proposed regulations require annual reporting of human research committees to the State Health Commissioner. Human research which is subject to federal regulations is exempt from the regulations.

STATEMENT

Basis: The regulations are promulgated under the authority

of § 32.1-12.1 and Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

Purpose: The development of the regulations is required by House Bill 220, passed by the 1992 General Assembly. H.B. 220 requires the Board of Health to develop regulations for human research to be conducted or authorized by the Department of Health or any facilities or other entities operated, funded, or licensed by the Department.

Substance: the proposed regulations define requirements for obtaining informed consent and require the establishment of human research committees by institutions or agencies conducting or proposing to conduct or authorize human research. The proposed regulations require annual reporting of human research committees to the State Health Commissioner. Human research which is subject to federal regulations is exempt from the regulations.

Issues: Under previous state law, all human research conducted within the state that was not subject to federal regulations was governed by the Code of Virginia, specifically found in Chapter 13 of Title 37.1, which was repealed by H.B. 220. House Bill 220 outlines new requirements for the conduct, review, and reporting of research with human participants (§ 32.1-162.16 et seq.) and assigns oversight responsibility for human research to several state agencies, including the Department of Health.

The absence of regulations may result in the inadequate protection of the rights and welfare of participants involved in human research. These regulations are mandated under § 32.1-12.1 of the Code of Virginia.

Estimated impact: Any facility or other entity operated, funded, or licensed by the Department of Health would be required to follow the regulations. These facilities/entities include the following: 119 local health departments, 112 licensed hospitals, 254 licensed nursing homes, 26 licensed hospices, 58 licensed home care organizations and 603 licensed rescue squads. However, in practice, hospitals would be the facilities most likely impacted by the regulations as most human research is being initiated by hospitals. Local health departments, nursing homes, hospices, home care organizations, and rescue squads indicate that they do not normally or presently initiate human research.

Those hospitals most likely to conduct human research are not licensed by the Department and therefore are exempt from the regulations; Medical College of Virginia and University of Virginia follow the federal regulations for human research. Hospitals affiliated with the Medical College of Hampton Roads are licensed by the Department. However, if affiliated hospitals are involved in joint research with the College, they are exempt from the state regulations because the College follows the federal regulations for human research.

Costs to the regulated entities will be the personnel time required to conform to the required procedures. Each entity proposing to conduct human research must designate personnel to serve on the human research committee. The committee will review proposals and report annually to the State Health Commissioner on human research projects conducted. All facilities having a research committee will be required to report annually to the State Health Commissioner, even if no research has been conducted. To ease the reporting burden, the Department of Health will develop and send a form to all facilities, most likely in conjunction with current licensing activities and existing forms. Those facilities that have not conducted research would simply check a box so indicating and other facilities that have conducted research would attach a report of activities. The committee will also prepare and maintain records to document its activities.

Individuals conducting research must follow specific procedures for obtaining informed consent. Also, they must submit to the committee materials for approval and reports at least annually to confirm conformity with the approved proposal.

Costs to the Department of Health for implementation and enforcement of the regulations will also be in personnel time and absorbed by the current staff. Individuals must be designated to serve on the Central Office human research committee which will review proposals submitted by local health departments. The committee will be required to prepare and maintain records of activities and to report annually to the State Health Commissioner on research projects conducted. These annual reports, in addition to those annual reports received from the individual facilities, will be filed in the Department. A report of all human research conducted and reported will be prepared by the Department and forwarded to the Governor and General Assembly. Licensed entities will be notified of the new regulations through a reference added to the licensure requirements.

Statutory Authority: § 32.1-12.1 and Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

Contact: Roseanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Room 213, Richmond, VA 23219, telephone (804) 786-4891.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

December 15, 1992 - 1:30 pm. – Open Meeting
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☐

A regular monthly meeting.

Contact: Marcia Melton, Executive Secretary, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-3671.

Calendar of Events

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **December 8, 1992 - 9:30 a.m.** – Open Meeting
Continuous Electron Beam Accelerator Facility (CEBAF),
1200 Jefferson Avenue, Newport News, Virginia.

A general business meeting. For more information,
contact the council.

Contact: Anne M. Pratt, Associate Director, 101 N. 14th St.,
Richmond, VA 23219, telephone (804) 225-2629.

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

† **December 9, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, Richmond,
Virginia. ☒ (Interpreter for the deaf provided upon
request)

A general business meeting of the board.

December 16, 1992 - 2 p.m. – Open Meeting
General Assembly Building, Senate Room A, Richmond,
Virginia. ☒

A meeting to receive comments and answer questions
on (i) the department's intent to develop and adopt a
regulation setting forth the evaluation criteria and the
procedure for nominating property to the National
Park Service for inclusion in the National Register of
Historic Places or for designation as a National
Historic Landmark; and (ii) the board's intent to
develop and adopt a regulation setting forth the
evaluation criteria and the procedures for designating
Virginia landmarks.

Contact: Margaret T. Peters, Information Officer, 221
Governor St., Richmond, VA 23219, telephone (804)
786-3143 or (804)786-1934/TDD ☎

State Review Board

† **December 8, 1992 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, Richmond,
Virginia. ☒ (Interpreter for the 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:

1. Annandale, Botetourt County
2. Dogget House, Fredericksburg
3. Guilford, Clarke County
4. Andrew Johnston House, Pearisburg, Giles County
5. Mount Stirling, Charles City County
6. Oak Grove, Northampton County
7. Woodside, Buckingham County

Contact: Margaret Peters, Information Officer, 221
Governor St., Richmond, VA 23219, telephone (804)
786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

December 1, 1992 - 9 a.m. – Open Meeting
† **January 5, 1993 - 9 a.m.** – Open Meeting
† **February 2, 1993 - 9 a.m.** – Open Meeting
Hopewell Community Center, Second and City Point Road,
Hopewell, Virginia. ☒ (Interpreter for deaf provided upon
request)

A Local Emergency Preparedness Committee meeting
on emergency preparedness as required by SARA Title
III.

Contact: Robert Brown, Emergency Service Coordinator,
300 N. Main St., Hopewell, VA 23860, telephone (804)
541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **December 15, 1992 - 11 a.m.** – Open Meeting
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to
(i) review and, if appropriate, approve the minutes
from the prior monthly meeting; (ii) consider for
approval and ratification mortgage loan commitments
under its various programs; (iii) review the authority's
operations for the prior month; and (iv) consider such
other matters and take such other actions as it may
deem appropriate. Various committees of the Board of
Commissioners may also meet before or after the
regular meeting and consider matters within their
purview. The planned agenda of the meeting will be
available at the offices of the authority one week
prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia
Housing Development Authority, 601 S. Belvidere St.,
Richmond, VA 23220, telephone (804) 782-1986.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

† **December 7, 1992 - 1 p.m.** – Open Meeting
General Assembly Building, Speaker's Conference Room,
6th floor, 910 Capitol Square, Richmond, Virginia.

A regular meeting of the advisory commission to
consider such matters as may be presented. Persons
desiring to participate in the commission's meeting
and requiring special accommodations or interpreter
services should contact the commission's offices by
December 1, 1992.

Contact: Robert H. Kirby, Secretary, 8th Street Office Building, Room 702, Richmond, VA 23219, telephone (804) 786-6508.

STATE COUNCIL ON LOCAL DEBT

December 16, 1992 - 11 a.m. - Open Meeting James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting of the council subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804)225-4928.

LONGWOOD COLLEGE

Executive Committee

† December 3, 1992 - 5 p.m. - Open Meeting Longwood College, Ruffner Building, Board Room, Farmville, Virginia. ☒

A meeting to conduct routine business.

Contact: William F. Dorrill, President, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† December 14, 1992 - 1 p.m. - Open Meeting 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☒

A meeting to discuss medical assistance services and issues pertinent to the board.

Contact: Patricia A. Sykes, Policy Analyst, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958 or toll-free 1-800-343-0634/TDD ☒

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December 18, 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 adopt regulations entitled: VR 460-01-74 and 460-04-4.2600. Drug Utilization Review Program Regulations. The purpose

of this proposal is to promulgate permanent regulations consistent with the mandates of OBRA 90 § 4401 and with applicable state laws. The sections of the State Plan for Medical Assistance affected by this action are section 4 to which is added new preprinted pages 74 through 74b and new state regulations VR 460-04-4.2600.

The law, as enacted in OBRA 90, requires the states' DUR programs to focus on individuals receiving outpatient drugs who do not reside in a nursing home. Currently, the Commonwealth does not have a DUR program applicable to individuals receiving outpatient drugs.

Congressional support for DUR stems from a longstanding belief that quality health care is more cost-effective than poor quality care. Numerous studies have shown that physicians may not always have the requisite pharmaceutical knowledge and training to prescribe only appropriate medication. In some studies, federal investigators found widespread patient misuse of prescription drugs including overuse, underuse, and lack of compliance with longstanding guidelines for appropriate drug use. The capacity of pharmaceuticals to cause harm has been recognized since the beginning of medicine. Today, drug induced illnesses have become a major health problem and often, inappropriate outpatient drug usage leads to the subsequent need for remedial health care services.

OBRA 90 § 4401 placed four key DUR requirements on DMAS: (i) implementation of a retrospective DUR; (ii) provision for prospective DUR before the dispensing of prescriptions; (iii) establishment of a DUR board; and (v) development of physician and pharmacist educational interventions and programs.

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

Written comments may be submitted through December 18, 1992, to Rebecca Miller, Pharmacy Consultant, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 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.

* * * * *

January 2, 1993 - 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 regulations entitled: VR 460-04-8.14. Managed Care: "Medallion" Regulations. The purpose of this proposal is to

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promulgate permanent regulations to supersede the current emergency regulation containing substantially the same policies.

House Bill 30, passed by the 1990 session of the General Assembly, directed the Department of Medical Assistance Services (DMAS) to develop a plan to test the feasibility of establishing a statewide managed care system for Medicaid patients. The plan was developed and submitted to the Committee of Health Care for All Virginians (SJR 118) on October 1, 1990. The committee examined the plan based on three criteria: (i) the feasibility of expanding the system, (ii) alternatives for the design and staffing of such a system, (iii) costs and benefits associated with the preferred options. DMAS subsequently was instructed to proceed with its coordinated care program, named "MEDALLION."

The Commonwealth has requested and received approval from the Health Care Financing Administration (HCFA) for a waiver under § 1915(b) of the Social Security Act. DMAS will provide coordinated care services to those selected Medicaid recipients of the Commonwealth.

The services provided by this waiver would establish and support Primary Care Providers (PCP) who would become recipient care managers responsible for coordination of "MEDALLION" recipients' overall health care. The PCP will assist the client in gaining access to the health care system and will monitor on an ongoing basis the client's condition, health care needs, and service delivery to include referrals to specialty care. This form of health care delivery is expected to foster a more productive physician/patient relationship, reduce inappropriate use of medical services, and increase client knowledge and use of preventive care.

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

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

* * * * *

January 15, 1993 – Written comments may be submitted until 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 Board of Medical Assistance Services intends to amend regulations entitled VR 460-01-79.7, 460-02-3.1100, 460-02-3.1200, 460-03-3.1100, 460-03-3.1105, 460-02-4.1920. **Amount, Duration, and Scope of Services: Discontinue Coverage of Certain Optional Drugs and Fertility Services.** The purpose of these proposed regulations is to (i) conform with federal requirements for rebates

on certain drugs; (ii) redefine family planning services to exclude the coverage of certain fertility drugs and services; (iii) discontinue coverage of certain optional drugs; and (iv) modify the method of the payment of pharmaceutical dispensing fees to allow for more or less frequent dispensing as is appropriate per drug.

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

Written comments may be submitted until 5 p.m. on January 15, 1993, to Rebecca Miller, Pharmacy Consultant, Division of Policy and Research, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

BOARD OF MEDICINE

Joint Advisory Committees on Acupuncture

December 3, 1992 - 2 p.m. – Open Meeting
6606 West Broad Street, Fourth Floor, Board Room 2, Richmond, Virginia. ☒

The committees will meet to review the final draft of proposed Regulations for Licensure of Acupuncturists and make recommendations to the Board of Medicine. The presiding chairman may entertain public comments on specific items as they relate to the proposed regulations. This is not a public hearing.

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

Advisory Board on Physicians Assistants

† **December 4, 1992 - 3 p.m.** – Open Meeting
6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

The advisory board recessed its meeting on November 6, 1992, to gather information regarding the recertification of Physician Assistants by the National Commission for Certification of Physicians Assistants. The advisory board will reconvene to finalize proposed amendments for authority to prescribe certain Schedule VI controlled substances and devices as set forth in Chapters 33 and 34 of Title 54.1 of the Code of Virginia.

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

Executive Committee

December 11, 1992 - 9 a.m. – Open Meeting
Board Room 1, 6606 West Broad Street, Richmond,

Virginia. ☒

The Executive Committee will meet in open and closed sessions to review cases for closing, cases or files requiring administrative action, review and approve proposed regulations for the practice of acupuncturists, and consider any other items which may come before the Committee. The Executive Committee may receive public comments on specific items at the pleasure of the Chairman.

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

Credentials Committee

December 12, 1992 - 8 a.m. – Open Meeting
Board Room 1, 6606 West Broad Street, Richmond, Virginia. ☒

The Credentials Committee will meet in open and closed sessions to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and discuss any other items which may come before the committee. The Credentials Committee will receive public comments of those persons appearing on behalf of candidates.

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 (STATE BOARD)

December 2, 1992 - 10 a.m. – Open Meeting
District 19 Community Services Board, Petersburg, Virginia. ☒

A regular monthly meeting of the board. The agenda will be published on November 24 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, Board Administrator, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

State Human Rights Committee

† **December 11, 1992 - 9 a.m. – Open Meeting**
Madison Building, 109 Governor Street, 13th Floor, Conference Room, 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.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

December 3, 1992 - 7 p.m. – Open Meeting
† **January 7, 1993 - 7 p.m. – Open Meeting**
502 South Main Street #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 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., Culpeper, VA 22701, telephone (703) 825-4562.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† **February 3, 1993 - 10 a.m. – Public Hearing**
Department of Mines, Minerals and Energy Office Building, Mountain Empire Community College, Big Stone Gap, Virginia.

February 3, 1993 – 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 Department of Mines, Minerals and Energy intends to amend regulations entitled **VR 480-03-19. Virginia Coal Surface Mining Reclamation Regulations**. The purpose of the proposed amendments is to be consistent with changes in corresponding federal rules, as required by law. The amendments (i) establish requirements for operations where the weight of coal is 16 2/3% or less of the total tonnage of mineral mined; (ii) clarify the applicability of certain reclamation operations; (iii) clarify the notice and permitting requirements for exploration for coal; (iv) establish additional protection for prime farmland; (v) clarify the definition of "road" and identify plans and descriptions to be included in the permit application for the road system for the permit area; (vi) enhance public safety by changing requirements for the operation of impoundments; (vii) clarify the revegetation success standards and provide for the planting of wildlife enhancement shrubs; (viii) clarify the applicability of preparation plants not at the mine site; (ix) delete the definition of support facilities; and (x) make changes for consistency in numbering.

STATEMENT

Basis: The amendments are being promulgated pursuant to

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§§ 45.1-1.3(4) and 45.1-230 of the Code of Virginia. Section 43.1-1.3(4) prescribes the general authority of the director of the Department of Mines, Minerals and Energy to promulgate regulations. Section 45.1-230 prescribes the authority of the director to promulgate regulations to meet the requirements of the Virginia Coal Surface Mining Control and Reclamation Act of 1979.

Purpose: The purpose of these amendments is to maintain consistency of the department's Coal Surface Mining and Reclamation Regulations with changes in the corresponding federal regulations. Such consistency is required by state and federal law. The amendments also clarify the regulations and correct grammar.

Substance: Several of the amendments offer clarification on the applicability of the regulations to support facilities, preparation plants not at the mine site, coal mined where the weight of the coal is 16 2/3% or less of the total tonnage of mineral mined, and for certain reclamation operations. One set of amendments adds requirements for application procedures and content, public availability of information, exemption criteria, inspections and enforcement, and reporting requirements for sites that qualify for the 16 2/3% exemption.

The notice and permitting requirement for exploration for coal has been clarified by adding a requirement to provide notice for collection of environmental data, deleting a requirement for a map, and establishing guidelines for commercial sale of coal extracted during exploration.

One set of amendments provides better protection to prime farmland.

Another set of amendments identifies descriptions and plans to be included in the permit application in connection with the road system for the permit area.

The permanent and temporary impoundment regulations are amended by limiting the use of closed conduit type spillways to temporary ponds for added public safety by clarifying the design stability requirement for impoundments.

The Revegetation Standards for Success are revised to provide for the planting of wildlife enhancement shrubs and for the evaluation of revegetation success.

Issues: There is a need to clarify regulations dealing with the exemption for coal extraction incidental to extraction of other minerals removed for purposes of commercial use or sale, applicability of certain reclamation operations, notice requirements for coal exploration, prime farmland, roads, impoundments, revegetation, coal preparation plants not located within the permit area of a mine, and the definition of support facilities.

The federal Office of Surface Mining notified the department of the need for these changes so that

Virginia's Coal Surface Mining Reclamation Regulations remain consistent with and as effective as the corresponding federal regulations. The amendments must be adopted to maintain the department's coal surface mining reclamation requirements consistent with recent changes to the corresponding federal rules promulgated pursuant to the U.S. Surface Mining Control and Reclamation Act of 1977. This consistency allows the department to have the authority to administer the requirements of the Virginia surface mining act.

Impact: The amendments are expected to have no significant economic impact on the coal industry, except for on the estimated 20-or-fewer coal preparation plants that no longer will be required to have permits. There will be a reduction in costs for those plants. The amendments can be implemented by the agency without additional administrative costs.

Statutory Authority: Sections 45.1-1.3(4) and 45.1-230 of the Code of Virginia.

Contact: Bill Edwards, Policy Analyst, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-6855 or toll-free 1-800-552-3831/TDD ☎

BOARDS OF NURSING AND MEDICINE

November 30, 1992 - 1 p.m. – Open Meeting
Department of Health Professions, Conference Room 1, 6606 West Broad Street, Richmond, Virginia. ☎ (Interpreter for deaf provided upon request.)

A formal hearing with licensee. 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

December 1, 1992 - 10 a.m. – Open Meeting
Brookfield Office Park, 6606 West Broad Street, Room 3 - South, Richmond, Virginia. ☎

Informal conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9111.

VIRGINIA OUTDOORS PLAN TECHNICAL ADVISORY COMMITTEE

† **December 9, 1992 - 10 a.m. – Open Meeting**
Linden Row Inn, 100 East Franklin Street, Richmond, Virginia.

A planning session for the 1994 Virginia Outdoors Plan.

Contact: Art Buehler, Division Director, Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-5046 or (804) 786-2121/TDD ☎

BOARD OF PHARMACY

† **December 2, 1992 - 9 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia.

A meeting to (i) conduct formal hearings, (ii) conduct a board meeting, and (iii) adopt proposed regulations to implement 1992 legislation.

Contact: Scotti W. Milley, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

DEPARTMENT OF STATE POLICE

December 18, 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 Department of State Police intends to adopt regulations entitled: **VR 545-00-01. Public Participation Policy.** This regulation sets forth the policy of the Department of State Police to seek public participation when proposing regulations or substantive changes to present regulations.

Statutory Authority: §§ 9-6.14:7.1, 46.2-1165, 52-8.4, and 54.1-4009 of the Code of Virginia.

Contact: Captain J. P. Henries, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

POLYGRAPH EXAMINERS ADVISORY BOARD

† **December 8, 1992 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to administer the Polygraph Examiners Licensing Examination to eligible polygraph examiner interns and to consider other matters that may require board action.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF PROFESSIONAL COUNSELORS

December 11, 1992 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) respond to committee reports and board correspondence; and (iii) conduct regulatory review.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, 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.

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

December 14, 1992 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia 23230. ☒

A general meeting of the board.

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 ☎ (804) 367-8595.

PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ADVISORY COUNCIL

† **December 3, 1992 - 9 a.m. – Open Meeting**
A regular bimonthly meeting. Time is provided for public comment at the start of the meeting.

Contact: Rebecca Currin, Department for Rights of Virginians with Disabilities, Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962.

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RAPPAHANNOCK-RAPIDAN DIVISION OF COURT SERVICES

Executive Board

† **December 14, 1992 - 5:30 p.m.** – Open Meeting
300 Sunset Lane Ext., Suite 3110, Culpeper, Virginia. ☒
(Interpreter for the deaf provided upon request)

A quarterly business meeting of the District 9 Virginia Alcohol Safety Action program. Items for review include budget, program activities and personnel.

Contact: R. Dean Irvine, Director, 300 Sunset Lane Ext., Suite 3110, Culpeper, VA 22701, telephone (703) 825-4550.

REAL ESTATE APPRAISER BOARD

December 15, 1992 - 10 a.m. – Open Meeting
January 5, 1993 - 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

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.

BOARD OF REHABILITATIVE SERVICES

† **December 3, 1992 - 10 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5019 or (804) 367-0315/TDD ☎

Finance Committee

† **December 3, 1992 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will review monthly financial reports and budgetary projections.

Legislation Committee

† **December 3, 1992 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will discuss upcoming legislation for the 1993 General Assembly session.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5019 or (804) 367-0315/TDD ☎

Program and Evaluation Committee

† **December 3, 1992 - 9 a.m.** – Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will discuss the Assistive Technology Regional Centers and the Information and Referral System.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0318, toll-free (800) 552-5019 or (804) 367-0315/TDD ☎

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

January 15, 1993 – 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 615-01-48. General Relief Program - Deeming Income From Alien Sponsors**. This regulation makes policy in the General Relief Program consistent with policy in the Aid to Families with Dependent Children Program which requires considering the income and resources of the alien's sponsor for three years after the alien's entry into the U.S. as a permanent resident when determining program eligibility.

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

Written comments may be submitted through January 15,

1993, to Diana Salvatore, Program Manager, Medical Assistance Unit, 8007 Discovery Dr., Richmond, VA 23229.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217.

DEPARTMENT OF TAXATION

December 1, 1992 - 10 a.m. – Public Hearing
State Capitol, House Room 4, Capitol Square, Richmond, Virginia.

December 18, 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 Department of Taxation intends to amend regulations entitled: **VR 630-3-442. Consolidated and Combined Returns.** The purpose of the proposed regulation is to provide guidance to filers of consolidated and combined Virginia tax returns in computing the Virginia modification to the federal N.O.L. and other areas.

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

Contact: Alvin H. Carpenter, III, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0963.

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December 1, 1992 - 10 a.m. – Public Hearing
State Capitol, House Room 4, Capitol Square, Richmond, Virginia. ☒

December 18, 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 Department of Taxation intends to amend regulations entitled: **VR 630-3-446. Intragroup Transactions and VR 630-3-446. Corporation Income Tax: Foreign Sales Corporations.** The purpose of this amendment is to clarify and provide guidance for the Virginia tax treatment of transactions between members of a corporate group.

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

Contact: Alvin H. Carpenter, III, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0963.

COMMONWEALTH TRANSPORTATION BOARD

† **December 16, 1992 - 2 p.m. – Open Meeting**

Virginia Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

† **December 17, 1992 - 10 a.m. – Open Meeting**

Virginia Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A monthly meeting of the Commonwealth Transportation 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.

TREASURY BOARD

December 16, 1992 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☒

A regular meeting of the board.

Contact: Linda F. Bunce, Administrative Assistant to the Treasurer, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142.

GOVERNOR'S COMMISSION ON VIOLENT CRIME

December 1, 1992 - 9:30 a.m. – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request.)

Members will finalize proposals to the legislative package.

Contact: Kris Ragan, Special Assistant, Research Center, 701 E. Franklin St., 9th Floor, Richmond, VA 23219, telephone (804) 371-0530.

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VIRGINIA RESOURCES AUTHORITY

† **December 8, 1992 - 9 a.m.** – Open Meeting
Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of its prior meeting to review the authority's operations for the prior months; and to consider other matters and take other actions it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Mutual Bldg., 909 E. Main St., Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

January 9, 1993 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request.)

The Advisory Committee on Services will meet to advise the board on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, (804) 371-3140/TDD ☎ , or toll-free (800) 622-2155.

VIRGINIA VOLUNTARY FORMULARY BOARD

December 3, 1992 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on February 1, 1992, and the most recent supplement to that Formulary. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on December 3, 1992, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B 1-9, Richmond, VA 23219, telephone (804) 786-4326.

January 14, 1993 - 10:30 a.m. – Open Meeting
1100 Bank Street, Washington Building, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B 1-9, Richmond, VA 23219, telephone (804) 786-4326.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

December 1, 1992 - 7 p.m. – Public Hearing
City of Roanoke, Council Chambers, 215 Church Avenue, S.W., Roanoke, Virginia.

Pursuant to the requirements of Part VII, Virginia Solid Waste Management Regulations (SWMR), Permitting of Solid Waste Management Facilities, the department will hold a public hearing on the draft permit for a solid waste transfer station located on Hollins Road, south of Orange Avenue and within the corporate limits of the City of Roanoke, Virginia. The permit was drafted by the department for Roanoke Valley Resources Authority, in accordance with Part VII of the SWMR. The purpose of the public hearing will be to solicit comments regarding technical merits of the draft permit. The public comment period will extend until December 11, 1992. Copies of the proposed draft permit may be obtained from Paul Farrell, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia 23219. Comments concerning the draft permit must be in writing and directed to Aziz Farahmand, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Contact: Paul Farrell, Environmental Engineer Senior, Department of Waste Management, 11th Floor, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0515

December 3, 1992 - 9 a.m. – CANCELED
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☎

This meeting of the board has been postponed. See new notice for December 22.

Contact: Loraine Williams, Executive Secretary, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2998 or (804) 371-8737/TDD ☎

December 3, 1992 - 7 p.m. – Public Hearing
Pulaski County Administration Building, Pulaski County, 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 for a sanitary landfill to be located north of Route 627 in Pulaski County. The permit was drafted by the Department of Waste Management for New River Resource Authority, in accordance with Part VII of the SWMR. The purpose of the public hearing will be to solicit comments regarding the technical merits of the draft permit. The public comment period will extend until December 14, 1992. Copies of the proposed draft permit may be obtained from Aziz Farahmand, Department of Waste Management. Comments concerning the draft permit must be in writing and directed to Aziz Farahmand, Department of Waste Management.

Contact: Aziz Farahmand, Environmental Engineer Consultant, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-0515.

December 9, 1992 - 7 p.m. – Public Hearing
Giles County Administration Building, 120 North Main Street, Pearisburg, 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 an industrial landfill to be located on State Route 460 adjacent to the New River on Hoechst Celanese property in the township of Narrows. The permit was drafted by the Department of Waste Management for Hoechst Celanese, 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 December 21, 1992. Comments concerning the draft permit must be in writing and addressed to Brian McReynolds. Copies of the draft permit may also be obtained by writing Brian McReynolds, Department of Waste Management.

Contact: Brian McReynolds, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-2520.

December 16, 1992 - 7 p.m. – Public Hearing
New County Administration Building, 2nd and Washington, Amherst, 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 an industrial landfill to be located on Georgia Pacific property adjacent to the James River in the township of Big Island. The permit was drafted by the Department of Waste Management for Georgia Pacific, 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 December 28, 1992. Comments concerning the draft permit must be in writing and addressed to Brian McReynolds. Copies of the draft permit may also be obtained by writing Brian McReynolds.

Contact: Brian McReynolds, Environmental Engineer Senior, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-2520

December 21, 1992 - 10 a.m. – Open Meeting
Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

An informational meeting will be held for Amendment 11 to the Virginia Regulations Governing the Transportation of Hazardous Materials. The proposed amendment will incorporate by reference changes that were made by U.S. DOT to Title 49, Code of Federal Regulations from July 1, 1991, to July 1, 1992.

Contact: C. Ronald Smith, Hazardous Waste Enforcement Chief, Virginia Department of Waste Management, 11th Floor, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-4761 or (804) 371-8737/TDD ☎

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December 21, 1992 - 11 a.m. – Public Hearing
Department of Waste Management, 101 North 14th Street, 11th Floor, Monroe Building, Richmond, Virginia.

December 21, 1992 – Written comments may be submitted until 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 Virginia Waste Management Board intends to amend regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials (Amendment 11)**. The purpose of this proposed amendment is to incorporate by reference changes that were made by U.S. DOT Title 49, Code of Federal Regulations from July 1, 1992, to June 1, 1992.

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

Written comments may be submitted until 5 p.m.,

Calendar of Events

December 21, 1992, to John E. Fly, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Contact: C. Ronald Smith, Hazardous Waste Enforcement Chief, Virginia Department of Waste Management, 11th Floor, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-4761.

† **December 22, 1992 - 9 a.m.** – Open Meeting
State Water Control Board, 4900 Cox Road, Innsbrook, Richmond, Virginia. ☒

This will be a general business meeting. Staff will seek approval for amendment of the Solid Waste Management Regulations. The department staff will give a presentation on enforcement activities.

Contact: Loraine Williams, Executive Secretary, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2998 or (804) 371-8737/TDD ☎

† **January 7, 1993 - 7 p.m.** – Public Hearing
Chesapeake Sheriff Training Center, 401 Albemarle Drive, Chesapeake, Virginia.

Pursuant to the requirements of Part VII, Virginia Solid Waste Management Regulations (VSWMR), Permitting of Solid Waste Management Facilities, the Department of Waste Management will hold a public hearing on the draft permit amendment for Industrial Landfill Permit No. 440 located at the Chesapeake Energy Center, between Route 13 and I-64, in the city of Chesapeake. The permit amendment was drafted by the Department of Waste Management for Virginia Power in accordance with Part VII of the VSWMR. 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 January 19, 1993. Copies of the proposed draft permit may be obtained from Sanjay V. Thirunagari. Comments concerning the draft permit must be in writing and directed to Howard Freeland of the Department of Waste Management.

Contact: Sanjay V. Thirunagari, Environmental Engineer Senior, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 371-2518.

STATE WATER CONTROL BOARD

December 9, 1992 - 7 p.m. – Public Hearing
University of Virginia Southwest Center, Highway 19 North, Abingdon, Virginia.

December 10, 1992 - 11 a.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

December 10, 1992 - 7 p.m. – Public Hearing

Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

December 14, 1992 - 7 p.m. – Public Hearing
Prince William County Complex, Board Room, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

December 16, 1992 - 2 p.m. – Public Hearing
State Water Control Board, Innsbrook Corporate Center, Board Room, 4900 Cox Road, Glen Allen, Virginia.

December 17, 1992 - 1 p.m. – Public Hearing
Virginia Beach City Council Chambers, City Hall, Courthouse Drive, Virginia Beach, Virginia.

December 30, 1992 – Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-01-01. Fees for Permits and Certificates.** The purpose of the proposed regulation is to establish a fee assessment and collection system to recover a portion of costs associated with the processing of an application to issue, reissue, or modify any permit or certificate which the board has the authority to issue.

Statutory Authority: § 62.1-44.15:6 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on Monday, December 30, 1992, to Ms. Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Pat Woodson, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5166.

† **December 15, 1992 - 7 p.m.** – Public Hearing
Elkton Town Council Chambers, 173 West Spotswood Avenue, Elkton, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0086576 for Weaver Mobile Home Park STP, 164 Sweetgum Street, Elkton, Virginia 22827. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the proposed discharge on water quality or beneficial uses of state waters.

Contact: Lori F. Jackson, Hearings Reporter, Office of Policy Analysis, P.O. Box 11143, Richmond, VA 23230-1143, 4900 Cox Road, Glen Allen, VA 23060, telephone (804) 527-5163.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **December 10, 1992 - 8:30 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to conduct board business and other matters that may require board action.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

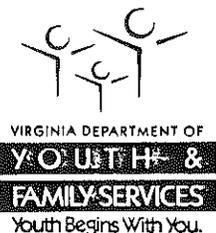
THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

December 4, 1992 - 9 a.m. – Open Meeting
Richard Bland College, 11301 Johnson Road, Petersburg,
Virginia.

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College. An informational release will be available four (4) days prior to the board meeting for those individuals and/or organizations who request it.

Contact: William N. Walker, Director, Office of University Relations, James Blair Hall, Room 101C, College of William and Mary, Williamsburg, VA 23185, telephone (804) 221-1005.



DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

December 3, 1992 - 9 a.m. – Open Meeting
Koger Center, Nelson Building, Suite 211, 1503 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

December 10, 1992 - 9 a.m. – Open Meeting
Koger Center, Culpeper Building, Suite 135, 1606 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for the 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, Coordinator, Council on Community Services for Youth & Families, 700 Centre, Rm. 510, Richmond, VA 23219, telephone (804) 786-5394.

State Executive Council

† **December 15, 1992 - 7:30 a.m.** – Open Meeting
700 East Franklin Street, Richmond, Virginia. ☒

A regular meeting to (i) discuss the Comprehensive Services Act for At-Risk Youth and Families, and (ii) conduct Trust Fund review.

Contact: Dian McConnell, Corrdinator, Council on Community Services for Youth & Families, 700 Centre, Rm. 510, Richmond, VA 23219, telephone (804) 786-5394.

LEGISLATIVE

BLUE RIDGE ECONOMIC DEVELOPMENT COMMISSION

† **December 14, 1992 - 10 a.m.** – Open Meeting
Virginia Western Community College, Brown Library-Knisely Center, ground level, 3095 Colonial Avenue, S.W., Roanoke, Virginia.

An all day business meeting.

Contact: Edie T. Conley, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING USES OF CAMP PENDLETON

† **December 10, 1992 - 1 p.m.** – Open Meeting
General Assembly Building, Sixth Floor Conference Room, 910 Capitol Street, Richmond, Virginia.

The subcommittee will meet to discuss the possibility of proposed legislation regarding the uses of Camp Pendleton.

Contact: Jeffrey F. Sharp, Staff Attorney, or John G. MacConnell, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON CAPITAL FINANCING

November 30, 1992 - 1 p.m. – Open Meeting
General Assembly Building, House Room C, Richmond, Virginia.

The commission will continue to discuss difficulties encountered by small businesses who wish to obtain

Calendar of Events

capital financing.

Contact: Jeffrey F. Sharp, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE INCENTIVES AND OBSTACLES FACING BUSINESSES WHEN MAKING LOCATION DECISIONS IN VIRGINIA

December 9, 1992 - 1 p.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

This work session is a continuation of HJR 448 from 1991. HJR 41.

Contact: Maria J.K. Everett, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

November 30

Capital Financing, Commission on
Compensation Board
Governor's Task Force on Fuels Tax Evasion
Nursing and Medicines, Board of

December 1

Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
† Auctioneers Board, Virginia
Nursing Home Administrators, Board of
Hopewell Industrial Safety Council
Soybean Board, Virginia
Violent Crime, Governor's Commission on

December 2

Emergency Planning Committee, Local - Winchester
Land Surveyors, Board for
Mental Health, Mental Retardation and Substance
Abuse Services Board, State
† Pharmacy, Virginia Board of

December 3

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
Chesapeake Bay Local Assistance Board
Corn Board, Virginia
Emergency Planning Committee, Local - Chesterfield
County
Emergency Planning Committee, Local - Henrico

County

† Longwood College Board of Visitors
- Executive Committee
Medicine, Board of
- Joint Advisory Committees on Acupuncture
Middle Virginia Board of Directors and the Middle
Virginia Community Corrections
† Protection and Advocacy for Individuals with Mental
Illness Advisory Council (PAIMI)★
† Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee
Youth and Family Services, Department of
- State Management Team of the Comprehensive
Services Act for At-Risk Youth and Families

December 4

† Air Pollution Control, Department of
† Medicine, Board of
- Advisory Board on Physicians Assistants
College of William and Mary in Virginia
- Board of Visitors
Small Grains Board, Virginia

December 7

† Alcoholic Beverage Control Board, Virginia
† Barbers, Board for
Cosmetology, Board for
† Intergovernmental Relations, Advisory Commission
on

December 8

Agriculture and Consumer Services, Board of
† Air Pollution Control, Department of
† Athletic Board, Virginia
Local Emergency Planning Committee, Hanover County
† Higher Education for Virginia, State Council of
† Historic Resources, Department of
- State Review Board
† Polygraph Examiners Advisory Board
† Virginia Resources Authority

December 9

Contractors, Board for
- Complaints Committee
† Early Intervention, Virginia Interagency Coordinating
Council on
† Historic Resources, Board of
† Local Emergency Planning Committee, City of
Alexandria
Incentives and Obstacles Facing Businesses When
Making Location Decisions in Virginia, Joint
Subcommittee Studying the
† Virginia Outdoors Plan Technical Advisory
Committee

December 10

† Alcohol Safety Action Program,
Rockingham/Harrisonburg
† Audiology and Speech-Language Pathology, Board of

Calendar of Events

Branch Pilots, Board for
† Camp Pendleton, Joint Subcommittee Studying the Uses of
† Child Day-Care Council
† Criminal Justice Information Systems, Committee on
† Fire Services Board, Virginia
- Fire Prevention and Control Committee
- Fire/EMS Education and Training Committee
- Legislative/Liasion Committee
† Health, State Board of
† Waterworks and Wastewater Works Operators, Board for
Youth and Family Services, Department of
- State Management Team of the Comprehensive Services Act for At-Risk Youth and Families

December 11

† Dentistry, Board of
† Fire Services Board, Virginia
† Health, State Board of
† Long-Term Care Council, Virginia
Medicine, Board of
- Executive Committee
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee
Professional Counselors, Board of

December 12

Medicine, Board of
- Credentials Committee

December 14

† Blue Ridge Economic Development Commission
† Governor's Job Training Coordinating Council
† Medical Assistance Services, Board of
Professional Soil Scientists, Board for
† Rappahannock-Rapidan Division of Court Services Executive Board

December 15

Contractors, Board for
† Governor's Job Training Coordinating Council
Health Services Cost Review Council, Virginia
Real Estate Appraiser Board
† Virginia Housing Development Authority
† Youth and Family Services, Department of
- State Executive Council

December 16

Contractors, Board for
Corrections, Board of
Historic Resources, Board of
Historic Resources, Department of
Local Debt, State Council on
† Transportation Board, Commonwealth
Treasury Board

December 17

Contractors, Board for
† Transportation Board, Commonwealth

December 18

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Geology, Board for
Interior Designers, Board for
Residential Facilities for Children, Interdepartmental Regulation of
- Coordinating Committee

December 21

† Alcoholic Beverage Control Board
Waste Management Board, Virginia

December 22

† Waste Management Board, Virginia

December 30

Compensation Board

January 5, 1993

† Contractors, Board for
† Hopewell Industrial Safety Council
Real Estate Appraiser Board

January 6

† Contractors, Board for
- Recovery Fund Committee

January 7

† Local Emergency Planning Committee - Chesterfield County
† Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board

January 9

Visually Handicapped, Department for the
- Advisory Committee on Services

January 13

† Contractors, Board for

January 14

Voluntary Formulary Board, Virginia

February 1

† Commerce, Board of

February 2

† Hopewell Industrial Safety Council

February 4

† Local Emergency Planning Committee - Chesterfield County

PUBLIC HEARINGS

December 1

Taxation, Department of

Calendar of Events

Waste Management, Department of

December 3

Voluntary Formulary Board, Virginia
Waste Management, Department of

December 4

Commerce, Department of

December 9

Waste Management, Department of
Water Control Board, State

December 10

Commerce, Department of
Education, Department of
Water Control Board, State

December 14

Water Control Board, State

December 15

† Water Control Board, State

December 16

Waste Management, Department of
Water Control Board, State

December 17

Water Control Board, State

December 21

Waste Management, Department of

January 7, 1993

† Waste Management, Department of

February 3

† Mines, Minerals and Energy, Department of

February 10

Corrections, Department of