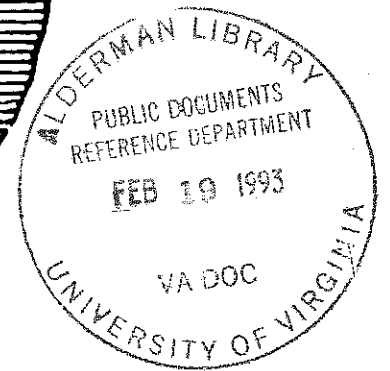
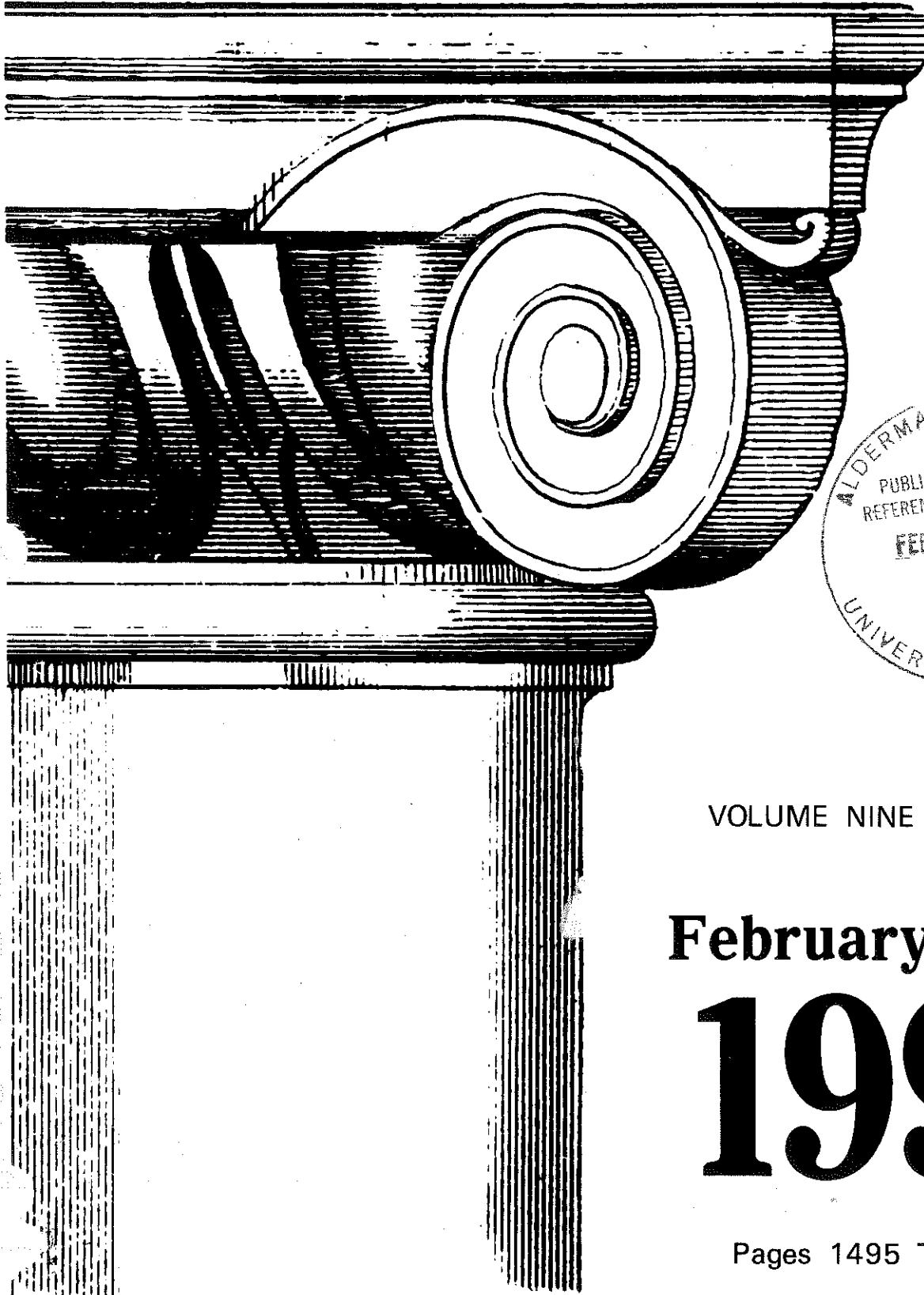


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THE VIRGINIA REGISTER

OF REGULATIONS

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February 8, 1993

1993

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VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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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 amending regulations entitled: **VR 115-04-01. Rules and Regulations Relating to the Endangered Plant and Insect Species Act.** The purpose of the proposed action is to (i) review the regulation for effectiveness and continued need; (ii) consider listing seven rare plant species as endangered and two rare insect species as threatened; (iii) change one plant species listing from endangered to threatened; and (iv) remove one plant species from the endangered list under the Virginia Endangered Plant and Insect Species Act.

List endangered:

Aeschynomene virginica	Sensitive joint-vetch
Cardamine micranthera	Small-anthered bittercress
Clematis addisonii	Addison's leatherflower
Clematis vitacaulis	Millboro leatherflower
Echinacea laevigata	Smooth coneflower
Rudbeckia heliopsides	Sun-facing coneflower
Trifolium sp. 1	Leo's Clover

List threatened:

Cicindela dorsalis dorsalis	Northeastern beach tiger beetle
Tetragoneuria spinosa	Swamp Skimmer

Change listing from endangered to threatened:

Betula uber Virginia round-leaf birch

Remove from endangered list:

Bacopa stragula Mat forming water hyssop

Statutory authority: § 3.1-1025 of the Code of Virginia.

Written comments may be submitted until February 17, 1993.

Contact: John R. Tate, Endangered Species Coordinator, P.O. Box 1163, 1100 Bank Street, Room 703, Richmond, VA 23209, telephone (804) 786-3515.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider amending regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to change the content of regulations to accommodate reporting requirements and other changes as needed.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until March 8, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

DEPARTMENT OF CORRECTIONS (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 Corrections intends to consider amending regulations entitled: **VR 230-20-001.1. Standards for State Correctional Facilities.** The purpose of the proposed action is to update the language contained in some of the standards and remove conflicting data in some standards.

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

Written comments may be submitted until February 15, 1993.

Contact: Cynthia J. Evans, Certification Supervisor, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3237.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider promulgating regulations entitled: **VR 230-01-004. Research Regulations.** The

Notices of Intended Regulatory Action

purpose of the proposed action is to establish when and how human research may be conducted within the Department of Corrections as required in § 32.1-162.16 et seq. of the Code of Virginia.

Statutory Authority: § 53.1-5.1 of the Code of Virginia.

Written comments may be submitted until February 28, 1993, to Vivian T. Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, Virginia 23225.

Contact: James S. Jones, Jr., Manager, Planning and Development, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3262.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider repealing regulations entitled: **VR 270-01-0037. Regulations Governing Public School Building Construction.** The purpose of the proposed action is to repeal the existing regulations because new standards for the erection of or addition to public school buildings are being promulgated.

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

Written comments may be submitted until March 3, 1993.

Contact: David L. Boddy, Director of Facilities, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2035.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **VR 460-10-2400. Financial Eligibility Requirements for Aged, Blind, and Disabled Individuals;** **VR 460-10-2450. Financial Eligibility Requirements for Qualified Medicare Beneficiaries;** and **VR 460-10-2700. Financial Eligibility Requirements for Long-Term Care Recipients.** The purpose of the proposed action is to establish the methodology and standards for determining financial eligibility for Medicaid for the specified groups of applicants.

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

Written comments may be submitted until February 8, 1993, to Roberta Jonas, Policy and Research Division, 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.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-4.1910. Methods and Standards for Establishing Payment Rates – Inpatient Hospital Services: Cost Report Filing and Final Settlement Filing Requirements.** The purpose of the proposed action is to promulgate regulations that require providers to submit additional financial, statistical, and structural information for the following purposes: (i) for submission of a completed cost report; and (ii) to enable DMAS to make the findings and assurances required by federal law. These regulations will also include a penalty for the failure to submit the cost report and required information in a timely manner.

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

Written comments may be submitted until February 22, 1993, to Stanley Fields, Manager, Division of Cost Settlement and Audit, 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) 371-8850.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines and § 54.1-2957.2 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **VR 465-09-01. Certification of Optometrists to Prescribe for and Treat Certain Diseases, Including Abnormal Conditions, of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to review § 4.3 of the regulations to determine whether new regulations should be adopted, the current regulations be amended and/or specific regulations be repealed in regards to certain therapeutic, pharmaceutical agents administered or prescribed by Doctors of Optometry.

A public hearing is being held, pursuant to § 54.1-2957.2 of the Code of Virginia, on March 19, 1993, at 9 a.m., at the Department of Health Professions, 6606 W. Broad St., 5th Fl., Board Room 2, Richmond, VA 23230.

Notices of Intended Regulatory Action

Statutory Authority: §§ 54.1-2400 and 54.1-2957.2 of the Code of Virginia.

Written comments may be submitted until February 26, 1993, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

BOARD OF NURSING HOME ADMINISTRATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **VR 500-02-2.1. Regulations of the Board of Nursing Home Administrators.** The purpose of the proposed action is to incorporate emergency regulations that became effective November 4, 1992, which increased fees and amended the continuing education requirements.

Statutory Authority: §§ 54.1-2400 and 54.1-3100 through 54.1-3103 of the Code of Virginia.

Written comments may be submitted until February 12, 1993.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111.

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 promulgating regulations entitled: **Foster Care - Collection of Child Support.** The purpose of the proposed action is to promulgate regulations governing the collection of child support from parents of children entering foster care. These regulations will pertain to children whose foster care expenses are paid from state and local funds, as well as children whose expenses are paid from federal and state funds.

Statutory Authority: § 63.1-25 of the Code of Virginia and item 378 B 4 of the 1992 Appropriations Act.

Written comments may be submitted until February 12, 1993, to Rick Pond, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Policy Analyst, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-45-1. Policy Regarding Child Protective Services Central Registry Information.** The purpose of the proposed action is to eliminate the finding of reason to suspect as one of the possible dispositions for child abuse/neglect investigations, and to establish preponderance of evidence as the level of evidence required to make a founded disposition in a child abuse/neglect investigation.

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

Written comments may be submitted until February 12, 1993, to Janine Tondrowski, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Margaret Friedenber, Legislative Analyst, Department of Social Services, 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 615-45-5. Procedures for Investigating Child Abuse and Neglect Complaints Against Employees of Local School Boards.** The purpose of the proposed action is to promulgate regulations which govern the investigation of child abuse and neglect complaints against employees of local school boards.

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

Written comments may be submitted until February 12, 1993, to Janine Tondrowski, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Margaret Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217.

DEPARTMENT OF TAXATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-3-301 through 630-3-504. Virginia Corporate**

Notices of Intended Regulatory Action

Income Tax Regulations. The purpose of the proposed action is to update all of the corporate tax regulations by amending or repealing existing regulations and adding new regulations to clarify current departmental policy.

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

Written comments may be submitted until March 15, 1993.

Contact: John Josephs, Senior Tax Policy Analyst, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-8186.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating, amending, or repealing regulations entitled: **VR 630-10-1 through 630-10-113. Virginia Retail Sales and Use Tax Regulations.** The purpose of the proposed action is to update all of the retail sales and use tax regulations by amending or repealing existing regulations and adding new regulations to clarify current departmental policy.

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

Written comments may be submitted until March 15, 1993.

Contact: Terry M. Barrett, Tax Policy Analyst, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0010.

BOARD OF VETERINARY MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Veterinary Medicine intends to consider amending regulations entitled: **VR 645-01-1. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to respond to the requirement for biennial regulatory review in keeping with § 1.2 D of the regulations and to propose to adjust fees for the annual renewal for active and inactive veterinarians and veterinary technicians.

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

Written comments may be submitted until February 15, 1993, to Terri Behr, Board of Veterinary Medicine, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230.

Contact: Elizabeth A. Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9942.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-14-01. Permit Regulation.** The proposed regulatory action is to consider repealing the Permit Regulation. The adoption of a new VPDES Permit Regulation will make the VPDES program conform in style and content to the federal program regulations. The VPA Permit Regulation will be separated from the VPDES permitting program in order to recognize the distinction between this wholly state run VPA program and the federal/state NPDES/VPDES permit program.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program.

Need: The repeal of this regulation is being considered in order to eliminate any confusion and duplication of regulations which may result from the concurrent incorporation of the intent and purpose of the Permit Regulation into a Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (VR 680-14-01:1) and a Virginia Pollution Abatement (VPA) Permit Regulation (VR 680-14-21).

Estimated impact: The repeal of VR 680-14-01 would have no impact on the regulated community nor the environment as the purpose and scope of the regulation are being transferred into the VPDES Permit Regulation and the VPA Permit Regulation.

Alternatives: One alternative to the proposed repeal is to continue to administer the VPDES and VPA permit programs under the current regulation (VR 680-14-01).

Comments: The board seeks oral and written comments from interested persons on the proposed regulatory action and on the costs and benefits of the stated alternatives. To be considered, written comments should be directed to Ms. Doneva Dalton, Hearing Reporter, at the address below and must be received by 4 p.m. on Friday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 S. Main Street, Harrisonburg; at 2 p.m. on Tuesday, February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 E. Monroe Street, Wytheville, to receive views and comments

Notices of Intended Regulatory Action

and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than January 11, 1993.

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

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-01:1. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.** The proposed regulatory action is to consider adoption of a new regulation. This regulation will govern point source discharges of pollutants to surface waters within the boundaries of the Commonwealth of Virginia. These discharges are currently regulated under the VPDES permit program and the Permit Regulation (VR 680-14-01). The adoption of the proposed regulation will replace the VPDES portion of the existing Permit Regulation and it will make the VPDES program conform to the federal NPDES regulation. This action is being done concurrent with the repeal of VR 680-14-01.

Basis and authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; and §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the National Pollutant Discharge Elimination System permit program under state

law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. VR 680-14-01:1 will be the specific regulation governing this authorization.

Need: Any point source discharge of pollutants to surface waters is subject to regulation under a Virginia Pollutant Discharge Elimination System (VPDES) permit. The VPDES regulation will delineate the procedures and requirements to be followed in connection with VPDES permits issued by the board pursuant to the Clean Water Act and the State Water Control Law. In order to retain the authority to administer the VPDES permit program, the board must adopt regulations which are consistent with the federal program regulations. The current Permit Regulation (VR 680-14-01) does not reflect the latest revisions to the federal regulations and must be replaced.

Estimated impact: This regulation will impact all of the approximately 2,800 Virginia Pollutant Discharge Elimination System permittees in that the governing regulation will be replaced with an updated version. There will be no added costs to the permittees beyond those required under the existing regulation because the program operations will not change significantly from one to the other.

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPDES permits. Another alternative is to take no action and to continue to administer the VPDES permit program under the current regulation which is not up to date with changes in the federal regulations.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the states alternatives or other alternatives. Written comments should be directed to Ms. Doneva Dalton, Hearing Reporter, at the address below and must be received by 4 p.m. on Friday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 S. Main Street, Harrisonburg; at 2 p.m. on Tuesday, February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 E. Monroe Street, Wytheville, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva

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Dalton at the address below or by telephone at (804) 527-5162 or TDD ((804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law, Clean Water Act.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The proposed regulatory action is to consider repealing the Toxics Management Regulation. This action is being proposed in order to eliminate any confusion and duplication of regulations which may result from the concurrent adoption of a VPDES Permit Regulation (VR 680-14-01.1).

Basis and statutory authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program, and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Need: Repeal of the Toxics Management Regulation is necessary since the board intends to consider adoption of a VPDES Permit Regulation which will include language on the evaluation of effluent toxicity and the mechanisms for control of toxicity through chemical specific and whole effluent toxicity limitations.

Estimated impact: The repeal of this regulation would have no impact on the regulated community nor the environment as the intent and purpose of the regulation will be included in the new VPDES Permit Regulation. There should be no additional economic impact as a result of this action.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives. Written comments should be directed to Ms Doneva Dalton at the address below and must be

received by 4 p.m. on Friday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 S. Main Street, Harrisonburg; at 2 p.m. on Tuesday, February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 E. Main Street, Wytheville.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law, Clean Water Act, Permit Regulation (VR 680-14-01), Toxics Management Regulation (VR 680-14-03).

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-16. General Permit Regulation for Storm Water Discharges from Heavy Manufacturing.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from heavy manufacturing facilities. Heavy manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, and 373 (Office of Management and Budget SIC Manual, 1987).

The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect

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to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including heavy manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports

will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1,250 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from heavy manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 1,250 heavy manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson

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no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and NPDES General Permits for Storm Water Discharges.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-17. General Permit Regulation for Storm Water Discharges from Light Manufacturing.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from light manufacturing facilities. Light manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25 (Office of Management and Budget SIC Manual, 1987).

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program

under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including light manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 3,650 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue

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individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from light manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 3,650 light manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and, NPDES General Permits for Storm Water Discharges Associated With Industrial Activity (57 FR 41236).

Statutory Authority: § 62.1-44-15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m.,

February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-18. General Permit Regulation for Storm Water Discharges from Transportation Facilities, Landfills, Land Application Sites and Open Dumps, Materials Recycling Facilities, and Steam Electric Power Generating Facilities.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from the facilities defined as follows: (1) transportation facilities classified as Standard Industrial Classification (SIC) 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations (Office of Management and Budget SIC Manual, 1987); (2) landfills, land application sites, and open dumps that receive or have received any industrial wastes including those that are subject to regulation under Subtitle D of RCRA (42 USC 6901 et seq.); (3) facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 and 5093; and, (4) steam electric power generating facilities, including coal handling sites.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20,

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1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including transportation facilities; landfills, land application sites and open dumps; materials recycling facilities; and steam electric power generating facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1,500 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from the facilities in this category. One is to issue an individual VPDES permit to each of the estimated 1500 facilities in this category. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and, NPDES General Permits for Storm Water Discharges Associated With Industrial Activity (57 FR 41236).

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-19. General Permit Regulations for Storm Water Discharges from Construction Sites.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from construction sites that are defined as follows: construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including construction sites. Any facility covered by the federal

regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each construction site covered by this general permit. Owners/operators will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction activity at the site, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the construction activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the construction activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to construction activity permits. Coverage under the general permit would reduce the paper work required to obtain a permit for the owners/operators at construction sites. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are between 5,000 to 10,000 construction sites that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges. One is to issue an individual VPDES permit to each of the estimated 5,000 to 10,000 construction sites. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments

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from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and, NPDES General Permits for Storm Water Discharges Associated With Industrial Activity (57 FR 41236).

Statutory Authority: § 62.1-44-15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-21. Virginia Pollution Abatement Permit Regulation.** The proposed regulatory action is to consider adoption of a new regulation. This regulation will govern sources of pollutants within the boundaries of the Commonwealth of Virginia that are not point source discharges to surface waters. These types of pollutant management activities are currently regulated under the VPA permit program and the Permit Regulation (VR

680-14-01). The VPA permit program is being separated from the Permit Regulation in order to recognize the distinction between this wholly state run permit program and the federal/state NPDES/VPDES permit program. This action is being done concurrent with the repeal of VR 680-14-01.

Basis and statutory authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; and §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Need: Any pollutant management activity which does not result in a point source discharge to surface waters may be required to obtain a VPA permit in order to ensure that the activity does not alter the physical, chemical or biological properties of state waters. VPA permits may be utilized to authorize the land application of sewage, sludge or industrial waste or the complete reuse and recycle of wastewater. The VPA regulation will delineate the procedures and requirements to be followed in connection with VPA permits issued by the board pursuant to the State Water Control Law.

Estimated impact: This regulation will impact all of the approximately 1,500 holders of Virginia Pollution Abatement permits. However, there should not be a significant difference in the regulation of these permits or the costs incurred by permittees under the new regulation compared to the previous Permit Regulation (VR 680-14-01).

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPA permits. Another alternative is take no action and to continue to administer the VPA permit program under the current regulation.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives. Written comments should be directed to Ms. Doneva Dalton at the address below and must be received by 4 p.m. on Monday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg; at 2 p.m. on Tuesday,

Notices of Intended Regulatory Action

February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 East Monroe Street, Wytheville, Virginia.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than January 11, 1993.

Applicable laws and regulations: State Water Control Law.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

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

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waterworks and Wastewater Works Operators intends to consider amending regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, clarity, necessity, and cost of compliance in accordance with the Public Participation Guidelines.

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

Written comments may be submitted until February 10, 1993.

Contact: Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

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 LABOR AND INDUSTRY

Apprenticeship Council

Title of Regulation: VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

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

Public Hearing Date: N/A – Written comments may be submitted through April 12, 1993.

(See Calendar of Events section for additional information)

Summary:

The amendment to the regulation will establish new minimum numeric ratios of apprentices to journeymen for program sponsors performing Davis-Bacon work, according to the following schedule: one apprentice for the first journeyman, two apprentices for the first two journeymen, two apprentices for the first three journeymen, two apprentices for the first four journeymen, and one additional apprentice for each two journeymen thereafter. Ratios will be based on the numbers of apprentices and journeymen at the Davis-Bacon work site. The ratio for service trucks on Davis-Bacon work sites will be one-to-one.

Sponsors receiving a citation alleging a Davis-Bacon violation affecting an apprentice must notify the Virginia Apprenticeship Council within 30 days of receipt. Council may deregister sponsors who receive final orders confirming willful or repeated violations of the Davis-Bacon Act affecting registered apprentices.

Minor amendments to the program standards section will correct typographical errors and eliminate language that is no longer relevant.

VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

§ 1. Purpose of regulation.

This regulation establishes procedures and standards for the approval and registration of apprenticeship programs and agreements in accordance with Chapter 6, Title 40.1 of the Code of Virginia. This regulation is intended to insure that apprenticeship training programs developed and registered with the Virginia Apprenticeship Council are of the highest possible quality in all aspects of on-the-job

training and related instruction and that all apprenticeship programs provide meaningful employment and relevant training for all apprentices.

§ 2. Definitions.

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

“*Apprentice*” means a person as defined by § 40.1-120 of the Code of Virginia.

“*Apprenticeable occupation*” means an occupation as defined by § 40.1-120 of the Code of Virginia.

“*Apprenticeship agreement*” means a written agreement between an apprentice and a program sponsor, which agreement shall meet the criteria outlined in § 5 of these regulations.

“*Apprenticeship Council*” or “*council*” means the Virginia Apprenticeship Council established pursuant to § 40.1-117 of the Code of Virginia.

“*Apprenticeship program*” means a written plan conducted or sponsored by an employer, an association of employers, a joint apprenticeship committee or an organization of employees, which contains all terms and conditions as outlined in this regulation.

“*Commissioner*” means the Commissioner of the Virginia Department of Labor and Industry.

“*Sponsor*” means an employer, an association of employers, a joint apprenticeship committee or an organization of employees that has an approved apprenticeship program registered with the council.

“*Supervisor of apprentices*” means the person designated by the sponsor to perform the duties outlined in the standards of apprenticeship.

§ 3. Eligibility for registration of programs and agreements.

A. Proposed apprenticeship programs conforming to § 4 of these regulations may be submitted to the council for approval and registration by any of the following potential program sponsors:

1. A joint apprenticeship committee (Commonwealth, area or in-plant).

2. An individual employer having no bargaining agreement with those of his employees engaged in the trade to which the standards apply.

3. An association of employers whose members participating under the standards have no bargaining agreement with their employees.

4. An individual employer or an association of employers where there is a collective bargaining agreement or other instrument that provides for union participation in any manner in the proposed program, and such participation is exercised. The sponsor shall obtain from the collective bargaining agent written acknowledgement of the union agreement or a statement of no objection to the registration of the proposed program.

(NOTE: Where no such participation is evidenced and practiced, the employer or association of employers shall simultaneously furnish to the union, which is the collective bargaining agent of the employees to be trained, a copy of the apprenticeship program. The council will allow 60 days for receipt of union comments, if any, before final action is taken on the application for approval and registration.)

5. An organization of employees when the employer or employer association waives participation in the standards.

6. Apprenticeship programs and standards of employers and unions in other than the building and construction industry, which jointly form a sponsoring entity on a multistate basis and are registered, pursuant to all requirements of Title 29, Part 29 of the Code of Federal Regulations, by any recognized State Apprenticeship Agency/Council or the Bureau of Apprenticeship and Training, U.S. Department of Labor, shall be accorded registration upon request by the sponsoring entity.

B. Apprentices shall be individually registered under a registered program. Such registration may be effected:

1. By program sponsors filing copies of each apprenticeship agreement; or

2. By program sponsors filing a master copy of such agreement followed by a listing of the name and other required data of each individual when apprenticed.

C. The council may refuse to accept a program proposed for registration if, in its judgment, the program, the sponsor or any participants are unable to conduct the program in accordance with this regulation.

D. Approved apprenticeship programs shall be accorded registration, evidenced by written notification of registration.

§ 4. Standards for apprenticeship programs.

An apprenticeship program to be eligible for registration with the Virginia Apprenticeship Council shall conform to the following standards:

A. The program is an organized written plan embodying the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

B. The program standards contain the equal opportunity pledge and, when applicable, conform with all other requirements in accordance with the Virginia State Plan for Equal Employment Opportunity in Apprenticeship and provisions concerning the following:

1. The employment and training of the apprentice in an apprenticeable occupation.

2. A statement that on or after the date the standards of apprenticeship are duly executed, it shall be the policy of the sponsor that all apprentices employed in the occupation covered herein shall be governed by the terms and conditions of the standards of apprenticeship, a copy of which will be provided for the sponsor who will make it available to the apprentice for review, upon request.

3. The minimum qualifications required by a sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years.

4. A provision for the granting of advanced standing or credit on the term of apprenticeship for previously acquired experience, training or skills for all applicants equally, with commensurate wages for any progression step so granted. Credit will be granted only after the record of the apprentice has been reviewed by the sponsor's supervisor of apprentices.

5. The placement of an apprentice under a written apprenticeship agreement, which agreement shall conform to the standards for apprenticeship agreements as stated in § 5 of this regulation.

6. A term of apprenticeship of not less than 2,000 hours of work experience, consistent with training requirements as established by industry practice and a statement that overtime hours worked by the apprentice will or will not be credited to the term of apprenticeship.

7. Provisions for an initial probationary period of not less than 500 clock hours and no more than 2,000 clock hours of employment and training, during which time termination of the apprenticeship agreement may be effected by the council upon written notification from either party. Full credit will be given for the

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initial probationary period toward completion of the apprenticeship program.

8. The designation of the supervisor of apprentices whose duties shall include.

a. Maintaining adequate records of the progress of each apprentice;

b. Assurance of qualified training personnel and adequate supervision on the job;

c. Making reports as required at specified intervals regarding the aptitude, skill and progress of each apprentice;

d. Assurance the apprentice is given instruction in safe working methods in each operation as it is encountered throughout the term of apprenticeship;

e. Making arrangements with the local vocational education authorities for the required related instruction;

f. Such other duties as may be necessary in developing and maintaining an effective apprenticeship program.

9. An outline of the work processes in which the apprentice will receive supervised work experience on the job and the allocation of the approximate time to be spent in each major process.

10. Provision for organized, related and supplemental instruction in technical subjects related to the trade. Such instruction may be given in a classroom through trade industrial courses or correspondence courses of equivalent value, or other forms of self-study. ~~All related and supplemental instruction will be approved by the director of vocational education.~~ A minimum of 144 hours is recommended for each year of apprenticeship.

11. Provision for a periodic evaluation of each apprentice's progress in job performance and related instruction prior to the expiration of each wage period. Should such a review reveal a lack of interest or ability on the part of the apprentice, the apprentice will be informed of the deficiency and may be placed on probation for a sufficient period of time to determine improvement or failure. At the end of the probationary period, if the apprentice has not shown acceptable improvement, the apprentice agreement may be suspended or revoked. The sponsor will provide written notice of the final action taken to the apprentice and the Virginia Apprenticeship Council.

12. A statement that hours of work for apprentices shall be the same as for other employees in the trade and whether time spent at related instruction will or will not be considered as hours of work.

13. A progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired and established in accordance with federal and state wage laws.

14. *Provisions concerning the ratio of apprentices to journeymen.* Effective January 8, 1988, the minimum numeric ratio of apprentices to journeymen shall be 1:2. Effective June 1, 1989, the

a. The minimum numeric ratio of apprentices to journeymen shall be 1:1 these provisions are ~~nonseverable~~ *except as noted in subdivision B 14 b of this section*. Individual program sponsors shall propose, as part of their apprenticeship standards, a ratio of apprentices to journeymen consistent with proper supervision, training, safety and continuity of employment, applicable provisions in collective bargaining agreements, and applicable requirements of recognized licensing boards or authorities.

The Department of Labor and Industry, Division of Apprenticeship Training, will review and approve all ratio proposals based on the explanation and justification provided by each program sponsor. Consideration will be given, but not limited to, the following factors:

a: (1) Evidence of ability to assure proper supervision, training, safety, and continuity of employment under the proposed ratio;

b: (2) The specific nature of the industry and occupation involved;

e: (3) Proposed hiring or upgrading of minorities, females, older workers, dislocated workers, exoffenders, the handicapped, and veterans;

d: (4) Evidence of ability to train under the proposed ratio.

If a ratio proposal is disapproved by the division, the sponsor may appeal, in writing, the decision to the commissioner. If the commissioner upholds the decision of the Apprenticeship Training Division, the sponsor may appeal to the State Apprenticeship Council. The decision of the council shall be final.

Program sponsors presently operating under emergency ratios may continue to do so until their emergency ratios expire. During the period January 8, 1988 to June 1, 1989, the director of the Apprenticeship Training Division may approve interim emergency ratio requests. The factors enumerated above for approval of all ratio proposals as well as the appeals process governing apprenticeship standards ratio requests shall apply to interim emergency ratio requests.

b. *Apprenticeship ratio on Davis-Bacon worksites.*

Effective July 1, 1993, the minimum numeric ratio of apprentices to journeymen for individual program sponsors and for individual contractors signatory to joint and nonjoint apprenticeship programs performing work under the Davis-Bacon and related federal prevailing wage laws shall be worksite-specific and shall be as follows:

one apprentice to the first journeyman;

two apprentices to the first two journeymen;

two apprentices to the first three journeymen;

two apprentices to the first four journeymen; and

one additional apprentice for each two journeymen thereafter.

The ratio for service trucks on Davis-Bacon worksites shall be one apprentice to one journeyman.

Bids submitted for Davis-Bacon work on or after July 1, 1993, must observe these minimum ratio requirements.

These ratio provisions shall apply until either the Congress of the United States of the U.S. Department of Labor mandate different or uniform ratios for Davis-Bacon work.

c. Other requirements related to Davis-Bacon worksites. Sponsors shall notify the Virginia Apprenticeship Council within 30 days of receipt of a citation alleging a violation of the Davis-Bacon Act affecting an apprentice. The notice must be in a form specified by the policies of the Apprenticeship Council. Failure to report citations shall be an omission for which council may consider requiring a remedial action plan or deregistration of the sponsor's program.

The Apprenticeship Council may deregister sponsors who receive final orders of the U.S. Department of Labor or the courts confirming willful or repeated violations of the Davis-Bacon Act affecting registered apprentices.

The effectiveness of the numeric ratio approved for individual program sponsors will be examined every two years during the program sponsor evaluation process.

15. A procedure for lay-off, suspension, cancellation and reinstatement of apprentices. Apprentices may be laid off in the commensurate ratio of apprentices to journeymen. Provided, however, any apprentice laid off shall be offered reinstatement in the seniority standing before any new apprentices shall be registered. Where there is a collective bargaining

agreement providing for lay-off procedures for apprentices, it shall prevail over the above stated procedures. The council will be notified in writing of all lay-offs, suspensions, cancellations and reinstatements. The notice will state the reason for the specific action.

16. A statement that if and when the sponsor is no longer able to fulfill his obligations for the training of an apprentice, the apprentice may be transferred or registered with credit for previous training to another sponsor.

17. A statement that the sponsor will notify the council of persons who have successfully completed the apprenticeship program and request the council to prepare a Certificate of Completion for issuance to each person.

18. A statement that the sponsor shall instruct the apprentice in safe and healthful work practices and shall insure that the apprentice is trained in facilities and other environments that meet the Virginia Occupational Safety and Health Standards for General Industry and the Construction Industry, developed pursuant to the Federal Occupational Safety and Health Act.

19. A statement that in the event a difference of opinion should arise as to any provision of the apprenticeship agreement, either party to the apprenticeship agreement may consult with the council for clarification of the matter in question.

20. The sponsor's assurance that any modification or amendment of the apprenticeship program will be promptly submitted to the council. Any such modification shall be approved by the council and such modification shall not alter or affect apprenticeship agreements in effect without the consent of all parties affected.

21. A statement that the sponsor may have the program cancelled by submitting a written request to the council.

22. A statement that the apprenticeship program may be cancelled by the council if the program is not conducted in accordance with these regulations.

23. A statement identifying the Virginia Apprenticeship Council as the registration agency which agency is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor.

24. A statement identifying the apprentice's responsibilities as an employee.

§ 5. Standards for apprenticeship agreements.

The apprenticeship agreement shall contain explicitly or

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by reference:

1. Names and signatures of the contracting parties (apprentice and sponsor) and the signature of a parent or guardian if the apprentice is a minor.
2. The date of birth, sex, race, social security number and veteran status of the apprentice.
3. Name and address of the sponsor, apprentice and the Virginia Apprenticeship Council.
4. The trade or craft in which the apprentice is to be trained, and the beginning date and duration of the apprenticeship.
5. The number of hours to be spent by the apprentice in work on the job and the number of hours to be spent in related or supplemental instruction.
6. A schedule of the work processes in the trade or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process.
7. A graduated scale of wages to be paid the apprentice contingent upon satisfactory performance and whether or not the apprentice will be paid for attendance at related or supplemental instruction.
8. Statements providing:
 - a. For a specific initial probationary period conforming to subdivision B 7 of § 4 of these regulations;
 - b. That after the initial probationary period, the apprenticeship agreement ~~and as it may be amended or modified during the period of the agreement~~ may be cancelled or suspended in accordance with subdivision B 11 of § 4 of these regulations .
9. A reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended or modified during the period of the agreement.
10. A statement that the employment and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, sex or physical handicap which is unrelated to the person's qualification and ability to perform the job.
11. The educational level of the apprentice.
12. Credit for previous experience granted the apprentice.

13. A provision that a sponsor who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the council, transfer such contract to any other sponsor, provided the apprentice consents and such other sponsor agrees to assume the obligations of the apprentice agreement.

§ 6. Deregistration procedure.

Deregistration of a program may be effected upon the voluntary action of the sponsor by a written request for cancellation of the registration or by the council instituting formal deregistration proceedings in accordance with the provisions of this section.

A. Voluntary deregistration.

The council may cancel the registration of an apprenticeship program by a written acknowledgement of a request stating, but not limited to, the following matters:

1. The registration is cancelled at the sponsor's request, and the effective date thereof.
2. That within 15 days of the date of the acknowledgement, the sponsor shall:
 - a. Notify all apprentices of such cancellation and the effective date;
 - b. Inform each apprentice that such cancellation automatically deprives the apprentice of individual registration; and
 - c. That the cancellation of the program removes the apprentice from coverage for federal and state purposes which require approval of an apprenticeship program.

B. Involuntary deregistration.

Deregistration proceedings may be undertaken by the council when an apprenticeship program is not conducted, operated and administered in accordance with these regulations, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

1. Council will notify the sponsor in writing of deregistration for one year after receiving substantial evidence in the record of either:
 - a. Exposing an apprentice to imminent danger in violation of state occupational safety and health standards;
 - b. Failure to provide supervision that is adequate for the period of training and the type of work being performed, sufficient to achieve the level of

skill training of the craft, and sufficient to reasonably protect the apprentice from serious occupational injury or illness; or

c. Failure to train an apprentice in accordance with approved apprenticeship program standards and knowingly or fraudulently certifying completion of training.

In lieu of deregistration, council may impose on the program sponsor a remedial action plan designed to bring the program sponsor into compliance with these regulations.

In cases where an employer or employers who are signatory to a joint or nonjoint apprenticeship agreement act in such a manner that the program is not conducted, operated, or administered in accordance with these regulations, council may impose on the joint or nonjoint apprenticeship program a remedial action plan designed to bring the individual member employer(s) into compliance with these regulations.

Prior to any vote by council to deregister an apprenticeship program, or to impose a formal remedial action plan, the program sponsor shall be:

a. Notified by registered mail that council intends to take such action, with the alleged infraction(s) indicated; and

b. Afforded the opportunity to present information to council which bears on the decision to deregister or impose a remedial action plan, either in writing or by personal appearance, within 30 days of receipt of notification by council.

The program sponsor shall be informed in writing of council's decision regarding deregistration or remedial action.

2. Implementation of involuntary deregistration. Council may delay the deregistration for six months to afford presently registered apprentices the opportunity to complete their training. No additional apprentices will be registered during this period.

Council may also award credit to apprentices in deregistered programs sufficient to complete their apprenticeship program.

In cases where apprentices choose to change employers, because deregistration will prevent them from completing their apprenticeship, the council, through the Department of Labor and Industry, will use all appropriate means to assist them in securing employment with a registered apprenticeship sponsor.

§ 7. Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to these regulations may be reinstated upon presentation of adequate evidence that the program is operating in accordance with these regulations. Such evidence shall be presented to the council.

§ 8. Hearings.

All hearings will be held in accordance with the provisions of the Administrative Process Act, Chapter 1.1:1, § 9-6.14:11 of Title 9, of the Code of Virginia.

§ 9. Limitations.

Nothing in these regulations or in any apprenticeship agreement shall operate to invalidate:

1. Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

2. Any special provisions for veterans, minority persons or females in the standard apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by state or federal law, executive order or other regulation adopted pursuant thereto.

§ 10. Complaints.

A. This section is not applicable to any complaint concerning discrimination or equal opportunity matters; all such complaints will be processed in accordance with the provisions in the Virginia State Plan for Equal Employment Opportunity in Apprenticeship.

B. Except for matters described in subsection A of this section, any controversy or difference arising under an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice or his authorized representative within 60 days after the local decision to the council for review. Matters covered by a collective bargaining agreement are not subject to review.

C. The complaint shall be in writing and signed by the complainant or his authorized representative. It shall state the specific matter(s) complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

D. The council shall render an opinion within 90 days after receipt of the complaint. During such 90-day period, the council shall make reasonable efforts to effect a satisfactory resolution between the parties involved.

E. If so resolved, the parties shall be notified that the case is closed. Where an opinion is rendered, copies of same shall be sent to all interested parties.

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§ 11. Program sponsor evaluation procedure.

Program sponsors will be evaluated once every two years to determine adequate compliance with the goal of training apprentices under proper supervision, in a safe environment, in such a manner as to acquire the skills of the trade, with fair compensation based on individual progress consistent with average like compensation of similar industries in the area. Such evaluations will be conducted by the Apprenticeship Division staff pursuant to procedures and criteria established by the Virginia Apprenticeship Council. The council may cancel apprenticeship programs where preexisting criteria are not met.

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.

COUNCIL ON THE ENVIRONMENT

Title of Regulation: VR 305-01-001. Public Participation Guidelines (REPEALED).

Title of Regulation: VR 305-01-001:1. Public Participation Guidelines.

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

Effective Date: March 10, 1993.

Summary:

The purpose of this action is to repeal the existing Public Participation Guidelines and to adopt new Public Participation Guidelines which establish, in regulation, provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful and timely fashion during all phases of the regulatory process, and to establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat.

These guidelines require an expanded notice of intended regulatory action, require that a summary or copy of public comments and the agency's response to the comments be submitted to the council, and require that certain analyses be performed as part of the NOPC. Revisions to the proposed guidelines made in response to public comment include the addition of provisions for persons to petition for rulemaking and for terminating the regulatory process on proposed regulations. Revisions also pertain to the use of ad hoc and standing advisory committees and convening public meetings.

VR 305-01-001:1. Public Participation Guidelines.

§ 1. Definitions.

A. 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.

"Administrator" means the administrator of the Council on the Environment or his designee.

"Agency" means the council administrator and staff

responsible for implementing the programs and providing administrative support to the council.

"Council" means the Council on the Environment, the collegial body, established under § 10.1-1200 et seq. of the Code of Virginia.

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

"Virginia Environmental Quality Law" means the provisions found in § 10.1-1200 et seq. of the Code of Virginia authorizing the Council on the Environment or the administrator to adopt regulations or procedural requirements.

B. Unless specifically defined in the Virginia Environmental Quality 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 council 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 council 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 council 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 council 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 council specifically authorizes the agency to proceed without utilizing an ad hoc 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 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. Holding public meetings.
 - a. 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 administrator, in his sole discretion, may dispense with the public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the council specifically authorizes the agency to proceed without holding a public meeting] .

b. 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 of 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 of the NOIRA 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] to the NOIRA shall also be distributed to the council.

G. Upon approval of the draft proposed regulation by the council, the agency [~~may, at its discretion, proceed by publishing the NOPC~~ shall publish 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 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.

Final Regulations

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 council staff 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 in which 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.

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 capital 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 [# or the summary and agency response and] , if requested, submit the full comments to the council. [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 council, 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 approving authority, the agency shall present to the council for their consideration a recommendation and rationale for withdrawal of the proposed regulation.]

[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 March 10, 1993, shall be processed in accordance with the VR 305-01-001 Public Participation Guidelines.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to March 10, 1993, shall be processed in accordance with the VR 305-01-001:1 Public Participation Guidelines.]

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance

with § 9-6.14:4.1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 355-39-200. Charges for Medical Care Services.

Statutory Authority: § 32.1-12 of the Code of Virginia.

Effective Date: March 10, 1993.

Summary:

This regulation change is being sought to modify the Virginia Department of Health's schedule of charges for home health services. Visit charges will be increased for skilled nursing, physical therapy, occupational therapy, speech therapy, home health aide, and medical social worker so that the department's charges will allow maximum reimbursement for Medicaid payment levels that became effective on January 1, 1993. These increased payment levels are cost based and will allow the department to recover some of its increased costs that have occurred due to higher nurses' salaries and supply costs.

The changes in charges are as follows:

<u>Service</u>	<u>Old Charge</u>	<u>New Charge</u>
Skilled nursing	\$ 99	\$ 110
Comprehensive	167	180
Physical therapy	94	100
Occupational therapy	93	100
Speech therapy	98	110
Home health aide	46	50
Medical social work	125	140

Based on the number of home health visits provided in 1992, it is estimated that the above changes will increase revenues by \$55,000. The additional revenues will not be used to increase services, but will be used to offset increased costs of providing the services.

VR 355-39-200. Charges for Medical Care Services.

STATE HEALTH DEPARTMENT
 CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE ~~SEPTEMBER 16, 1992~~ MARCH 10, 1993
 EXCEPT FOR NORTHERN VIRGINIA - CHART I

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services," promulgated by the authority of the Board of Health in accordance with § 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
29900	MATERNITY/GYNECOLOGY(3)	\$ 33.00	\$.00	\$ 3.25	\$ 8.25	\$16.50	\$24.75	\$ 33.00
59420	Maternity Care Billed on Global Basis	\$300.00	\$.00	\$30.00	\$75.00	\$150.00	\$225.00	\$300.00
59430	Postpartum Visit	\$ 33.00	\$.00	\$ 3.30	\$ 8.25	\$16.50	\$24.75	\$ 33.00
29000, 29001, 29002, 29003, 29004	Maternity Care Coordination(4) Risk Screening	\$ 10.00	\$.00	\$ 1.00	\$ 2.50	\$ 5.00	\$ 7.50	\$ 10.00
29104	Maternity Assessment	\$ 25.00	\$.00	\$ 2.50	\$ 6.25	\$12.50	\$18.75	\$ 25.00
29105, 29107, 29109	Maternity Follow-up	\$ 40.00 per month x 11 months	\$.00	\$ 4.00	\$10.00	\$20.00	\$30.00	\$ 40.00
29310	Nutritional Services							
29311	Original Assessment	\$ 20.00	\$.00	\$.00	\$.00	\$.00	\$15.00	\$ 20.00
	Follow-up	\$ 10.00 per encounter	\$.00	\$.00	\$.00	\$.00	\$ 7.50	\$ 10.00
29300, 29301, or 29302	Group Education	\$ 6.00 per class or session \$ 36.00 maximum	\$.00	\$.60	\$ 1.50	\$ 3.00	\$ 4.50	\$ 6.00
29312	Homemaker Services	\$ 33.00 per visit or \$ 8.00 per hour, not to exceed 4 hours	\$.00	\$ 3.30	\$ 8.25	\$16.50	\$24.75	\$ 33.00
			\$.00	\$.80	\$ 2.00	\$ 4.00	\$ 6.00	\$ 8.00
	CLINICAL VISITS (INCLUDES BOTH PEDIATRIC AND ADULT SERVICES)							
	New Patients: To qualify as a new patient, patient must not have been seen by any provider in that health department for at least three years.							
99201	Visit included all three components: *Problem focused history *Problem focused examination *Straightforward medical decision making		\$.00	\$ 2.50	\$ 6.00	\$12.00	\$18.00	\$ 24.00
99202	Visit included all three components: *Expanded problem focused history		\$.00	\$ 3.00	\$ 7.00	\$14.00	\$21.00	\$ 28.00

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE SEPTEMBER 15, 1992 MARCH 10, 1993
 EXCEPT FOR NORTHERN VIRGINIA - CHART I

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
	*Expanded problem focused examination *Straightforward medical decision making							
99203	Visit included all three components: *Detailed history *Detailed examination *Medical decision making of low complexity	\$.00	\$ 3.25	\$ 8.25	\$ 16.50	\$ 24.75	\$ 33.00	
99204	Visit included all three components: *Comprehensive history *Comprehensive examination *Medical decision making of moderate complexity	\$.00	\$ 4.75	\$ 11.75	\$ 23.50	\$ 35.00	\$ 46.75	
99205	Visit included all three components: *Comprehensive history *Comprehensive examination *Medical decision making of high complexity	\$.00	\$ 5.00	\$ 12.50	\$ 25.00	\$ 37.50	\$ 50.00	
	Established patient visits: Any patient that has been seen by a provider in that health department within the last 3 years.							
99211	Visit may or may not require physician. Presenting problems are minimal.	\$.00	\$ 1.00	\$ 2.50	\$ 5.00	\$ 7.50	\$ 10.00	
99212	Visit included two of three components: *Problem focused history *Problem focused examination *straightforward medical decision making	\$.00	\$ 2.00	\$ 4.75	\$ 9.50	\$ 14.25	\$ 19.00	
99213	Visit included two of three components: *Expanded problem focused history *Expanded problem focused examination *Medical decision of low complexity	\$.00	\$ 2.75	\$ 6.50	\$ 13.25	\$ 19.75	\$ 26.50	
99214	Visit included two of three components: *Detailed history *Detailed examination *Medical decision making of moderate complexity	\$.00	\$ 3.50	\$ 8.75	\$ 26.25	\$ 24.75	\$ 35.00	

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE ~~SEPTEMBER 15, 1992~~ MARCH 10, 1993
 EXCEPT FOR NORTHERN VIRGINIA - CHART I

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
99215	Visit included two of three components: *Comprehensive history *Comprehensive examination *Medical decision making of high complexity		\$.00	\$ 4.50	\$11.25	\$22.50	\$33.75	\$ 45.00
	PREVENTIVE MEDICINE SERVICES (These codes are to be used primarily for well baby visits. They are the codes to be used for EPSDT billing.)							
	New Patient							
99381	Age under 1 year		\$.00	\$ 3.50	\$ 8.75	\$17.50	\$26.25	\$ 35.00
99382	Age 1 through 4 years		\$.00	\$ 4.00	\$ 9.75	\$19.50	\$29.25	\$ 39.00
99383	Age 5 through 11 years		\$.00	\$ 4.00	\$ 9.75	\$19.50	\$29.25	\$ 39.00
99384	Age 12 through 17 years		\$.00	\$ 3.50	\$ 8.75	\$17.50	\$26.25	\$ 35.00
99385	Age 18 through 21 years		\$.00	\$ 3.75	\$ 9.50	\$19.00	\$28.50	\$ 38.00
	Established Patient							
99391	Age under 1 year		\$.00	\$ 3.50	\$ 8.75	\$17.50	\$26.25	\$ 35.00
99392	Age 1 through 4 years		\$.00	\$ 3.50	\$ 9.00	\$18.00	\$27.00	\$ 36.00
99393	Age 5 through 11 years		\$.00	\$ 3.50	\$ 9.00	\$18.00	\$27.00	\$ 36.00
99394	Age 12 through 17 years		\$.00	\$ 3.00	\$ 7.75	\$15.50	\$23.25	\$ 31.00
99395	Age 18 through 21 years		\$.00	\$ 3.75	\$ 9.50	\$19.00	\$28.50	\$ 38.00
Z9010, Z9012, Z9014	Infant Care Coordination(4) Risk Screening	\$ 10.00	\$.00	\$ 1.00	\$ 2.50	\$ 5.00	\$ 7.50	\$ 10.00
Z9104	Infant Assessment	\$ 25.00	\$.00	\$ 2.50	\$ 6.25	\$12.50	\$18.75	\$ 25.00
Z9106, Z9108, Z9110	Follow-up	\$ 40.00 per month x 24 months	\$.00	\$ 4.00	\$10.00	\$20.00	\$30.00	\$ 40.00
	FAMILY PLANNING(5)							
Z9007	Initial/Annual Visit	\$ 50.00	\$.00	\$ 5.00	\$12.50	\$25.00	\$37.50	\$ 50.00
Z9009	Follow-up/Problem Visit	\$ 20.00	\$.00	\$ 2.00	\$ 5.00	\$10.00	\$15.00	\$ 20.00
	COLPOSCOPY SERVICES							
57454	Colposcopy with Biopsy	\$ 90.00	\$.00	\$ 9.00	\$22.50	\$45.00	\$67.50	\$ 90.00
57511	Colposcopy with Biopsy and Cryosurgery	\$130.00	\$.00	\$13.00	\$32.50	\$65.00	\$97.50	\$130.00
	DENTAL SERVICES(6)							

-----BASED ON MEDIAN PRIVATE PRACTICE PROFESSIONAL FEES-----

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE SEPTEMBER 16, 1992 MARCH 10, 1993
 EXCEPT FOR NORTHERN VIRGINIA - CHART I

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
SPECIAL SERVICES WITHOUT ELIGIBILITY(7)								
36415	Venipuncture	\$ 7.00	-----FLAT RATE CHARGE-----					
	Administration of Prescribed Medication and/or Nonroutine Immunizations PLUS: Cost of Vaccine(7) when furnished by Health Department	\$10.00	-----FLAT RATE CHARGE-----					
	Blood Pressure Check	No Charge	-----SERVICE PROVIDED FREE STATEWIDE-----					
86580	PPD/Tuberculin Testing	\$ 3.15	-----FLAT RATE CHARGE-----					
71010	Radiological Examination (Chest)	\$ 20.00	-----FLAT RATE CHARGE-----					
	Activities of Daily Living(8)	\$ 9.00 per hour	-----FLAT RATE CHARGE-----					
	Cholesterol Screening and Counseling	\$ 5.00	-----FLAT RATE CHARGE-----					
	Medical Record Copying	\$.50 per page	-----FLAT RATE CHARGE-----					
ELIGIBILITY IS REQUIRED ON THE FOLLOWING:								
	Pharmacy Professional Fee PLUS: Cost of Drugs or Vaccine Other X-ray Services(9)	\$ 4.40	\$.00 0%	\$.50 10%	\$ 1.00 25%	\$ 2.25 50%	\$ 3.25 75%	\$ 4.40 100%
	Other Laboratory Services(10)	BASED ON REASONABLE COSTS AS DETERMINED BY THE DEPT. OF MEDICAL ASSIST. SVCS MAXIMUM PAYMENT LEVELS						
OTHER SERVICES								
	Children's Specialty Services (Annual)	\$120.00	\$.00	\$12.00	\$30.00	\$60.00	\$90.00	\$120.00
HOME HEALTH SERVICES								
	Skilled Nursing	\$-99.00 \$110.00	\$-.00 \$.00	\$-9.00 \$11.00	\$24.75 \$27.50	\$49.50 \$55.00	\$74.25 \$82.50	\$-99.00 \$110.00
	Comprehensive	\$467.00 \$180.00	\$-.00 \$.00	\$46.70 \$18.00	\$41.75 45.00	\$83.50 \$90.00	\$125.25 \$135.00	\$467.00 \$180.00
	Physical Therapy	\$-94.00 \$100.00	\$-.00 \$.00	\$-9.40 \$10.00	\$23.50 \$25.00	\$47.00 \$50.00	\$70.50 \$75.00	\$-94.00 \$100.00
	Occupational Therapy	\$-93.00 \$100.00	\$-.00 \$.00	\$-9.30 \$10.00	\$23.25 \$25.00	\$46.50 \$50.00	\$69.75 \$75.00	\$-93.00 \$100.00
	Speech Therapy	\$-98.00 \$110.00	\$-.00 \$.00	\$-9.80 \$11.00	\$24.50 \$27.50	\$49.00 \$55.00	\$73.50 \$82.50	\$-98.00 \$110.00
	Home Health Aide	\$-46.00 \$ 50.00	\$-.00 \$.00	\$-4.60 \$ 5.00	\$11.50 \$12.50	\$23.00 \$25.00	\$34.50 \$37.50	\$-46.00 \$ 50.00
	Medical Social Worker	\$125.00 \$140.00	\$-.00 \$.00	\$12.50 \$14.00	\$31.25 \$35.00	\$62.50 \$70.00	\$93.75 \$105.00	\$125.00 \$140.00

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE SEPTEMBER 15, 1992 MARCH 10, 1993
 EXCEPT FOR NORTHERN VIRGINIA - CHART I

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
CHILD DEVELOPMENT SERVICES PROGRAM								
Medical Services								
	Problem focused consultation	\$ 47.00	\$.00	\$ 4.70	\$11.75	\$23.50	\$35.25	\$ 47.00
	Expanded consultation	\$ 60.00	\$.00	\$ 6.00	\$15.00	\$30.00	\$45.00	\$ 60.00
	Detailed consultation	\$ 75.00	\$.00	\$ 7.50	\$18.75	\$37.50	\$56.25	\$ 75.00
	Comprehensive consultation	\$100.00	\$.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	Pharmacological Management	\$ 8.50	\$.00	\$.85	\$ 2.10	\$ 4.25	\$ 6.35	\$ 8.50
	Health Education	\$ 10.50	\$.00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$ 10.50
Mental Health Services								
	Psychological Evaluation per hr.	\$105.00	\$.00	\$10.50	\$26.25	\$52.50	\$78.75	\$105.00
	Psycho-social Assessment	\$ 30.00	\$.00	\$ 3.00	\$ 7.50	\$15.00	\$22.50	\$ 30.00
	Individual Psychotherapy per 1/2 hour	\$ 15.75	\$.00	\$ 1.60	\$ 3.95	\$ 7.90	\$11.85	\$ 15.75
	Family Psychotherapy	\$ 10.50	\$.00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$ 10.50
	Group Psychotherapy	\$ 10.50	\$.00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$ 10.50
	Multifamily Psychotherapy	\$ 10.50	\$.00	\$ 1.05	\$ 2.65	\$ 5.25	\$ 7.90	\$ 10.50
Educational Services								
	Educational Diagnostic Evaluation	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
	School Visit/Consultation	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Classroom Observation	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
Case Management Services								
	Interdisciplinary Medical Conference	\$ 40.45	\$.00	\$ 4.05	\$10.12	\$20.23	\$30.35	\$ 40.45
	Other Case Management Activity	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Progress Review	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					

STATE HEALTH DEPARTMENT
 CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE SEPTEMBER 15, 1992 MARCH 10, 1993
 NORTHERN VIRGINIA - CHART II

By the provisions of the "Regulations Governing Eligibility Standards and Charges for Medical Care Services," promulgated by the authority of the Board of Health in accordance with § 32.1-12 of the Code of Virginia, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
29900	MATERNITY/GYNECOLOGY(3)	\$ 37.00	\$.00	\$ 3.75	\$ 9.25	\$18.50	\$27.75	\$ 37.00
59420	Maternity Care Billed on Global Basis	\$330.00	\$.00	\$33.00	\$82.50	\$165.00	\$247.50	\$330.00
59430	Postpartum Visit	\$ 36.00	\$.00	\$ 3.60	\$ 9.00	\$18.00	\$27.00	\$ 36.00
	Maternity Care Coordination(4)							
	Risk Screening	\$ 11.50	\$.00	\$ 1.25	\$ 3.00	\$ 5.75	\$ 8.75	\$ 11.50
29900, 29001, 29002, 29003, 29004								
29104	Maternity Assessment	\$ 28.50	\$.00	\$ 2.85	\$ 7.25	\$14.25	\$21.50	\$ 28.50
29105, 29107, 29109	Maternity Follow-up	\$ 45.50 per month x 11 months	\$.00	\$ 4.55	\$11.50	\$22.75	\$34.25	\$ 45.50
	Nutritional Services							
29310	Original Assessment	\$ 22.75	\$.00	\$ 2.50	\$ 5.75	\$11.50	\$17.00	\$ 22.75
29311	Follow-up	\$ 11.50 per encounter	\$.00	\$ 1.25	\$ 3.00	\$ 5.75	\$ 8.75	\$ 11.50
29300, 29301, or 29302	Group Education	\$ 7.00 per class or session \$ 41.00 maximum	\$.00	\$.75	\$ 1.75	\$ 3.50	\$ 5.25	\$ 7.00
29312	Homemaker Services	\$ 37.50 per visit or \$ 9.25 per hour, not to exceed 4 hours	\$.00	\$ 3.75	\$ 9.50	\$18.75	\$28.25	\$ 37.50
			\$.00	\$.95	\$ 1.85	\$ 4.75	\$ 6.95	\$ 9.25
	CLINICAL VISITS (INCLUDES BOTH PEDIATRIC AND ADULT SERVICES)							
	New Patients: To qualify as a new patient, patient must not have been seen by any provider in that health department for at least three years.							
99201	Visit included all three components: *Problem focused history *Problem focused examination *Straightforward medical decision making		\$.00	\$ 2.75	\$ 6.75	\$13.50	\$20.25	\$ 27.00
99202	Visit included all three components: *Expanded problem focused history		\$.00	\$ 3.00	\$ 7.75	\$15.50	\$23.25	\$ 31.00

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE SEPTEMBER 15, 1992 MARCH 10, 1993
 NORTHERN VIRGINIA - CHART II

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
99203	*Expanded problem focused examination *Straightforward medical decision making Visit included all three components: *Detailed history *Detailed examination *Medical decision making of low complexity	\$.00	\$ 3.75	\$ 9.25	\$ 18.50	\$ 27.75	\$ 37.00	
99204	Visit included all three components: *Comprehensive history *Comprehensive examination *Medical decision making of moderate complexity	\$.00	\$ 5.00	\$ 12.75	\$ 25.50	\$ 38.25	\$ 51.00	
99205	Visit included all three components: *Comprehensive history *Comprehensive examination *Medical decision making of high complexity	\$.00	\$ 5.50	\$ 13.75	\$ 27.50	\$ 41.25	\$ 55.00	
99211	Established patient visits: Any patient that has been seen by a provider in that health department within the last 3 years. Visit may or may not require physician Presenting problems are minimal	\$.00	\$ 1.00	\$ 2.75	\$ 5.50	\$ 8.25	\$ 11.00	
99212	Visit included two of three components: *Problem focused history *Problem focused examination *straightforward medical decision making	\$.00	\$ 2.00	\$ 5.25	\$ 10.50	\$ 15.75	\$ 21.00	
99213	Visit included two of three components: *Expanded problem focused history *Expanded problem focused examination *Medical decision of low complexity	\$.00	\$ 3.00	\$ 7.50	\$ 15.00	\$ 22.50	\$ 30.00	
99214	Visit included two of three components: *Detailed history *Detailed examination *Medical decision making of moderate complexity	\$.00	\$ 4.00	\$ 9.75	\$ 19.50	\$ 29.25	\$ 39.00	

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE ~~SEPTEMBER 15, 1992~~ MARCH 10, 1993
 NORTHERN VIRGINIA - CHART II

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
99215	Visit included two of three components: *Comprehensive history *Comprehensive examination *Medical decision making of high complexity		\$.00	\$ 5.00	\$12.50	\$25.00	\$37.50	\$ 50.00
	PREVENTIVE MEDICINE SERVICES (These codes are to be used primarily for well baby visits. They are the codes to be used for EPSDT billing.)							
	New Patient							
99381	Age under 1 year		\$.00	\$ 4.00	\$ 9.75	\$19.50	\$29.25	\$ 39.00
99382	Age 1 through 4 years		\$.00	\$ 4.25	\$10.75	\$21.50	\$32.25	\$ 43.00
99383	Age 5 through 11 years		\$.00	\$ 4.25	\$10.75	\$21.50	\$32.25	\$ 43.00
99384	Age 12 through 17 years		\$.00	\$ 4.00	\$ 9.75	\$19.50	\$29.25	\$ 39.00
99385	Age 18 through 21 years		\$.00	\$ 4.25	\$10.50	\$21.00	\$31.50	\$ 42.00
	Established Patient							
99391	Age under 1 year		\$.00	\$ 4.00	\$ 9.75	\$19.50	\$29.25	\$ 39.00
99392	Age 1 through 4 years		\$.00	\$ 4.00	\$10.00	\$20.00	\$30.00	\$ 40.00
99393	Age 5 through 11 years		\$.00	\$ 4.00	\$10.00	\$20.00	\$30.00	\$ 40.00
99394	Age 12 through 17 years		\$.00	\$ 3.50	\$ 8.75	\$17.50	\$26.25	\$ 35.00
99395	Age 18 through 21 years		\$.00	\$ 4.25	\$10.50	\$21.00	\$31.50	\$ 42.00
Z9010, Z9012, Z9014, Z9104, Z9106, Z9108, Z9110	Infant Care Coordination(4) Risk Screening	\$ 11.50	\$.00	\$ 1.85	\$ 3.00	\$ 5.75	\$ 8.75	\$ 11.50
	Infant Assessment	\$ 28.50	\$.00	\$ 2.85	\$ 7.25	\$14.25	\$21.50	\$ 28.50
	Follow-up	\$ 45.00 per month x 24 months	\$.00	\$ 4.60	\$11.25	\$22.55	\$33.75	\$ 45.00
	FAMILY PLANNING(5)							
09007	Initial/Annual Visit	\$ 56.00	\$.00	\$ 5.60	\$14.00	\$28.00	\$42.00	\$ 56.00
09008	Follow-up/Problem Visit	\$ 22.75	\$.00	\$ 2.25	\$ 5.75	\$11.25	\$17.00	\$ 22.75
	COLPOSCOPY SERVICES							
57454	Colposcopy with Biopsy	\$100.00	\$.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
57511	Colposcopy with Biopsy and Cryosurgery	\$145.00	\$.00	\$14.50	\$36.25	\$72.50	\$98.75	\$145.00
	DENTAL SERVICES(6) -----BASED ON MEDIAN PRIVATE PRACTICE PROFESSIONAL FEES-----							

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE SEPTEMBER 16, 1992 MARCH 10, 1993
 NORTHERN VIRGINIA - CHART II

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
	SPECIAL SERVICES WITHOUT ELIGIBILITY(7)							
36415	Venipuncture	\$ 8.00	-----FLAT RATE CHARGE-----					
	Medication and/or Nonroutine Immunizations	\$10.00	-----FLAT RATE CHARGE-----					
	PLUS: Cost of Vaccine(7) when furnished by Health Department							
86580	Blood Pressure Check	No Charge	-----FLAT RATE CHARGE-----					
71010	PPD/Tuberculin Testing	\$ 3.55	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Radiological Examination (Chest)	\$ 22.00	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Activities of Daily Living(8)	\$ 11.00 per hour	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Cholesterol Screening and Counseling	\$ 6.00	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Medical Record Copying	\$.50 per page	-----SERVICE PROVIDED FREE STATEWIDE-----					
	ELIGIBILITY IS REQUIRED ON THE FOLLOWING:							
	Pharmacy Professional Fee	\$ 4.40	\$.00	\$.50	\$ 1.00	\$ 2.25	\$ 3.25	\$ 4.40
	PLUS: Cost of Drugs or Vaccine							
	Other X-ray Services(9)	BASED ON REASONABLE COSTS AS DETERMINED BY THE DEPT. OF MEDICAL ASSIST. SVCS MAXIMUM PAYMENT LEVELS						
	Other Laboratory Services(10)	BASED ON REASONABLE COSTS AS DETERMINED BY THE DEPT. OF MEDICAL ASSIST. SVCS MAXIMUM PAYMENT LEVELS						
	OTHER SERVICES							
	Children's Specialty Services (Annual)	\$136.00	\$.00	\$13.50	\$34.00	\$68.00	\$102.00	\$136.00
	HOME HEALTH SERVICES							
	Skilled Nursing	\$-99.00	\$-00	\$-9.90	\$24.75	\$49.50	\$74.25	\$-99.00
		\$110.00	\$.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	Comprehensive	\$167.00	\$-00	\$16.70	\$41.75	\$83.50	\$125.25	\$167.00
		\$180.00	\$.00	\$18.00	45.00	\$90.00	\$135.00	\$180.00
	Physical Therapy	\$-94.00	\$-00	\$-9.40	\$23.50	\$47.00	\$70.50	\$-94.00
		\$100.00	\$.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	Occupational Therapy	\$-93.00	\$-00	\$-9.30	\$23.25	\$46.50	\$69.75	\$-93.00
		\$100.00	\$.00	\$10.00	\$25.00	\$50.00	\$75.00	\$100.00
	Speech Therapy	\$-98.00	\$-00	\$-9.80	\$24.50	\$49.00	\$73.50	\$-98.00
		\$110.00	\$.00	\$11.00	\$27.50	\$55.00	\$82.50	\$110.00
	Home Health Aide	\$-46.00	\$-00	\$-4.60	\$11.50	\$23.00	\$34.50	\$-46.00
		\$ 50.00	\$.00	\$ 5.00	\$12.50	\$25.00	\$37.50	\$ 50.00
	Medical Social Worker	\$125.00	\$-00	\$12.50	\$31.25	\$62.50	\$93.75	\$125.00
		\$140.00	\$.00	\$14.00	\$35.00	\$70.00	\$105.00	\$140.00

CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
 EFFECTIVE SEPTEMBER 15, 1992 MARCH 10, 1993
 NORTHERN VIRGINIA - CHART II

CPT CODE	MEDICAL CARE SERVICES	MAXIMUM CHARGE PER VISIT OR PER SERVICE(1)	INCOME LEVEL A (0%)	INCOME LEVEL B (10%)	INCOME LEVEL C (25%)	INCOME LEVEL D (50%)	INCOME LEVEL E (75%)	INCOME LEVEL F (100%)
CHILD DEVELOPMENT SERVICES PROGRAM								
Medical Services								
	Problem focused consultation	\$ 53.00	\$.00	\$ 5.30	\$13.25	\$26.50	\$39.75	\$ 53.00
	Expanded consultation	\$ 68.00	\$.00	\$ 6.80	\$17.00	\$34.00	\$51.00	\$ 68.00
	Detailed consultation	\$ 85.00	\$.00	\$ 8.50	\$21.25	\$42.50	\$63.75	\$ 85.00
	Comprehensive consultation	\$113.00	\$.00	\$11.30	\$28.20	\$56.50	\$84.75	\$113.00
	Pharmacological Management	\$ 9.50	\$.00	\$.95	\$ 2.40	\$ 4.75	\$ 7.15	\$ 9.50
	Health Education	\$ 12.00	\$.00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$ 12.00
Mental Health Services								
	Psychological Evaluation per hr.	\$120.00	\$.00	\$12.00	\$30.00	\$60.00	\$90.00	\$120.00
	Psycho-social Assessment	\$ 34.00	\$.00	\$ 3.40	\$ 8.50	\$17.00	\$25.50	\$ 34.00
	Individual Psychotherapy per 1/2 hour	\$ 18.00	\$.00	\$ 1.80	\$ 4.50	\$ 9.00	\$13.50	\$ 18.00
	Family Psychotherapy	\$ 12.00	\$.00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$ 12.00
	Group Psychotherapy	\$ 12.00	\$.00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$ 12.00
	Multifamily Psychotherapy	\$ 12.00	\$.00	\$ 1.20	\$ 3.00	\$ 6.00	\$ 9.00	\$ 12.00
Educational Services								
	Educational Diagnostic Evaluation	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
	School Visit/Consultation	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Classroom Observation	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
Case Management Services								
	Interdisciplinary Medical Conference	\$ 45.70	\$.00	\$ 4.75	\$11.43	\$22.85	\$34.28	\$ 45.70
	Other Case Management Activity	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					
	Progress Review	-NC-	-----SERVICE PROVIDED FREE STATEWIDE-----					

ALL FOOTNOTES FOR STATEWIDE CHARGES STILL APPLY TO NORTHERN VIRGINIA CHARGES

CHARGES AND PAYMENTS BY INCOME LEVELS
 SEPTEMBER 15, 1992 - MARCH 10, 1993

FOOTNOTES

1. For any service not listed, please contact the Office of Community Health Services so that a charge may be established.
2. Maximum Charges per Visit:
 - a. If the service is obtained through contracts with providers of the department, charges will be those charged the department as stated in the contract or the set charges, whichever is more.
 - b. The listed charges include all procedures such as routine lab work or x-ray as required in each program protocol for all patients.
 - c. Health Department maximum charges shall be: Income A - Free; Income B - 10% of charges; Income C - 25% charges; Income D - 50% of charges; Income E - 75% of charges; Income F - 100% of charges. See Income Levels Schedules in the Eligibility Section of the CHS manual for more details.
3. Maternity:
 - a. Maternity patients covered by Medicaid may be charged either on a per visit basis or for global care.
 Maternity patients covered by private insurance will be billed on a global basis. At the end of the pregnancy, the insurance company is to be billed \$300 for antenatal care. The billing code is 59420.
 - b. All women making a postpartum visit are to be charged for the visit. To bill as a postpartum visit, use CPT code 59430. If family planning services are provided, this visit may be billed as a family planning visit (CPT code 09007 for Medicaid; appropriate office visit code for private insurances).
4. Maternal and Infant Care Coordination:

Services must meet Medicaid's guidelines before charging the patient for the services.

Charges may be deferred if the determination is made that the patient needs the services, but cannot pay for them at the time of service. Documentation of the waiver for deferment must be on file in the patient's medical folder. Refer to "Waiver of Payments" section of Regulations Governing Eligibility Standards and Charges for Medical Care Services.

For non-Medicaid patients, the contraceptive method selected is included in the cost of the initial and yearly visits.

If the patient has Medicaid and is given contraceptives at the clinic visit, bill for two procedures: one for the clinic visit and one for the contraceptives. Districts with pharmacies are to bill the prescription filling fee.

Billing codes for Medicaid are 09007 for the initial/yearly exam and 09009 for the follow-up/problem visits. If private insurance is to be billed, use the appropriate visit and code as described in item 3 b above.
5. Dental:

The charges for dental services are based on average professional charges in the private sector. Charge schedules may be obtained from the Division of Dental Health.

For any service requiring the services of a dental lab, the patient will be required to pay the full lab charge. The professional fee is \$40.00 per hour. Contact Dental Health for specific charges.

7. Special Services:

Service charges are to be applied statewide except when indicated as free. Flat rate services must be paid at the time the services are provided.

When a medication or nonroutine immunization is provided and no other clinical service is provided, an administration charge should be billed using the 99211 evaluation/management code. This is to be treated as a flat rate charge subject to the sliding fee scale only if the patient states they he or she cannot otherwise pay the charge. If other clinical services are charged and billed, then there should be no administration charge.

8. ADL Services:

ADL services are provided to patients who do not qualify for Medicaid benefits. All ADL service collections are to be charged to the General Medical subprogram activity.

9. Other X-Ray Services:

These services are to be charged whenever they are ordered by the provider and are not part of the routine examination protocol for all clinic patients.

10. Other Lab Services:

These services are to be charged whenever they are ordered by the provider and are not part of the routine examination protocol for all clinic patients.

Contract Lab Work: When lab work is sent to contract labs and the patient is covered by Medicaid, a handling fee of \$3.00 (CPT code 99000) should be charged. (Medicare will not pay a handling fee, but will pay the venipuncture as below.) For all other patients, the charges for the lab work should be the Medicaid rate for the test(s) ordered.

If a venipuncture was needed to draw the sample, you may bill for the venipuncture.

Final Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: Due to the length of VR 460-02-2.2100 and VR 460-02-2.6100, only the amended pages are being published; however, the full text is being published of the other regulations relating to the Health Insurance Premium Payment Program. The full text of VR 460-02-2.2100 and VR 460-02-2.6100 is available for public inspection at the Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 910 Capitol Square, Room 262, Richmond, Virginia.

Title of Regulation: State Plan for Medical Assistance Relating to Health Insurance Premium Payment Program (HIPP).

VR 460-01-29.4. Premiums, Deductibles, Coinsurance and Other Cost Sharing Obligations.

VR 460-01-70. Third Party Liability.

VR 460-02-2.2100. Groups Covered and Agencies Responsible for Eligibility Determination (Attachment 2.2 A).

VR 460-02-2.6100. Eligibility Conditions and Requirements (Attachment 2.6 A).

VR 460-02-4.2230. State Method on Cost Effectiveness of Employer-Based Group Health Plans (Attachment 4.22 C).

VR 460-04-4.2230. Health Insurance Premium Payment Program.

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

Effective Date: April 1, 1993.

Summary:

The purpose of this action is to implement the mandates of § 1906 of the Act to provide for:

- a) The identification of cases in which the enrollment of Medicaid recipients in group health plans is likely to be cost effective;*
- b) The requirement that Medicaid eligible persons in those cases enroll in the available group health plan as a condition of eligibility for Medicaid;*
- c) The payment of premiums and other cost-sharing obligations for items and services otherwise covered by Medicaid; and*
- d) The treatment of the group health plan as a third party liability resource (payment by a group health insurance plan is primary to any payment by Medicaid for the same services).*

This regulatory action adds several new federal preprinted pages to the State Plan for Medical Assistance as well as new Attachment 4.22-C. It also creates new state regulations VR 460-04-4.2230.

Prior to Congressional passage of the OBRA 90 mandate to provide for payment of group health premiums for Medicaid eligible persons, no such requirement existed in Title XIX of the Social Security Act. This regulatory action discusses the affected persons, the identification of such persons, the determination of cost effectiveness, the enforcement of group health plan enrollment as a condition of Medicaid eligibility, the payment of premiums and cost-sharing obligations, and the treatment of such group health plans as third party payment resources prior to Medicaid payment.

This regulatory action applies only to Medicaid eligible persons who are eligible for coverage under a "group health plan." Eligibility for coverage under a group health plan is based on restrictions established by the plan. A group health plan is a health insurance plan of, or contributed to by, an employer which provides health care to the employer's employees, former employees or their dependent family members.

All persons who are living in the same household who are eligible for coverage under a group health plan and who are eligible for Medicaid will be eligible for consideration for the HIPP Program, except persons who are:

- a) Medicaid eligible due to the "spend-down" provision;*
- b) Only retroactively eligible for Medicaid;*
- c) In a nursing home or receiving a deduction from patient pay responsibility to cover the insurance premium;*
- d) Eligible for Medicare Part B but not enrolled in Part B.*

DMAS will consider persons in a) through d) if extraordinary circumstances indicate the group health plan might be cost effective.

DMAS will coordinate with the Department of Social Services (DSS) the identification of Medicaid cases in which enrollment of Medicaid eligible persons in a group health plan is likely to be cost effective. Individuals applying for or being redetermined for Medicaid eligibility must furnish the required information on all group health plans available to them to DSS as a condition of Medicaid eligibility. A form to be completed by their employer is provided for this purpose. If the employer refuses to complete the form, DSS will accept group health plan benefits literature. DSS shall forward this information to DMAS. Medicaid eligibility will not be affected on a recipient who has demonstrated good faith effort to obtain this information but the employer refuses to cooperate.

DMAS will review identified cases using the average expected Medicaid expenditures of each family member, the benefits and exclusions of group health plans, the administrative cost to the agency and the cost of employees' premiums for the group health plans. If payment of the cost of premiums is likely to be less than payment of Medicaid expenditures for the same services covered by the group health plan, then DMAS shall authorize such payments of premiums.

DMAS shall redetermine the cost effectiveness of the group health plan periodically, not to exceed every 12 months. DMAS' authorization of premium payments will be effective as long as the persons in the case are Medicaid eligible, enrolled in the group health plan and DMAS' determination is that such group health plan is likely to be cost effective.

When DMAS determines enrollment in a group health plan is likely to be cost effective, DMAS shall notify the family member who is eligible for the group health plan (employee) and the DSS caseworker in writing that the group health plan(s) meets the cost effectiveness criteria. The employee shall be requested to enroll in the group health plan as follows:

a) If the employee is a Medicaid eligible person, the employee shall be directed to enroll in the group health plan in order to become or remain eligible for Medicaid. (If the Medicaid eligible person is unable to enroll on his own behalf or is able to show good cause for failure to cooperate, Medicaid eligibility will not be affected.)

b) If the employee is a Medicaid eligible person but is unable to enroll in the group health plan when directed to do so by DMAS but may enroll at a later date (such as the plan's open enrollment period), the Medicaid eligible person must forward DMAS a completed application form for the group health plan as proof of cooperation in order to become or remain eligible for Medicaid.

c) If the employee is not a Medicaid eligible person, the employee shall be asked to enroll in the group health plan and to cover those family members who are Medicaid eligible. Failure to enroll will not affect the Medicaid eligibility of the Medicaid eligible family members.

When DMAS determines enrollment in a group plan is likely to be cost effective and enrollment in the plan has been verified, DMAS shall pay the employee's share of the premiums and other cost-sharing obligations for items and services otherwise covered by Medicaid, up to Medicaid's allowable amount. Such payments will be made on a monthly basis to either the employer, insurance company, or the person carrying the group health plan. Medical providers must accept Medicaid's

payment as payment in full for services covered by Medicaid and not bill recipients for amounts above Medicaid's payment for those services.

DMAS shall monitor the group health coverage for those Medicaid eligible persons for whom premiums are being paid by DMAS. Medicaid eligible persons should report changes in their employment or group health plan benefits and costs to DSS in a timely manner. DMAS shall review claims records to determine if coverage is being maintained and shall periodically request written verification of coverage from the employer. DMAS may also request written proof of coverage from the Medicaid person (such as paycheck stubs showing payroll deduction for the group health plan), as a condition of receiving payments from DMAS.

DMAS shall discontinue payment of premiums if group health plan coverage is dropped, the Medicaid eligible person loses Medicaid eligibility, or DMAS determines the group health plan does not meet the established cost effectiveness criteria.

Consistent with the State Plan, group health plans shall become the primary source of health care benefits, up to the limit of their coverage prior to the availability of Title XIX payment for health care services.

DMAS anticipates minimal impact from the HIPP program in the area of applicant and recipient appeals. The DMAS anticipates very low numbers of Medicaid eligibles may have their eligibility terminated due to their refusal to provide the required information, enroll in the cost effective available group health plan, or signify their intention to enroll at the time permitted by the available group health plan. At this point in the program's development, the percentage of persons who may elect to appeal the denial cannot be predicted.

VR 460-01-29.4. Premiums, Deductibles, Coinsurance and Other Cost Sharing Obligations.

Citation: [~~1902(a)(55)~~ 1906] of the Act

Condition or Requirement

(c) Premiums, Deductibles, Coinsurance and Other Cost Sharing Obligations

The Medicaid agency pays all premiums, deductibles, coinsurance and other cost sharing obligations for items and services covered under the State Plan (subject to any nominal Medicaid copayment) for eligible individuals in employer-based cost effective group health plans.

When coverage for eligible family members is not possible unless ineligible family members enroll, the

Final Regulations

Medicaid agency pays premiums for enrollment of other family members when cost effective. In addition, the eligible individual is entitled to services covered by the State Plan which are not included in the group health plan. Guidelines for determining cost effectiveness are described in § 4.22(h).

Citation: 1902(a)(10)(F) of the Act

Condition or Requirement

(d) The Medicaid agency pays premiums for individuals described in item 19 of Attachment 2.2-A.

VR 460-01-70. Third Party Liability.

Citation: 42 CFR 433.151(a), 50 FR 46652

4.22 (continued)

(f) The Medicaid agency has written cooperative agreements for the enforcement of rights to and collection of third party benefits assigned to the state as a condition of eligibility for medical assistance with at least one of the following: (Check as appropriate.)

State title IV-D agency. The requirements of 42 CFR 433.152(b) are met.

Other appropriate state agency(s)

Other appropriate agency(s) of another state

Courts and law-enforcement officials.

Citation: 42 CFR 433.151(b), 50 FR 46652

(g) The Medicaid agency meets the requirements of 42 CFR 433.153 and 433.154 for making incentive payments and for distributing third party collections.

Incentive payments under § 433.153 ~~to~~ are not applicable to Virginia Medicaid since the state will be making collections itself (refer to State Medicaid Manual Part 3 - Eligibility (December 1985 § 3906 B)

Citation: 1906 of the Act

(h) The Medicaid agency specifies the guidelines used in determining the cost effectiveness of an employer-based group health plan by selecting one of the following.

The Secretary's method as provided in the State Medicaid Manual, § 3910.

The state provides methods for determining cost effectiveness on Attachment 4.22-C (VR 460-02-4.2230).

VR 460-02-2.2100. Groups Covered and Agencies Responsible for Eligibility Determination (Attachment 2.2 A).

Groups Covered

B. Optional Groups Other Than the Medically Needy (Continued)

Citation: 1906 of the Act

18. Individuals required to enroll in cost-effective employer-based group health plans remain eligible for a minimum enrollment period of ~~months~~ *one month*.

Citation: 1902(a)(10)(F) and 1902(u)(1) of the Act

19. Individuals entitled to elect COBRA continuation coverage and whose income as determined under § 1612 of the Act for purposes of the SSI program, is no more than 100% of the federal poverty level, whose resources are no more than twice the SSI resource limit for an individual, and for whom the state determines that the cost of COBRA premiums is likely to be less than the Medicaid expenditures for an equivalent set of services. See Supplement 11 to Attachment 2.6-A.

Citation: 1906 of the Act

Groups Covered

C. Optional Coverage of Medically Needy (Continued)

12. Individuals required to enroll in cost-effective employer-based group health plans remain eligible for a minimum enrollment period of ~~months~~ *one month*.

VR 460-02-2.6100. Eligibility Conditions and Requirements (Attachment 2.6 A).

Citation: 1906 of the Act

Condition or Requirement

10. Is required to apply for enrollment in an employer-based cost-effective group health plan, if such plan is available to the individual. Enrollment is a condition of eligibility except for the individual who is unable to enroll on his/her own behalf (failure of a parent to enroll a child does not affect a child's eligibility).

VR 460-02-4.2230. State Method on Cost Effectiveness of Employer-Based Group Health Plans (Attachment 4.22 C).

Citation: § 1906 of the Act

§ 1. Definitions.

The following words and terms, when used in these

regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Case" means all [recipients with the same Medicaid case number or all recipients who are members of the same immediate family (spouses and children of the person carrying the group health plan policy) persons] who are living in the same household [who are eligible for coverage under the group health plan and who are eligible for Medicaid] .

"Code" means the Code of Virginia.

"Cost effective" and "cost effectiveness" mean the reduction in Title XIX expenditures, which are likely to be greater than the additional expenditures for premiums and cost-sharing items required under § 1906 of the Social Security Act (the Act), with respect to such enrollment.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

["DSS" means the Department of Social Services consistent with Chapter 1 (§ 63.1-1.1 et seq.) of Title 63.1 of the Code of Virginia.]

["Group health plan" means any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees consistent with the meaning given such term in § 1906 of the Act. "Group health plan" means a plan which meets § 5000(b)(1) of the Internal Revenue Code of 1986, and includes continuation coverage pursuant to Title XXII of the Public Health Service Act, § 4980B of the Internal Revenue Code of 1986, or Title VI of the Employee Retirement Income Security Act of 1974. Section 5000(b)(1) of the Internal Revenue Code provides that a group health plan is any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.]

"HIPP" means the Health Insurance Premium Payment Program administered by DMAS consistent with § 1906 of the Act.

"Premium" means that portion of the cost for the group health plan which is the responsibility of the person carrying the group health plan policy.

"Recipient" means a person who [has been determined to be eligible for] Medicaid [eligible as determined] by the Department of Social Services [and who has been added to the Medicaid recipient eligibility file] .

§ 2. Program purpose.

The purpose of the HIPP Program shall be:

1. To identify cases in which enrollment of a recipient in an available group health plan is likely to be cost effective;

2. To require that recipients in those cases enroll in the available group health plan as a condition of [continued] Medicaid eligibility;

3. To provide for payment of the premiums and other cost-sharing obligations for items and services otherwise covered under the State Plan for Medical Assistance (the Plan); and

4. To treat coverage under such group health plan as a third party liability consistent with § 1906 of the Act.

§ 3. Recipient eligibility.

All [persons who are living in the same household who are eligible for coverage under the group health plan and who are eligible for] Medicaid [eligible recipients] shall be eligible for consideration for HIPP, except those identified below. [The agency will consider recipients identified in this section for consideration for HIPP when extraordinary circumstances indicate the group health plan might be cost effective.]

1. The recipient is Medicaid eligible due to "spend-down";

2. The recipient is only retroactively eligible for Medicaid;

3. The recipient [is in a nursing home or] has a deduction from patient pay responsibility to cover the insurance premium; [or]

[4. The recipient is a child whose parent is absent from the household and such parent is required by the Code or by court order to provide group health insurance coverage and payment of health care services for the recipient, as appropriate; or

[5: 4.] The recipient is eligible for Medicare Part B, but is not enrolled in Part B.

§ 4. Condition of Medicaid eligibility.

When DMAS determines that a group health plan is likely to be cost effective based on [its the DMAS] established methodology, [it DSS or DMAS] shall require recipients to enroll in that group health plan as a condition of [continued] Medicaid eligibility. Noncompliance creates ineligibility for Medicaid until the recipient [complies demonstrates a willingness to comply] .

A. Cooperation required.

The recipient [or a person acting on the recipient's

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benefit] shall, as a condition of [*continued*] Medicaid eligibility, [*cooperate in providing information necessary for DMAS to establish availability of the group health plan* obtain the required information on the group health plans available to the recipient, shall provide this information to DSS or DMAS,] and shall apply for enrollment in the group health plan [as directed by DSS or DMAS] unless good cause for failure to cooperate has been established or unless the recipient is unable to enroll on his own behalf. Once the good cause circumstances no longer exist, the recipient [*or person acting on behalf of the recipient*] shall be required to comply.

B. Noncooperation of parent or spouse.

When a parent or spouse fails to provide [DSS or DMAS with the required] information necessary to determine availability of a group health plan, fails to enroll in the group health plan that DMAS has determined to be cost effective [*or the most cost effective in the case of multiple plans*], as directed by DMAS,] or disenrolls from a group health plan that DMAS has determined to be cost effective, eligibility for Medicaid benefits for the recipient child or recipient spouse shall not be affected.

C. Application required.

If the recipient is not already enrolled in a group health plan at the time the cost effectiveness determination is made [*or is not enrolled in the most cost effective group health plan*], the recipient may not be able to enroll in such group health plan until a later date (such as an open enrollment period). The recipient shall provide to [DSS or] DMAS a completed application for enrollment [in the group health plan which DMAS has determined to be cost effective] as proof of cooperation within 30 days of receipt of such request from [DSS or] DMAS. The recipient shall, as a condition of [*continued*] Medicaid eligibility, enroll in the group health plan at the earliest date in which enrollment is possible, unless good cause for failure to cooperate has been established or unless the recipient is unable to enroll on his own behalf.

D. Noncompliance.

If a recipient [*refuses to obtain the required information on group health plans available to the recipient or refuses to provide such information to DSS or DMAS or*] does not enroll in the group health plan which DMAS has determined to be cost effective [*or the most cost effective in the case of multiple plans*], as directed by DMAS] , or refuses to provide [DSS or] DMAS a completed application for enrollment in the group health plan within the deadline given, the recipient shall lose eligibility for Medicaid. Medicaid eligibility shall end after appropriate written notice is given to the recipient as required by 42 CFR § 431.211. This ineligibility shall remain effective until the [*earliest date that the recipient could next* recipient demonstrates willingness to] enroll in the group health plan.

E. Disenrollment.

If a recipient disenrolls from a group health plan which DMAS has determined to be cost effective [*or the most cost effective in the case of multiple plans*], or fails to pay the premium to maintain the group health plan, the recipient shall lose eligibility for Medicaid. Medicaid eligibility shall end after appropriate written notice is given to the recipient as required by 42 CFR § 431.211. This ineligibility shall remain effective until the [*earliest date that the recipient could reenroll* recipient demonstrates willingness to enroll] in the group health plan.

F. Multiple group health plans.

When more than one group health plan is available to the recipient, the recipient shall, as a condition of [*continued*] Medicaid eligibility, enroll in [one of] the group health [*plan plans*] which DMAS has determined to be [*the most*] cost effective, [as directed by DSS or DMAS] unless good cause for failure to cooperate has been established or unless the recipient is unable to enroll on his own behalf [*or unless DMAS has determined that none of the available group health plan would be cost effective*] .

G. All of the requirements pertaining to recipients also apply to parents, spouses, and persons who are acting on behalf of recipients.

§ 5. Payments.

When DMAS determines that a group health plan is likely to be cost effective based on [*the DMAS*] established methodology, [*DMAS*] shall provide for the payment of premiums and other cost-sharing obligations for items and services otherwise covered under the plan, except for the nominal cost sharing amounts permitted under § 1916.

A. Effective date of premiums.

Payment of premiums shall become effective on the first day of the month following the month in which DMAS makes the cost effectiveness determination or the first day of the month in which the group health plan coverage becomes effective, whichever is later. [*Payment of premiums shall be made to the employer as required by law. In the absence of premium payments made directly to employers, payments* Payments] shall be made to [either the employer, the insurance company or to] the individual who is carrying the group health plan coverage.

B. Termination date of premiums.

Payment of premiums shall end:

1. On the last day of the month in which eligibility for Medicaid ends;

2. The last day of the month in which the recipient loses eligibility [or for] coverage in the group health plan; or

3. The last day of the month in which adequate notice has been given (consistent with federal requirements) that DMAS has redetermined that the group health plan is no longer cost effective, whichever comes later.

C. Non-Medicaid eligible family members.

Payment of premiums for non-Medicaid eligible family members shall be made when their enrollment in the group health plan is required in order for the recipient to obtain the group health plan coverage. Such payments shall be treated as payments for Medicaid benefits for the recipient. No payments for deductibles, coinsurances and other cost-sharing obligations for non-Medicaid eligible family members shall be made by DMAS.

[D. Evidence of enrollment required.

A person to whom DMAS is paying the group health plan premium shall, as a condition of receiving such payment, provide to DSS or DMAS, upon request, written evidence of the payment of the group health plan premium for the group health plan which DMAS determined to be cost effective.]

§ 6. Guidelines for determining cost effectiveness.

[DMAS shall determine the cost effectiveness of a group health plan subsequent to the determination of eligibility for Medicaid.]

A. Enrollment limitations.

DMAS shall take into account that a recipient may only be eligible to enroll in the group health plan at limited times and only if other non-Medicaid [eligible] family members are also enrolled in the plan simultaneously.

B. Plans provided at no cost.

Group health plans for which there is no premium to the person carrying the policy shall be considered to be cost effective.

C. Non-Medicaid eligible family members.

When non-Medicaid eligible family members must enroll in a group health plan in order for the recipient to be enrolled, DMAS shall consider only the premiums of non-Medicaid eligible family members in determining the cost effectiveness of the group health plan.

D. [Employer cooperation required. Reserved.]

[Information required by DMAS to make the cost effectiveness determination shall be provided by the

employer upon written request by DMAS as required by law. In the absence of such information from the employer, this information shall be provided by the insurance company or recipient.]

E. DMAS shall make the cost effectiveness determination based on the following methodology:

1. Recipient and group health plan information. DMAS shall obtain demographic information on each recipient in the case, including, but not limited to: federal program designation, age, sex, geographic location. DMAS [or DSS] shall obtain specific information on all group health plans available to the recipients in the case, including, but not limited to: the effective date of coverage, the services covered by the plan, the exclusions to the plan, and the amount of the premium.

2. Average estimated Medicaid expenditures. DMAS shall estimate the average Medicaid expenditures for a 12-month period for each recipient in the case based on the expenditures for persons similar to the recipient in demographic and eligibility characteristics. [If the recipient is already enrolled in the group health plan, average Medicaid expenditures will be reduced by the average percentage of costs avoided on persons similar to the recipient in demographic and eligibility characteristics.] Expenditures shall be adjusted accordingly for inflation and scheduled provider reimbursement rate increases. Average estimated Medicaid expenditures shall be updated periodically.

3. Medicaid expenditures covered by the group health plan. DMAS shall compute the percentage of expenditures for group health plan services against the expenditures for the same Medicaid services and then adjust the average estimated Medicaid expenditures by this percentage for each recipient in the case. These adjusted expenditures shall be added to obtain a total for the case.

4. Group health plan allowance. DMAS shall multiply an allowance factor by the Medicaid expenditures covered by the group health plan to produce the estimated group health plan allowance. The allowance factor shall be based on a state specific factor, a national factor or a group health plan specific factor.

5. Covered expense amount. DMAS shall multiply an average group health plan payment rate by the group health plan allowance to produce an estimated covered expense amount. The average group health plan payment rate shall be based on a state specific rate, national rate or group health plan specific rate.

6. Administrative cost. DMAS shall total the administrative costs of the HIPP program and estimate an average administrative cost per recipient. [DMAS shall add to the administrative cost any

Final Regulations

pre-enrollment costs required in order for the recipient to enroll in the group health plan.]

7. Determination of cost effectiveness. DMAS shall determine that a group health plan is likely to be cost effective if subdivision 7a of this subsection is less than subdivision 7b:

a. The difference between the group health plan allowance and the covered expense amount, added to the premium and the administrative cost; and

b. The Medicaid expenditures covered by the group health plan.

8. If subdivision 7a is not less than subdivision 7b, DMAS shall adjust the amount in subdivision 7b using past medical utilization data on the recipient, provided by the Medicaid claims system or by the recipient, to account for any higher than average expected Medicaid expenditures. DMAS shall determine that a group health plan is likely to be cost effective if subdivision 7a is less than subdivision 7b once this adjustment has been made.

F. Redetermination.

DMAS shall redetermine the cost effectiveness of the group health plan [periodically, not to exceed] every [~~six~~ 12] months. DMAS shall also redetermine the cost effectiveness of the group health plan whenever there is a change to the recipient and group health plan information which was used in determining the cost effectiveness of the group health plan. When only part of the household loses Medicaid eligibility, DMAS shall redetermine the cost effectiveness to ascertain whether payment of the group health plan premiums continue to be cost effective.

G. [~~Most cost effective Multiple~~] group health [~~plan plans~~] .

When a recipient is eligible for more than one group health plan, DMAS shall perform the cost effectiveness determination on [the group health plan in which the recipient is enrolled. If the recipient is not enrolled in a group health plan, DMAS shall perform the cost effectiveness determination on] each group health plan [available to the recipient] . [~~DMAS shall compare the reduction in Title XIX expenditures among these group health plans. DMAS shall determine the group health plan that is most cost effective based on the plan which has the greatest reduction in Title XIX expenditures.~~]

§ 7. Third party liability.

When recipients are enrolled in group health plans, these plans shall become the first sources of health care benefits, up to the limits of such plans, prior to the availability of Title XIX benefits.

§ 8. Appeal rights.

Recipients shall be given the opportunity to appeal adverse agency decisions consistent with agency regulations for client appeals (VR 460-04-8.7).

§ 9. Provider requirements.

Providers shall be required to accept the greater of the group health plan's reimbursement rate or the Medicaid rate as payment in full and shall be prohibited from charging the recipient or Medicaid amounts that would result in aggregate payments greater than the Medicaid rate [as required by 42 CFR § 447.20] .

[§ 10. HIPP Program phase-in across the Commonwealth.

The Health Insurance Premium Payment (HIPP) Program will be implemented in phases. The first phase will be implemented in certain pilot areas, full statewide implementation will occur once the pilot phase is completed. DMAS has the Health Care Financing Administration's (HCFA) approval for conducting a pilot phase before full statewide implementation. The pilot phase of the program will be implemented March 1, 1993.]

VR 460-04-4.2230. Health Insurance Premium Payment Program.

§ 1. General.

The requirements of these regulations shall operate in concert with the HIPP program requirements as contained in the State Plan for Medical Assistance, specifically Attachment 4.22-C (VR 460-02-4.2230).

§ 2. Time frames for determining cost effectiveness.

The department (DMAS) shall determine cost effectiveness of the group health plan and shall provide notice to the recipient within [~~90~~ 45] days from the date the completed Insurance Information Request Form is received from DSS.

§ 3. Notices.

An adequate notice consistent with 42 CFR 431.210 shall be provided to the [~~head of household~~ recipient, person carrying the group health plan policy] or responsible person [in the case] under the following circumstances:

1. To inform the household of the [initial] decision on cost effectiveness and premium payment.

2. To inform the household that premium payments are being discontinued because Medicaid eligibility has been lost by all persons covered under the group health plan.

3. To inform the household that premium payments are being discontinued because the group health plan

is no longer available to the family (e.g., the employer drops insurance coverage or the plan is terminated by the insurance company).

4. To inform the household that premium payments are being discontinued because DMAS has determined it is no longer cost effective to pay the premiums.

§ 4. [~~Rate refund.~~ Reserved.]

[~~DMAS shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the employer is due because of lower than anticipated claims for any time period for which DMAS paid the premium.~~]

§ 5. Good cause for failure to cooperate.

Good cause for failure to cooperate shall be established when the recipient, parent, spouse, or person acting on behalf of the recipient demonstrates one or more of the following conditions [~~exist~~] :

1. There was a serious illness or death of the parent, spouse or a member of the parent's family.

2. There was a family emergency or household disaster, such as fire, flood, or tornado.

3. The parent or spouse offers a good cause beyond the parent's or spouse's control.

4. There was a failure to receive DMAS' request for information or notification for a reason not attributable to the parent or spouse. Lack of a forwarding address is attributable to the parent or spouse.

[5. The required information on the group health plan could not be obtained from the employer.

6. The recipient demonstrates a medical need for specific coverage provided by an available group health plan which does not meet the DMAS established cost effectiveness criteria. This specific coverage is not provided by Medicaid or other group health plans which do meet the DMAS established cost effectiveness criteria.]

§ 6. Information required of applicants and recipients.

All applicants and recipients shall be required to provide all the information contained in the DMAS form Insurance Information Request Form.

Department of Medical Assistance Services
 Division of Client Services-HIPP Unit
 600 E. Broad Street, Suite 1300, Richmond, VA 23219

DRAFT

**HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM
 INSURANCE INFORMATION REQUEST FORM**

To be completed by the client:

1. Client Name: _____
2. Social Security Number: _____ 3. Birthdate: _____
4. Phone number where you can be reached: () _____
5. List all persons living in your household for whom you are applying for medical assistance, including yourself, if applicable:

Please Print Full Name (first,m,i,last)	Social Security Number	Birthdate	Relationship to Client

(List any additional persons on the back of this form)

6. Are any of these persons covered by health insurance? YES _____ NO _____
 If yes, list the information from each insurance ID card below and/or attach a copy of each insurance card to this form.
 List all insurance plans, if more space is needed, please use the back of this form.

Insurance Co.: _____	Effective Date: _____	Insurance Co.: _____	Effective Date: _____
ID#: _____	Group No.: _____	ID#: _____	Group No.: _____
Coverage: _____	Type of Policy: _____	Coverage: _____	Type of Policy: _____
(Emp., Family)	(Comp., Maj. Medical, HMO)	(Emp., Family)	(Comp., Maj. Medical, HMO)

7. Is anyone in your household employed? YES _____ NO _____
 If yes, list below all persons who are employed and information on their place of employment:

Name: _____	Relationship to Persons in #5: _____	Name: _____	Relationship to Persons in #5: _____
<i>Information on Place of Employment:</i>		<i>Information on Place of Employment:</i>	
Company Name: _____	Address: _____	Company Name: _____	Address: _____
City, State, Zip: _____	Phone Number: () _____	City, State, Zip: _____	Phone Number: () _____

(List any additional persons on the back of this form)

Client's Signature: _____ Date: _____

For office use only: MAP Case ID#: _____ Case Worker #: _____

Department of Medical Assistance Services
 Division of Client Services-HIPP Unit
 600 E. Broad Street, Suite 1300, Richmond, VA 23219

PLEASE COMPLETE AND RETURN THIS FORM
 TO THIS DEPARTMENT BY: _____

**HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM
 Medical History Form**

Employee's Name
 and Address Will Appear Here

Date: _____

DRAFT

If you would like for this Department to reconsider the decision to not pay your group health insurance premiums, then please provide the following information on Medicaid-eligible persons covered under the group health insurance plan. This information is confidential and will be used only for determining whether or not the Department will pay your group health plan premiums. If additional space is needed, please attach a blank sheet of paper with your name on each sheet.

1. List below those Medicaid-eligible persons covered by your insurance plan who were admitted to the hospital in the last 12 months, the number of times they were admitted and the total cost for those hospital stays. (List the full cost, not just the portion you paid)

First and Last Name	No. of Hospital Admissions	Total Cost for Those Stays

2. List below those Medicaid-eligible persons covered by your insurance plan who visited a doctor for care during the last 12 months, the number of times they visited the doctor and the total cost for those visits. (List the full cost, not just the portion you paid)

First and Last Name	No. of Dr.'s Office Visits	Total Cost for Those Visits

3. List below those Medicaid-eligible persons covered by your insurance who obtained a prescription drug during the last 12 months, the number of prescriptions filled (or refilled) and the total cost for those prescriptions. (List the full cost, not just the portion you paid)

First and Last Name	No. of Prescriptions Drugs	Total Cost for Those Prescriptions

4. List below those Medicaid-eligible persons covered by your insurance who have any of the following medical conditions which requires medical care:

Conditions: diabetes, blood disorder, cancer, mental illness, mental retardation, pregnancy, heart condition, asthma, other respiratory ailment, scoliosis, back injury, stroke, head injury, organ transplant, kidney or liver disorders, AIDS, alcoholism, seizure disorder or drug addiction.

Name: _____ Date Condition Began: _____
 Name: _____ Date Condition Began: _____

Any questions or concerns you may have regarding this form should be referred to the HIPP Unit at (804) 225-4236.

Your Signature: _____ Date: _____
 Print Name: _____

Disposition: Send original to Employee Copy: DMAS, HIPP Unit

HIPP Form-7 Rev. 11/92

Department of Medical Assistance Services
 Division of Client Services—HIPP Unit
 600 E. Broad Street, Suite 1300, Richmond, VA 23219

PLEASE COMPLETE AND RETURN THIS FORM
 AND ANY ATTACHMENTS BY: _____

EMPLOYER INSURANCE VERIFICATION FORM **DRAFT**

DRAFT

HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM
 EMPLOYER INSURANCE VERIFICATION FORM

Employer's Name
 and Address Will Appear Here

Employee: _____
 SSN: _____

This Department is requesting information regarding current group health insurance coverage for the person listed above who is (or was) employed by your company. The Department will consider paying the health plan premiums on behalf of the employee in accordance with Section 1906 of the Social Security Act. The information requested on this form will be used by the Department to determine if premiums can be paid. The information provided will remain confidential. If you have any questions, please contact the HIPP Unit at (804) 225-4236. We appreciate your assistance.

Part A - General (This information will be provided by the Department.)

The following Medicaid-eligible persons must be covered by the group health insurance plan carried by the above-named employee in order for the employee to be eligible for this program.

Name	SSN	Birthdate	Relationship to Employee

Part B - Coverage

1. Is the employee listed above eligible for a group health insurance plan? YES ___ NO ___
 If NO, stop here, sign the back of this form and return it to the address above.

2. Is the employee listed above covered by a health insurance plan? YES ___ NO ___
 If NO, what is the earliest possible date the employee could apply for coverage? _____

(a) If the employee is enrolled in a group health insurance plan, please provide the following information:

Insurance Company: _____
 ID#: _____ Effective Date: _____
 Group No.: _____ Policy No.: _____
 Coverage: _____ Type of Policy: _____
 (Employee, Family) (Comp., Med., Medical, HMO)

(b) Amount of the Monthly Premium Paid by Employee for this coverage: \$ _____

(c) Are all of the persons listed in Part A covered by the group health plan? YES ___ NO ___
 If NO, please list below the names of those persons NOT covered: _____

3. Does the employee pay premiums through payroll deduction? YES ___ NO ___
 If YES, how often are premiums payroll deducted? _____
 If NO, explain method of premium payment and frequency: _____

PLEASE BE SURE TO COMPLETE THE BACK OF THIS FORM HIPP Form-2 Rev. 11.92

Part C - Plan Benefits

Employee's Name: _____

Please provide the following information regarding the group health insurance plan in which the employee listed above is enrolled. If the employee is eligible but not enrolled, please provide the following information for each group health plan available to the employee and attach a schedule of employee premiums for each plan.

Requesting an Update to Information Previously Provided. If this is checked, please verify the accuracy of information below. Mark any changes needed to reflect current coverage. If the information is accurate, then complete Part D and return this form.

1. Can employees apply for the health insurance plan at any time? YES ___ NO ___
 Is evidence of insurability required? YES ___ NO ___
 Is there an open enrollment period? YES ___ NO ___
 If YES, when is open enrollment? _____ to _____

2. Check below which type of plan this health insurance plan is:
 ___ Hospital Only ___ Comprehensive ___ HMO
 ___ Hospital/Surgical ___ Major Medical ___ PPO
 ___ Medical/Surgical ___ Medical/Surgical & Major Me ___ Other: _____

3. Group No.: _____ Policy No.: _____ Plan No.: _____

4. Complete those areas which apply:
 Lifetime Maximum Benefit: \$ _____ Coinsurance Paid by Plan: \$ _____
 Calendar Year Deductible: \$ _____ Family Deductible Max.: \$ _____
 *Out of Pocket Limit: \$ _____ *Family Out of Pocket Max.: \$ _____
 *(Do not include deductible in these amounts)

5. Circle below, as appropriate, those services covered by this health insurance plan:

Inpatient Hospital	Yes	No	Physician Care	Yes	No
Outpatient Hospital	Yes	No	Skilled Nursing		
Diagnostic Lab and X-Rays	Yes	No	Home Health	Yes	No
Prescription Drugs	Yes	No	Care	Yes	No
Maternity/Pregnancy	Yes	No	Dental Care	Yes	No
Other Major Services:	_____				

6. Does this plan have a pre-existing condition limitation? YES ___ NO ___
 If YES, how many months is the limitation period? _____

7. Dependent children are covered to what _____ If full-time students, to what age _____

8. Please provide the name and address of the insurance company or third party administrator who processes claims for the plan. If the employer administers claims, please _____

Company Name: _____
 Mailing Address: _____

Part D - Signature

I hereby certify that all information contained herein is true and correct to the best of my knowledge and ability.

Signature: _____ Title: _____
 Print Full Name: _____ Date: _____
 Phone No.: _____

Department of Medical Assistance Services
 Division of Client Services—HIPP Unit
 600 E. Broad Street, Suite 1300, Richmond, VA 23219

DRAFT

Date: _____

HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM
 Employer Agreement

03 JAN -5 PM 0:13

Employer's Name
 and Address Will Appear Here

Employee: _____
 SSN: _____
 Employer Tax ID#: _____
 (Employer, please provide your Tax ID#)

This Department has approved the payment of group health insurance premiums for the employee named above in accordance with Section 1906 of the Social Security Act. We request that you accept payment from this Department in lieu of payroll deductions from the employee's wages. Please indicate below if you will accept payment from this Department. If you have any questions, please contact the HIPP Unit at (804) 225-4236. We appreciate your assistance.

____ Yes, we WILL accept payments from the Department on behalf of this employee.
 Please complete the rest of this Agreement and return it to the Department within 10 days.

I, _____ (Employer) agree to accept payments of group health insurance premiums from the DEPARTMENT OF MEDICAL ASSISTANCE SERVICES on behalf of the above-named employee. Payroll deductions from the employee's wages will be suspended and the employee will not be responsible for payment while this Agreement is in force. Payments, if made by the employee or this Department, shall be refunded appropriately. Any change in services or persons covered or premium amount for the health insurance plan will be reported to the Department promptly.

State Payment Responsibility Will Begin Within 10 days of receipt of a signed Employer Agreement Form. Payments will be mailed to the Employer on or before the 10th of the month for coverage during that same month. Advance notice of any change or discontinuation of payments will be mailed to the Employer 30 days prior to such change or discontinuation.

Amount of Monthly Payment: _____ Type of Coverage: _____
 (Emp. Only, Family, etc.)
 Name and Address of Insurance Carrier: _____ Insured/Policy Holder: _____
 _____ ID/Policy Number: _____

The terms of this agreement shall remain in force as the employer group health insurance plan meets HIPP cost-effectiveness criteria and the Medicaid-eligible members of the employee's household are covered by the employer group health insurance plan. The Department or the Employer may terminate this agreement at any time with a written 10-day advance written notice by either party. This Agreement replaces all previous Agreements.

____ No, we WILL NOT accept payments from the Department on behalf of this employee.
 Please sign below and return this form to the Department within 10 days.

Signature of Employer Representative: _____ Date: _____ Title: _____

Authorized by: _____ HIPP Specialist Date: _____

Disposition: Send original to DMAS, HIPP Unit Copy: Employer HIPP Form-3 Rev. 11.92

Department of Medical Assistance Services
 Division of Client Services—HIPP Unit
 600 E. Broad Street, Suite 1300, Richmond, VA 23219

DRAFT

- ____ Original Notice
- ____ Update based on change
- ____ Re-determination Notice
- ____ SECOND & FINAL NOTICE

HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM
 Notice of HIPP Determination

03 JAN -5 PM 0:13

Employee's Name
 and Address Will Appear Here

Notice Date: _____
 DSS Case No.: _____
 County: _____
 DSS Worker: _____

The Department has approved the payment of your group health insurance premium in the following plans:

In order for premiums to be paid, you must take the following action(s) by: (date will be listed here)

- ____ If you apply for one of the group health insurance plans listed above and cover those Medicaid-eligible members of your family who are listed below, this Department will pay your health insurance premiums. Your coverage may also include other family members who are not eligible for Medicaid. You must apply for coverage by the date specified above.
- ____ In order to remain eligible for Medicaid, you must apply for one of the group health insurance plans listed above by the date specified above. Coverage must include the Medicaid-eligible members of your family who are listed below. Failure to enroll by the date specified above will result in the loss of your Medicaid eligibility.
- ____ In order to remain eligible for Medicaid, you must complete an application for one of the group health insurance plans listed above and you must forward the application to this Department by the date specified above. Coverage must include the Medicaid-eligible members of your family who are listed below. Failure to forward an application to this department by the date specified above will result in the loss of your Medicaid eligibility. You must also apply for coverage during your employer's next open enrollment period.
- ____ No action is required since you and the Medicaid-eligible members of your family listed below are covered by one of the group health insurance plans listed above. You must advise this department of any changes in your health insurance plan. A request has been sent to your employer to accept payment directly from this department. As soon as a response is received a Notice of Premium Payment Approval will be sent to you indicating where and when payments will be made.

MEDICAID-ELIGIBLE FAMILY MEMBERS WHO MUST BE COVERED UNDER THE GROUP HEALTH INSURANCE PLAN

Name	Birthdate	Relationship

Report all changes regarding your health insurance coverage to this office within 10 days of the change. Changes that should be reported include, but are not limited to: changes in the amount of the premium, changes in the scope of benefits covered by the policy, changes in the persons covered under the policy, etc. IF YOU VOLUNTARILY DROP HEALTH INSURANCE COVERAGE THAT THIS DEPARTMENT HAS APPROVED UNDER THE HIPP PROGRAM, MEDICAID ELIGIBILITY ON THE EMPLOYEE WILL BE CANCELLED.

If you disagree with the action taken, you have the right to appeal to the State Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219. The appeal must be made within 30 days of the receipt of this notice. Forms for making an appeal will be provided by the local social services department or by the State Department of Medical Assistance Services.

If you are eligible for Medicaid, the law requires you to notify the local social services department of any increase in your income and other resources or other circumstances since your eligibility depends on your individual situation. This Department will give you a form for reporting any changes. Failure to report changes that have an effect on eligibility is breaking the law and can result in prosecution.

Any questions about this program should be referred to the DMAS HIPP Unit at (804) 225-4236.

Authorized by: _____ HIPP Specialist Date: _____

Original Sent to: Copy: DSS Coverage Copy: DMAS HIPP Unit HIPP Form-3 Rev. 11.92

Department of Medical Assistance Services
 Division of Client Services—HIPP Unit
 600 E. Broad Street, Suite 1300, Richmond, VA 23219

DRAFT

Original Notice
 Update based on change
 Re-determination Notice

HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM
 Notice of HIPP Approval

Employee's Name
 and Address Will Appear Here

Notice Date: _____
 DSS Case No.: _____
 County: _____
 DSS Worker: _____

The Department has approved the payment of your employer group health insurance premium as follows:

- _____ Premiums will be paid to your employer. Deductions will not be taken from your paycheck.
- _____ Premiums will be reimbursed to you for deductions taken from your earnings or for premiums paid by you directly to an insurance company. You must provide proof of your payments (pay stubs showing insurance deductions, etc.) when requested to do so.
- _____ Premiums will be paid to the insurance company. You must submit your premium notices to this department upon receipt.

State Payment Responsibility Begin Date: _____ Monthly Premium Amount: _____

The approval of premium payments is based on the coverage provided by the health insurance policy, the premiums, the average estimated Medicaid expenditures and, if available, utilization history and health-related circumstances of Medicaid-eligible persons covered by the policy. Each case will be reviewed periodically. Premiums will be paid as long as the health insurance coverage meets established criteria and the Medicaid-eligible family members listed below are eligible for Medicaid.

Name and Address of Insurance Carrier: _____ Insured/Policy Holder: _____
 _____ ID/Policy Number: _____

MEDICAID-ELIGIBLE FAMILY MEMBERS WHO MUST BE COVERED UNDER THE GROUP HEALTH INSURANCE PLAN

Name	Birthdate	Relationship

Report all changes regarding your health insurance coverage to this office within 10 days of the change. Changes that should be reported include, but are not limited to: changes in the amount of the premium, changes in the scope of benefits covered by the policy, changes in the persons covered under the policy, etc. **IF YOU VOLUNTARILY DROP HEALTH INSURANCE COVERAGE THAT THIS DEPARTMENT HAS APPROVED UNDER THE HIPP PROGRAM, MEDICAID ELIGIBILITY ON THE EMPLOYEE WILL BE CANCELLED.**

If you disagree with the action taken, you have the right to appeal to the State Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219. The appeal must be made within 30 days of the receipt of this notice. Forms for making an appeal will be provided by the local social services department or by the State Department of Medical Assistance Services.

If you are eligible for Medicaid, the law requires you to notify the local social services department of any increase in your income and other resources or other circumstances since your eligibility depends on your individual situation. This Department will give you a form for reporting any changes. Failure to report changes that have an effect on eligibility is breaking the law and can result in prosecution.

Any questions about the program should be referred to the DMAS HIPP Unit at (804) 225-4236.

Authorized by: _____ HIPP Specialist Date: _____

Department of Medical Assistance Services
 Division of Client Services—HIPP Unit
 600 E. Broad Street, Suite 1300, Richmond, VA 23219

DRAFT

Original Notice
 Update based on change
 Re-determination Notice

HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM
 Notice of HIPP Status

Employee's Name
 and Address Will Appear Here

Notice Date: _____
 DSS Case No.: _____
 County: _____
 DSS Worker: _____

The Department has denied the payment of your employer group health insurance premium for the following reason:

- _____ Payment of your employer group health plan premiums does not meet the HIPP Program cost-effectiveness criteria.
- _____ Payment of your employer group health plan premiums does not meet the HIPP Program cost-effectiveness criteria. However, if you complete and return the enclosed Medical Utilization Form, this Department will re-evaluate the cost-effectiveness of paying the premium based on this additional information.
- _____ You are not eligible for a group health insurance plan.
- _____ The employee has not applied for insurance to cover the Medicaid-eligible members of the household.
- _____ You do not meet the eligibility requirements for the HIPP Program.

_____ The Department will discontinue payments of your employer group health insurance premium as indicated above. State Payment Responsibility Ends Effective: _____
 This does not apply to you unless it is checked. (Contact the employer if you wish to continue coverage.)

Comments: _____

If you disagree with the action taken, you have the right to appeal to the State Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219. The appeal must be made within 30 days of the receipt of this notice. Forms for making an appeal will be provided by the local social services department or by the State Department of Medical Assistance Services.

If you are eligible for Medicaid, the law requires you to notify the local social services department of any increase in your income and other resources or other circumstances since your eligibility depends on your individual situation. This Department will give you a form for reporting any changes. Failure to report changes that have an effect on eligibility is breaking the law and can result in prosecution.

Any questions or concerns you may have regarding this program should be referred to the HIPP Unit at (804) 225-4236.

Authorized by: _____ HIPP Specialist Date: _____

Original - Employee Copy - DSS Caseworker Copy - DMAS HIPP Unit

HIPP Form-6 Rev. 11/92

Final Regulations

DEPARTMENT OF STATE POLICE

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 State Police will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 545-01-1. Motor Carrier Safety Regulations.

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

Effective Date: March 10, 1993.

Summary:

Amendment 3 adopts and incorporates by reference changes made by the U.S. Department of Transportation, Federal Highway Administration, to Title 49, Code of Federal Regulations (CFR), Parts 390 through 397 promulgated and in effect as of October 1, 1992. These changes include:

- 1. Amending 49 CFR 390.5 by defining "Direct assistance, Emergency, Emergency relief, and Health care professional."*
- 2. Amending 49 CFR 390.21 concerning commercial motor vehicle marking requirements by making them applicable to every commercial motor vehicle subject to the Federal Motor Carrier Safety Regulations. This action to include a broader range of vehicles will improve uniformity of identification of commercial motor vehicles operated on the nation's highways and aid enforcement officers in carrying out their duties.*
- 3. Amending 49 CFR 390.23 and 390.25 which will allow motor carriers and drivers responding to emergencies to be exempt from the Motor Carrier Safety Regulations (MCSRs) while providing direct assistance to emergency relief efforts.*
- 4. Amending 49 CFR 391.43 describing the duties and qualifications of a health care professional.*
- 5. Amending 49 CFR 391.83 which delays the effective date of regulations governing drug testing, insofar as those regulations would require testing of foreign-based employees of foreign-domiciled motor carriers. These persons must be tested no later than January 2, 1995. This delay is being adopted to allow negotiation with foreign governments to continue in an orderly and effective fashion.*
- 6. Amending 49 CFR 395 by making certain technical*

amendments. All the exemptions and exceptions found in Part 395 are being incorporated into a new § 395.1, Scope of rules to this part. The FHWA believes that this change will make it easier for drivers and motor carriers to understand these requirements. This consolidation is only a technical change.

7. Amending 49 CFR 396.9(d)(3)(ii) requiring the motor carrier to return the completed roadside inspection form to the issuing agency at the address on the form and retain a copy at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of the inspection.

8. Amending 49 CFR Part 397 to incorporate, without substantive change, the preemption determination and waiver of preemption procedures currently contained in the Research and Special Programs Administration (RSPA) regulations at 49 CFR 107.201 to 107.227, into the FHWA's regulations at Subpart E of 49 CFR Part 397. This amendment will also incorporate, without substantive change, the routing requirements for Class 7 (Radioactive) materials, currently contained in RSPA regulations 49 CFR 177.825, into FHWA's regulations at Subpart D of 49 CFR Part 397. This amendment is necessary because the responsibility for highway routing of hazardous materials, including Class 7 (radioactive) materials and the related preemption procedures, has been delegated by the Secretary of Transportation to FHWA. These regulations, which currently apply to highway routing issues, are being replicated without substantive changes under the FHWA chapter of the CFR.

VR 545-01-1. Motor Carrier Safety Regulations.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in interstate or intrastate commerce to transport passengers or property if (i) such vehicle has a gross vehicle weight rating or gross combination weight rating of more than 26,000 pounds, (ii) is designed to transport more than fifteen passengers, including the driver, regardless of weight or (iii) is used to transport hazardous materials in a quantity requiring placards by regulations issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials.

"Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle or a private carrier of property by motor vehicle. This term also encompasses any agent, officer, representative or employee

who is responsible for hiring, supervision, training, assignment or dispatching of drivers.

"Reportable accident" as it relates to Motor Carrier Safety Regulations means an occurrence involving a commercial motor vehicle engaged in interstate or intrastate operations of a motor carrier who is subject to these regulations resulting in (i) the death of a human being, (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident or (iii) total damage to all property aggregating \$4,400 or more based upon actual costs or reliable estimates.

"Safety inspections" means the detailed examination of a vehicle for compliance with safety regulations promulgated under § 52-8.4 of the Code of Virginia and includes a determination of the qualifications of the driver and his hours of service.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth of Virginia.

"Transport vehicle" means any vehicle owned or leased by a motor carrier used in the transportation of goods or persons.

PART II. GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1. Authority for regulation.

A. These regulations are issued under authority of § 52-8.4 of the Code of Virginia, Powers and duties to promulgate regulations; inspection of certain records.

B. Section 52-8.4 of the Code of Virginia mandates that the Superintendent of State Police, with the cooperation of such other agencies of the Commonwealth as may be necessary, shall promulgate regulations pertaining to commercial motor vehicle safety pursuant to the United States Motor Carrier Act of 1984.

C. These regulations, as promulgated, shall be no more restrictive than the applicable provisions of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation.

§ 2.2. Purpose of regulations.

These regulations shall set forth criteria relating to driver, vehicle, and cargo safety inspections with which motor carriers and transport vehicles shall comply.

§ 2.3. Application of regulations.

A. These regulations and those contained in Title 49, Code of Federal Regulations, Parts 40 and 390 through 397, unless excepted, shall be applicable to all employers,

employees, and commercial motor vehicles, which transport property or passengers in interstate and intrastate commerce.

B. These regulations shall not apply to hours worked by any carrier when transporting passengers or property to or from any portion of the Commonwealth for the purpose of providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, major loss of utility services or other calamity or disaster. The suspension of the regulation provided for in § 52-8.4 A shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of Federal Motor Carrier Safety Regulations.

§ 2.4. Enforcement.

The Department of State Police, together with all other law-enforcement officers of the Commonwealth who have satisfactorily completed forty hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal Highway Administration, Office of Motor Carriers, in federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria shall enforce the regulations and other requirements promulgated pursuant to § 52-8.4 of the Code of Virginia. Those law-enforcement officers certified to enforce the regulations and other requirements promulgated pursuant to § 52-8.4 shall annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria.

§ 2.5. Inspection of records.

Any records required to be maintained by motor carriers pursuant to regulations promulgated by the Superintendent under the authority of § 52-8.4 A of the Code of Virginia, shall be open to inspection during a carrier's normal business hours by specially trained members of the Department of State Police designated for that purpose by the Superintendent shall also be authorized, with consent of the owner, operator or agent in charge or with an appropriate warrant obtained under the procedure prescribed in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2 of the Code of Virginia, to go upon the property of motor carriers to verify the accuracy of maintenance records by an inspection of the vehicles to which those records relate.

§ 2.6. Penalties.

Any violation of the provisions of the regulations adopted pursuant to § 52-8.4 of the Code of Virginia, shall constitute a traffic infraction punishable by a fine of not more than \$1,000 for the first offense or by a fine of not more than \$5,000 for a subsequent offense. Each day of violation shall constitute a separate offense.

PART III.

Final Regulations

INCORPORATION BY REFERENCE.

Article 1.

Compliance with Federal Regulations.

§ 3.1. Compliance.

A. Every person and commercial motor vehicle subject to the Motor Carrier Safety Regulations operating in interstate or intrastate commerce within or through the Commonwealth of Virginia shall comply with the Federal Motor Carrier Safety Regulations promulgated by the United States Department of Transportation, Federal Highway Administration, with amendments promulgated and in effect as of October 1, 1991-1992, pursuant to the United States Motor Carrier Safety Act found in Title 49, Code of Federal Regulations (CFR), Parts 390 through 397, which are incorporated in these regulations by reference, with certain exceptions, as set forth below.

B. Those persons required to comply with subsection A shall also comply with Procedures for Transportation Workplace Drug Testing Program promulgated by the United States Department of Transportation, with amendments and in effect as of the date in subsection A and found in Title 49 of the Code of Federal Regulations, Part 40, which is incorporated in these regulations by reference as set forth below.

Article 2.

Part 40 - Procedures for Transportation Workplace Drug Testing Programs.

§ 3.2. Drug testing procedures.

Incorporated with no exceptions as it relates to Title 49 of the Code of Federal Regulations, Part 391, Subpart H - Controlled Substance Testing (§ 391.81 et seq.).

Article 3.

Part 390 - General.

§ 3.3. Minimum levels of financial responsibility for motor carriers - § 390.3 (c).

A commercial motor vehicle used wholly in intrastate commerce is not subject to this section unless transporting hazardous materials, hazardous substances or hazardous waste as set forth in Title 49, Code of Federal Regulations, Part 387.3, (b) and (c).

§ 3.4. Exempt intra-city zone - § 390.5.

This term does not include a driver or vehicle used wholly in intrastate commerce.

Article 4.

Part 391 - Qualifications of Drivers.

§ 3.5. Minimum age - § 391.11.

A driver may be 18 years old if operating wholly in intrastate commerce and is not subject to article 7 (§10.1 - 1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Regulations Governing the Transportation of Hazardous Materials.

§ 3.6. Investigations and inquiries - § 391.23.

Except as provided in Subpart G of this part, each intrastate motor carrier shall make investigations and inquiries required by paragraphs (1) and (2) of this section with respect to each driver it employs, other than a person who has been a regularly employed driver of the intrastate motor carrier for a continuous period which began before July 9, 1986.

§ 3.7. Resolution of conflicts of medical evaluation - § 391.47.

The Superintendent reserves the right to resolve medical conflicts involving those drivers used wholly in intrastate commerce.

§ 3.8. Waiver of certain physical defects - § 391.49.

A person who is not physically qualified to drive under § 391.41 (b) (1) or (b) (2) or (b) (3) or (b) (10), and is not subject to Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Regulations Governing the Transportation of Hazardous Materials, and who is otherwise qualified to drive a property-carrying motor vehicle, may drive a property-carrying motor vehicle in intrastate commerce if granted a waiver by the Superintendent.

§ 3.9. Driver qualification files - § 391.51.

The applicable date referred to in § 391.51 (b) and (c) shall be July 9, 1986, for drivers used wholly in intrastate commerce. The Superintendent's letter granting a waiver of a physical disqualification to an intrastate driver, if a waiver was issued under § 391.49, shall be in the driver qualification files.

§ 3.10. Subpart G - Limited exemptions - § 391.61.

The applicable date referred to in § 391.61 shall be July 9, 1986, for drivers used wholly in intrastate commerce.

§ 3.11. Subpart H - Controlled substance testing - § 391.81 et seq.

Intrastate motor carriers shall implement Subpart H effective November 15, 1991. Ninety days will be allowed for affected intrastate motor carriers to comply.

Article 5.

Part 392 - Driving of Motor Vehicles.

§ 3.12. Driving of motor vehicles.

Incorporated with no exceptions.

Article 6.

Part 393 - Parts and Accessories Necessary for Safe Operation.

§ 3.13. Parts and accessories.

Incorporated with no exceptions.

Article 7.

Part 394 - Notification and Reporting of Accidents.

§ 3.14. Notification and accident reporting.

Intrastate motor carriers and drivers need only comply with § 46.2-371 of the Code of Virginia and Article 11 (§ 46.2-894 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia.

Article 8.

Part 395 - Hours of Service of Drivers.

§ 3.15. Drivers declared out of service - § 395.13 (a).

Law-enforcement officers of the Department of State Police specifically designated by the Superintendent are authorized to declare a driver out of service and to notify the motor carrier of that declaration, upon finding at the time and place of examination that the driver has violated the out-of-service criteria as set forth in § 395.13 (b).

§ 3.16. Responsibilities of motor carriers - § 395.13 (c) (2).

A motor carrier shall complete the "Motor Carrier's Report of Compliance with this Notice" portion of form S.P. 233-A (Virginia State Police Motor Carrier Safety Inspection) and deliver the copy of the form either personally or by mail to the Department of State Police, Office of Administrative Coordinator, Motor Carrier Safety, at the address specified upon the form within 15 days following the date of the examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

Article 9.

Part 396 - Inspection, Repair, and Maintenance.

§ 3.17. Inspection of motor vehicles in operation - § 396.9 (a).

Law-enforcement officers of the Department of State Police specifically designated by the Superintendent are authorized to enter upon and perform inspections of motor carrier vehicles in operation.

§ 3.18. Motor vehicles declared "out of service" - § 396.9 (c).

Authorized personnel defined in § 3.17 above shall declare and mark "out of service" any motor vehicle

which by reason of its mechanical conditioner or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker shall be used to mark vehicles "out of service."

§ 3.19. Motor carrier's disposition - § 396.9 (d) (3) (ii).

Motor carriers shall return the completed form S.P. 233 (Virginia State Police Motor Carrier Safety Inspection) to the Department of State Police at the address indicated on the report.

Article 10.

Part 397 - Transportation of Hazardous Materials; Driving and Parking Rules.

§ 3.20. Driving and parking rules - § 397.

Incorporated with no exceptions.

Final Regulations



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

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

January 25, 1993

Colonel Carl R. Baker, Superintendent
Department of State Police
7700 Midlothian Turnpike
Richmond, Virginia 23235

Re: VR 545-01-01 - Motor Carrier Safety Regulations

Dear Colonel Baker:

This will acknowledge receipt of the above-referenced regulations from the Department of State Police.

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

Sincerely,

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

Joan W. Smith
Registrar of Regulations

JWS/jbc

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-3-442. Consolidated and Combined Returns.

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

Effective Date: March 10, 1993.

Summary:

The procedure to be utilized by affiliated groups of this nature in computing a consolidated Virginia apportionment factor is shown. Each one factor affiliated group member takes its apportionment percentage utilizing the one factor apportionment method, and multiplies it by its property, payroll, and sales denominator in order to compute the Virginia portion of these items. This has the effect of computing a proforma three factor formula for each one factor affiliate. With a proforma three factor formula, the one factor affiliates' apportionment results may be utilized in computing the consolidated apportionment factor.

The final regulation contains the following substantive changes from the regulation as proposed:

Section 6 A 2 incorporates transitional rules in computing Virginia taxable income if the income is computed with reference to federal net operating losses incurred and utilized in taxable years ending on or before December 31, 1992.

Section 6 A 3 incorporates transitional rules in computing Virginia taxable income if the income is computed with reference to federal net operating losses incurred in taxable years ending on or before December 31, 1992, and carried forward to taxable years ending on dates after December 31, 1992.

Section 8, Example 8 was deleted in response to several comments received because it does not reflect new Virginia policy with respect to combined return filing.

Other minor changes were made to correct typographical errors and to clarify various areas of the proposed regulation.

VR 630-3-442. Consolidated and Combined Returns.

(A) § 1. In General.

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B. Overview.	
In the first year two or more members of an affiliated	

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group of corporations, as defined in Va. Code § 58.1-302 of the Code of Virginia, are required to file Virginia returns, the group may elect to file separate returns, a consolidated return or a combined return. All returns for subsequent years must be filed on the same basis unless permission to change is granted by the Department of Taxation. The group may elect to file on a basis different from its federal return(s). Other members of the affiliated group of corporations which become subject to Virginia income tax in subsequent years must conform to the initial election made by the group unless permission to change is granted by the department.

C. Affiliate.

Corporations actually included in a consolidated federal return shall be presumed to satisfy the ownership criteria of the definition of "affiliated" in § 58.1-302 of the Code of Virginia and VR 630-3-302. A corporation included in a federal consolidated return but which is not subject to Virginia income tax is not an affiliate for Virginia purposes.

D. Federal taxable income.

1. When the affiliated group files federal and Virginia returns on a different basis, or files a federal consolidated return including corporations which are not subject to Virginia income tax, the "federal taxable income" for Virginia purposes of the affiliated group and of each member of the group shall be computed in accordance with the following principles:

a. If the affiliated group files a consolidated Virginia return:

(1) The federal taxable income (before and after deductions for net operating losses, net capital losses, and charitable contributions) of the affiliated group shall be computed as if a federal consolidated return had been prepared that included only the members included in the Virginia consolidated return for the current year. If a federal deduction for a net operating loss, net capital loss or charitable contribution in the current year affects or is affected by another taxable year, then a similar computation shall be made for every such taxable year beginning on and after the year for which an election was made, or permission granted, to file a consolidated Virginia return, and federal taxable income shall be computed on a separate basis for every such taxable year before consolidated Virginia returns were filed.

(2) The federal taxable income shall be computed without giving effect to the deferral of any gain, loss, or deduction arising from a transaction with a corporation not subject to Virginia income tax.

(3) Any deferred gain, loss or deduction arising from a prior transaction with an affiliate shall be

recognized for Virginia purposes when the affiliate subsequently ceases to be an affiliate or when the asset involved is transferred to a corporation which is not an affiliate.

(4) The group's federal taxable income for Virginia purposes shall be computed as if each affiliate's losses incurred before joining the Virginia consolidated return had been incurred in a separate return year. This provision shall not operate to create a separate return limitation year within the meaning of U.S. Treasury Reg. § 1.1502-21 or § 1.1502-22 if all three of the following conditions are satisfied with respect to the taxable year of the loss: the affiliate was subject to Virginia income tax and its loss was reported on a timely filed Virginia return; the affiliate satisfied the ownership requirements of the definition of "affiliated" in § 58.1-302 of the Code of Virginia on every day of the taxable year with respect to the group to which the loss will be carried; and either the affiliate was prohibited from being included in a consolidated Virginia return filed by other affiliates solely because of its apportionment factor, or permission to file a consolidated return was granted pursuant to the provisions of § 5 A 3.

b. If the group files separate Virginia returns or a combined Virginia return, then the federal taxable income (before and after deductions for net operating losses, net capital losses, and charitable contributions) of each member of the group shall be computed as if separate federal returns had been filed. A similar computation shall be made for every other year which affects or is affected by a federal deduction for a net operating loss, net capital loss or charitable contribution in the current year.

c. A group filing a combined Virginia return cannot claim a combined or consolidated deduction for federal net operating losses, net capital losses, or charitable contributions. Each affiliate must compute its separate federal taxable income (including its separate net operating loss deduction) pursuant to § 1 D, together with its separate Virginia NOLD modification pursuant to § 1 B 5 of VR 630-3-402.

d. Whenever the computation of federal taxable income includes a federal net operating loss deduction, the Virginia return for such deduction year shall include an addition or subtraction, as the case may be, that is in such proportion to each loss year's net Virginia NOLD modification as the loss absorbed in the deduction year bears to the total federal net operating loss for the loss year. The loss absorbed in the deduction year taxable income shall be the amount that would be subtracted from the federal net operating loss pursuant to I.R.C. § 172(b)(2) to compute the amount of the loss available in subsequent years,

assuming that separate federal returns were filed pursuant to this subsection of this regulation. For example, assume that a 1990 federal net operating loss of \$1,000 is carried back and offsets income in 1987 and 1988. The loss absorbed in 1988 is determined by computing the amount of the loss available in 1990 pursuant to I.R.C. § 172(b)(2). If federal rules require that 1988 taxable income of \$300 be subtracted from the loss, then 30% (\$300 ÷ \$1,000) of the net Virginia NOLD modification associated with the 1990 loss must be reported in the 1988 Virginia return.

2. If an election under Internal Revenue Code § 338(h)(10) is made (allowing a sale of stock in a subsidiary to be treated as a sale of the subsidiary's assets), then the Virginia returns of any members of the selling group that are affected by such election shall reflect the amount and character of income recognized in the federal consolidated return.

3. The details of the computation of federal taxable income shall be disclosed in the return together with copies of any federal returns filed.

~~(B)~~ § 2. Separate return.

~~(A)~~ A. Description

A separate return shows only the income, expenses, gains, losses, ~~allocation~~ allocable income, and apportionment factors of the filing corporation. All affairs of other members of the affiliated group are ignored unless Va. Code § 58.1-446 of the Code of Virginia applies.

~~(2)~~ B. Filing.

If the affiliated group filed a consolidated federal return and the filing corporation files a separate Virginia return, a complete copy of the federal consolidated return must be filed with the Virginia return [; or . If the federal return is so voluminous that it is impractical to file a complete copy with the Virginia return, the complete federal return] must be made available to the department upon request. ~~along with a~~ A worksheet must accompany the federal consolidated return, showing the adjustments and eliminations for consolidation in form similar to that set forth in ~~(C)~~~~(3)~~ § 3 C below.

~~(C)~~ § 3. Consolidated returns.

~~(A)~~ A. Description.

A consolidated return is a single return for all eligible members of an affiliated group of corporations. The return shall show consolidated net income prepared in accordance with I.R.C. § 1502 and the regulations thereunder and consolidated apportionment factors (See Va. Code §§ 58.1-407 through 58.1-420 of the Code of Virginia).

~~(2)~~ B. Eligible members.

~~(a)~~ 1. A consolidated return must include the net income and apportionment factors of all members of [~~the an~~] affiliated group which would be subject to Virginia income tax if separate returns were to be filed. However, in the first year two or more members of an affiliated group are required to file a Virginia income tax return, all members subject to Virginia income tax and otherwise eligible to participate in a Virginia consolidated return in that first year must have the same taxable year end in order for the group to elect consolidated filing. In order for the affiliate's income to be includible in a Virginia consolidated return, each new affiliate created or purchased after the initial Virginia consolidated return filing must adopt the taxable year end of the original group for the new affiliate's first full 12-month taxable year and thereafter.

~~(b)~~ 2. A consolidated return may not include corporations which are: (i) exempt from Virginia income tax under Va. Code § 58.1-401 of the Code of Virginia or U.S. Public Law 86-272 (15 U.S.C.A. §§ 381-384), or (ii) required to use different apportionment factors (e.g. three factor (Va. Code § 58.1-408) and revenue miles (Va. Code § 420)) if separate returns were to be filed, or (iii) not affiliated as defined by Va. Code § 58.1-302 of the Code of Virginia, or ~~(iv)~~ (iii) not subject to Virginia income tax if separate returns were to be filed, or ~~(v)~~ (iv) using different taxable years. For purposes of clause (iv) a corporation shall not be deemed to be using a different taxable year if it files a return for a period of less than 12 months and all of the months are within the taxable year of the consolidated group.

~~(c)~~ 3. No affiliated corporations, otherwise eligible, will be denied the privilege of consolidation merely because other members of the affiliated group are not eligible to be included.

~~(3)~~ C. Filing.

A complete copy of the federal consolidated return, or the separate federal return of each corporation included in the consolidated Virginia return, must be filed with the Virginia return. [If the federal return is so voluminous that it is impractical to file a complete copy with the Virginia return, the complete federal return shall be made available to the department upon request.] All supplementary and supporting schedules filed with a consolidated Virginia return should be prepared in columnar form, one column being provided for each corporation included in the consolidation, one column for a total of like items before adjustments are made, one column for intercompany eliminations and adjustment, and one column for a total of the like items after giving effect to the eliminations and adjustments. The items included in the columns for eliminations and adjustments should be symbolized so as readily to identify contra items affected,

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and suitable explanations appended, if necessary.

~~(4)~~ D. Consent.

~~(a)~~ 1. The filing of a consolidated return requires the consent of all corporations eligible to be included. The filing of a consolidated return will be deemed to be consented to by all eligible corporations included therein. See ~~Va. Reg. § 630-3-447 VR 630-3-447~~ for requirements as to the execution of the consolidated return and consent to be included.

~~(b)~~ 2. Once a consolidated return has been filed all subsequent returns by such corporations, their successors, and other members of the affiliated group who are subsequently required to file a Virginia income tax return, must also be filed on a consolidated basis unless the department grants permission to change from a consolidated return.

~~(E)~~ § 4. Combined returns.

~~(1)~~ A. Description.

For a combined return the Virginia taxable income or loss is separately determined for each eligible corporation. The Virginia taxable income is then separately allocated and apportioned for each eligible corporation using each corporation's commercial domicile and apportionment factors. The resulting income or loss from Virginia sources is then combined and reported on a single return.

~~(2)~~ B. Eligible members.

~~(a)~~ 1. Members of an affiliated group are eligible to file a combined return if they are: (i) subject to Virginia income tax if a separate return were to be filed, and (ii) affiliated as defined by ~~Va. Code § 58.1-302 of the Code of Virginia~~, and (iii) filing using the same taxable year. *For the purpose of determining eligibility to be included in a combined return, a corporation shall not be deemed to be using a different taxable year if it files a return for a period of less than 12 months and all of the months are within the taxable year of the combined group.*

~~(b)~~ 2. Members of an affiliated group are eligible to file combined even though they use different apportionment formulas.

~~(3)~~ C. Filing.

A combined return shall contain all of the information that would be contained in a separate return for each corporation. A copy of the federal consolidated return, or the separate federal returns of each corporation included in the combined return, must be filed with the Virginia return. [*If the federal return is so voluminous that it is impractical to file a complete copy with the Virginia return, the complete federal return shall be made available to the department upon request.*] In addition, a

schedule shall be included with the Virginia return showing the separate income, adjustments, allocation and apportionment factors for each included corporation.

~~(4)~~ D. Consent.

The filing of a combined return requires the consent of all of the corporations eligible to be included. The filing of a combined return will be deemed to be consented to by all eligible corporations included therein. All subsequent returns must also be filed on a combined basis. See ~~Va. Reg. § 630-3-447 VR 630-3-447~~ for requirements as to execution of the combined return and the required consent of each included corporation.

~~(E)~~ § 5. Permission to change.

~~(1)~~ A. To or from consolidated.

1. Permission to change to or from filing consolidated returns will generally not be granted. Such changes affect the allocation and apportionment factors and distort the business done in Virginia and the income arising from activity in Virginia.

2. *If granted, permission to change will generally be effective only for returns filed on and after the date the request for permission to change was filed.*

3. *Permission to file a consolidated return will generally be granted if timely requested by a group including corporations that would be required to use different apportionment factors. A request is timely filed if it is filed on or before the due date for the first Virginia return for an affiliate which was owned by the same interests on January 1, 1990, and which would be required to use an apportionment factor that is not the same as that required to be used by all other affiliates of the group in previous Virginia returns, whether or not any affiliate is subject to tax in another state.*

~~(2)~~ B. To or from combined.

1. Separate and combined returns do not affect the allocation and apportionment formulas for each corporation and permission to change from separate to combined returns or from combined to separate returns will generally be granted.

2. *If granted, permission to change will generally be effective only for returns filed on and after the date the request for permission to change was filed.*

~~(3)~~ C. Election.

Elections as to filing method are deemed to be made by the affiliated group as a whole. Changes in the membership of an affiliated group do not affect the original election by the affiliated group. If a new corporation becomes a member of the affiliated group, the

new corporation must follow the filing method previously elected by the group.

(4) *D. Short year return.*

The filing of a separate short year federal and Virginia return upon organization or acquisition of a new corporation will not be deemed an election of separate return status. The filing of the first return for a 12-month taxable year beginning on or after the date of organization or acquisition of a new corporation which creates the affiliated group will be deemed the filing which elects a return filing status.

(F) § 6. Carryovers.

(1) *A. Double benefit prohibited.*

[*1. Double benefit prohibited.*] When any corporation elects to file, or is granted permission to file, a consolidated or combined return and subsequently incurs a net operating loss or net capital loss for federal income tax purposes, such loss may be carried back to specified prior years or carried over to specified subsequent years under federal law. ~~A~~ To the extent a federal net operating loss may not be used to offset income of other members of the affiliated group in a Virginia combined or consolidated return and also in the year of the loss, it may not be used to reduce income for Virginia purposes of the loss corporation or other members of the group in any other years via the federal net operating loss deduction.

[*2. Net operating losses before December 31, 1992.* If an affiliate has incurred and utilized a federal net operating loss in a taxable year beginning before December 31, 1992, and the amount of loss and Virginia modification utilized was not computed in accordance with I.R.C. § 172 et seq.; § 1 D et seq. and § 6 D of this regulation, an adjustment will be made within the applicable statutory period for any double benefit received.

3. Net operating losses incurred before and utilized after December 31, 1992. All affiliates having net operating losses incurred in taxable years beginning before December 31, 1992, and carried to taxable years beginning after December 31, 1992, must recompute the carryforward amount of federal net operating loss, and accompanying Virginia modification, as if all provisions of this regulation had been in effect when the federal net operating loss was first incurred. If an affiliate utilized an amount of federal net operating loss greater than would have been allowed under the provisions of this regulation, the affiliate's federal net operating loss carryforward for Virginia purposes shall be reduced by the excess amount utilized. The affiliate's Virginia modification to the federal net operating loss shall be adjusted proportionately.]

(2) *B. No Virginia carrybacks or carryovers.*

1. Virginia does not have any provisions in the law permitting the carryback deduction of net operating losses, net capital losses, or charitable contributions carried back or carried over from other taxable years except when allowable as a deduction in computing federal taxable income (See § 1 b 5 of VR 630-3-402). When the affiliated group files federal and Virginia returns on a different basis or files a federal consolidated return including corporations which are not subject to Virginia income tax, the term "federal taxable income" requires special definition for Virginia purposes. In such cases the federal taxable income (before and after carrybacks) of the affiliated group and of each member shall be computed as if the affiliated group contains only those members included in the Virginia consolidated or combined return. The details of such computations shall be disclosed in the return together with copies of any federal returns filed a loss is incurred in a year in which a consolidated or combined Virginia return is filed, the amount of the net Virginia modifications that follow the federal net operating loss deduction shall be computed in accordance with § 6 C (consolidated loss year return) or § 6 D (combined loss year return). No Virginia modifications follow a net capital loss or charitable contribution carryover.

2. A corporation or an affiliated group of corporations may elect to forgo carryback of a net operating loss or net capital loss for Virginia purposes independent of any such election for federal purposes if, and only if, the affiliated group files its Virginia and federal returns on a different basis, or files a federal consolidated return including corporations which are not subject to Virginia income tax. The election for Virginia purposes shall be made by filing a statement with the Virginia return for the loss year in the same manner as prescribed by federal law and regulations.

3. Virginia does not have any provisions in the law permitting the deduction of charitable contributions for the current year or carried over from other taxable years except when allowable as a deduction in computing federal taxable income. If federal and Virginia returns are filed on a different basis, or including different members, then federal taxable income, including federal limitations on the allowable deduction for charitable contributions and the interaction between contribution carryovers and loss carryovers, shall be computed in accordance with § 1 D.

(3) *C. Loss incurred in a consolidated Virginia return*

1. When the consolidated federal taxable income (computed in accordance with § 1 D for purposes of a consolidated Virginia return) includes a federal net operating loss deduction from a loss year in which a consolidated Virginia return was filed, and which is

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not a separate return limitation year (as defined in § 1.1502-1(f) of the Internal Revenue Code) with respect to any affiliate for Virginia or federal tax purposes, the consolidated Virginia additions and subtractions from the loss year shall modify the consolidated federal net operating loss by being carried back or over to other years in the same proportion as the net operating loss deduction absorbed for any year for federal purposes.

2. When any federal return for a member of an affiliated group claims the separate federal taxable income of an affiliate (whether computed for purposes of a separate or combined Virginia return, or for a consolidated Virginia return affected by a separate return limitation year for federal or Virginia tax purposes) includes a net operating loss deduction from a loss year in which a consolidated or combined Virginia return was filed then the federal net operating loss deduction shall be deemed to carry with it a Virginia modification from the loss year computed in the following manner:

a. If the consolidated Virginia return of the affiliated group for the loss year shows a positive consolidated Virginia taxable income that is not a loss, then all of the loss corporation's federal loss and Virginia additions and subtractions have been offset by its own additions and the income, additions and subtractions of other members of the affiliated group. Therefore a net Virginia modification equal to 100% of any federal net operating loss deduction attributable to such loss year shall be added to the Virginia taxable income of the corporation claiming it.

b. If the consolidated Virginia return of the affiliated group for the loss year shows a negative Virginia taxable income that is a loss, then the procedures of U.S. Treasury Regulation § 1.1502-79 shall be applied to the Virginia taxable income of each member of the group to determine a tentative Virginia loss for each loss corporation. The difference between the tentative Virginia loss and federal taxable income (loss) of each corporation, computed as if all corporations had filed separate federal returns, represents the amount of the additions and subtractions of the loss corporation and the income, additions and subtractions of affiliated corporations which were offset in the Virginia consolidated or combined return for the loss year. net Virginia modification is computed as follows:

(1) Identify the affiliates in the consolidated Virginia return for the loss year which have incurred a federal net operating loss for the year ("loss affiliates").

(2) Apply the procedures of U.S. Treasury Regulation § 1.1502-79 to divide the consolidated

federal net operating loss among the loss affiliates in proportion to each affiliate's separate federal net operating loss.

(3) Apply the procedures of U.S. Treasury Regulation § 1.1502-79 to divide the consolidated Virginia taxable income (with Virginia additions and subtractions, but before allocation and apportionment) among the loss affiliates. The consolidated taxable income is divided between loss affiliates by taking the proportion of each affiliate's separate Virginia taxable income to the total separate Virginia taxable income for all loss affiliates. This amount is the tentative Virginia loss.

(4) For each loss affiliate identified in step (1) above, the net Virginia modification is the difference between its share of the consolidated federal net operating loss computed in step (2) and its share of the consolidated Virginia taxable loss computed in step (3). If the federal loss computed in step (2) is greater than the Virginia loss computed in step (3), then the net modification will be an addition. If the federal loss computed in step (2) is less than the Virginia loss computed in step (3), then the net modification will be a subtraction. Such amount shall modify the net operating loss and shall be carried back or over to other years in the same proportion as the net operating loss deduction claimed absorbed for any year.

D. Loss incurred in a combined Virginia return.

1. When the separate federal taxable income of an affiliate (computed for purposes of any Virginia return) includes a net operating loss deduction from a loss year in which a combined Virginia return was filed, then the federal net operating loss deduction shall be deemed to carry with it a net Virginia NOLD modification from the loss year that includes its own additions and subtractions plus an amount representing the income of other affiliates offset by the loss in the combined return. The net Virginia NOLD modification is computed in the following manner:

a. If the combined Virginia taxable income after allocation and apportionment is not a loss, then each affiliate's federal net operating loss and Virginia subtractions for the taxable year have been entirely offset by its own additions and the income, additions, and subtractions of other members of the affiliated group. Therefore, each affiliate's net Virginia modification shall be an addition equal to the amount of its federal net operating loss. This prevents a federal net operating loss (incurred under this scenario) from reducing Virginia taxable income in any other year to which the loss may be carried for federal purposes.

b. If a combined group's Virginia taxable income

after allocation and apportionment is a loss, but the separate Virginia taxable income after allocation and apportionment is not a loss for any affiliate with a federal net operating loss (incurred in the year at issue), then all of such affiliate's federal net operating loss and Virginia subtractions have been entirely offset by its own additions and the income allocated and apportioned to Virginia. Therefore, such affiliate's net Virginia NOLD modification shall be an addition equal to the amount of its federal net operating loss.

c. If the combined Virginia taxable income after allocation and apportionment is a loss, then the net Virginia NOLD modification is computed as follows for each affiliate which has both a federal net operating loss and a loss after allocation and apportionment:

(1) Compute the amount of income offset in combination by using the summation method. If all members of the combined group have a loss after allocation and apportionment, then no income has been offset in the combined return and no computations are required under subdivisions (2) and (3). Therefore, each affiliate's net Virginia modification will be its own additions and subtractions as provided in subdivision (4).

Summation method: Compute the total Virginia taxable income of nonloss combined group members offset in combination, by summing the Virginia taxable income or loss (after allocation and apportionment) for each affiliate not having both a federal net operating loss and a Virginia taxable loss after allocation and apportionment, including affiliates subject to § 6 D 1 b, above. Note that the resulting amount is decreased by an affiliate's loss created solely by Virginia subtractions and allocable income. Please see Example 6, which demonstrates the summation method.

(2) Apply the procedure outlined in U.S. Treasury Regulation § 1.1502-79 to allocate the income offset in combination determined under subdivision (1) to those affiliates having both a federal and Virginia loss, in proportion to their losses after allocation and apportionment.

(3) For each affiliate to which an amount has been allocated pursuant to subdivision (2), convert the allocated amount to an amount equivalent to an addition before allocation and apportionment. To accomplish this, add the amount derived in subdivision (2) above to each affiliate's income allocated to Virginia (if any), and divide the resulting sum by its apportionment factor. From this grossed up amount, subtract the income allocated before apportionment. The result is the addition equivalent to the income of other affiliates that has been offset by a federal net operating loss

in the combined Virginia return in the year of the loss.

(4) The net Virginia NOLD modification for each affected affiliate is the sum of its separate additions and subtractions plus the addition equivalent computed pursuant to subdivision (3).

§ 7. Mixed apportionment factors.

A. Three factor required.

If a consolidated Virginia return will include corporations that are required to use different apportionment factors, the return shall use a three factor apportionment formula that includes the property, payroll, and sales of all affiliates.

B. Computation.

The consolidated property, payroll, and sales factors of the group shall be computed as follows:

1. With respect to a corporation that is required to use a single apportionment factor under §§ 58.1-417, 58.1-418, 58.1-419 or 58.1-420 (single factor affiliate), the group shall:

a. Include in the consolidated property, payroll, and sales factor denominators amounts with respect to the single factor affiliate determined following the normal rules for each factor;

b. Include in the consolidated property factor numerator an amount constructed by multiplying the amount includible in the property factor denominator determined in (a) above by the percentage derived from the appropriate factor prescribed for the single factor affiliate;

c. Include in the consolidated payroll factor numerator an amount constructed by multiplying the amount includible in the payroll factor denominator determined in (a) above by the percentage derived from the appropriate factor prescribed for the single factor affiliate; and

d. Include in the consolidated sales factor numerator an amount constructed by multiplying the amount includible in the sales factor denominator determined in (a) above by the percentage derived from the appropriate factor prescribed for the single factor affiliate.

2. With respect to all affiliates other than single factor affiliates, the group shall determine the property, payroll, and sales to be included in the consolidated numerators and denominators following the normal rules appropriate to each factor.

(G) § 8. Examples.

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The principles of this section regulation are illustrated by the following examples:

Example 1. Corporations A, B, C, D, E, F and G constitute a controlled group of corporations within the meaning of Section 1563 of the Internal Revenue Code. Corporations A, B, and C are manufacturing companies, subject to the Virginia income tax. Corporations D and E are motor carriers, subject to the Virginia income tax. Corporation F is a Virginia-based insurance company exempt from Virginia income tax under Va. Code § 58.1-401 of the Code of Virginia. Corporation G is a manufacturing company exempt from the Virginia income tax under Public Law 86-272.

(a) Corporations A, B, and C, D, and E may file a consolidated return. If corporations D and E may not be included therein were not included in consolidated returns filed prior to 1990 because they are were not subject to the same three-factor apportionment formula but apportion income using vehicle miles under Va. Code § 58.1-417, they must be included in the consolidated return for the group filed for years after 1989. Corporations F and G may not be included because they are not subject to the Virginia income tax.

(b) Corporations A and B A, B, D, and E may not file a consolidated return without corporation C. All eligible corporations must be included in a consolidated return. If corporation C is on a different fiscal year than corporations A and B A, B, D, and E, it must change its fiscal year in order for a consolidated return to be filed.

(c) If corporations D and E may file filed a consolidated return whether or not for years prior to 1990, although consolidation is was not elected for corporations A, B, and C, then the consolidated return for years after 1989 must include corporations A, B, and C.

Example 2. Same facts as in example 1 above. Corporations A, B and C, D, and E file consolidated Virginia returns for 1979 and 1980 1990 and 1991. In 1981 1992 corporation G expands its activity within Virginia and becomes subject to Virginia income tax. Corporation G must be included in the 1981 1992 consolidated Virginia return with corporations A, B and C, D, and E. The corporations may not file separate returns unless corporations A, B, and C they apply to the department for permission.

Example 3. An affiliated group of five corporations has filed a consolidated federal return the three preceding years, and for calendar year 1990 the group reported a consolidated net operating loss. All five corporations are subject to tax in Virginia in 1990, but none of the corporations were subject to tax in Virginia in prior years. The relevant lines of the federal return are shown below.

1990 Federal Return	CONSOL	A	B	C	D	E
Line 28	(400)	50	(150)	(100)	50	(250)
Line 29a (NOLD)	(75)	0	0	(50)	(25)	0
Line 30	(475)	50	(150)	(150)	25	(250)

a. If the group elects to file a consolidated Virginia return the consolidated federal taxable income for Virginia purposes would be (400) because the group's net operating loss deduction cannot create or increase a federal net operating loss. Line 1 of the Virginia return is shown below.

1990 Virginia Return	CONSOL	A	B	C	D	E
Federal Taxable Income	(400)	50	(150)	(100)	50	(250)

Assuming that the group has no federal taxable income in the preceding taxable years to absorb net operating loss deductions, the group would carry the prior year losses of (75) and the 1990 loss of (400) to 1991 together with the appropriate portion of the net Virginia modification from the respective loss years (see examples 4 and 5).

b. If the group elects to file separate returns the sum of the separate federal taxable incomes for Virginia purposes would total (425). Corporation C's federal net operating loss deduction of (50) from prior years cannot increase C's 1990 federal net operating loss for Virginia purposes, while D's federal net operating loss deduction is absorbed to the extent of D's income. Line 1 of the Virginia return is shown below.

1990 Virginia Return	TOTAL	A	B	C	D	E
Federal Taxable Income	(425)	50	(150)	(100)	25	(250)

Each corporation must carry its 1990 loss back three years as if separate federal returns had been filed for those years. Thus, for Virginia purposes corporations B's and E's 1990 federal net operating losses will be deemed to have been absorbed by any separate federal taxable income in 1987, 1988, and 1989 (even though no Virginia returns were required to be filed for those years). Any loss not absorbed by the separate federal taxable income of the corporations would be available to carry forward to 1991 together with each corporation's net 1990 Virginia modification. Since C has a federal net operating loss deduction in 1990, there can be no federal taxable income in prior years against which to offset the loss. Therefore, the entire federal net operating loss deduction of (150) for 1990 and prior years may be carried forward to 1991.

c. If the group elects to file a combined Virginia

return the amount reported as the separate federal taxable income for each affiliate (for purposes of the combined return) is deemed to be computed as if separate federal returns were filed. The years to which the federal net operating losses are carried and the amounts absorbed each year for Virginia purposes are deemed to be computed as if separate federal returns were filed, regardless of the type of federal returns actually filed in the carryback or carryover year. The portion of the combined net Virginia modification which follows each corporation's 1990 federal net operating loss would be computed as required by § 6 D (see example 6).

Example 4. Same facts as in example 3 except that: (i) the group elects to file a consolidated Virginia return, (ii) there is no federal taxable income in prior years to absorb the 1990 federal net operating loss, and (iii) the group is subject to Virginia tax in years prior to 1990. The group would carry the 1990 federal net operating loss to 1991 along with unabsorbed losses from prior years. Both the losses from prior years and the 1990 loss carry with them the net Virginia modifications from each loss year. For 1990 the net Virginia modification is the sum of the consolidated additions of 133 and consolidated subtractions of (86) for a total modification of 47 that follows the 1990 consolidated federal net operating loss of (400). Assume that the (75) consolidated federal net operating loss from prior years carries with it a net Virginia modification of 35. The relevant lines of the 1991 federal and Virginia returns are shown below.

1991 Federal Return	CONSOLIDATED
Line 28	600
Line 29a (Prior year NOLD)	(75)
Line 29a (1990 NOLD)	(400)
Line 30	125
1991 Virginia Return	CONSOLIDATED
Federal Taxable Income	125
Va. additions	125
Va subtractions	(65)
Net Va. NOLD modification	
(from prior loss year)	35
(from 1990 loss year)	47
Virginia taxable income	267

Example 5. Same facts as examples 3 and 4. The portion of the consolidated federal 1990 loss, and accompanying Virginia modification, attributable to each affiliate must be computed. The relevant lines of the consolidated 1990 Virginia return are shown below.

1990 Virginia Return	CONSOL	A	B	C	D	E
Federal Taxable Income	(400)	50	(150)	(100)	50	(250)
Va. additions	133	0	0	52	31	50
Va subtractions	(86)	(56)	(30)	0	0	0
Net Va. NOLD modification	5	0	0	0	5	0
Virginia taxable income	(348)	(6)	(180)	(48)	86	(200)
Less allocable dividends	(32)	(4)	(6)	(12)	0	(10)

Apportionable income factor	(380)	(10)	(186)	(60)	86	(210)
Income apportioned to Va.	(190)	n/a	n/a	n/a	n/a	n/a
Dividends allocated to Va.	22	n/a	n/a	n/a	n/a	n/a
Income of a multistate	(168)	n/a	n/a	n/a	n/a	n/a

"n/a" means not applicable.

Federal net operating losses: The 1990 consolidated federal net operating loss must be divided among the loss corporations in proportion to their operating losses using the principles of U.S. Treasury Regulation § 1.1502-79. The amount reported for Virginia purposes by each loss corporation as a federal net operating loss deduction attributable to 1990 is computed as follows:

$$B: (120.00) = 150 \div (150 + 100 + 250) \times (400)$$

$$C: (80.00) = 100 \div (150 + 100 + 250) \times (400)$$

$$E: (200.00) = 250 \div (150 + 100 + 250) \times (400)$$

Net Virginia modification: The amount of the 1990 net Virginia modifications that are associated with B's, C's, and E's portion of the consolidated 1990 federal net operating loss for Virginia purposes is computed by first computing a tentative Virginia loss as follows:

$$B: (146.36) = 180 \div (180 + 48 + 200) \times (348)$$

$$C: (39.03) = 48 \div (180 + 48 + 200) \times (348)$$

$$E: (162.61) = 200 \div (180 + 48 + 200) \times (348)$$

The difference between each loss corporation's portion of the consolidated federal net operating loss and the tentative Virginia loss is the amount of consolidated income, additions and subtractions that was offset in the consolidated Virginia return by corporation's loss (the amount modifying the federal net operating loss). This amount is computed as follows:

$$B: (26.36) = (146.36) - (120.00) \text{ or a net subtraction of } \$26.36$$

$$C: 40.97 = (39.03) - (80.00) \text{ or a net addition of } \$40.97$$

$$E: 37.39 = (162.61) - (200.00) \text{ or a net addition of } \$37.39$$

Example 5.A. Same facts as Example 5, except that E is not subject to Virginia income tax in 1991. For the 1991 Virginia consolidated return, the group consisting of A, B, C, and D may claim a federal net operating loss deduction in computing federal taxable income for Virginia income tax purposes of 275.00, computed as follows:

$$(75.00) = \text{Consolidated losses prior to 1990 (C and D)}$$

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(120.00) = B's portion of the 1990 consolidated loss

(80.00) = C's portion of the 1990 consolidated loss

(275.00) = Total consolidated net operating loss deduction

Assume that for federal purposes, the following amounts of net operating loss were utilized in 1991:

(90.00) = B's federal net operating loss utilized

A Virginia modification accompanies B's federal net operating loss utilized, computed as follows:

(19.77) = the net subtraction from 1990 of \$26.36, multiplied by .75 (\$90.00 federal loss utilized divided by \$120.00 total loss available).

The total net Virginia modifications remaining for losses carried to 1992 are:

35.00 = Consolidated net Virginia modification associated with losses prior to 1990

(6.59) = B's portion of the 1990 consolidated net Virginia modification remaining after offsetting the portion of the 1990 federal net operating loss utilized in 1991 [, (26.36 original modification, less (19.77) utilized in 1991)]

40.97 = C's portion of the 1990 consolidated net Virginia modification

[~~49.61~~ 69.38] = Total net Virginia modification that follows the total federal net operating losses of (275.00).

If E becomes subject to Virginia income tax in 1992, it will be deemed to have claimed a federal net operating loss deduction of (200.00) in computing its separate 1991 federal taxable income for Virginia purposes. To the extent any of the (200.00) was absorbed in 1991 for federal purposes, the same portion of E's consolidated net Virginia modification (37.39) will also be deemed to have been used.

Example 6. Same facts as in Example 3 except that the group elects to file a combined Virginia return. The relevant lines of the 1990 Virginia return are set out below.

1990 Virginia Return	TOTAL	A	B	C	D	E
Federal Taxable Income	(400)	50	(150)	(100)	50	(250)
Virginia additions	133	0	0	52	31	50
Virginia subtractions	(86)	(56)	(30)	0	0	0
Net Va. NOLD modifications	5	0	0	0	5	0
Virginia Taxable	(348)	(6)	(180)	(48)	86	(200)

Income						
Less: allocable dividends	(32)	(4)	(6)	(12)	0	(10)
Apportionable income	(380)	(10)	(186)	(60)	86	(210)
Apportionment factor	n/a	40%	50%	15%	100%	30%
Income apportioned to Va.	(83)	(4)	(93)	(9)	86	(63)
Dividends allocated to Va.	22	0	0	12	0	10
Income of a Multistate	(61)	(4)	(93)	3	86	(53)

'n/a' means not applicable

Note that the totals in the "TOTAL" (combined) column are provided for convenience. The actual combination on a Virginia combined return takes place only on the line labeled "income of a multistate." When each corporation's income is computed separately, D's federal net operating loss from a prior year is absorbed; and, therefore, a net Virginia NOLD modification associated with it must be reported.

Federal net operating loss: The amount that will be carried back or over in computing federal taxable income for Virginia purposes is equal to the separate federal net operating loss for B, C, and E.

Net Virginia NOLD modification: Although C has a federal net operating loss, its separate income of a multistate is positive. Pursuant to § 6 D 1 b of this regulation, C's federal net operating loss of \$100 will carry with it a net Virginia NOLD modification equal to an addition of \$100.

Affiliates B and E have both a federal net operating loss and a loss after allocation and apportionment. They must compute an addition pursuant to § 6 D 1 c of this regulation, utilizing the steps enumerated below.

Income offset by B & E losses	TOTAL	A	B	C	D	E
B & E losses	(146)		(93)			(53)
Other affiliates income	85	(4)		3	86	

Step 1: Compute the income offset in combination:

Because of filing in a combined return, the \$85 income of A, C, and D offsets a portion of the \$146 loss of B and E (A's loss is not attributable to a federal net operating loss). The income offset in combination (\$85) is computed using the summation method:

$$\$85 = (4) + 3 + 86$$

Step 2: Allocate the income offset in combination between the appropriate affiliates:

The procedure outlined in U.S. Treasury Regulation § 1.1502-79 is then used to divide the \$85 income offset in combination among B and E in proportion to their loss

after allocation and apportionment, (\$93) and (\$53), respectively.

$$B: \$54.14 = \$85 \times (93 \div (93 + 53))$$

$$E: \$30.86 = \$85 \times (53 \div (93 + 53))$$

Therefore, \$54 of B's \$93 loss, and \$31 of E's \$53 loss, respectively, are deemed to have offset the income, after allocation and apportionment, of other affiliates in the combined Virginia return.

Step 3: Compute the amount of B's and E's federal net operating loss deemed to offset the income of the other affiliates, and the Virginia modification accompanying B's and E's federal net operating loss.

In a combined return, B's and E's federal net operating loss offsets the income of other affiliates after allocation and apportionment. However, since B's and E's federal net operating loss is on a preapportionment basis, the Virginia modification must be on a preapportionment basis as well. This modification is computed by converting B's and E's post apportionment offsetting losses to an amount equivalent to an addition before allocation and apportionment, and adding B's and E's separate Virginia additions and subtractions. The conversion steps are summarized below:

Net Va. NOLD modification	TOTAL	A	B	C	D	E
Income offset from above	85		54			31
Income allocated to Va.	10		0			10
Subtotal before gross up	95		54			41
Divide by App. factor	n/a		50%			30%
Subtotal after gross up	245		108			137
Less: allocable income	(16)		(6)			(10)
Addition equivalent	229		102			127
Separate Va. additions	50		0			50
Separate Va. subtractions	(30)		(30)			0
Net Va. NOLD modification	249		72			177

Note that the totals in the "TOTAL" column are provided for convenience only and have no relevance to the actual computation of the separate net Virginia NOLD modification for B and C.

Explanation:

E's after apportionment loss was first used to offset all of E's income allocated to Virginia (B had no income allocated to Virginia). Therefore, E's portion of the income offset by combination is first increased by its income allocated to Virginia: $41 = 31 + 10$. This amount is then "grossed up" by dividing by the apportionment factor. Both B and E had income allocable everywhere that increased the loss apportioned to Virginia. Since the Virginia modification should only account for the amount of federal net operating loss offsetting the income of other affiliates, the income allocable everywhere must be subtracted from the "grossed up" amount to compute the amount equivalent to an addition before allocation and apportionment. Note that this addition before allocation

and apportionment represents the amount of federal net operating loss actually utilized by B and E in offsetting the income of other affiliates. B and E then add this equivalent addition to their own additions and subtractions for the loss year to arrive at the net Virginia NOLD modification. Note that the net Virginia NOLD modification may be either positive or negative. This modification would be negative if an affiliate's subtractions exceeded the addition equivalent computed above.

Example 6.A. [Assume the same facts as in Example 6.] This example is a combined Virginia return for A, B, C, D, and E for 1991. Assume that B and E had \$100, and \$50, respectively, of federal taxable income on Line 28, Form 1120, resulting in the utilization of \$(100) and \$(50), respectively, of B's and E's of B's federal net operating loss carryforward in computing 1991 federal taxable income. On a schedule attached to the affiliated group's combined Virginia income tax return, the amount of federal taxable income for Virginia purposes for B and E would be computed on an additional schedule in the following manner:

(a) Compute the percentage of federal net operating loss utilized:

$$B: 67\% = \$100 \text{ utilized} \div \$150 \text{ available}$$

$$E: 20\% = \$ [40 \ 50] \text{ utilized} \div \$250 \text{ available}$$

(b) Compute the amount of net Virginia NOLD modification following B's and E's federal net operating loss.

$$B: \$48.24 = 67\% * \$72 \text{ (1990 net Virginia NOLD modification)}$$

$$E: \$35.40 = 20\% * \$177 \text{ (1990 net Virginia NOLD modification)}$$

(c) Compute the federal taxable income for Virginia tax purposes of B and E.

$$B: \$48.24 = \$100 \text{ Line 28, Form 1120 federal income} - \$100 \text{ federal NOL carryforward} + \$48.24 \text{ net Virginia NOLD modification}$$

$$E: \$35.40 = \$40 \text{ Line 28, Form 1120 federal income} - \$40 \text{ federal NOL carryforward} + \$35.40 \text{ net Virginia NOLD modification}$$

Example 7. Corporation F is a motor carrier and its Virginia vehicle mile factor under § 58.1-417 of the Code of Virginia is 25%. Corporation G is a railroad and its Virginia revenue car mile factor under § 58.1-420 is 10%. For 1990 the corporations have been granted permission to file a consolidated Virginia return. The consolidated denominators of the property, payroll, and sales factors are as follows:

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	F	G	Consolidated
Property	300	1,800	2,100
Payroll	100	250	350
Sales	400	900	1,300

A consolidated numerator for each of the factors would then be constructed. The consolidated property factor numerator would be the sum of F's vehicle mile factor times F's property and G's revenue car mile factor times G's property, or 255 (25% of 300 + 10% of 1,800). Similarly, the consolidated payroll factor numerator would be 50 (25% of 100 + 10% of 250), and the consolidated sales factor numerator would be 190 (25% of 400 + 10% of 900). The consolidated apportionment factor would be one-third of (255/2,100 + 50/350 + 190/1,300), or 13.6813%.

[Example 8. Corporations A and B are affiliated and elected to file a consolidated federal return and a combined Virginia return for 1987. Neither corporation is subject to tax in another state so they do not allocate and apportion income on the Virginia return. Shown below is selected information from the Virginia combined return and from the federal consolidated return restated as if separate federal returns had been filed.

(000 omitted)	1987		1988		1989	
Federal Separate Returns	A	B	A	B	A	B
Capital gain (loss)	0	2	0	10	0	5
Capital loss carryover	0	0	0	0	0	0
Net capital gain (loss)	0	2	0	10	0	5
Operating income (loss)	(25)	(20)	(25)	5	25	0
Line 28	(25)	(18)	(25)	15	(25)	10
Line 29a (NOLD)	0	0	(25)	(18)	(50)	
(3) Line 30	(25)	(18)	(50)	(3)	(75)	7
Virginia Combined Return						
Federal Taxable Income	(25)	(18)	(25)	0	(25)	7
Current addition/ subtraction	5	0	(3)	2	0	0
Net Va. NOLD modification	0	0	0	5	0	1
Virginia taxable income	(20)	(12)	(28)	7	(25)	8
Combined Va. taxable income	(32)		(21)		(17)	

Corporation A incurred a \$25,000 net operating loss each year. On a separate federal return A would report a federal net operating loss deduction of \$25,000 in 1988 and \$50,000 in 1989. However, a net operating loss deduction cannot create or increase a net operating loss, so the federal taxable income for Virginia purposes is (\$25,000) in each year.

Each corporation's net operating loss will carry with it a net Virginia NOLD modification which will be reported as an addition in the year that the federal net operating loss is absorbed. Applying the principles of § 6 D of this regulation, the net Virginia NOLD modification for each loss is as follows:

$$1987 - A: \$5,000 = (20/32 \times (\$22,000)) - (25/43 \times (\$43,000))$$

$$1987 - B: \$6,000 = (12/32 \times (\$22,000)) - (18/43 \times (\$43,000))$$

$$1988 - A: \$4,000 = (\$21,000) - (\$25,000)$$

$$1989 - A: \$8,000 = (\$17,000) - (\$25,000)$$

In the consolidated federal return for 1988 the group reported a consolidated loss of (\$10,000). However, when the income information is restated as if separate federal returns had been filed, A would report a loss of (\$25,000) and B would absorb a portion of its separate 1987 loss. The same portion of B's net Virginia NOLD modification will be reported as an addition (\$5,000 = 15/18 x \$6,000). Similarly, when the remaining portion of B's 1987 loss is absorbed in 1989, the remaining portion of B's net Virginia NOLD modification is reported. However, for 1987, 1988 and 1989 none of A's net operating losses and, consequently, none of A's Virginia NOLD modifications can be absorbed, but may be carried over to future years.]

Example [9 8] . [Same facts as in example 8.] For the 1990 return the group requests and is granted permission to file a consolidated Virginia return. [The group previously filed a Virginia combined return.] Pursuant to § 1 D 1 a (4) the change in filing status will not create a separate return limitation year. Selected information from the federal and Virginia consolidated returns for 1990 and 1991 is shown below.

(000 omitted)	1990			1991		
Federal consolidated return	A	B	CONSOL	A	B	CONSOL
Capital gain (loss)	(42)	2	(40)	0	50	50
Capital loss carryover	0	0	0	(40)	(0)	(40)
Net capital gain (loss)	(42)	2	(40)	(40)	50	10
Operating income (loss)	(30)	5	(25)	(20)	120	100
Line 28	(30)	5	(25)	(20)	130	110
Line 29a (NOLD)	(75)	0	(75)	(100)	0	(100)
Line 30	(105)	5	(100)	(120)	130	10
Virginia consolidated return						
Federal Taxable Income (30)	5	(25)	(120)	130	10	
Current addition/ subtraction	10	0	10	0	0	0
Net Va. NOLD modification	0	0	0	27	0	27
Virginia taxable income	(20)	5	(15)	(93)	130	37

Although both federal and Virginia returns are filed on a consolidated basis, the federal information must be restated as if separate federal returns had been filed for years prior to 1990 except, in this case, the separate return limitation rules do not apply. When restating federal return information for 1991, the consolidated net capital loss and net operating loss from 1990 would be absorbed and, because separate return limitation rules do not apply, all of A's losses from 1987, 1988, and 1989 may also be absorbed together with all of their associated net Virginia NOLD modifications as shown below:

Source Year	Fed. NOLD	Va. Modif.
1987	25,000	5,000
1988	25,000	4,000
1989	25,000	8,000
1990	25,000	10,000
TOTAL FOR 1991	100,000	27,000

Example [40 9] . Same facts as in example 8 except that B filed separate returns because A was not subject to Virginia tax until 1990 when the group elected to file a consolidated return. Under these circumstances the federal return information for Virginia purposes must be restated as if the group filed their first consolidated federal return in 1990 including any applicable separate return limitation year rules. Selected information from the 1991 return is shown below.

(000 omitted)	1991			
	Federal consolidated return	A	B	CONSOL
Capital gain (loss)		0	50	50
Capital loss carryover		(40)	(0)	(40)
Net capital gain (loss)		(40)	50	10
Operating income (loss)		(20)	120	100
Line 28		n/a	n/a	110
Line 29a (NOLD)		n/a	n/a	(25)
Line 30		n/a	n/a	85
Virginia consolidated return				
Federal Taxable Income	n/a	n/a		85
Current addition/subtraction	0	0		0
Net Va. NOLD modification	0	0		0
Virginia taxable income	n/a	n/a		85

When federal return information is restated for Virginia purposes as if the first federal consolidated return was filed in 1990, all of the 1990 consolidated federal capital loss may be used to offset 1991 consolidated federal capital gain. Similarly, all of the 1990 consolidated net operating loss may be used to offset 1991 consolidated operating income. However, years prior to 1990 would be separate return limitation years. Therefore, A's net operating losses from years prior to 1990 may not offset income of other affiliates in the 1991 consolidated return.

For Virginia purposes all of the available net operating losses are deemed to be from A. For Virginia purposes B's separate 1987 federal net operating loss was entirely absorbed by B's separate 1988 and 1989 federal taxable income. On the actual 1988 federal return B's income reduced the consolidated net operating loss for 1988 instead of absorbing any of B's separate 1987 loss.

* * * * *

Title of Regulation: VR 630-3-446. Intragroup Transactions. VR 630-3-446.1. Corporation Income Tax: Foreign Sales Corporations.

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

Effective Date: March 10, 1993.

Summary:

The existence of one or more of the six noninclusive factors listed create a rebuttable presumption that income from business done in Virginia is distorted. These factors are listed to determine that the transactions at issue have economic substance.

If a taxpayer's transaction is found to distort income from business done in Virginia, several remedies are included: income reattribution, expense reattribution, and a consolidated return filing requirement. A look-back rule is provided with regard to contributions of property between affiliated corporations.

A number of safe harbor transactions are provided. Transactions substantially like the listed safe harbors are deemed to not distort income from business done in Virginia.

Taxpayers may request permission from the department to have this regulation applied to their transactions.

The final regulation contains the following substantive changes from the regulation as proposed:

In response to comments from industry groups, a definition for "arm's length" charge was added to § 2. This term is utilized throughout the regulation.

In response to comments from industry groups, the change in § 3 B clarifies that the income from an intragroup sale of fungible goods and services accurately reflects income from business done in Virginia if the price is equivalent to that in an arm's length transaction. The proposed regulation required that the price be equivalent to that charged in an established market.

The change in § 3 C 3 clarifies the instances in which the existence of significant intragroup lending transactions may create a rebuttable presumption that income from business done in Virginia is distorted. Specifically, a rebuttable presumption of distortion of income from business done in Virginia is created if dividends or capital contributions are received by a lender and loaned back to the payor within 24 months of contribution. The proposed regulation did not contain the 24-month holding requirement.

In response to comments from industry groups, § 3 C 6 is clarified to state that the following may create a rebuttable presumption that income from business done in Virginia is distorted: corporate groups engaging in such a high level of transactions which are not made on an arm's length basis that separate or combined group return filing cannot accurately represent the group's income from business done in Virginia.

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The safe harbor for lending transactions is clarified in § 3 E 3 to state that a lending party must be a separate business enterprise with its own books and records. The proposed regulation contained a requirement for a separate accounting system. This safe harbor is further clarified to state funds must be loaned with collateral, payments, and credit standing substantially similar to those obtainable from an unrelated lending institution.

The example in § 6 B is changed to reflect a shift in focus from a high level of transactions between entities, to numerous transactions between entities which are not conducted at arm's length.

In response to industry group comments, § 6 E is changed to reflect the fact that Virginia income from intragroup lending transactions is not distorted because one or more officers or directors of the non-Virginia lending party may reside in Virginia, or may be employed by an affiliate of the non-Virginia lending party doing business in Virginia.

VR 630-3-446. Intragroup Transactions.

VR 630-3-446. Price manipulation, Intercorporate transactions.

A. In general.

1. Price manipulation. When a corporation liable to taxation under this chapter by agreement or otherwise conducts the business of such corporation as to directly or indirectly benefit the members or stockholders of the corporation, or any of them, or any person or persons directly or indirectly interested in such business, by either buying or selling its products or the goods or commodities in which it deals at more or less than a fair price then the department may redetermine the income from Virginia sources.

2. Intercorporate transactions. When a corporation liable to taxation under this chapter sells its products, goods or commodities to another corporation or acquires and disposes of the goods, products or commodities of another corporation in such a manner as to create a loss or improper taxable income, and such other corporation by stock ownership, agreement or otherwise controls or is controlled by the corporation liable to taxation under this chapter, then the department may redetermine the income from Virginia sources of the corporation liable to taxation.

3. Parent corporations and subsidiaries. When any corporation liable to taxation under this chapter owns or controls or is owned by or controlled by another corporation the department may require the corporation liable to taxation to make a report consolidated with such other corporation and furnish such other information as the Department may

require. If the department finds that any arrangements exist which cause the income from Virginia sources to be inaccurately stated then the department may equitably adjust the tax of the corporation liable to taxation under this chapter.

B. Definitions.

1. "Corporation liable to taxation under this chapter" means any corporation, as defined in Va. Reg. § 630-3-302, which is subject to tax under Va. Code § 58.1-400.

2. "By agreement or otherwise."

a. Whenever the income from Virginia sources of a controlled or controlling corporate taxpayer is other than it would have been had the taxpayer in the conduct of its affairs been an uncontrolled corporation dealing at arm's length with another uncontrolled corporation or unrelated individual or entity, then the manner in which taxpayer conducts its business will be deemed to be the result of an agreement, arrangement or understanding.

b. In many situations the Internal Revenue Service will apply I.R.C. § 482 to redetermine the federal taxable income of a corporation. Va. Code § 58.1-446 will be applied in situations where the federal taxable income is correct but, after application of the statutory allocation and apportionment formulas, the income from Virginia sources does not accurately reflect the business done in Virginia.

c. An example of such an agreement or arrangement is a subsidiary qualifying as a Domestic International Sales Corporation (DISC) under the Internal Revenue Code. In order to encourage international exports federal law permits federal taxable income to be artificially reduced by use of a DISC. As a result the income from Virginia sources of a corporation using a DISC to artificially reduce federal taxable income may not reflect the business done in Virginia.

3. "Conducts the business." The conduct or manner in which business is conducted reached by this section is not restricted to the case of improper accounting, to the case of a fraudulent, colorable, or sham transaction or to the case of a device designed to reduce or avoid tax by shifting or distorting income, deductions, credits or allowances. The conduct may be legal or even encouraged by the laws of other jurisdictions, including laws of the United States. The determining factor is whether the conduct of taxpayer's affairs, by inadvertence or design, causes the income from Virginia sources to be inaccurately stated.

4. "Benefit the members or stockholders."

a. The benefit from the manner in which business is conducted may be direct, as when the corporation sells its products to any one or more stockholders at less than a fair price, or indirect, as when the corporation sells its products to a subsidiary corporation in a manner which reduces the taxes owed by the corporation. Such reduction of taxes benefits all stockholders by increasing the earnings of the corporation available for dividends.

b. The direct or indirect benefit may be to any stockholder of the corporation, stockholder of any controlled or controlling corporation, member of an association taxed as a corporation, employee, creditor, any other person interested in the corporation, or a related taxpayer of one of the foregoing. "Related taxpayer" is defined in I.R.C. § 1313(c).

5. "Buying and selling" includes purchases and sales and may also include other transactions which are the equivalent of a purchase or sale, such as certain leases. The entire transaction or series of transactions will be considered.

For example, the use of a product of the corporation by a stockholder without consideration followed by the sale of such used product to an unrelated party may be a sale reached by this section depending on the facts and circumstances.

6. "Products." The product of a corporation is tangible personal property held or produced for sale in the normal course of business and includes all services connected with the purchase or sale of products such as delivery, maintenance and credit.

7. "Goods or commodities." The goods or commodities in which a corporation deals are raw materials and tools used in a manufacturing process or merchandise for resale.

8. "Fair price." Fair price means "arm's length charge, "arm's length consideration" and "arm's length price" as such terms are defined in Treasury Reg. § 1.482-2. For purpose of this section, products, goods or commodities sold to employees as part of a bona fide employee discount program shall not be deemed sold at other than a fair price.

9. "Acquires and disposes." The term "acquires and disposes" is not limited to purchases and sales in the normal course of business but includes all transactions in which property is acquired or disposed of, including, but not limited to, corporate reorganizations.

10. "Improper taxable income." An improper taxable income is created whenever the income from Virginia sources on which Virginia may impose a tax does not accurately reflect the business done in Virginia. The intent of the parties engaging in transactions reached

by this section has no effect on whether or not an improper taxable income is created.

11. "Fair profit." In determining the proper amount to be deemed income from Virginia sources, the Department will consider the profit which might have been earned by the corporation if the transactions reached by this section had occurred at a fair price. Both income and expenses resulting from the transactions will be considered.

12. "Control." For purpose of (A) (2) (intercorporate transactions) and (A) (3) (parent corporations and subsidiaries) above, one corporation controls another if one is able to influence the manner in which the business of the other corporation is transacted. The control may be direct or indirect and result from ownership of a substantial voting interest, management contract or other agreements, depending upon the facts and circumstances.

13. "Own." For purpose of (A) (3) (parent corporations and subsidiaries) one corporation (parent) owns another corporation (subsidiary) if the parent and subsidiary are members of a parent subsidiary controlled group under I.R.C. § 1563.

14. "Consolidated report." If a consolidated report is required by the Department it shall be prepared in accordance with Section 1502 of the Internal Revenue Code and the regulations thereunder for the corporations designated by the Department, without regard to whether or not the corporations are eligible corporations under Va. Code § 58.1-442.

§ 1. In general.

Intragroup relationships, manipulation of income from business done in Virginia § 3

Factors determining whether income from business done in Virginia is distorted § 3 A

Interactions between corporate and noncorporate entities . . . § 3 D

Safe harbors § 3 E

Circumstances under which taxpayers may request that this regulation be applied to intragroup transactions .. § 4

[*Determining Accurately reflecting the*] *income from business done in Virginia* § 5

Income reattribution § 5 A

Expense reattribution § 5 B

Consolidated income § 5 C

Lookback rule § 5 D

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Examples § 6

§ 2. Definitions.

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

["Arm's length" means a charge for goods or services such that the price structure of intragroup transactions is substantially equivalent to the price structure of transactions between unrelated taxpayers, each acting in its own best interest.]

"Group" means two or more corporations, [~~one of~~] which [~~is~~ are] owned or controlled, directly or indirectly by the same interests. Corporations eligible for inclusion in a federal consolidated return are members of a group. However, corporations ineligible for inclusion in a federal consolidated return (e.g., 79% stock ownership) are not precluded from being part of a group for purposes of this regulation if other facts demonstrate that one corporation has sufficient influence over another corporation's affairs to cause the corporations to enter into transactions with each other on terms that would not be offered to unrelated parties.

"Intragroup transaction" means a sale, exchange, or transfer of property or services between members of a group.

§ 3. Factors utilized in determining whether intragroup transactions distort income from business done in Virginia.

A. A group's collective income from business done in Virginia is considered to be distorted if all of the following elements exist:

1. There is an arrangement;
2. Between one or more members of a group subject to Virginia income tax, engaging in one or more intragroup transactions;
3. Where the consideration for an intragroup transaction does not [accurately] reflect the [~~true~~] income from business done in Virginia of the participating group members; and
4. The intragroup transaction has the purpose or effect of distorting income from business done in Virginia.

B. Group members' transactions with unrelated parties are relevant, but not conclusive, in determining whether [~~true~~] income from business done in Virginia is [accurately] reflected in intragroup transactions. If the consideration paid for fungible goods or services in an intragroup transaction is equivalent to the price charged in an [established market arm's length transaction] between unrelated parties, the intragroup transaction will

be deemed to reflect [~~true~~ accurately] income from business done in Virginia.

C. Factors creating a rebuttable presumption that income from business done in Virginia is distorted include, but are not limited to:

1. Whether intragroup services are rendered or received without adequate consideration;
2. Whether a member of the group has a significant amount of capital gains, interest, dividend, or similar income, with only minimal capital, activity, or expenses [because essential corporate functions are performed for the group member by other group members without an arm's length charge] ;
3. Whether there are significant intragroup lending transactions [other than those described in § 3 E 3] , especially where the lending party has no other significant activity, and the source of funds is [either (i)] dividends [; or capital] contributions by other members of the group, [if a substantial portion of the funds received is loaned to any member of the group within 24 months of the dividend or contribution and the loan provides working capital to the borrower;] or [(ii)] borrowed funds guaranteed by, or secured by the property of, a group member other than the lending party;
4. Whether tangible or intangible property was contributed to or acquired from a group member in anticipation of a sale to an unrelated party;
5. Whether the accounting records of a group member adequately reflect the unconsolidated information required for the Virginia income tax returns of group members with Virginia nexus; or
6. Whether a corporate group engages in such a high level of [~~activity and interaction~~] transactions which are not made on an arm's length basis] that separate or combined group return filing cannot accurately represent the group's [~~true~~] income from business done in Virginia.

D. If any transaction between members of a corporate group and a noncorporate entity or entities distorts income from business done in Virginia, § 58.1-445 of the Code of Virginia may be invoked [to compute the ~~true~~] income from business done in Virginia of all participating entities.

E. Intragroup transactions listed below are examples of transactions deemed not to cause a distortion of the participants' income from business done in Virginia. The following transactions are not all inclusive, and are merely listed as safe harbors.

1. Patent or similar intangible asset.

a. If a patent or similar asset is transferred to or from an entity subject to Virginia income tax to another group member or noncorporate entity, two-thirds of the taxable income to be derived from the patent must have been received by the transferor prior to the transfer.

b. If the taxable income to be derived from a patent or similar asset is undeterminable (in some instances, for example, a trademark), a transferor must receive a minimum payment equivalent to the asset's development cost, plus the transferor's stated internal rate of return requirement for similar assets created in the ordinary course of the transferor's business, plus a reasonable amount for anticipated future profits.

c. If a patent or similar asset is transferred between group members, with the transferor's compensation being future royalty payments, those payments must be at an arm's length price.

2. Stock representing corporation ownership or similar assets. If stock or a similar asset is transferred for less than its fair market value to or from a group member or noncorporate entity, then on any subsequent sale of the stock, the stock must have been held by the transferee for a minimum of five years before sale or transfer by the transferee. Otherwise, the provisions of § 3 C 4 apply. See Example F.

3. Lending transactions. In an intragroup lending transaction, the lending party must be a discrete, separate business enterprise with its own employees, office space, and [~~accounting system~~ books and records] . Funds must be loaned at a fair market value interest rate, with collateral, payments, and credit standing [~~equivalent~~ substantially similar] to those which the borrower could obtain from an unrelated lending institution.

4. Transfer of receivables. Intragroup transfers of receivables must occur at arm's length, taking into account: the creditworthiness of the underlying debtor or debtors, the collectibility of the transferred receivables, and the rate of return required by the transferor corporation with regard to similar assets.

§ 4. Circumstances under which taxpayers may request that this regulation be applied to intragroup transactions.

In extraordinary circumstances a taxpayer may request permission to allow an adjustment under § 58.1-446 of the Code of Virginia on the grounds that income from business done in Virginia is substantially distorted as a result of law or policies peculiar to Virginia. Before such an adjustment is claimed on a Virginia return or amended return, permission must be granted by the department. An adjustment will not be permitted under this section if the claimed distortion is attributable to allocation and

apportionment provisions for which the taxpayer may request an alternate method of allocation and apportionment under § 58.1-421 of the Code of Virginia.

§ 5. [~~Determining the true~~ Accurately reflecting the] income from business done in Virginia. The following remedies may be applied, either alone or in combination, if income from business done in Virginia is found to be distorted under § 3. Other remedies not listed herein may be incorporated as necessary.

A. Income reattribution.

Income may be imputed or reattributed from the group member originally reporting it to another group member, in order to [accurately] reflect the income from business done in Virginia of the reporting group member.

B. Expense reattribution.

Expenses may be imputed or reattributed from the group member originally reporting them to another group member, in order to [accurately] reflect the [~~true~~] income from business done in Virginia of the reporting group member.

C. Consolidated income.

A group may be required to compute an apportioned tax on its consolidated income from business done in Virginia, including the income of all group members engaged in the intragroup transactions that distort income from business done in Virginia.

D. Lookback rule.

If an asset is transferred in an intragroup transaction at other than fair market value, the department may examine the transferee's profits on the asset in order to ascertain that the consideration for the transfer [accurately] reflects [~~true~~] income from business done in Virginia. If it can be determined that the transfer was for substantially less than fair market value, the department may adjust the original transfer price of the asset, reattribute the profit to the transferor, or may consolidate the Virginia returns of the transferor and transferee, depending upon the facts and circumstances. This rule will be utilized in conjunction with the safe harbor provision in § 3 E 2.

§ 6. Examples.

A. A corporate group has the following members: a parent company (P) (not subject to Virginia income tax), a "financial corporation" (a subsidiary of the parent) not subject to Virginia income tax, or Delaware income taxation under Delaware Corporation Income Tax Code § 1902(b)(8) (D Corporation), a subsidiary (S) of the parent (files a Virginia income tax return on a separate basis), and other members unimportant to this example.

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D borrows a sum of money from an unrelated third party, guaranteed by S, and then loans this money to S. S makes an annual interest payment to D equal to the interest rate charged to D by the third party, plus a percentage of the interest as a "management fee." D is not a "discrete business," because it has no employees, office space, and all decisions with regard to its activities are made by personnel of the parent company.

This transaction distorts income from business done in Virginia because employees of D rendered no services to S for which a management fee would [accurately] reflect [~~true~~] income from business done in Virginia. Therefore, one appropriate remedy would be to disallow S's deduction for the management fee expense.

B. Assume the same facts as in A, except that D is a subsidiary of S, [~~and~~] that S personnel govern D's [day-to-day] activities, [~~resulting in an extremely high level of intragroup activity and interaction between S and D~~] and that the majority of the numerous transactions conducted between S and D are not at arm's length [].

In this instance, an appropriate remedy would be to require a Virginia consolidated return, comprised of S and D, in order to [accurately] reflect the [~~true~~] income from business done in Virginia of the group as a whole.

B.1. Assume the same facts as in B, except S does not have adequate income or assets to guarantee the amount borrowed by the D, and that instead, the parent guarantees this loan. Assume further that the group originally filed a Virginia combined return, that the accounting records of the entire group do not support the separate company results of the group as shown in its Virginia income tax return, and that it is not possible to obtain the separate company operating results in a manner which may be verified through an audit.

In this instance, an appropriate remedy would be to require a Virginia consolidated return, comprised of the parent, S, and the D, in order to [accurately] reflect the [~~true~~] income from business done in Virginia of the group as a whole.

C. Assume the same facts as in B, except that there is no intragroup loan activity. Instead, assume that S develops a patent, transfers the ownership to D for nominal consideration, and pays a royalty to D, which S deducts in determining income from business done in Virginia. The only function of D is the holding of patents.

This transaction distorts income from business done in Virginia because the consideration for the transfer of the patent did not reflect its fair market value at the time of the transfer.

One remedy is a disallowance of the royalty expense in computing S's income from business done in Virginia. Another possible remedy in this situation would be to consolidate the income of S and D, in order to accurately

compute income from business done in Virginia, if there is such a high level of interaction between the two companies that it is impractical to utilize any other reporting method of determining the group's income from business done in Virginia.

D. Assume that the following group exists: a parent (P) (subject to Virginia income tax), S3 (a corporation with no assets or employees, not subject to Virginia income tax), and S4 (a subsidiary of the parent, subject to Virginia income tax).

The parent transfers its ownership interest in S4 to S3, by transferring S4's stock for nominal consideration. A short time after the transfer, S3 sells the S4 stock, realizing a substantial gain, which would have been income from business done in Virginia to the parent had the parent sold the stock.

This transaction distorts P's income from business done in Virginia because the stock transfer appears to have been made in anticipation of a sale to an unrelated party.

Under these facts, it is a rebuttable presumption that an appropriate remedy is to reattribute the capital gains income to P. Another possible remedy is to require P and S4 to file a consolidated Virginia income tax return, if the accounting records are not sufficient to support any other filing method.

E. D Corporation, a wholly owned subsidiary of P, is a "financial corporation" not subject to Delaware income taxation under Delaware Corporation Income Tax Code § 1902(b)(8). [P is subject to Virginia income tax.] D leases an office for its exclusive use in Delaware where it has a staff adequate to conduct all of its business affairs. D has substantial intangible assets which are loaned or otherwise made available to other group members for a consideration determined pursuant to the safe harbor provision of § 3 E 3. All of D's assets are located in Delaware, and all of its business activities, including all day-to-day decision making, are conducted by its own officers and employees in Delaware. D received its intangible assets from P in a transaction under Internal Revenue Code § 351.

In this instance, the group's [~~true~~] income from business done in Virginia is not distorted due to the intragroup lending transactions. [This conclusion is not changed by the mere fact that one or more officers or directors of D may reside in Virginia, or may be employed by an affiliate of D doing business in Virginia.]

F. Same facts as in E, above, except that there are no intragroup lending transactions. Assume that P transfers its 100% stock ownership interest in subsidiary B to D, the financial corporation. Three years after the stock transfer, P decides that it needs to raise capital, and causes D to sell its B stock, at a substantial profit over P's original basis. In this instance, there is no distortion of the group's [~~true~~] income from business done in

Virginia, because the taxpayer can establish that the original stock transfer to D was not in anticipation of a subsequent sale.

G. P corporation is a pharmaceutical company subject to Virginia income tax. S corporation, a wholly owned subsidiary of P corporation, is incorporated in another state and not subject to Virginia income tax. S corporation is engaged solely in the business of developing marketable products utilizing patents developed by P corporation. P transfers all of its patents to S at their estimated fair market value at the date of transfer. S has its own officers, employees, accounting records, and regularly earns income from outside the group in the ordinary course of business. Further, the transfer of patents in this manner is consistent with the pharmaceutical industry's method of doing business.

After four years, S corporation sells one of the patents to an unrelated third party in the ordinary course of business for a substantial amount over the original purchase price paid to P, and in turn, for a substantial amount over P's basis.

Transactions of this nature do not cause a distortion of P's [true] income from business done in Virginia, because P has established that the consideration for the transfer of its patents to S reflects fair market value, and that the transfer was not in anticipation of a subsequent sale by S to an unrelated party.

VR 630-3-446.1. Corporation Income Tax: Foreign Sales Corporations.

§ 1. Definitions.

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

"DISC" means a corporation which elected to be treated as a Domestic International Sales Corporation under I.R.C. § 991 before January 1, 1985, and which, under the Tax Reform Act of 1984, is required to end its taxable year on December 31, 1984, and, if it wishes, make a new election to be taxed as an interest charge DISC.

"FSC" means a corporation which has elected to be treated as a Foreign Sales Corporation under I.R.C. § 927 on and after January 1, 1985.

"Interest charge DISC" means a corporation which has elected to be treated as a Domestic International Sales Corporation under I.R.C. § 992 on and after January 1, 1985.

"Small FSC" means a corporation which has elected to be treated as a Small Foreign Sales Corporation under I.R.C. § 927 on and after January 1, 1985.

§ 2. DISC prior to January 1, 1985.

A. All DISC's are required by federal law to end their taxable years on December 31, 1984. Distributions of DISC income accumulated prior to December 31, 1984 are deemed to be made from previously taxed income and are not included in the federal taxable income of the recipient.

B. The department has required a taxpayer owning a DISC to make an adjustment under § 58.1-446 of the Code of Virginia in each year, including the taxable year ended December 31, 1984, in which the taxpayer pursuant to federal law attributed some of its taxable income to its DISC in an amount unrelated to the business done by the DISC. Therefore, no adjustments are required with respect to distributions received by a taxpayer from accumulated DISC income and excluded from the taxpayer's federal taxable income.

§ 3. Interest charge DISC on and after January 1, 1985.

A. For transactions occurring on and after January 1, 1985, a taxpayer may attribute some of its income to an interest charge DISC by using certain administrative pricing rules which expressly exempt the DISC from complying with I.R.C. § 482 (arms length pricing.) An adjustment under § 58.1-446 of the Code of Virginia is required when any of a taxpayer's income is attributed to an interest charge DISC in an amount unrelated to the business done by the interest charge DISC.

B. The adjustment is required with respect to any interest charge DISC which conducts no business or which does conduct business but such business activity is unrelated to the amount of the taxpayer's income attributed to the interest charge DISC.

C. When an adjustment under § 58.1-446 of the Code of Virginia is required, the adjustment will be based upon consolidation of the interest charge DISC with the taxpayer unless the taxpayer shows to the satisfaction of the Tax Commissioner that some other method of computing the adjustment is more equitable.

§ 4. FSC and small FSC.

No adjustment under § 58.1-446 of the Code of Virginia is required with respect to ownership of a Foreign Sales Corporation or a Small Foreign Sales Corporation.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

REGISTRAR'S NOTICE: Due to its length, the text of the Solid Waste Management Regulations filed by the Department of Waste Management 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 regulations is available for public inspection at the office of the Registrar of Regulations, General Assembly Building, 910 Capitol

Final Regulations

Square, 2nd Floor, Room 262, Richmond, Virginia 23219, and at the Department of Waste Management, James Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Title of Regulation: VR 672-20-10. Solid Waste Management Regulations.

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

Effective Date: March 15, 1993.

Summary:

The Virginia Waste Management Board adopted amendments to the Virginia Solid Waste Management Regulations (VR 672-20-10) to (i) incorporate changes in the Virginia Waste Management Act enacted by the General Assembly, (ii) bring Virginia regulations into compliance with the newly promulgated federal criteria for Municipal Solid Waste Landfills (Part 258, Title 40, Code of Federal Regulations), and (iii) reflect the department's experience with the administration of its regulations gained since 1988.

As the result of the comments received during the public participation period, extensive changes were made to the regulations proposed on July 27, 1992. All such changes resulted in a lessening of the regulatory burden and streamlining of the administrative procedures.

Twenty-three definitions of the terms have been added or changed. Of these the most important were new definitions for mulch, contaminated soil and structural fill. Definitions of on-site management open dump were changed.

Regulations were amended to exempt mulch, used animal bedding, burning of wood wastes and certain management practices for wastes resulting from mineral mining.

Changes were made to clarify set-back requirements for landfills from highways by including pertinent portions of § 33.1-348 of the Code of Virginia that deal with the exemptions from the requirements. The adopted amendment provides for variances from the groundwater monitoring requirements and the requirement for composite liner for sanitary landfills. Technical details concerning liner, leachate collection system, leachate storage devices, and landfill gas management system design originally proposed were removed from the final version. The board also gave approval for steeper sideslopes on the finished landfills provided the owner or operator can demonstrate that such slopes will not cause erosion and environmental damage. The reduction in the regulatory requirements were made consistent for sanitary, construction/demolition/debris, and industrial waste landfills.

In response to the comments received from the Office of the Attorney General, several procedural items contained in Part VII of the proposed regulations were changed to comply with the provisions of the Virginia Administrative Process Act. Consequently, the department will require that the results of public participation on permits-by-rule be made part of the record transmitted to the department by the operator. The department will also be required to follow case decision requirements for denial or suspension of emergency and experimental permits.

The procedures for petitions for variance have been simplified for facilities undergoing vertical expansion, for placement of groundwater monitoring wells, and for the reduction in the requirements showing hardship.

EMERGENCY REGULATIONS

DEPARTMENT OF LABOR AND INDUSTRY

EDITOR'S NOTE: The following emergency regulation filed by the Department of Labor and Industry replaces the existing regulation, VR 425-01-81, Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards, that became effective July 1, 1992.

Title of Regulation: VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens and in Orchards.

Statutory Authority: §§ 40.1-6(3), 40.1-100 A 9 and 40.1-114 of the Code of Virginia.

Effective Dates: January 15, 1993, through January 14, 1994.

Summary:

Chapter 551 of the 1991 Acts of Assembly (HB 1794) amended §§ 40.1-78 through 40.1-79 of the Code of Virginia by removing the exemption for the employment of minors on farms, in gardens and in orchards. Pursuant to §§ 40.1-6(3), 40.1-100 A 9, and 40.1-114, the Commissioner of the Department of Labor and Industry has the authority and duty, effective July 1, 1991, to regulate children working in agriculture.

As the effective date of the enabling legislation did not allow sufficient time to comply with the provisions of the Administrative Process Act (APA), an emergency regulation was adopted effective July 1, 1991 to provide sufficient time for the Department to promulgate regulations in compliance with the requirements of the APA.

Final regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards, VR 425-01-81, was promulgated with an effective date of July 1, 1992.

Basis of Emergency:

Based on the public comments received following the regulation's final adoption, the Commissioner determined that the regulation would have a seriously negative impact on the traditional available labor supply.

The promulgation process under the APA to make, review and reissue new regulations requires slightly less than a year. To assure that current regulation does not negatively impact the upcoming growing season, the issuance of this emergency regulation is necessary.

The attached emergency regulation is identical to existing federal regulations found at 29 CFR §§ 570.70 (Definitions), 570.113 (Definitions), 570.71 (Hazardous

Occupations in Agriculture, 570.72 (Exemptions); and 516 (Recordkeeping).

During the twelve month term of this emergency regulation, the Department of Labor and Industry will promulgate a new permanent regulation following the APA and the Department's Public Participation Guidelines.

This emergency regulation is designated as VR 425-01-81 of the Department of Labor and Industry. The regulation shall become effective on filing with the Registrar of Regulations and expires on January 15, 1994 or upon the effective date of the permanent regulation, whichever occurs first. This emergency regulation will repeal the existing regulation covering this area.

The Department will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision to this emergency regulation.

IT IS SO ORDERED BY:

/s/ Carol Amato, Commissioner
Department of Labor and Industry
Date: January 14, 1993

APPROVED BY:

/s/ Cathleen A. Magennis
Secretary of Economic Development
Date: January 14, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor
Date: January 14, 1993

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: January 15, 1993

VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens and in Orchards.

§ 1. Definitions.

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

"Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities

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in section 15(g) of the Federal Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

"Employ" includes to suffer or permit to work. The nature of an employer-employee relationship is ordinarily to be determined not solely on the basis of the contractual relationship between the parties but also in the light of all the facts and circumstances. Moreover, the terms "employer" and "employ" are broader than the common-law concept of employment and must be interpreted broadly in the light of the mischief to be corrected. Thus, neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists. However, these are matters which should be considered along with all other facts and circumstances surrounding the relationship of the parties in arriving at such determination. The words "suffer or permit to work" include those who suffer by a failure to hinder and those who permit by acquiescence in addition to those who employ by oral or written contract. A typical illustration of employment of oppressive child labor by suffering or permitting an under-aged minor to work is that of an employer who knows that his employee is utilizing the services of such a minor as a helper or substitute in performing his employer's work. If the employer acquiesces in the practice or fails to exercise his power to hinder it, he is himself suffering or permitting the helper to work and is, therefore, employing him.

§ 2. Hazardous occupations.

This section identifies the occupations on farms, in gardens, and in orchards which are particularly hazardous for minors under 16 years of age. No employer shall employ, suffer, or permit a minor under 16 years of age to work in any of the following occupations, deemed to be particularly hazardous, except as provided in § 3 of this regulation:

A. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

B. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

1. Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;
2. Feed grinder, crop dryer, forage blower, auger

conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

3. Power post-hole digger, power post driver, or nonwalking type rotary tiller.

C. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

1. Trencher or earthmoving equipment;
2. Fork lift;
3. Potato combine; or
4. Power-driven circular, band, or chain saw.

D. Working on a farm in a yard, pen, or stall occupied by:

1. A bull, boar, or stud horse maintained for breeding purposes; or
2. A sow with suckling pigs, or cow with newborn calf (with umbilical cord present)

E. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.

F. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

G. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

H. Working inside:

1. A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;
2. An upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;
3. A manure pit; or
4. A horizontal silo while operating a tractor for packing purposes.

I. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning"

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the label;

J. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

K. Transporting, transferring, or applying anhydrous ammonia.

§ 3. Exemptions to hazardous occupations.

This section provides exemptions to the restrictions on hazardous occupations on farms, in gardens and in orchards set forth in § 2 of this regulation.

A. Section 2 shall not apply to the employment of a child below the age of 16 by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

B. Student Learners. Minors 14 and 15 years of age are exempted from the occupations listed in subsections A through F of § 2 when each of the following requirements are met:

1. A student-learner is enrolled in a vocational education training program in agriculture under a recognized State or local educational authority, or in a substantially similar program conducted by a private school;

2. Such student-learner is employed under a written agreement which provides;

a. That the work of the student-learner is incidental to his training;

b. That such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;

c. That safety instruction shall be given by the school and correlated by the employer with on-the-job training; and

d. That a schedule of organized and progressive work processes to be performed on the job have been prepared;

3. Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

4. Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

C. Federal Extension Service. Section 2 shall not apply to the employment of a child under 16 years of age in those occupations in which he has successfully completed

one or more training programs described in paragraph C.1., C.2., and C.3. of this section provided he has been instructed by his employer on safe and proper operation of the specific equipment he is to use; is continuously and closely supervised by the employer where feasible; or, where not feasible, in work such as cultivating, his safety is checked by the employer at least at midmorning, noon, and midafternoon.

1. 4-H Tractor Operation Program. The child is qualified to be employed in an occupation described in Section 2.A. provided:

a. He is a 4-H member;

b. He is 14 years of age, or older;

c. He is familiar with the normal working hazards in agriculture;

d. He has completed a 10-hour training program which includes the following units from the manuals of the 4-H tractor program conducted by, or in accordance with the requirements of, the Cooperative Extension Service of a land grant university:

(1) First-year Manual:

(a) Unit 1 - Learning How to be Safe;

(b) Unit 4 - The Instrument Panel;

(c) Unit 5 - Controls for Your Tractor;

(d) Unit 6 - Daily Maintenance and Safety Check; and

(e) Unit 7 - Starting and Stopping Your Tractor;

(2) Second-year Manual:

(a) Unit 1 - Tractor Safety on the Farm;

(3) Third-year Manual:

(a) Unit 1 - Tractor Safety on the Highway;

(b) Unit 3 - Hitches, Power-take-off, and Hydraulic Controls;

e. He has passed a written examination on tractor safety and has demonstrated his ability to operate a tractor safely with a two-wheeled trailed implement on a course similar to one of the 4-H Tractor Operator's Contest Courses; and

f. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address, and date of birth) a copy of a certificate acceptable by the Department,

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signed by the volunteer leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university to the effect that the child has completed all the requirements specified in paragraphs C.1.a., C.1.b., C.1.c., C.1.d., and C.1.e. of this section.

2. 4-H Machine Operation Program. The child is qualified to be employed in an occupation described in Section 2.B. providing:

- a. He satisfies all the requirements specified in paragraphs C.2.b., C.2.c., and C.2.d. of this section;
- b. He has completed an additional 10-hour training program on farm machinery safety, including 4-H Fourth-Year Manual, Unit 1, Safe Use of Farm Machinery;
- c. He has passed a written and practical examination on safe machinery operation; and
- d. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address, and date of birth) a copy of a certificate acceptable to the Department, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that the child has completed all of the requirements specified in paragraphs C.2.a., C.2.b., and C.2.c. of this section.

3. Tractor and Machine Operation Program. The child is qualified to be employed in an occupation described in Section 2.A. and 2.B. providing:

- a. He is 14 years of age, or older.
- b. He has completed a 4-hour orientation course familiarizing him with the normal working hazards in agriculture.
- c. He has completed a 20-hour training program on safe operation of tractors and farm machinery, which covers all material specified in paragraphs C.1.d. and C.2.b. of this section.
- d. He has passed a written examination on tractor and farm machinery safety, and has demonstrated his ability to operate a tractor with a two-wheeled trailed implement on a course similar to a 4-H Tractor Operator's Contest Course, and to operate farm machinery safely.
- e. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address and date of birth) a copy of a certificate acceptable to the Department, signed by the volunteer leader who conducted the training program and by an Extension agent of the

Cooperative Extension Service of a land grant university, to the effect that all of the requirements of paragraphs C.3.a., C.3.b., C.3.c., and C.3.d. of this section have been met.

D. Vocational Agriculture Training. Section 2 of this regulation shall not apply to the employment of a vocational agriculture student under 16 years of age in those occupations in which he has successfully completed one or more training programs described in paragraph D.1. or D.2. of this section and who has been instructed by his employer in the safe and proper operation of the specific equipment he is to use, who is continuously and closely supervised by his employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, and who also satisfies whichever of the following program requirements are pertinent:

1. Tractor Operation Program. The student is qualified to be employed in an occupation described in Section 2.A. provided:

- a. He is 14 years of age, or older;
- b. He is familiar with the normal working hazards in agriculture;
- c. He has completed a 15-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and acceptable by the U.S. Department of Labor. The training program is outlined in Special Paper No. 8, April 1969, prepared at Michigan State University, East Lansing, Mich., for the Office of Education. Copies of this training program outline are available for examination in the Regional Offices of the Wage and Hour Division, U.S. Department of Labor, and a copy may be obtained from the Office of Education, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20202;
- d. He has passed both a written test and a practical test on tractor safety including a demonstration of his ability to operate safely a tractor with a two-wheeled trailed implement on a test course similar to that described in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and
- e. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address, and date of birth) a copy of a certificate acceptable to the Department, signed by the Vocational Agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in

paragraphs D.1.a., D.1.b. D.1.c., and D.1.d. of this section.

2. Machinery Operation Program. The student is qualified to be employed in an occupation described in Section 2.B. provided he has completed the Tractor Operation Program described in paragraph D. 1. of this section and:

a. He has completed an additional 10-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and approved by the U.S. Department of Labor;

b. He has passed both a written test and a practical test on safe machinery operation similar to that described in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and

c. His employer has on file with the child's records kept pursuant to Section 4 of this regulation (basically, name, address and date of birth) a copy of a certificate acceptable to the Department, signed by the Vocational Agriculture teacher who conducted the program to the effect that student has completed all the requirements specified in paragraphs D.2.a. and D.2.b. of this section.

§ 4. Record-keeping requirements.

Every employer (other than parents or guardians standing in the place of parents employing their own child or a child in their custody) who employs in agriculture any minor under 18 years of age on days when school is in session or on any day if the minor is employed in a hazardous occupation shall maintain and preserve records containing the following data with respect to each and every such minor so employed:

A. Name in full.

B. Place where minor lives while employed. If the minor's permanent address is elsewhere, give both addresses.

C. Date of birth.

IT IS SO ORDERED BY:

/s/ Carol Amato, Commissioner
Department of Labor and Industry
Date: January 14, 1993

APPROVED BY:

/s/ Cathleen A. Magennis

Secretary of Economic Development
Date: January 14, 1993

APPROVED BY:

/s/ Lawrence Douglas Wilder
Governor
Date: January 14, 1993

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: January 15, 1993

STATE CORPORATION COMMISSION

FINAL

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 30, 1992

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE920003

Ex Parte, In re: Consideration
of a rule governing Accounting
for Postretirement Benefits other
than Pensions

FINAL ORDER

In December 1990, the Financial Accounting Standards Board ("FASB") issued Statement 106 ("SFAS 106") changing the generally accepted accounting methodology for expenses relating to certain post retirement employment benefits. Under SFAS 106, publicly traded companies must begin to accrue expenses for post retirement benefits other than pensions at the time they are earned by the employee rather than recognize them at the time they are paid after the employee retires. SFAS 106 represents a significant change in accounting policy — from recognition of expenses for other post retirement benefits ("OPEB") on a cash or "pay-as-you-go" basis to accrual of those expenses much earlier. The FASB made SFAS 106 effective for fiscal years beginning after December 15, 1992 for all public enterprises. SFAS 106 is also effective for nonpublic enterprises with defined benefit plans and with no more than 500 plan participants, for fiscal years beginning after December 15, 1994.

The Commission established this rulemaking proceeding by order of January 21, 1992 to determine whether Virginia public utilities to which the statement is applicable should be allowed to recover OPEB expenses in rates in the same manner they are now required to book those expenses for financial reporting purposes by SFAS 106. Comments were invited on a number of issues specified in the order. After several extensions of time, comments were filed on May 15, 1992, and the Staff filed its report on July 17. The parties were permitted to file responses to the Staff's report, and oral argument was held on September 10, 1992.

The overriding issue for decision in this case is whether OPEB expenses should be accrued as OPEB benefits are earned during the active employment of the beneficiary for ratemaking purposes. Before SFAS 106 was issued, most corporations accounted for OPEB expenses on a cash basis, i.e., as benefits were paid after an employee had retired. Accrual would have the effect of accelerating the recognition of OPEB costs.

The Commission's Staff recommends that the Commission accrue OPEB expenses in affected utilities' costs of service in the same manner directed by SFAS 106.

The utility companies commenting in this case have uniformly supported Staff's position. The Division of Consumer Counsel and the Virginia and Old Dominion Committees for Fair Utility Rates oppose Staff's recommendation.

We agree with Staff. SFAS 106 is intended to reflect more accurately the financial position of the reporting entity. The accrual treatment is consistent with accounting methodology for pension benefits and a number of other utility cost items such as depreciation, deferred income taxes and nuclear plant decommissioning costs. OPEB expenses are, in effect, deferred compensation to employees. Accrual accounting for OPEB expenses under SFAS 106 will better reflect utility employee compensation costs at the time the employee's service is rendered, and future ratepayers will not be required to pay employee costs for employment services rendered in the past.

The Virginia and Old Dominion Committees and the Consumer Counsel assert that the future level of OPEB expenses is speculative and therefore excluded from utility cost of service by § 56-235.2 of the Code of Virginia. It is clearly incorrect to say that OPEB expenses are always speculative. It is sufficient here to recognize that OPEB expenses can be estimated using generally accepted methodologies including actuarial computations. Moreover, SFAS 106 provides for ratable recognition of plan amendments, changes in actuarial assumptions and adjustments to reflect actual experience. Section 56-235.2 does not require absolute certainty, and we have no doubt that acceptable estimates of future OPEB expenses can be made in the context of most rate cases.

Several implementation issues arise from our adopting of accrual accounting for OPEB expenses. Three require brief mention here. First, we will impose a longer amortization period (40 years) on part of the transition obligation arising under SFAS 106 for OPEB expenses which are not capitalized. Second, we will require funding of OPEB expenses before they may be included in utility rates. Third, the timing difference in the implementation of accrual accounting for OPEB expenses for reporting and ratemaking purposes may be deferred under certain circumstances.

SFAS 106 defines a transition obligation which arises from the changes it requires in accounting treatment. That transition obligation is the unfunded, unrecognized OPEB liability which exists at the time a company implements SFAS 106 and begins accruing OPEB expenses. The statement suggests that transition obligations, if amortized, be amortized over 20 years. We agree that transition obligations should be amortized, but we believe the 20 year amortization period places too much burden on current ratepayers. Accordingly, we will require a 40 year amortization period for transition obligations except to the extent that they are capitalized.

Second, we agree with Staff that rate recovery of OPEB expenses should depend on whether the accruals are fully

funded. We, however, will not restrict prefunding to specific investments. This funding requirement will assure the funds are available to pay OPEB benefits in the future. If a utility does not fully fund its OPEB accruals, the unfunded OPEB liability shall be treated as recovered from customers unless associated with a ratemaking deferral. Therefore, any unfunded OPEB liability shall be deducted from rate base unless deferred for regulatory purposes.

Finally, we also agree that utilities which will not adjust rates coincident with implementation of the SFAS 106 accrual may defer the difference between accrual of OPEB expenses for reporting and ratemaking purposes as a regulatory asset upon two conditions. Such deferral will only be available if the company is earning below its authorized range of return on equity and will file for a change in rates within two years of implementing SFAS 106 or two years of this order, whichever is later. The earnings test period should coincide with the period the accrual is being booked. A company's earnings position will be reviewed per books using a 13-month average rate base and capital structure with only limited adjustments to place the books on a regulatory basis. Any such timing difference should also be added to the utilities' transition obligation and amortized over 40 years.

In the rules appended as Attachment A, we specify these and other requirements for the ratemaking treatment of OPEB expenses. The Commission finds these rules to be in the public interest; accordingly,

IT IS ORDERED:

(1) That the Rules Governing Ratemaking Treatment of Employee Post Retirement Benefits Other Than Pensions, appended hereto as Attachment A, are adopted; and

(2) That, there being nothing further to come before the Commission, Case No. PUE920003 is closed and the papers therein shall be placed in the Commission's files for ended causes.

AN ATTESTED COPY of this Order shall be sent to: all public utilities subject to the Commission's jurisdiction together with the other parties listed in the attached Service List; Office of the Attorney General, Division of Consumer Counsel, 101 North 8th Street, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Energy Regulation, Public Utility Accounting and Economics and Finance.

Commissioner Moore took no part in this case.

ATTACHMENT A

RULES GOVERNING RATEMAKING TREATMENT OF EMPLOYEE POST RETIREMENT BENEFITS OTHER THAN PENSIONS

For public utilities providing electric, natural gas, telephone and water service, employee post retirement benefits other than pensions (OPEB), as defined in Financial Accounting Board Statement 106, shall be subject to the following accounting and ratemaking treatment:

(1) OPEB costs shall be accrued during the active employment of the employee. A portion of OPEB costs so accrued shall be capitalized as appropriate.

(2) OPEB transition obligations, as defined in SFAS 106 shall be amortized over 40 years, except that capitalized amounts may be amortized over 20 years. Telephone companies participating in the experimental plan may use a shorter amortization period for the OPEB transition obligation if the increased accruals do not place the company in a position which cause it to seek rate relief.

(3) Recovery of OPEB cost accruals in rates shall not be permitted unless such accruals are fully funded. Any unfunded OPEB liability shall be deducted from rate base unless deferred for regulatory purposes.

(4) Deferred income taxes shall reflect differences in OPEB cost recognition for ratemaking and tax purposes.

(5) A regulatory asset may be recorded to recognize booking and ratemaking differences in the implementation of accrual accounting for OPEB expenses for reporting and ratemaking purposes.

(6) Differences in implementation of accrual accounting for expenses for reporting and ratemaking purposes may be deferred only if (a) the company is earning below its authorized range of return on equity and will file for a change in rates within two years of implementing SFAS 106 or two years from the date of this order, whichever is later and (b) the deferral is recognized in the transition obligation, amortized beginning with the effective date of the change in rates.

(7) In the event of any conflict between these rules and any other rule or regulation of the Commission, these rules shall control.

SERVICE LIST

Electric Companies in Virginia

Appalachian Power Company
Mr. Joseph H. Vipperman, President
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Roanoke, VA 24022-2121

Delmarva Power & Light Company
Mr. James R. Wittine
General Manager Regulatory Practice

State Corporation Commission

800 King Street
Post Office Box 231
Wilmington, Delaware 19899

Kentucky Utilities Company
t/a Old Dominion Power Company
Mr. Robert M. Hewett
Vice President, Rates
Budget & Financial Forecasts
One Quality Street
Lexington, Kentucky 40507

The Potomac Edison Company
Mr. Alan J. Noia, President
Downsville Pike
Hagerstown, Maryland 21740

Virginia Electric and Power Company
Mr. Paul J. Bonavia
Vice President-Regulation
Box 26666
Richmond, VA 23261

Gas Companies in Virginia

Commonwealth Gas Services, Inc.
Mr. Thomas E. Harris, President
800 Moorefield Park Drive
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Richmond, Virginia 23236-3659

Commonwealth Public Service Corp.
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Bluefield, West Virginia 24701

Roanoke Gas Company
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P.O. Box 13007
Roanoke, Virginia 24011

Shenandoah Gas Company
Mr. Kenneth G. Behrens,
General Manager
P.O. Box 2400
Winchester, Virginia 22601

Southwestern Virginia Gas Company
Mr. Allan McClain, President
P.O. Drawer 5391
Martinsville, Virginia 24115

United Cities Gas Company
Mr. Gene Koonce, President &
General Manager
5300 Maryland Way
Brentwood, Tennessee 37027
or
Mr. A. E. (Bill) Johnson, Sen. V.P.
Pres./TVEC Division
P.O. Box 60

Johnson City, Tennessee 37605

Virginia Natural Gas
Mr. W. F. Fritsche, Jr.
President & CEO
5100 East Virginia Beach Blvd.
Norfolk, Virginia 23502

Washington Gas Light Company
Mr. Patrick J. Maher, President
1100 H. Street, N.W.
Washington, D.C. 20005

INTER-EXCHANGE CARRIERS

AT&T Communications of Virginia
Mr. Terry Michael Banks, Vice President
Three Flint Hill
3201 Jermantown Road, Room 3B
Fairfax, Virginia 22030-2885

CF-W Network Inc.
Mr. James S. Quarforth, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia
Mr. James W. Spradlin, III
Government & Industry Relations
P.O. Box 6788
Charlottesville, Virginia 22903

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Metromedia Communications Corporation
Mr. Joseph Kahl, Manager
Regulatory Affairs
One Meadowlands Plaza
East Rutherford, New Jersey 07073

Contel of Virginia, Inc.
Mr. Stephen Spencer
1108 East Main Street, Suite 1108
Richmond, Virginia 23219

Institutional Communications Company - Virginia
Ms. Gail P. Charles, Director of Marketing
2000 Corporate Ridge
McLean, Virginia 22102

MCI Telecommunications Corp. of Virginia
Robert C. Lopardo
Senior Attorney
1150 17th Street, N.W., 8th Floor
Washington, D.C. 20036

R&B Network, Inc.

Mr. Allen Layman, Executive Vice President
P. O. Box 174
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. James W. McConnell, Manager
P.O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President & General Manager
P. O. Box 459
Edinburg, Virginia 22824

SouthernNet of Va., Inc.
Peter H. Reynolds, Director
780 Douglas Road, Suite 800
Atlanta, Georgia 30342

TDX Systems, Inc.
Mr. Charles A. Tievsky, Manager
Legal and Regulatory Affairs
1919 Gallows Road
Vienna, Virginia 22180

Sprint Communications of Virginia, Inc.
Mr. Kenneth Prohoniak
Staff Director, Regulatory Affairs
1850 "M" Street, N.W. Suite 110
Washington, DC 20036

Wiltel of Virginia
Brad E. Mutschelknaus, Esquire
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, DC 20006

TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation
Mr. Joseph E. Hicks, Vice President
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Amelia Telephone Corporation
Mr. Raymond L. Eckels, Manager
P. O. Box 76
Amelia, Virginia 23002

Buggs Island Telephone Cooperative
Mr. M. Dale Tetterton, Jr., Manager
P. O. Box 129
Bracey, Virginia 23919

Burke's Garden Telephone Exchange
Ms. Sue B. Moss, President
P. O. Box 428
Burke's Garden, Virginia 24608

Central Telephone Company of Virginia

Mr. J. Thomas Brown
President - VA/NC
P. O. Box 6788
Charlottesville, Virginia 22906

Chesapeake & Potomac Telephone Company
Mr. Hugh R. Stallard, President
and Chief Executive Officer
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P. O. Box 137
Floyd, Virginia 24091

Clifton Forge-Waynesboro Telephone Company
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P. O. Box 1990
Waynesboro, Virginia 22980-1990

Contel of Virginia, Inc.
Mr. Edward J. Weise, President
9380 Walnut Grove Road
P. O. Box 900
Mechanicsville, Virginia 23111-0900

GTE South
Mr. J. M. Swatts
State Manager - External Affairs
300 Bland Street
Bluefield, West Virginia 24701

GTE South
Mr. Thomas R. Parker
Associate General Counsel
Law Department
P.O. Box 110 - Mail Code: 7
Tampa, Florida 33601-0110

Highland Telephone Cooperative
Mr. Elmer E. Halterman, General Manager
P.O. Box 340
Monterey, Virginia 24465

Mountain Grove-Williamsville
Telephone Company
Mr. L. Ronald Smith
President/General Manager
P. O. Box 105
Williamsville, Virginia 24487

New Castle Telephone Company
Mr. Joseph E. Hicks
P.O. Box 22995
Knoxville, Tennessee 37933-0995

New Hope Telephone Company
Mr. K. L. Chapman, Jr., President

State Corporation Commission

P. O. Box 38
New Hope, Virginia 24469

North River Telephone Cooperative
Mr. W. Richard Fleming, Manager
P. O. Box 236, Route 257
Mt. Crawford, Virginia 22841-0236

Pembroke Telephone Cooperative
Mr. Stanley G. Cumbee, General Manager
P. O. Box 549
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.
Mr. E. B. Fitzgerald, Jr.
President & General Manager
P. O. Box 367
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company
Mr. Allen Layman, President
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. James W. McConnell, Manager
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Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President
P. O. Box 459
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.
Mr. William K. Smith, President
112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Virginia Telephone Company
Mr. Joseph E. Hicks
Vice President, External Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Water and Sewer Companies in Virginia

Alpha Water
Sydnor Hydrodynamics, Inc.
c/o Charles S. Verdery
Vice President
Alpha Water
2111 Magnolia Street
Richmond, Virginia 23261

Aqua Systems, Inc.
c/o R. L. Magette
Box 423
Smithfield, Virginia 23430

Aquarius Water Systems, Inc.

c/o Don Liscomb
Route 3
Luray, Virginia 22835

Aubon Water Company
G. Ray Boone, President
215 N. Main Street
Rocky Mount, Virginia 24151

Battery Park Artesian Water Company
Hazel K. Spady
P.O. Box 57
Battery Park, Virginia 23304

Beechwood Water Company, Inc.
Clyde Prillaman
223 Plantation Drive
Collinsville, Virginia 24078

Big Caney Water Corporation
c/o Mr. Mike Lawrence
P.O. Box 7
McClure, Virginia 24269

Bluefield Valley Water Works Company
c/o H. Allen Baumgarner
Box 593
Charleston, West Virginia 25322

Blue Ridge Utility Company
William Ortt
Route 3, Box 455
Edinburg, Virginia 22824

Blue Ridge Water Agency, Inc.
Mr. Harry Hobson
P.O. Box 87
Route 616
Blue Ridge, Virginia 24064

Botetourt Forest Water
Mr. Jerry B. Bowen, President
P.O. Box 32
Blue Ridge, Virginia 24064

Caroline Utilities, Inc.
c/o Charles S. Verdery
Sydnor Hydrodynamics, Inc.
Box 27186
Richmond, Virginia 23261

Cedar Ridge Water Company
c/o Curtis Simmons
Post Office Box 95
Daleville, Virginia 24083

Charles M. Blythe Water Company, Inc.
c/o Ms. Hilda B. Blythe
23062 Scottswood Drive
Franklin, Virginia 23851

State Corporation Commission

Colonial Waterworks, Inc.
Mr. Francis W. Allen, Jr.
P.O. Box 12189
Charlotte, North Carolina 28220

Crawford Water Company
J. Philip Knopp, President
22 Terry Court
Staunton, Virginia 24401

Dale Service Corporation
c/o Norris Sisson
5565 Mapledale Plaza
Dale City, Virginia 22193

Daleville Water Company
c/o Willis Hopkins, President
Route 1, Box 583
Daleville, Virginia 24083-0583

Deer Creek Water Company, Inc.
c/o Peter S. Fenn, President
152 Crawford Drive
Deer Creek Estates
Moneta, Virginia 24121

Eagle Rock Water Company
Mr. Hunter
P.O. Box 182
Eagle Rock, Virginia 24085

Echo Village Sewer Company
c/o T. G. Adams
Route 3, Box 247
Winchester, Virginia 22601

English's, Inc.
(Castle Craig & Heights Water System)
1522 Main Street
Altavista, Virginia 24517

Evergreen Water Corporation
S. J. Construction Company
3600 Wheeler Avenue
Alexandria, Virginia 22314

Glen Wilton Water Corporation
c/o C. M. Reynolds, III
Post Office Box 57
Glen Wilton, Virginia 24438

Harbour East Sewerage Company
c/o Paul A. Pederson
P.O. Box 640
Chester, Virginia 23831

Highland Lake Water Works, Inc.
Mr. Bryon Lambert
Cecilia R. Aron: Contact Person
Drawer 9
Union Hall, Virginia 24176

Hoges Chapel Water Service Corporation
Mr. Marcus C. Smith
P.O. Box 568
Pembroke, Virginia 24136

Idlewood Water Company
Mr. Coy W. Cooper
Route 3, Box 940
Boones Mill, Virginia 24065

Indian River Water Company
c/o Marvin Simon or
C. G. Harris, Vice President
3400 Building, 397 Little Neck Road
Virginia Beach, Virginia 23452

James River Service Corporation
Mr. Charles S. Verdery
P.O. Box 27186
Richmond, Virginia 23261

Kilby Shores Water Company
c/o R. L. Magette, President
P.O. Box 432
Smithfield, Virginia 23434

Lake Holiday Estates Utility Company
c/o Carl H. Simms, President
H.C. 3, Box 250
Cross Junction, Virginia 22625

Lake Monticello Service Company
c/o Gary Ellis
397 Jefferson Drive
Palmyra, Virginia 22963

Land 'Or Utility Company, Inc.
c/o Maryland Herron: Office Contact
Ron Tate: Superintendent
Fred Kaspick: Executive Vice President
Box 100
Ladysmith, Virginia 22501

Long Hollow Water Development Company
Mr. Clinton Hayes, President
Route 1, Box 506
Buena Vista, Virginia 24416

Lundie Utilities, Inc.
c/o Charles L. Lundie, President
3833-A South Crater Road
Petersburg, Virginia 23805

Manakin Water and Sewerage Corporation
Ms. Helen C. Walker
563 Cedar Run Road
Manakin, Virginia 23103

Marshall Water Works, Inc.
c/o David L. Ferguson, President
Box 171

State Corporation Commission

Marshall, Virginia 22115

Massanutten Public Service Company
c/o David H. Demaree, Vice President
2335 Sanders Road
Northbrook, Illinois 60062

Monta Vista Water Company, Inc.
c/o T. C. Clark
Post Office Box 25
Stanleytown, Virginia 24168

Mountainview Water Company, Inc.
Mr. Rick Marmaduke
Mr. Stewart W. Hubbell
701 First Street, S.W.
Roanoke, Virginia 24016

Montvale Water, Inc.
Mr. A. C. Hollins, President
Mrs. Jessie P. Richards
P.O. Box 155
Montvale, Virginia 24122

New Colony Investors, L.P.
(Williamsburg Terrace Mobile Home Park)
Post Office Box 2506
Newport News, Virginia 23609

Peacock Hill Service Company
P.O. Box 11
Ivy, Virginia 22445
or
c/o Blanche Berman
672 Kearsarge Circle
Charlottesville, Virginia 22901

Piedmont Water Company, Inc.
Mr. H. P. Musser, Jr.
Route 4, Box 284
Martinsville, Virginia 24112

Pocahontas Water Works, Inc.
c/o H. P. Musser, Jr.
P.O. Box 2109
Charleston, West Virginia 25328

Po River Water and Sewer Company
Mr. Phil Phrassas, CEO: Rates/Management
Karen Vogel: Operations
Carlyle Group
9073 Nemo Street
Los Angeles, California 90069

Poff Construction/Broadview
Robert Poff
201 Roanoke Street
Christiansburg, Virginia 24073

Powhatan Water Works, Inc.
c/o Mr. Charles S. Verdery

Box 27186
Richmond, Virginia 23261

Presidential Services
Mr. Richard F. Marilley, President
1303 Capulet Court
McLean, Virginia 22102

Public Service Company of Virginia, Inc.
Attn: Joseph M. Casero, P.E.
P.O. Box 304
Greenwood, Virginia 22943

Rainbow Forest Water Corporation
Ms. Margaret Holdaway
Secretary/Treasurer
3451 Brandon Avenue, S.W., Box 12
Roanoke, Virginia 24018

Read Mountain
c/o David Cotton, Vice President
P.O. Box 20069
Roanoke, Virginia 24018-0503

Reston Lake Anne Air Conditioning Corporation
Douglas A. Cobb
P.O. Box 277
Great Falls, Virginia 22066

Riverlake Water Company
c/o Paul Genovese
804 Morgan Trail
Virginia Beach, Virginia 23464

Rockbridge Rural Water Agency, Inc.
c/o Deborah Hubbard
Route 1, Box 50X
Glasgow, Virginia 24555

S. E. Moran Utilities, Inc.
Mr. S. E. Moran, President
Route 2, Box 1019
Ms. Maggie Moran (Contact)
Barrett, Virginia 24055

Sanville Utilities Corporation
c/o R. N. Anthony, President
P.O. Box 532
Bassett, Virginia 24055

Shawnee-Land Utilities Company
Don Lamborne
HC-33, Box 808
Winchester, Virginia 22601

Smith Mountain Water Company
Mr. Robert Winney
P.O. Box 208
Wirtz, Virginia 24184-0208

South Anna Service Corporation

State Corporation Commission

Henry Gunst, Jr., President
Linda Jennings: Contact Person
Patricia Little, Operations
2421 Grenoble Road
Richmond, Virginia 23294

Syndor Hydrodynamics, Inc.
Box 27186
Richmond, Virginia 23261

T-L Water Company
c/o Larry Lamb, President
Mary Lamb, Secretary
P.O. Box 217
Standardsville, Virginia 22973

Thomas Bridge Water Corporation
Mr. William Sword
or Elizabeth S. Ewald (Office Person/Contact)
Route 3, Box 533
Marion, Virginia 24354

Tidewater Water Company of:
1. Isle of Wight
2. James City
3. Southampton
4. Suffolk
c/o R. L. Magette or Malinda B. Reynolds
Box 423
Smithfield, Virginia 23430

Tinkerview Water Company
c/o Nancy Firestone
P.O. Box 428
Troutville, Virginia 24175

Trail's End Utility Company, Inc.
c/o Thomas W. Young, General Manager
or Dallas Swan (Registered Agent)
TDR Enterprises, Inc.
Accomac, Virginia 23301

Valley Ridge Water Company
D. H. Scott (Registered Agent)
Box 204
Selma, Virginia 24422
or
H. R. Stancil (President)
Valley Ridge
Route 2, Box 288
Covington, Virginia 24426

Virginia American Water Company
(Alexandria & Prince William County)
c/o David Legg, Manager
or Cheryl Snyder, Customer Service
2223 Duke Street
Alexandria, Virginia 22310

Virginia American Water Company
(Hopewell Area)

Susan Locket
Customer Service
210 North Second Avenue
Hopewell, Virginia 23860

Virginia Suburban Water Company
c/o Joyce Creel, Business Manager
P.O. Box 897
Warsaw, Virginia 22572

Water Distributors, Inc.
Ms. Margaret Holdaway
Secretary/Treasurer
3451 Brandon Avenue, S.W.
Box 12
Roanoke, Virginia 24018

Waterford Waterworks
Jim Buck, President
4520 Old Cave Spring Road
Roanoke, Virginia 24018

Wilderness Water & Utility Company, Inc.
John J. Hall, President
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Three Skyline Place
5201 Leesburg Pike, Suite 1107
Falls Church, Virginia 22041

Williamsburg Court Water Company
c/o B. Willis Hopkins
Route 1, Box 583
Daleville, Virginia 24083-0583

Windsor Water Company, Inc.
Herman Taliaferro
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Smithfield, Virginia 23430

Wintergreen Valley Utility Company, L.P.
Mr. Stuart R. Sadler
P.O. Box 638
Wintergreen, Virginia 22958

Woodhaven Water Company
Mr. Martin L. Saville, President
P.O. Box 68
Quinton, Virginia 23141

York Public Utilities Corporation
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P.O. Box B-L
Williamsburg, Virginia 23187

OTHER PARTIES

Evans B. Brasfield, Esquire
Guy T. Tripp, III, Esquire
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street

State Corporation Commission

Richmond, Virginia 23219-4074

Richard D. Gary, Esquire
Hunton & Williams
Riverfront Plaza, East Tower
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Richmond, Virginia 23219-3095

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Woods, Rogers & Hazlegrove
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Miller & Hern
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Division of Consumer Counsel
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Central Telephone Company of Virginia
P.O. Box 6788
Charlottesville, Virginia 22903

Stephen Spencer
Contel of Virginia, Inc.
1108 East Main Street, Suite 1108
Richmond, Virginia 23219

PROPOSED

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 7, 1993

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. PUE920067

STATE CORPORATION COMMISSION

Ex Parte, in re: Investigation into
the promulgation of standards and
regulations for energy allocation
equipment

ORDER DIRECTING NOTICE AND INVITING PUBLIC COMMENT

Section 56-245.3 of the Code of Virginia required the State Corporation Commission ("Commission") to promulgate regulations and standards under which gas and electric energy allocation equipment might be installed in individual dwelling units, rental units or stores to fairly allocate each unit's cost of consumption, demand and customer charges.

Pursuant to order dated September 28, 1992, the

Commission directed the Commission Staff ("Staff") to conduct a general investigation into the standards and regulations for energy allocation equipment and, upon conclusion, to file its report summarizing its investigatory procedures, findings and recommendations. The Staff filed its report on December 11, 1992.

In its report, Staff proposed certain amendments and additions to the Commission's current Rules for Submetering Electricity and Natural Gas, which were adopted effective June 1, 1990. These amendments would extend the Commission's jurisdiction to energy allocation equipment in accordance with revised statutory requirements.

NOW THE COMMISSION, having reviewed the Staff report, appendices, and the applicable law, is of the opinion and finds that notice of the proposed rules should be made available to all interested parties, and that such parties should have the opportunity to comment or request hearing on the proposed rules. Should any party request hearing after publication of the notice set forth below, the Commission will issue a subsequent order addressing such request. In the absence of such request, the Commission may decide to act on the proposed rules contained in the Staff report upon consideration of any written comments.

Accordingly, IT IS ORDERED:

(1) That on or before February 1, 1993, the Commission's Division of Energy Regulation shall cause a copy of the following notice to be published once a week for two consecutive weeks in newspapers having general circulation throughout the Commonwealth:

NOTICE OF CONSIDERATION BY THE VIRGINIA
STATE CORPORATION COMMISSION OF
PROPOSED RULES GOVERNING ENERGY
ALLOCATION EQUIPMENT UNDER VIRGINIA
CODE § 56-245.3

CASE NO. PUE920067

Section 56-245.3 of the Code of Virginia required the State Corporation Commission to promulgate rules under which energy allocation equipment might be installed in individual dwelling units, rental units or stores to fairly allocate each unit's cost of consumption, demand and customer charges.

Pursuant to order dated September 28, 1992, the Commission directed the Commission Staff to conduct a general investigation into the standards and regulations for energy allocation equipment and, upon conclusion, to file its report summarizing its investigatory procedures, findings and recommendations. The Staff report was filed on December 11, 1992. In its report, Staff proposes certain amendments and additions to the Commission's current Rules for Submetering Electricity and Natural Gas, which were adopted effective June 1, 1990. The proposed rules

provide for the installation, use and testing of energy allocation equipment, which approximates the electric or natural gas usage of any dwelling unit or nonresidential rental unit within an apartment house, office building or shopping center.

The text of the Staff report and accompanying appendices may be reviewed by the public at the State Corporation Commission's Document Control Center, located on floor B-1 of the Jefferson Building, Bank and Governor Streets, Richmond, Virginia from Monday through Friday, between 8:15 a.m. and 5:00 p.m. In addition, the Staff report and its accompanying appendices may be reviewed at each electric and gas utility's business offices where utility bills may be paid.

Any interested person who wishes to submit written comment or request a hearing on the proposed rules contained in the Staff report and accompanying appendices must file an original and fifteen (15) copies of such comment or request with William C. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, not later than March 12, 1993. If any request for hearing is received, the Commission will issue a subsequent order addressing such request. In the absence of any request for hearing, the Commission may decide to act upon the proposed rules upon consideration of the written comments.

VIRGINIA STATE CORPORATION COMMISSION
DIVISION OF ENERGY REGULATION

(2) That any person may file written comments, or request a hearing, on the proposed rules set forth in the Staff report of December 11, 1992. An original and fifteen (15) copies of such comments or requests shall be filed no later than March 12, 1993, with William C. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, and shall refer to Case No. PUE920067;

(3) That Staff may file a supplemental written report addressing any matters raised in the written comments of the parties on or before April 1, 1993;

(4) That all Virginia gas and electric utilities subject to the Commission's jurisdiction shall forthwith make a copy of the Staff report and appendices of December 11, 1992, available for public inspection during regular business hours at their business offices where utility bills may be paid; and

(5) That, the Division of Energy Regulation shall upon completion provide proof of publication of the notice required herein.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each gas and electric utility company subject to the jurisdiction of the Commission;

State Corporation Commission

Edward L. Petrini, Esquire, Office of Attorney General, Division of Consumer Counsel, 101 North 8th Street, Richmond, Virginia 23219; Robert Freischlag, President, National Utilities Allocation Association, 4520 South 36th Street, Omaha, Nebraska 68107-1329; Martha Hewitt, Center for Energy and Urban Development, 510 First Avenue, North, Suite 400, Minneapolis, Minnesota 55403; and to the Commission's Division of Energy Regulation.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER TWENTY-NINE (92)

"A FIST FULL OF DOLLARS"; VIRGINIA LOTTERY RETAILER PROMOTIONAL PROGRAM RULES.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate "A Fist Full of Dollars" Virginia Lottery Retailer Promotional Program Rules for the lottery retailer incentive program which will be conducted from Monday, February 15, 1993 through Sunday, March 28, 1993. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: December 28, 1992

DIRECTOR'S ORDER NUMBER ONE (93)

"WINNING PAIRS"; PROMOTIONAL GAME AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Winning Pairs" promotional game and drawing rules for the kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on Thursday, January 14, 1993. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until January 30, 1993, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson
Director
Date: January 11, 1993

DIRECTOR'S ORDER NUMBER TWO (93)

VIRGINIA'S THIRTY-FIRST INSTANT GAME LOTTERY; "WINNING PAIRS," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's thirty-first instant game lottery, "Winning Pairs." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: January 13, 1993

MARINE RESOURCES COMMISSION

FINAL REGULATIONS

MARINE RESOURCES COMMISSION

NOTICE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating regulations. However, the Commission is required to publish the full text of final regulations.

Title of Regulation: VR 450-01-0069. Pertaining to the Taking of Shad.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 1993.

Preamble:

This regulation establishes a limited season for the harvest of American Shad during 1993 and further establishes a total moratorium on the harvest of American Shad from the Chesapeake Bay and its tributaries during 1994.

VR 450-01-0069. Pertaining to the Taking of Shad.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § ~~28.1-23~~ 28.2-201 of the Code of Virginia.

B. This regulation amends previous VR 450-01-0069 promulgated and made effective on January 23, 1991, 1, 1992.

C. The effective date of this regulation is January 1, 1992 1993.

§ 2. Purpose.

The purpose of this regulation is to establish seasonal and gear limitations on the harvest of American shad from the tidal waters of Virginia thereby preventing a further expansion of the fishery. The provisions of this regulation are an initial attempt to reverse the long-term decline in the American shad resource and to begin the process of stock recovery reduce fishing mortality in order to rebuild the Virginia stocks of American Shad. The shortened fishing season in 1993 is established to minimize the immediate impact of a complete moratorium which will be effective on January 1, 1994.

§ 3. Mouth of Chesapeake Bay defined.

For the purposes of this regulation, the mouth of the Chesapeake Bay is defined as the Colregs Demarcation Line, as appearing on NOAA Chart No. 12221, which runs from the Cape Henry Lighthouse in Virginia Beach to the Cape Charles Lighthouse on Smith Island.

§ 4. Fishing season.

A. The lawful fishing season for the commercial and recreational harvest of American Shad from the tidal waters of Virginia shall be February 4, 1992 to April 30, 1992, Chesapeake Bay and its tidal tributaries shall be March 15, 1993, through April 15, 1993, both dates inclusive.

B. It shall be unlawful for any person to take or catch and retain possession of any American Shad from the Chesapeake Bay or its tributaries outside of the lawful fishing season.

§ 5. Entry limitations.

A. It shall be unlawful for any person to harvest American Shad with commercial fishing gear from the Chesapeake Bay or its tidal tributaries without first having obtained a permit from the Marine Resources Commission. Permits shall be issued to persons meeting the following conditions:

1. The applicant shall be licensed as a registered commercial fisherman and shall apply for a "Commercial Shad Harvest Permit" by completing the form provided by the commission.

2. The applicant shall have have fished commercially for American Shad during the 1991 or 1992 legal fishing season and shall submit proof of such activity to the commission with the completed application form.

§ 4. 6. Gear restrictions.

A. Except as provided in subsection B, below, it shall be unlawful for any person to place, set or fish any gill net in the tidal waters of Virginia whose mesh measures greater than four inches, stretched measure, during the period of January 1, 1992 ; to February 3, 1992 ; both dates inclusive. It shall be unlawful for any person utilizing a vessel or boat to harvest fish by gill net to have on board, possess, or land American Shad in a vessel equipped with more than 3,000 yards of gill net.

B. It shall be lawful to hang any staked gill net on its poles on or after January 22, 1992 ; provided that such net shall not be dropped into the fishing position until February 4, 1992. It shall be unlawful for any person to use or to place overboard for the harvest of American Shad more than 3,000 yards of gill net per boat.

C. It shall be unlawful for any person utilizing a vessel or boat to harvest fish by gill net to have on board, possess or land American shad in a vessel equipped with more than 3000 yards of gill net. Persons utilizing a vessel or boat in the harvest of American shad by gill net shall be limited to 3000 yards of gill net per vessel.

§ 7. Moratorium.

Marine Resources Commission

A. On and after January 1, 1994, it shall be unlawful for any person to catch and retain possession of American Shad from the Chesapeake Bay or its tidal tributaries.

B. On and after January 1, 1994, it shall be unlawful for any person to possess any American Shad taken from the Chesapeake Bay or its tidal tributaries.

§ 5 8. Penalty.

As set forth in § ~~28.1-23~~ 28.2-201 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0073. Pertaining to the York River and Poquoson River Shellfish Management Area.

Statutory Authority: §§ 28.2-201 and 28.2-503 of the Code of Virginia.

Effective Date: January 1, 1993.

Preamble:

This regulation establishes the York and Poquoson River Shellfish Management Areas and provisions to control the harvest of clams from those areas.

VR 450-01-0073. Pertaining to the York River and Poquoson River Shellfish Management Area.

§ 1. Authority, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ ~~28.1-23~~ 28.2-201 and ~~28.1-120~~ 28.2-503 of the Code of Virginia.

B. This regulation amends VR 450-01-0073, Pertaining to the York River Shellfish Management Area, which was promulgated and made effective on September 9, 1991.

~~B. C. The effective date of this regulation is September 9, 1991~~ January 1, 1993 .

§ 2. Purpose.

The purpose of this regulation is to protect and promote the hard clam resource within the designated ~~area~~ areas of the York River and Poquoson Rivers .

§ 3. ~~York River~~ Shellfish Management Area Areas defined.

A. The York River Shellfish Management Area shall consist of all public grounds located inshore of a line beginning at the entrance to the Virginia Institute of

Marine Science boat basin at Gloucester Point, running Northwesterly to Buoy #30, thence Northwesterly to Buoy #32, thence Northwesterly to Buoy #34, then Northwesterly to Pages Rock Buoy, thence Northwesterly and ending at Clay Bank Wharf.

B. The Poquoson River Shellfish Management Area shall consist of all public grounds bounded by a line beginning at Hunts Point Survey Taylor and running northwesterly to Survey Station Spit, thence northeasterly to Survey Station Cabin North, thence east to Survey Station Cabin South, thence southeasterly following the general shoreline (not to include any creeks or canals) to the flag pole near Survey Station 80 at York Point, thence 175 degrees to Day Marker #14 and returning to Hunts Point Survey Taylor.

§ 4. Permit Permits required.

Each boat or vessel engaged in the harvesting of clams by patent tong from the York River Shellfish Management Area or Poquoson River Shellfish Management Area shall first obtain a permit ~~to do so~~ specific to the management area to be worked from any Marine Patrol Officer, and this permit shall be on board the vessel at all times and available for inspection. The permit shall state the name and port of the vessel, the registration or documentation number of the vessel, the name and address of the owner of the vessel and the name of the captain of the vessel. Any change to any of the above information shall require the vessel owner or captain to obtain a new permit. ~~This permit~~ These permits shall be in addition to all other licenses or permits required by law.

§ 5. Patent tong season.

A. The lawful season for the harvest of clams by patent tong from the York and Poquoson River Shellfish Management ~~Area~~ Areas shall be January 1 through March 31.

B. It shall be unlawful for any person to harvest clams by patent tong from either the York or Poquoson River Shellfish Management Area from April 1 through December 31.

§ 6. Time of day restriction.

A. It shall be unlawful for any person to harvest clams by patent tong from either the York or Poquoson River Shellfish Management Area before sunrise or after 2 p.m.

B. It shall be unlawful for any person to harvest clams by patent tong from either the York or Poquoson River Shellfish Management Area on ~~Saturdays~~ Saturday or ~~Sundays~~ Sunday .

§ 7. Penalty.

A. As set forth in § ~~28.1-23~~ 28.2-503 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

Marine Resources Commission

B. The Marine Resources Commission may revoke the permit of any person convicted of a violation of this regulation.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0081. Pertaining to Summer Flounder.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 1993.

Preamble:

This regulation establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota, recreational bag and commercial trip limits, and minimum size limits.

VR 450-01-0081. Pertaining to Summer Flounder.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. VR 450-01-0053, Pertaining to the Taking of Summer Flounder, VR 450-01-0056, Pertaining to Recreational Flounder Fishing, and VR 450-01-0071, Pertaining to the Alteration of Summer Flounder are hereby repealed.

C. The effective date of this regulation is January 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to reduce commercial and recreational fishing mortality in order to rebuild the severely depleted stocks of Summer Flounder.

§ 3. Commercial harvest quotas.

A. During the period of January 1, 1993, through December 31, 1993, commercial landings of Summer Flounder shall be limited to 2,667,612 pounds and shall be distributed as follows:

1. The commercial harvest of Summer Flounder from Virginia tidal waters for the period of January 1, 1993, through December 31, 1993, shall be limited to 567,401 pounds.

2. During the period of January 1, 1993, through March 31, 1993, landings of Summer Flounder

harvested outside of Virginia shall be limited to 1,092,110 pounds.

3. During the period of April 1, 1993, through June 30, 1993, landings of Summer Flounder harvested outside of Virginia shall be limited to 63,006 pounds.

4. During the period of July 1, 1993, through September 30, 1993, landings of Summer Flounder harvested outside of Virginia shall be limited to 63,006 pounds.

5. During the period of October 1, 1993, through December 31, 1993, landings of Summer Flounder harvested outside of Virginia shall be limited to 861,087 pounds.

B. It shall be unlawful for any person to harvest for commercial purposes or to land Summer Flounder for sale after the commercial harvest or landing quota as described in subsection A of this section, has been attained.

§ 4. Commercial trip limitation.

A. During the period of April 1, 1993, through September 30, 1993, a commercial trip limit of 1,500 pounds of Summer Flounder harvested outside of, and landed in, Virginia is imposed.

B. During the above period, it shall be unlawful for any person fishing outside of Virginia waters to land from a vessel any amount of Summer Flounder exceeding 1,500 pounds.

§ 5. Minimum size limits.

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 13 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to, hook-and-line, rod-and-reel, spear and gig, shall be 14 inches, total length.

C. It shall be unlawful for any person to catch and retain possession of any Summer Flounder smaller than the designated minimum size limit except as provided in subsection D of this section.

D. The harvest of Summer Flounder by pound net may consist of up to 10%, by weight, of Summer Flounder less than 13 inches in length. It shall be unlawful for any person to possess Summer Flounder taken by pound net which consists of more than 10%, by weight, of Summer Flounder less than 13 inches in length. Whenever any person has possession of more than 100 pounds of Summer Flounder harvested by pound net, a lot of 100 pounds may be separated by the Marine Patrol Officer from the whole quantity for the purposes of determining whether more than 10% are under the lawful size.

E. Length shall be measured in a straight line from tip of nose to tip of tail.

§ 6. Daily bag limit.

A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, spear, gig or other recreational gear, or licensed for commercial hook-and-line fishing, to catch and retain possession of more than 10 Summer Flounder per day. Any Summer Flounder taken after the daily limit has been reached shall be returned to the water immediately.

B. The daily bag limit of Summer Flounder when fishing from a boat shall be equal to the number of persons on board multiplied by 10. Retention of the legal number of Summer Flounder is the responsibility of the boat captain or operator.

§ 7. Penalty.

As set forth in § 28.2-201 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

*/s/ William A. Pruitt
Commissioner*

GOVERNOR

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 230-01-003. Rules and Regulations Governing the Certification Process (REPEALED).**

Title of Regulation: **VR 230-01-003:1. Rules and Regulations Governing the Certification Process.**

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 and agencies impacted by this proposal, and (3) the public. I am withholding my final opinion on the merits of the proposed amendments until such time as these matters have been addressed and a final proposal is recommended.

/s/ Lawrence Douglas Wilder
Governor
Date: January 14, 1993

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Health Insurance Premium Payment Program (HIPPP).**

VR 460-01-29.4. Premiums, Deductibles, Coinsurance and Other Cost Sharing Obligations.

VR 460-01-70. Third Party Liability.

VR 460-02-2.2100. Groups Covered and Agencies Responsible for Eligibility Determination (Attachment 2.2 A).

VR 460-02-2.6100. Eligibility Conditions and Requirements (Attachment 2.6 A).

VR 460-02-4.2230. State Method on Cost Effectiveness of Employer-Based Group Health Plans (Attachment 4.22 C).

VR 460-04-4.2230. Health Insurance Premium Payment Program.

Governor's Comment:

I approve of the form and the substance of this regulation.

/s/ Lawrence Douglas Wilder
Governor
Date: January 22, 1993

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.

Notice to the Public

RT Associates has published a Virginia Register Deskbook, a cumulative index of Volumes 1 through 8 (Issue 13). For more information contact RT Associates, P.O. Box 36416, Baltimore, Maryland 21286.

DEPARTMENT OF LABOR AND INDUSTRY

† Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA).

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U.S. Department of Labor
Occupational Safety and Health Administration
29 CFR Part 1926
(Docket S-775)

Safety Standards for Steel and Other Metal and Non-Metal Erection

Agency: Occupational Safety and Health Administration (OSHA)

Action: Notice of Intent to Establish Negotiated Rulemaking Committee; Request for Representation.

Summary: The Occupational Safety and Health Administration is announcing its intent to establish a Steel Erection Negotiated Rulemaking Advisory Committee under the Negotiated Rulemaking Act (NRA) and the Federal

Advisory Committee Act (FACA). The committee will negotiate issues associated with the development of a proposed revision of the existing safety provisions in its construction standards for steel erection (29 CFR part 1926, subpart R). The committee will include representatives of identified parties who would be significantly affected by the final rule. OSHA solicits interested parties to nominate representatives for membership for representation on the committee.

Nominations for membership or representation on the committee should be sent, in quadruplicate, to the Docket Office, Docket S-775, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-2625, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Text: Full text of the proposed rulemaking can be found in Volume 57, No. 250, p. 61860 (December 29, 1992) of the Federal Register.

Date: OSHA must receive written comments and requests for membership or representation by March 29, 1993.

Address: Written comments should be submitted in quadruplicate to the Docket Office, Docket No. S-775, Room N-2625, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, telephone (202) 219-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219.

For further information contact: James F. Foster, Office of Information and Consumer Affairs, OSHA, Room N-3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 219-8151.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

General Notices/Errata

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

ERRATA

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: VR 173-01-00:1. Public Participation Guidelines.

Publication: 9:5 VA.R. 651-654 November 30, 1992.

Correction to Final Regulation:

Page 653, § 2 H 4 b (2), second column, line 2, after "where" replace "an" with "the"

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

February 12, 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 for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations**. The proposed regulations (i) establish professional limited liability companies; (ii) amend the education requirement to sit for the CPA examination effective in the year 2000; (iii) amend the conditioning requirements for passing the CPA examination to accommodate format changes to the exam; (iv) amend reinstatement procedures; and (v) clarify the CPE requirement.

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

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

February 23, 1993 - 2:30 p.m. – Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia.

The board will meet to conduct a formal hearing:

File Number 91-01928
Board for Accountancy v. Charles K. Tribble, CPA

Contact: Gayle Eubank, Legal Assistant, Department of Commerce, 3600 W. Broad St., Fifth Floor, Richmond, VA 23230, telephone (804) 367-8524.



DEPARTMENT FOR THE AGING

Long-Term Care Council

March 12, 1993 - 10 a.m. – Open Meeting
Virginia Housing Development Authority, 601 South
Belvidere Street, Conference Room 1, Richmond, Virginia.
☒ (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Cathy Saunders, Director of Long-Term Care, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2912 or toll-free 1-800-55AGING.

Long-Term Care Ombudsman Program Advisory Council

† **March 25, 1993 - 9:30 a.m.** – Open Meeting
The Virginia Association of Homes for Adults, Inc., United
Way Building, 224 West Broad Street, Suite 101, Richmond,
Virginia. ☒

Business will include further discussion on the goals and objectives for the Virginia Long-Term Care Ombudsman Program and Elder Rights.

Contact: Etta V. Hopkins, Assistant State Ombudsman, Virginia Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271, toll-free 1-800-552-3402, or (804) 225-2271/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

† **February 17, 1993 - 1 p.m.** – Open Meeting
† **February 18, 1993 - 9 a.m.** – Open Meeting
Washington Building, 1100 Bank Street, Room 204,
Richmond, Virginia. ☒ (Interpreter for the deaf provided)

Calendar of Events

upon request)

A regular meeting of the board to discuss legislation, regulations and fiscal matters and to receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. 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, VDACS, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

* * * * *

March 15, 1993 – Written comments may be submitted through this date.

May 19, 1993 - 2 p.m. – Public Hearing
1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled **VR 115-05-01. Regulations Governing Grade "A" Milk.** The proposed regulation will continue certain authority contained in the existing regulation governing the production, processing, and sale of Grade "A" pasteurized milk and Grade "A" pasteurized milk products and certain milk products. The purpose of the present regulatory action is to review the regulation for effectiveness and continued need. The proposed regulation has been drafted to include provisions of the existing regulation and to enhance its effectiveness. In addition, certain new provisions have been established which affect milk plants, receiving station, transfer stations, producers and industry laboratories specifying: drug screening requirements of Grade "A" raw milk for pasteurization prior to processing; minimum penalties for violation of the drug residue requirements; new standards for temperature, somatic cell counts and cryoscope test; requirements to receive and retain a permit; sanitation requirements for Grade "A" raw milk for pasteurization; and sanitation requirements for Grade "A" pasteurized milk.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Contact: J. A. Beers, Program Manager, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-1453.

Virginia Corn Board

† **February 18, 1993 - 9 a.m.** – Open Meeting
† **February 19, 1993 - 9 a.m.** – Open Meeting
Williamsburg Hilton and Conference Center, 50 Kingsmill Road, Conference Center, Lounge, Williamsburg, Virginia.

☎

The board will meet in regular session to discuss issues related to Virginia corn industry and to hear project reports and proposals. The board will entertain public comment on February 19 at the conclusion of all other business for a period not to exceed 30 minutes .

Contact: Rosser Cobb, Program Director, Department of Agriculture and Consumer Services, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Small Grains Board

† **March 1, 1993 - 9 a.m.** – Open Meeting
Williamsburg Hilton and Conference Center, 50 Kingsmill Road, Conference Center, Room 11, Williamsburg, Virginia.

☎

The board will meet to discuss issues related to Virginia small grains industry and to hear project proposals. 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, Department of Agriculture and Consumer Services, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Soybean Board

† **March 4, 1993 - 9 a.m.** – Open Meeting
† **March 5, 1993 - 9 a.m.** – Open Meeting
Williamsburg Hilton and Conference Center, 50 Kingsmill Road, Conference Center, Room 15, Williamsburg, Virginia.

☎

The board will meet in regular session to discuss issues related to Virginia soybean industry and to hear project reports and proposals. The board will entertain public comment on March 5 at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Rosser Cobb, Program Director, Department of Agriculture and Consumer Services, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

AQUACULTURE ADVISORY BOARD

† **February 12, 1993 - 9 a.m.** – Open Meeting
Virginia Polytechnic Institute and State University, Cheatham Hall, Conference Room, Blacksburg, Virginia. ☎

The board will meet in regular session to discuss issues related to the Virginia aquaculture industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: T. Robins Buck, Secretary, Aquaculture Advisory Board, VDACS, P.O. Box 1163, Richmond, VA 23219, telephone (804) 371-6094.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Board for Interior Designers

† **February 19, 1993 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from January 27, 1993 meeting; (ii) review applications; and (iii) review correspondence.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

Board for Professional Engineers

† **February 23, 1993 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from November 18, 1992 meeting; (ii) review correspondence; (iii) review enforcement files; (iv) review applications; and (v) conduct regulatory review.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

VIRGINIA AVIATION BOARD

February 11, 1993 - 9 a.m. – Open Meeting
Holiday Inn Airport, 5203 Williamsburg Road, Richmond, Virginia. ☒

A meeting to discuss matters of interest to aviation in Virginia.

Contact: Nancy C. Brent, Virginia Aviation Board, 4508 S. Laburnum Ave., Richmond, VA 23231-2422, telephone (804) 786-6284

BOARD FOR BARBERS

† **February 8, 1993 - 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 St., Richmond, VA 23230-4917, telephone (804) 367-8590.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

February 25, 1993 - 10 a.m. – Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Conference Room #2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by February 18, 1993.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

CHILD DAY-CARE COUNCIL

† **February 11, 1993 - 9:30 a.m.** – Open Meeting
Virginia Society of CPA's, Innsbrook, Cox Road, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to discuss issues, concerns and programs that impact child care centers, camps, school age programs and preschool/nursery schools. The public comment period will be 10 a.m. Please call ahead of time for possible changes in meeting time. The contingent snow date is the third Friday, February 19, 1993.

† **February 12, 1993 - 8 a.m.** – Open Meeting

† **February 19, 1993 - 8 a.m.** – Open Meeting

† **February 26, 1993 - 8 a.m.** – Open Meeting

Koger Executive Center, West End, 1603 Santa Rosa Road, Tyler Building, Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to discuss legislation affecting child care centers, camps, school age programs, and preschool/nursery schools.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

Calendar of Events

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

February 19, 1993 - 8:30 a.m. - Open Meeting
Office of Coordinator, Interdepartmental Regulation, Tyler Building, Suite 208, 1603 Santa Rosa Road, Richmond, Virginia. ☐

March 19, 1993 - 8:30 a.m. - Open Meeting
Office of Coordinator, Interdepartmental Regulation, Blair Building, Conference Room B, 8007 Discovery Drive, Richmond, Virginia. ☐

A regularly scheduled meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

BOARD OF COMMERCE

NOTE: CHANGE IN MEETING DATE

February 8, 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

March 3, 1993 - 5 p.m. - Open Meeting
March 31, 1993 - 5 p.m. - Open Meeting
Ninth Street Office Building, 202 North Ninth Street, Room 913/913A, 9th Floor, Richmond, Virginia. ☐ (Interpreter for the deaf provided upon request)

A routine meeting to conduct business.

Contact: Bruce W. Haynes, Executive Secretary, Compensation Board, P.O. Box 3-F, Richmond, VA 23206-0686 or (804) 786-3886/TDD ☐

BOARD FOR CONTRACTORS

Recovery Fund Committee

† **March 18, 1993 - 9 a.m. - Open Meeting**
3600 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☐

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting is 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)

February 10, 1993 - 10 a.m. - Open Meeting
Board of Corrections, Board Room, 6900 Atmore Drive, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Vivian T. Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

* * * * *

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.

* * * * *

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

February 22, 1993 - 9 a.m. - Open Meeting
† March 29, 1993 - 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.

DEPARTMENT OF EDUCATION (BOARD OF)

February 25, 1993 - 8 a.m. - Open Meeting
March 25, 1993 - 8 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: Dr. Ernest W. Martin, Assistant Superintendent, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2073.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

† March 4, 1993 - 5:30 p.m. - Open Meeting
† April 1, 1993 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 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 - FAIRFAX COUNTY, THE CITY OF FAIRFAX AND THE TOWNS OF HERNDON AND VIENNA

† February 11, 1993 - 10 a.m. - Open Meeting
John C. Wood Municipal Center, 3730 Old Lee Highway, Fairfax, Virginia. ☒

A regular meeting.

Contact: Marysusan Giguere, Management Analyst II, Fire and Rescue Department, 4100 Chain Bridge Road, Suite 400, Fairfax, VA 22030, telephone (703) 246-3991.

LOCAL EMERGENCY PLANNING COMMITTEE - HENRICO COUNTY

† February 17, 1993 - 7 p.m. - Open Meeting
The Henrico County Public Safety Building, Parham and Hungary Spring Roads, Division of Police, 2nd Floor Briefing Room, 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 COMMISSION - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

March 9, 1993 - 3 p.m. - Open Meeting
Montgomery County Courthouse, Main and Franklin Streets, Board of Supervisors Room, 3rd Floor, Christiansburg, Virginia. ☒

A meeting for the development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or FAX (703) 831-6093.

LOCAL EMERGENCY PLANNING COMMITTEE - PORTSMOUTH

† March 10, 1993 - 9 a.m. - Open Meeting
St. Julien's Annex, Victory Boulevard at Magazine Road, Building 307, Portsmouth, Virginia.

A general meeting.

Calendar of Events

Contact: Karen Karpowski, Secretary, Portsmouth Local Emergency Planning Committee, Fire Department, 361 Effingham Street, Portsmouth, VA 23704-2337, telephone (804) 393-8765.

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

February 9, 1993 - 11 a.m. – Open Meeting
February 10, 1993 - 8 a.m. – Open Meeting
Virginia Employment Commission, 703 East Main Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting to conduct general business.

Contact: Nancy L. Munnikhuisen, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6004.

VIRGINIA FIRE SERVICES BOARD

February 19, 1993 - 9 a.m. – Open Meeting
Embassy Suites, 2925 Emerywood Parkway, Richmond, Virginia.

A business meeting to discuss training and fire policies. The meeting is open to the public for comments and input.

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

February 18, 1993 - 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.

Fire Prevention and Control Committee

February 18, 1993 - 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.

Legislative/Liaison Committee

February 18, 1993 - 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.

DEPARTMENT OF GENERAL SERVICES

February 12, 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 General Services intends to adopt regulations entitled **VR 330-03-02. Aggressive Air Sampling Standards to be Utilized in Final Clearance Inspections for Asbestos Projects in Local Education Agencies and Public Agencies and Public Colleges and Universities in the Commonwealth of Virginia.** The purpose of the proposed regulation is to establish a safe, effective and standard methodology for obtaining aggressive air samples to monitor air for clearance and area reoccupancy after a removal, encapsulation or enclosure project invoking asbestos-containing material in local education agencies and public colleges and universities.

Statutory Authority: § 2.1-526.14:1 of the Code of Virginia.

Contact: Henry G. Shirley, Director, Bureau of Capital Outlay Management, 805 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 786-3581.



DEPARTMENT OF HEALTH (STATE BOARD OF)

March 1, 1993 - 2 p.m. – Public Hearing
1500 East Franklin Street, Suite 115, Richmond, Virginia.

March 5, 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 355-01-01. Public Participation Guidelines in the Development and Formation of Regulations** and adopt regulations entitled **VR 355-01-100. Public Participation Guidelines**. The Public Participation Guidelines outline the methods used to solicit input from the public in the formation and development of regulations.

Statutory Authority: §§ 9-6.14:7.1 and 32.1-12 of the Code of Virginia.

Contact: Susan R. Rowland, Assistant to the Commissioner, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

February 23, 1993 - 9:30 a.m. - Open Meeting
2015 Staples Mill Road, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Marcia A. Melton, Executive Secretary Senior, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

March 12, 1993 - Written comments may be submitted through this date.

March 18, 1993 - 1 p.m. - Public Hearing
James Monroe Building, 101 North 14th Street, 9th Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Council of Higher Education for Virginia intends to repeal regulations entitled **VR 380-03-02. Virginia Work-Study Program Regulations**, and adopt regulations entitled **VR 380-03-02:1. Virginia Work-Study Program Regulations**. Section 23-38.70 of the Code of Virginia authorizes the Council of Higher Education to develop regulations and procedures for the operation of the Virginia-Work Study Program (VWSP). The proposed VWSP regulations, if adopted, will replace the existing regulations which are outdated and, in places, ambiguous. The major provisions are institutional application procedures, distribution of funds, student eligibility, restrictions on student placement and compensation, and responsibilities of involved parties.

Statutory Authority: § 23-38.70 of the Code of Virginia.

Contact: Stephen Merritt, Coordinator, Financial Aid Programs, Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219,

telephone (804) 225-2623.

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

† **February 17, 1993 - 10 a.m. - Open Meeting**

The Virginia Historical Society, 428 North Boulevard, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting of the board.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

State Review Board

† **February 16, 1993 - 10 a.m. - Open Meeting**

Virginia Historical Society, 428 North Boulevard, 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:

Fudge House, City of Covington

Gibson Chapel and Battle House at the Blue Ridge School, Greene County

Michie Tavern, Albemarle County

Stanton Family Cemetery, Buckingham County

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

March 2, 1993 - 9 a.m. - Open Meeting

April 6, 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.

Calendar of Events

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

February 12, 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 Housing and Community Development intends to amend regulations entitled **VR 394-01-4. Virginia Amusement Device Regulations**. The proposed amendments add requirements for bungee jumping activities.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Contact: Carolyn R. Williams, Building Code Supervisor, Code Development Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† February 16, 1993 - 11 a.m. - Open Meeting
VHDA, 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 other actions as the board 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.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

† March 1, 1993 - 7 p.m. - Open Meeting
Richmond Technical Center, 2220 Westwood Avenue, Richmond, Virginia.

† March 2, 1993 - 7 p.m. - Open Meeting
Norfolk Technical Vocational Center, 1330 North Military Highway, Norfolk, Virginia.

† March 3, 1993 - 7 p.m. - Open Meeting
Roanoke County Administration Center, 3738 Brambleton Avenue, Community Room, Roanoke, Virginia. ☒

† March 4, 1993 - 7 p.m. - Open Meeting

Fairfax City Hall, 10455 Armstrong Street, City Council Chambers, Fairfax, Virginia. ☒

A meeting to hear comments on the proposed amendment to VR 425-01-26, Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia, § 4 B 14, numeric ratio.

Contact: Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2381.

* * * * *

† April 12, 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 Apprenticeship Council intends to amend regulations entitled: **VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia**. This amendment provides new minimum numeric ratios for program sponsors performing Davis-Bacon work.

STATEMENT

Basis, purpose, substance, issues and impact: Certain contractors use apprentices inappropriately on jobs governed by federal prevailing wage laws (Davis-Bacon jobs). Virginia's ratio of apprentices to journeymen (currently not greater than one-to-one) is used by federal compliance officers to determine the number of registered apprentices that may work on such jobs. An economic advantage can be gained by working apprentices and paying them apprentice wages, but claiming they are journeymen and charging for journeymen wages. Certain apprenticeship sponsors may have apprenticeship programs solely to remain competitive for Davis-Bacon jobs, and may display little concern for providing the skilled training and continuous employment which apprenticeship requires.

Enforcement of prevailing wage laws by the responsible federal agencies is insufficient to prevent these problems. Furthermore, because Virginia's ratio applies to the program as a whole, and not the individual work-site, a Davis-Bacon ratio violation (which is work-site specific) is not necessarily a violation of Virginia apprenticeship regulations.

The purpose of the proposed amendment to the regulation is to better achieve a level playing field among sponsors who are contractors performing Davis-Bacon work, thus reducing the jockeying for competitive advantage, and to apply sanctions to those Davis-Bacon contractors who use apprentices inappropriately or unlawfully. Other minor amendments in the program standards section will correct typographical errors and eliminate language that is no longer relevant.

Not all apprenticeship sponsors and apprentices are affected by this proposed amended regulation, only those in the construction industry engaging in federal Davis-Bacon work. It is estimated that fewer than 10% of all sponsors and fewer than 20% of all apprentices will be affected. Affected sponsors on Davis-Bacon work will be allowed to have a greater numeric ratio of journeymen to apprentices, beyond the first two apprentices, than exists in current regulation. The ratio will be based on the numbers of journeymen at each Davis-Bacon work site, rather than the number of journeymen in the program as a whole.

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

Contact: Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2381.

LIBRARY BOARD

† **March 15, 1993 - 10 a.m.** – Open Meeting
The Virginia State Library and Archives, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

February 17, 1993 - 11 a.m. – Open Meeting
March 17, 1993 - 11 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting 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.

COMMISSION ON LOCAL GOVERNMENT

† **March 1, 1993 - 1 p.m.** – Open Meeting
Bedford area; site to be determined.

Oral presentations regarding the City of Bedford - County of Bedford voluntary settlement agreement. Persons desiring to participate in the commission's proceedings and requiring special accommodations or

interpreter services should contact the commission's offices by Friday, February 19, 1993.

† **March 1, 1993 - 7 p.m.** – Public Hearing
Bedford area; site to be determined.

Public hearing regarding the City of Bedford - County of Bedford voluntary settlement agreement. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by Friday, February 19, 1993.

† **March 2, 1993 - 9 a.m.** – Open Meeting
Bedford area; site to be determined.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's offices by Friday, February 19, 1993.

Contact: Barbara W. Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☒

LONGWOOD COLLEGE

Board of Visitors

February 8, 1993 - 9 a.m. – Open Meeting
Longwood College, Lankford Building, Farmville, Virginia.

A meeting to conduct routine business.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

STATE LOTTERY BOARD

† **February 22, 1993 - 10 a.m.** – Open Meeting
2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

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March 22, 1993 - 11 a.m. – Public Hearing
Fairfax Regional Office, 8550 Arlington Boulevard, Fairfax, Virginia.

Calendar of Events

March 22, 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 Lottery Board intends to consider adopting regulations entitled **VR 447-02-2. On-Line Game Regulations**. The purpose of the proposed amendment is to reduce the potential of the purchase of large blocks of on-line lottery tickets by stipulating that all playslips used must be manually marked.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

MARY WASHINGTON COLLEGE

Board of Visitors

† **February 27, 1993 - 9 a.m.** – Open Meeting
Woodard Campus Center, Red Room, Fredericksburg, Virginia. ☒

A regularly scheduled meeting.

Contact: Vicki Campbell, Clerk, Board of Visitors, Mary Washington College, 1301 College Avenue, George Washington Hall 103, Fredericksburg, VA 22401-5358, telephone (703) 899-4621.

BOARD OF MEDICAL ASSISTANCE SERVICES

February 10, 1993 - 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 ☎

BOARD OF MEDICINE

Informal Conference Committee

† **February 24, 1993 - 10:30 a.m.** – Open Meeting
Roanoke Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia. ☒

† **February 26, 1993 - 9 a.m.** – Open Meeting
Sheraton-Fredericksburg, I-95 and Route 3, Fredericksburg, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

Advisory Board of Physical Therapy

March 12, 1993 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☒

A meeting to (i) review the traineeship forms for the American and foreign trained physical therapists; (ii) develop regulations to require an examination for inactive physical therapists applying for licensure by endorsement or reinstatement of a lapsed license; (iii) establish regulations for number of traineeships of foreign and American graduates which may be supervised by a licensed P.T.; (iv) receive reports; (v) review § 6.1 of regulations regarding the physical therapist and physical therapist assistant's first visit to determine if amendments are required; and (vi) such other business as may come before the advisory board. The chairman may entertain public comments on any agenda item.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Advisory Board of Occupational Therapists

March 24, 1993 - 10 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☒

A meeting to discuss the certified Occupational Therapy Assistant, review the regulation VR 465-08-01, continuing education, and such other business which comes before the advisory board. The chairman may entertain public comments on any of the agenda items noticed.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Advisory Committee on Certification of Optometrists

March 19, 1993 - 9 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☒

The advisory committee will conduct a public hearing pursuant to § 54.1-2957.2 of the Code of Virginia on

regulation VR 465-09-01, § 4.3, Therapeutic Pharmaceutical Agents which a certified Doctor of Optometry may administer and prescribe for certain diseases and abnormal conditions of the human eye, and its adnexa. The committee will receive written comments until Friday, February 26, 1993. The committee will review all public and written comments and provide recommendations to the full board that may be deemed to be reasonable and necessary to ensure an appropriate standard of medical care for the patient.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

† **April 9, 1993 - 10 a.m.** – Open Meeting
6606 West Broad Street, Board Room 1, 5th Floor, Richmond, Virginia. ☒

A meeting to review all written and public comments received by the Board on Regulation VR 465-09-01, § 4.3, Therapeutic Pharmaceutical Agents, and make recommendations to full board.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Advisory Board on Respiratory Therapy

March 26, 1993 - 1 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to elect officers, review the regulation VR 465-04-01 for certification of R.T.s, and such other business which may come before the advisory board. The chairman may entertain public comments on any of the agenda items noticed.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

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

February 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 State Mental Health, Mental Retardation and Substance Abuse Services Board intends to **repeal** regulations entitled **VR 460-06-01. Rules and Regulations to Assure the Protection of the Subjects of Human Research and adopt regulations entitled VR 470-06-01:1. Regulations to Assure the Protection of Participants in Human**

Research. These regulations respond to Chapter 603 of the 1992 Acts of Assembly (HB 220), passed by the General Assembly, which limits the scope of the DMHMRSAS' oversight responsibility for human research to the department and institutions operated, funded or licensed by the DMHMRSAS. Current regulations require all human research be conducted in compliance with regulations promulgated by DMHMRSAS. The regulations further require that all organizations conducting human research forward reports of their reviews and any violations pertaining to the conduct of human research to the Commissioner of the DMHMRSAS. Other proposed changes to the regulations are intended to increase consistency with federal regulations (i.e., 45 CFR Part 46).

Written comments may be submitted through February 15, 1993, to J. Randy Koch, Director of Research and Evaluation, P.O. Box 1797, Richmond, Virginia 23214.

Statutory Authority: §§ 37.1-10 and 37.1-24.01 of the Code of Virginia.

Contact: Rubyjean Gould, Director of Administrative Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

† **February 24, 1993 - 10 a.m.** – Open Meeting
Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 109 Governor Street, Richmond, Virginia. ☒

A regular monthly meeting. Agenda to be published on February 17. Agenda can be obtained by calling Jane Helfrich.

Tuesday: Informal session – 8 p.m.
Wednesday: Committee meetings – 9 a.m.
Regular session – 10 a.m.

See agenda for locations.

Contact: Jane V. Helfrich, Board Administrator, State MHMRSAS Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

March 4, 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).

Calendar of Events

Contact: Lisa Ann Peacock, Program Director, 502 S. Main St. #4, Culpeper, VA 22701, telephone (804) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

February 13, 1993 - 8:30 a.m. – Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☒

A regular meeting to (i) receive committee reports; (ii) consider 1993-1994 budget; and (iii) receive reports on visits to academic departments.

Contact: Col. Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (703) 464-7206.

STATE MILK COMMISSION

† February 17, 1993 - 10:30 a.m. – Open Meeting
200-202 North 9th Street, Suite 1015, Richmond, Virginia. ☒

A regularly scheduled meeting to (i) receive public comment(s); (ii) receive a staff schedule comparison of the federal support price to the MW price; (iii) finalize the 1993 established bases to producers; and (iv) consider other matters which may require commission action.

Contact: Rodney L. Phillips, Administrator, State Milk Commission, 200-202 N. 9th St., Suite 1015, Richmond, VA 23219-3402, telephone (804) 786-2013 or (804) 786-2013/TDD ☎

BOARD OF NURSING

Education Advisory Committee

† February 16, 1993 - 10 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to (i) consider matters related to educational programs approved by the Board of Nursing and (ii) make recommendations to the board as needed. Public comments will be accepted at 1 p.m.

Contact: Rosalyn L. Cousar, R.N., M.S.N., Assistant Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Special Conference Committee

† February 22, 1993 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

† March 4, 1993 - 8:30 a.m. – Open Meeting
† March 5, 1993 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct informal conference with licensees to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

Contact: M. Teresa Mullin, R.N., Assistant Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF OPTOMETRY

February 17, 1993 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 6606 West Broad Street, Richmond, Virginia. ☒

A general board meeting.

Contact: Carol Stamey, Administrative Assistant, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9910.

VIRGINIA OUTDOORS FOUNDATION

† February 10, 1993 - 10:30 a.m. – Open Meeting
Monroe Office Building, Treasury Board Room, Richmond, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PHARMACY

† February 9, 1993 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A board meeting and formal hearings.

Contact: Scotti W. Milley, Executive Director, 6606 W. Broad St., Suite 400, Richmond, VA 23230, telephone (804) 662-9911.

POLYGRAPH EXAMINERS ADVISORY BOARD

March 23, 1993 - 10 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 which may require board action.

Contact: Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF PROFESSIONAL COUNSELORS

February 11, 1993 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street,
Conference Room 1, Richmond, Virginia. ☒

A formal hearing. Public comments will not be heard.

Contact: Evelyn B. Brown, Director, or Bernice Parker, Program Support Technician, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7328.

† **February 12, 1993 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street,
Conference Room 1, Richmond, Virginia. ☒

A general board meeting to include committee reports and responding to board correspondence. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

BOARD OF PSYCHOLOGY

Examination Committee

† **February 12, 1993 - 9:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia. ☒

A meeting to conduct general Examination Committee business. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, or Jane Ballard, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913.

REAL ESTATE APPRAISER BOARD

† **March 16, 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, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

February 12, 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 Social Services intends to adopt regulations entitled **VR 615-34-01. Voluntary Registration of Small Family Day Care Homes - Requirements for Contracting Organizations.** The proposed regulation sets forth the requirements for organizations that shall administer the voluntary registration program for small family day care homes on behalf of the Commissioner of Social Services.

Written comments may be submitted through February 12, 1993, to Mary Zoller, Department of Social Services, Division of Licensing Programs, 8007 Discovery Drive, Richmond, Virginia 23229.

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

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

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February 12, 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 Social Services intends to adopt regulations entitled **VR 615-35-01. Voluntary Registration of Small Family Day Care Homes - Requirements for Providers.** The proposed regulation sets forth registration procedures and general information for providers operating small family day care homes who voluntarily register.

Written comments may be submitted through February 12, 1993, to Alfreda Redd, Department of Social Services, Division of Licensing Programs, 8007 Discovery Drive, Richmond, Virginia 23229.

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

Contact: Peggy Friedenberg, Legislative Analyst, 8007

Calendar of Events

Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217.

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February 12, 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 615-01-50. Food Stamp Program - Income Conversion Method.** The income conversion method of multiplying weekly income by 4.3 and bi-weekly amounts by 2.15 will be required to determine eligibility for food stamp benefits.

Written comments may be submitted through February 12, 1993, to Burt Richman, Food Stamp Program Manager, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Statutory Authority: §§ 63.1-25 and 63.1-110 of the Code of Virginia.

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

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February 14, 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 615-37-01. Regulations for Criminal Records Checks for Homes for Adult Day Care Centers.** The purpose of the proposed regulation is to protect adults in licensed homes for adults and adult day care centers from persons charged or convicted of certain crimes. The proposed regulation will require a sworn disclosure statement prior to employment and a criminal record check within 30 days of employment for all compensated employees. The sworn disclosure statement indicates that the individual has neither a conviction nor pending charges in or outside the Commonwealth of Virginia of those crimes which act as barriers to employment. The criminal record check is conducted to ensure that the employee does not have any convictions of barrier crimes.

Written comments may be submitted through February 14, 1993, to Cheryl Worrell, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Statutory Authority: § 63.1-174 of the Code of Virginia.

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

March 1, 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 Social Services intends to adopt regulations entitled **VR 615-01-43. Aid to Families with Dependent Children (AFDC) Program - Fifth Degree Specified Relative.** The purpose of the proposed regulation is to revise the AFDC policy to expand the definition of specified relative to include caretakers who are of fifth degree kinship to the dependent child.

Statutory Authority: §§ 63.1-25 and 63.1-110 of the Code of Virginia.

Written comments may be submitted through March 1, 1993, to Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

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

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF) AND CHILD DAY-CARE COUNCIL

February 14, 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 and the Child Day-Care Council intend to repeal regulations entitled **VR 615-32-02. Regulations for Criminal Record Checks: Licensed Child Caring Institutions and VR 175-04-01. Criminal Record Checks for Licensed Child Care Centers.** These regulations are proposed for repeal while concurrently promulgating Criminal Record Checks for Child Welfare Agencies.

Written comments may be submitted through February 14, 1993, to Cheryl Worrell, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

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

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

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February 14, 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 and the Child Day-Care Council intend to adopt regulations entitled **VR 615-36-01 and VR 175-10-01. Regulations for Criminal Record Checks for Child Welfare Agencies.** The proposed regulations replace VR 615-32-02 and VR 175-04-01 and apply to all licensed or registered child welfare agencies. The regulations incorporate statutory changes made during the 1992 General Assembly session.

Written comments may be submitted through February 14, 1993, to Cheryl Worrell, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

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

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

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

February 8, 1993 - 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 or (804) 367-9753/TDD ☎

COMMONWEALTH TRANSPORTATION BOARD

† **February 17, 1993 - 2 p.m. – Open Meeting**
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.

† **February 18, 1993 - 10 a.m. – Open Meeting**
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation,

1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

TREASURY BOARD

February 17, 1993 - 9 a.m. – Open Meeting
March 17, 1993 - 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.

BOARD OF VETERINARY MEDICINE

† **February 10, 1993 - 8:30 a.m. – Open Meeting**
Richmond Hyatt Hotel, 6624 West Broad Street, Jefferson Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business and a formal hearing.

† **February 11, 1993 - 9 a.m. – Open Meeting**
Richmond Hyatt Hotel, 6624 West Broad Street, Tyler Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Informal conferences.

Contact: Terri H. Behr, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915.

VIRGINIA RACING COMMISSION

† **February 9, 1993 - 9:30 a.m. – Open Meeting**
Richmond Plaza, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. ☒

A meeting that includes a review of the proposed regulation relating to satellite facilities and an opportunity for public participation.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA RESOURCES AUTHORITY

February 9, 1993 - 9:30 a.m. – Open Meeting
March 9, 1993 - 9:30 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

Calendar of Events

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 as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, The Mutual Bldg., 909 E. Main St., Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

VIRGINIA VOLUNTARY FORMULARY BOARD

† **March 12, 1993 - 10 a.m.** – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on 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 March 12, 1993, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WAR MEMORIAL FOUNDATION

† **February 11, 1993 - 3 p.m.** – Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A continuation of first meeting.

Contact: Nathan I. Broocke, Director, Department of General Services, Division of Engineering and Buildings, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

February 9, 1993 - 2 p.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

February 18, 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 for Waste Management Facility Operators intends to adopt regulations entitled **VR 674-01-02. Waste Management Facility Operators Regulations**. The purpose of the proposed regulations is to establish standards, certification qualifications and fees for individuals acting as waste management facility operators.

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

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

February 11, 1993 - 7 p.m. – Public Hearing
Franklin County High School, 109 Bernard Road, Rocky Mount, Virginia.

Pursuant to the requirements of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the draft Solid Waste Disposal Facility Permit for the development of an industrial landfill proposed by Shredded Products Corporation is available for public review and comment. The permit allows the proposed facility to accept only authorized, nonhazardous wastes which results from the operations of Shredded Products Corporation. The proposal incorporates a design modification which utilizes a double-sided geotextile/geonet composite drainage layer on 3:1 base side slopes, which is not provided for in the regulations. Shredded Products Corporation petitioned for this feature pursuant to the requirements of Part IX of the regulations (Rulemaking Petitions and Procedures), and the Department of Waste Management has made a tentative decision to grant approval.

Contact: Donald H. Brunson, III, Environmental Engineer Senior, Department of Waste Management, Monroe Building, 101 N. 14th Street, 11th Floor, Richmond, VA 23219, telephone (804) 371-0520.

† **March 10, 1993 - 2 p.m.** – Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, 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 solid waste industrial landfill located at 3220 Deepwater Terminal Road, in the southeastern section of the corporate

limits of the City of Richmond, Virginia. The permit was drafted by the Department of Waste Management for Peck Iron and Metal Company, Inc., 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 permit issues. The public comment period will extend until March 22, 1993. Copies of the proposed draft permit may be obtained from Rebecca Clark, Department of Waste Management. Comments concerning the draft permit must be in writing and directed to Aziz Farahmand, Department of Waste Management, Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: Rebecca Clark, Environmental Engineer Senior, Department of Waste Management, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 371-2977.

STATE WATER CONTROL BOARD

February 8, 1993 - 2 p.m. – Open Meeting
James City County Board of Supervisors Room, 101C Mounts Bay Road, Building C, Williamsburg, Virginia.

February 10, 1993 - 2 p.m. – Open Meeting
State Water Control Board Office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting to receive views and comments and to answer questions of the public on Notices of Intended Regulatory Action on the adoption of General Permits for Storm Water Discharges from Heavy Manufacturing Facilities (VR 680-14-16); from Light Manufacturing Facilities (VR 680-14-17); from Transportation Facilities, Landfills, Land Application Sites and Open Dumps, Materials Recycling Facilities; and Steam Electric Power Generating Facilities (VR 680-14-18), and from Construction Sites (VR 680-14-19).

Contact: Cathy Boatwright, Office of Water Resources Management, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316 or (804) 527-4261/TDD ☎

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February 22, 1993 - 7 p.m. – Public Hearing
Route 208 at Spotsylvania Courthouse, County Administration Building, Spotsylvania County Board of Supervisors Room, Spotsylvania, Virginia.

February 23, 1993 - 7 p.m. – Public Hearing
101C Mounts Bay Road, Building C, James City County Board of Supervisors Room, Williamsburg, Virginia.

February 24, 1993 - 7 p.m. – Public Hearing
Eastern Shore Community College, Route 13, Lecture Hall, Melfa, Virginia.

March 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 State Water Control Board intends to repeal regulations entitled **VR 680-13-01. Rules of the Board and Standards for Water Wells.** The purpose of the proposed action is to repeal the Rules of the Board and Standards for Water Wells concurrently with the adoption of new regulations implementing the Ground Water Act of 1992.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Jackson at the address below or by telephone at (804) 527-5163 or (804) 527-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 25, 1993. The board seeks comments on the proposal and the costs and benefits of the proposal. In addition, the agency has performed certain analyses on the proposed amendments related to the purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.92 (Repealed) of the Code of Virginia.

Contact: Terry Wagner, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

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February 9, 1993 - 2 p.m. – Public Hearing
Virginia Highlands Community College, State Route 372 off Route 140, Lecture Auditorium, Abingdon, Virginia.

February 10, 1993 - 2 p.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

February 12, 1993 - 3 p.m. – Public Hearing
State Water Control Board, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

February 18, 1993 - 7 p.m. – Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building, 810 Union Street, Norfolk, Virginia.

February 23, 1993 - 2 p.m. – Public Hearing
McCourt Building, 4850 Davis Ford Road, 1 County Complex, Prince William County Board Room, Prince William, Virginia.

Calendar of Events

March 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 State Water Control Board intends to consider amending regulations entitled **VR 680-13-03. Petroleum Underground Storage Tank Financial Responsibility Requirements**. The purpose of the proposed amendment is to incorporate the new sliding scale for financial responsibility established by the 1992 General Assembly, establish a simplified test for self-insurance and revised compliance dates, and delete requirements for the Fund.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton at the address below or by telephone at (804) 527-5162 or (804) 527-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, January 25, 1993. The board seeks comments on the proposal and the costs and benefits of the proposal. In addition, the agency has performed certain analyses on the proposed amendments related to the purpose, need, impacts and alternatives which are available to the public upon request.

Written comments may be submitted through March 15, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Statutory Authority: §§ 62.1-44.34:10, 62.1-44.34:11, 62.1-44.34:12, and 62.1-44.15 (10) of the Code of Virginia.

Contact: Mary-Ellen Kendall, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5195.

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February 9, 1993 - 2 p.m. – Public Hearing
Virginia Highlands Community College, State Route 372 off Route 140, Lecture Auditorium, Abingdon, Virginia.

February 10, 1993 - 2 p.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

February 12, 1993 - 3 p.m. – Public Hearing
State Water Control Board, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

February 18, 1993 - 7 p.m. – Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building,

810 Union Street, Norfolk, Virginia.

February 23, 1993 - 2 p.m. – Public Hearing
McCourt Building, 4850 Davis Ford Road, 1 County Complex, Prince William County Board Room, Prince William, Virginia.

March 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 State Water Control Board intends to adopt regulations entitled **VR 680-13-06. Virginia Petroleum Storage Tank Fund**. The purpose of the proposed regulation is to describe the requirements for the Virginia Petroleum Storage Tank Fund.

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton at the address below or by telephone at (804) 527-5162 or (804) 527-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, January 25, 1993. The board seeks comments on the proposal, the issues including specifically the appropriateness of July 1, 1992, or December 22, 1989, being the effective date for access to the Fund for UST releases, and the costs and benefits of the proposal. In addition, the agency has performed certain analyses on the proposed amendments related to the purpose, need, impacts and alternatives which are available to the public upon request.

Written comments may be submitted through March 15, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Statutory Authority: §§ 62.1-44.34:10, 62.1-44.34:11, 62.1-44.34:12, and 62.1-44.15(10) of the Code of Virginia.

Contact: Mary-Ellen Kendall, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5195.

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February 22, 1993 - 7 p.m. – Public Hearing
Route 208 at Spotsylvania Courthouse, County Administration Building, Spotsylvania County Board of Supervisors Room, Spotsylvania, Virginia.

February 23, 1993 - 7 p.m. – Public Hearing
101C Mounts Bay Road, Building C, James City County Board of Supervisors Room, Williamsburg, Virginia.

February 24, 1993 - 7 p.m. – Public Hearing
Eastern Shore Community College, Route 13, Lecture Hall,
Melfa, Virginia.

March 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 State Water Control
Board intends to adopt regulations entitled **VR
680-13-07. Ground Water Withdrawal Regulations.** The
purpose of the proposed regulation is to establish
procedures for the declaration of ground water
management areas and the subsequent issuance of
ground water withdrawal permits and special
exceptions within those areas.

An informal question and answer period has been
scheduled before each hearing. At that time staff will
answer questions from the public on the proposal. The
question and answer period will begin 1/2 hour before
the scheduled public hearing. The hearings are being
held at public facilities believed to be accessible to
persons with disabilities. Any person with questions on
the accessibility of the facilities should contact Ms.
Jackson at the address below or by telephone at (804)
527-5163 or (804) 527-4261/TDD. Persons needing
interpreter services for the deaf must notify Ms.
Jackson no later than Monday, January 25, 1993. The
board seeks comments on the proposal and the costs
and benefits of the proposal. In addition, the agency
has performed certain analyses on the proposed
amendments related to the purpose, need, impacts and
alternatives which are available to the public upon
request.

Written comments may be submitted through March 15,
1993, to Lori Jackson, State Water Control Board, P.O. Box
11143, Richmond, Virginia 23230.

Statutory Authority: § 62.1-256 of the Code of Virginia.

Contact: Terry Wagner, State Water Control Board, P.O.
Box 11143, Richmond, VA 23230, telephone (804) 527-5203.

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February 9, 1993 - 7 p.m. – Public Hearing
Virginia Highlands Community College, State Route 372 off
Route 140, Lecture Auditorium, Abingdon, Virginia.

February 10, 1993 - 7 p.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton
Avenue, S.W., Community Room, Roanoke, Virginia.

February 12, 1993 - 10 a.m. – Public Hearing
State Water Control Board, Innsbrook Corporate Center,
4900 Cox Road, Board Room, Glen Allen, Virginia.

February 18, 1993 - 2 p.m. – Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building,

810 Union Street, Norfolk, Virginia.

February 23, 1993 - 7 p.m. – Public Hearing
McCourt Building, 4850 Davis Ford Road, 1 County
Complex, Prince William County Board Room, Prince
William, Virginia.

March 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 State Water Control
Board intends to adopt regulations entitled **VR
680-14-12. Facility and Aboveground Storage Tank
Registration Requirements.** The purpose of the
proposed regulation is to compile an inventory of
facilities and aboveground storage tanks within the
Commonwealth.

An informal question and answer period has been
scheduled before each hearing. At that time staff will
answer questions from the public on the proposal. The
question and answer period will begin 1/2 hour before
the scheduled public hearing. The hearings are being
held at public facilities believed to be accessible to
persons with disabilities. Any person with questions on
the accessibility of the facilities should contact Ms.
Dalton at the address below or by telephone at (804)
527-5162 or (804) 527-4261/TDD. Persons needing
interpreter services for the deaf must notify Ms.
Dalton no later than Monday, January 25, 1993. The
board seeks comments on the proposal, the issues and
the costs and benefits of the proposal. In addition, the
agency has performed certain analyses on the
proposed amendments related to the purpose, need,
impacts and alternatives which are available to the
public upon request.

Written comments may be submitted through March 15,
1993, to Doneva Dalton, State Water Control Board, P.O.
Box 11143, Richmond, Virginia.

Statutory Authority: §§ 62.1-44.34:19 and 62.1-44.15 (10) of
the Code of Virginia.

Contact: David Ormes, State Water Control Board, P.O.
Box 11143, Richmond, VA 23230, telephone (804) 527-5197.

* * * * *

February 9, 1993 - 7 p.m. – Public Hearing
Virginia Highlands Community College, State Route 372 off
Route 140, Lecture Auditorium, Abingdon, Virginia.

February 10, 1993 - 7 p.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton
Avenue, S.W., Community Room, Roanoke, Virginia.

February 12, 1993 - 10 a.m. – Public Hearing
State Water Control Board, Innsbrook Corporate Center,
4900 Cox Road, Board Room, Glen Allen, Virginia.

Calendar of Events

February 18, 1993 - 2 p.m. – Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building,
810 Union Street, Norfolk, Virginia.

February 23, 1993 - 7 p.m. – Public Hearing
McCourt Building, 4850 Davis Ford Road, 1 County
Complex, Prince William County Board Room, Prince
William, Virginia.

March 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 State Water Control
Board intends to adopt regulations entitled **VR
680-14-13. Aboveground Storage Tanks Pollution
Prevention Requirements.** The purpose of the
proposed regulation is to establish standards and
procedures to be followed by facility operators to
prevent the discharge of oil to state waters, lands and
storm drain systems from new and existing
aboveground storage tanks.

An informal question and answer period has been
scheduled before each hearing. At that time staff will
answer questions from the public on the proposal. The
question and answer period will begin 1/2 hour before
the scheduled public hearing. The hearings are being
held at public facilities believed to be accessible to
persons with disabilities. Any person with questions on
the accessibility of the facilities should contact Ms.
Dalton at the address below or by telephone at (804)
527-5162 or (804) 527-4261/TDD. Persons needing
interpreter services for the deaf must notify Ms.
Dalton no later than Monday, January 25, 1993. The
board seeks comments on the proposal, the issues and
the costs and benefits of the proposal. In addition, the
agency has performed certain analyses on the
proposed amendments related to the purpose, need,
impacts and alternatives which are available to the
public upon request.

Written comments may be submitted through March 15,
1993, to Doneva Dalton, State Water Control Board, P.O.
Box 11143, Richmond, Virginia.

Statutory Authority: §§ 62.1-44.34:15.1 and 62.1-44.15 (10) of
the Code of Virginia.

Contact: David Ormes, State Water Control Board, P.O.
Box 11143, Richmond, VA 23230, telephone (804) 527-5197.

* * * * *

February 9, 1993 - 7 p.m. – Public Hearing
Virginia Highlands Community College, State Route 372 off
Route 140, Lecture Auditorium, Abingdon, Virginia.

February 10, 1993 - 7 p.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton
Avenue, S.W., Community Room, Roanoke, Virginia.

February 12, 1993 - 10 a.m. – Public Hearing
State Water Control Board, Innsbrook Corporate Center,
4900 Cox Road, Board Room, Glen Allen, Virginia.

February 18, 1993 - 2 p.m. – Public Hearing
Norfolk City Council Chambers, 1006 City Hall Building,
810 Union Street, Norfolk, Virginia.

February 23, 1993 - 7 p.m. – Public Hearing
McCourt Building, 4850 Davis Ford Road, 1 County
Complex, Prince William County Board Room, Prince
William, Virginia.

March 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 State Water Control
Board intends to adopt regulations entitled **VR
680-14-14. Facility Financial Responsibility
Requirements.** The purpose of the proposed regulation
is to establish requirements for financial responsibility
on the part of operators of facilities having a
maximum aboveground storage capacity of 25,000
gallons of oil or having an average daily throughput of
25,000 gallons or more of oil.

An informal question and answer period has been
scheduled before each hearing. At that time staff will
answer questions from the public on the proposal. The
question and answer period will begin 1/2 hour before
the scheduled public hearing. The hearings are being
held at public facilities believed to be accessible to
persons with disabilities. Any person with questions on
the accessibility of the facilities should contact Ms.
Dalton at the address below or by telephone at (804)
527-5162 or (804) 527-4261/TDD. Persons needing
interpreter services for the deaf must notify Ms.
Dalton no later than Monday, January 25, 1993. The
board seeks comments on the proposal, the issues and
the costs and benefits of the proposal. In addition, the
agency has performed certain analyses on the
proposed amendments related to the purpose, need,
impacts and alternatives which are available to the
public upon request.

Written comments may be submitted through March 15,
1993, to Doneva Dalton, State Water Control Board, P.O.
Box 11143, Richmond, Virginia.

Statutory Authority: §§ 62.1-44.34:16 and 62.1-44:21 and
62.1-44.15 (10) of the Code of Virginia.

Contact: David Ormes, State Water Control Board, P.O.
Box 11143, Richmond, VA 23230, telephone (804) 527-5197.

* * * * *

February 16, 1993 - 7 p.m. – Public Hearing
Crewe Library and Conference Center, Corner of Tyler
and Maryland Avenues, Conference Room, Crewe, Virginia.

Calendar of Events

March 12, 1993 – Written comments may be submitted through 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 amend regulations entitled **VR 680-16-03. Upper James River Basin Water Quality Management Plan.** The purpose of the proposed amendment is to increase the waste load allocation for the Town of Crewe's sewage treatment plant discharge to an unnamed tributary of Deep Creek.

An informal question and answer period has been scheduled before the hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. The hearing is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Dalton at the address below or by telephone at (804) 527-5162 or (804) 527-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, January 25, 1993. The board seeks comments on the proposal, the issues and the costs and benefits of the proposal. In addition, the agency has performed certain analyses on the proposed amendments related to the purpose, need, impacts and alternatives which are available to the public upon request.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on March 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Curt Linderman, Piedmont Regional Office, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5038.

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February 10, 1993 - 2 p.m. – Public Hearing
State Water Control Board, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

February 11, 1993 - 7 p.m. – Public Hearing
Harrisonburg City Council Chambers, 345 South Main Street, Municipal Building, Harrisonburg, Virginia.

February 17, 1993 - 7 p.m. – Public Hearing
University of Virginia, Southwest Center, Highway 19 North, Classroom 1 and 2, Abingdon, Virginia.

February 18, 1993 - 2 p.m. – Public Hearing
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

March 15, 1993 – 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 amend regulations entitled **VR 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to update, clarify and correct sections VR 680-21-07.2 (Special Designations in Surface Waters, (VR 680-21-07.3 (Nutrient Enriched Waters) and VR 680-21-08 (River Basin Sections Tables).

An informal question and answer period has been scheduled before each hearing. At that time staff will answer questions from the public on the proposal. The question and answer period will begin 1/2 hour before the scheduled public hearing. The hearings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Jackson at the address below or by telephone at (804) 527-5163 or (804) 527-4261/TDD. Persons needing interpreter services for the deaf must notify Mrs. Lori Jackson no later than Monday, January 25, 1993. The board seeks comments on the proposed amendments and the costs and benefits of the proposed amendments. In addition, the agency has performed certain analyses on the proposed amendments related to the purpose, need, impacts and alternatives which are available to the public upon request.

Opportunity for formal hearing: The Board will hold a formal hearing at a time and place to be established, if a petition for such a hearing is received and granted. Affected persons may petition for a formal hearing concerning any issue of fact directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of § 1.23 (b) of the Board's Procedural Rule No. (1980), and must be received by the contact persons designated below by 4 p.m. on Thursday, February 11, 1993.

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

Written comments may be submitted until 4 p.m. on March 15, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Elleanore Daub, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5091.

† **February 25, 1993 - 6:30 p.m.** – Public Hearing
Culpeper County Middle School, 500 Achievement Drive, Culpeper, Virginia. ☒ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0087718 for the Department of

Calendar of Events

Correction's Medium Security Dormitory IV. The purpose of the hearing is to receive comments on the proposed permit, the issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Lori F. Jackson, Hearings Reporter, Office of Policy Analysis, State Water Control Board, 4900 Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5163.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

February 11, 1993 - 8:30 a.m. – Open Meeting

Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider revisions to its current regulations and other matters which may require board action.

Contact: Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

THE COLLEGE OF WILLIAM AND MARY

February 11, 1993 - 3 p.m. – Open Meeting

February 12, 1993 - 8 a.m. – Open Meeting

Blow Memorial Hall, Richmond Road, Williamsburg, Virginia.

A regularly scheduled meeting to (i) review quarterly operations of the College and Richard Bland College; (ii) receive reports from several committees of the board; and (iii) 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 days prior to the board meeting for those individuals and organizations who request it.

Contact: William N. Walker, Director, Office of University Relations, James Blair Hall, Room 101C, College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-1005.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

February 11, 1993 - 8 a.m. – Open Meeting

† **March 11, 1993 - 8:30 a.m. – Open Meeting**

† **April 8, 1993 - 8:30 a.m. – Open Meeting**

700 Centre Building, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. ☎

Committee meetings begin at 8:30 to be followed by a general meeting at 10 a.m. to (i) review programs recommended for certification or probation; (ii) consider adoption of draft policies; and (iii) take up other matters that may come before the board.

Contact: Donald R. Carignan, Policy Coordinator, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

State Management Team of the Comprehensive Services Act for At-Risk Youth and Families

February 25, 1993 - 9 a.m. – Open Meeting

March 25, 1993 - 9 a.m. – Open Meeting

Koger Center, 8007 Discovery Drive, Blair Building, Conference Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

February 11, 1993 - 9 a.m. – Open Meeting

March 11, 1993 - 9 a.m. – Open Meeting

Koger Center, 8007 Discovery Drive, Blair Building, Conference Room A, 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 McConnel, Coordinator, Council on Community Services for Youth and Families, Department of Youth and Family Services, 700 Centre, 700 E. Franklin St., Richmond, VA 23219, telephone (804) 786-5394 or (804) 371-0772/TDD ☎

LEGISLATIVE

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempt from publication in The Virginia Register of Regulations. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

CHRONOLOGICAL LIST

OPEN MEETINGS

February 8

† Barbers, Board for
Commerce, Board of
Longwood College
- Board of Visitors
Professional Soil Scientists, Board for
Water Control Board, State

February 9

Employment Commission, Virginia
- State Advisory Board
† Pharmacy, Board of
† Virginia Racing Commission
Virginia Resources Authority

February 10

Corrections, Board of
Employment Commission, Virginia
- State Advisory Board
Medical Assistance Services, Board of
† Veterinary Medicine, Board of
† Virginia Outdoors Foundation
Water Control Board, State

February 11

Aviation, Virginia Board
† Child Day-Care Council
† Local Emergency Planning Committee - Fairfax
Professional Counselors, Board of
† Veterinary Medicine, Board of
† War Memorial Foundation, Virginia
Waterworks and Wastewater Works Operators, Board
for
William and Mary, The College of
- Board of Visitors
Youth and Family Services, Board of
Youth and Family Services, Department of
- State Management Team of the Comprehensive
Services Act for At-Risk Youth and Families

February 12

† Aquaculture Advisory Board, Virginia
† Child Day-Care Council
† Professional Counselors, Board of
† Psychology, Board of
- Examination Committee
William and Mary, The College of
- Board of Visitors

February 13

Virginia Military Institute
- Board of Visitors

February 16

† Historic Resources, Department of
- State Review Board

† Housing Development Authority, Virginia
† Nursing, Board of
- Education Advisory Committee

February 17

† Agriculture and Consumer Services, Board of
† Commonwealth Transportation Board
† Historic Resources, Board of
Local Debt, State Council on
† Local Emergency Planning Committee - Henrico
County
† Milk Commission, State
Optometry, Board of
Treasury Board

February 18

† Agriculture and Consumer Services, Board of
† Agriculture and Consumer Services, Department of
- Virginia Corn Board
† Commonwealth Transportation Board
Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee

February 19

† Agriculture and Consumer Services, Department of
- Virginia Corn Board
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Interior Designers
† Child Day-Care Council
Fire Services Board, Virginia
Interdepartmental Regulation of Residential Facilities
for Children
- Coordinating Committee

February 22

Cosmetology, Board for
† Lottery Department, State
† Nursing, Board of
- Special Conference Committee

February 23

Accountancy, Board for
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Professional Engineers
Health Services Cost Review Council, Virginia

February 24

† Medicine, Board of
- Informal Conference Committee
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State

February 25

Chesapeake Bay Local Assistance Board
Education, Board of
Youth and Family Services, Department of
- State Management Team of the Comprehensive

Calendar of Events

Services Act for At-Risk Youth and Families

February 26

- † Child Day-Care Council
- † Medicine, Board of
 - Informal Conference Committee

February 27

- † Mary Washington College
 - Board of Visitors

March 1

- † Agriculture and Consumer Services, Department of
 - Virginia Small Grains Board
- † Labor and Industry, Department of
 - Apprenticeship Council
- † Local Government, Commission on

March 2

- Hopewell Industrial Safety Council
- † Labor and Industry, Department of
 - Apprenticeship Council
- † Local Government, Commission on

March 3

- Compensation Board
- † Labor and Industry, Department of
 - Apprenticeship Council

March 4

- † Agriculture and Consumer Services, Department of
 - Virginia Soybean Board
- † Labor and Industry, Department of
 - Apprenticeship Council
- † Local Emergency Planning Committee - Chesterfield County
- Middle Virginia Board of Directors and the Middle Virginia Community Corrections Resources Board
- † Nursing, Board of
 - Special Conference Committee

March 5

- † Agriculture and Consumer Services, Department of
 - Virginia Soybean Board
- † Nursing, Board of
 - Special Conference Committee

March 9

- Local Emergency Planning Commission - County of Montgomery/Town of Blacksburg
- Virginia Resources Authority

March 10

- † Local Emergency Planning Committee - Portsmouth

March 11

- † Youth and Family Services, Board of
- Youth and Family Services, Department of
 - State Management Team of the Comprehensive Services Act for At-Risk Youth and Families

March 12

- Aging, Department for the
 - Long-Term Care Council
- Medicine, Board of
 - Advisory Board on Physical Therapy

March 15

- † Library Board

March 16

- † Real Estate Appraiser Board

March 17

- Local Debt, State Council on
- Treasury Board

March 18

- † Commerce, Department of
 - Board for Contractors

March 19

- Interdepartmental Regulation of Residential Facilities for Children
 - Coordinating Committee

March 23

- Polygraph Examiners Advisory Board

March 24

- Medicine, Board of
 - Advisory Board of Occupational Therapists

March 25

- † Aging, Department for the
 - Long-Term Care Ombudsman Program Advisory Council
- Education, Board of
- Youth and Family Services, Department of
 - State Management Team of the Comprehensive Services Act for At-Risk Youth and Families

March 26

- Medicine, Board of
 - Advisory Board on Respiratory Therapy

March 29

- † Cosmetology, Board for

March 31

- Compensation Board

April 1

- † Local Emergency Planning Committee - Chesterfield County

April 6

- Hopewell Industrial Safety Council

April 8

- † Youth and Family Services, Board of

April 9

† Medicine, Board of
- Advisory Committee on Certification for
Optometrists

- Advisory Committee for Optometry

March 22

Lottery Department, State

May 19

Agriculture and Consumer Services, Department of

PUBLIC HEARINGS

February 9

Waste Management Facility Operators, Board for
Water Control Board, State

February 10

Corrections, Department of
Water Control Board, State

February 11

Waste Management, Department of
Water Control Board, State

February 12

Water Control Board, State

February 16

Water Control Board, State

February 17

Water Control Board, State

February 18

Water Control Board, State

February 22

Water Control Board, State

February 23

Water Control Board, State

February 24

Water Control Board, State

February 25

† Water Control Board, State

March 1

Health, State Board of
† Local Government, Commission on

March 10

† Waste Management, Department of

March 12

† Voluntary Formulary Board, Virginia

March 18

Higher Education for Virginia, State Council of

March 19

Medicine, Board of

Calendar of Events
