

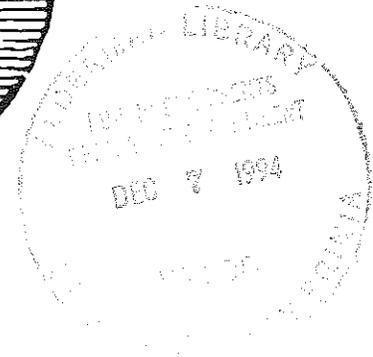
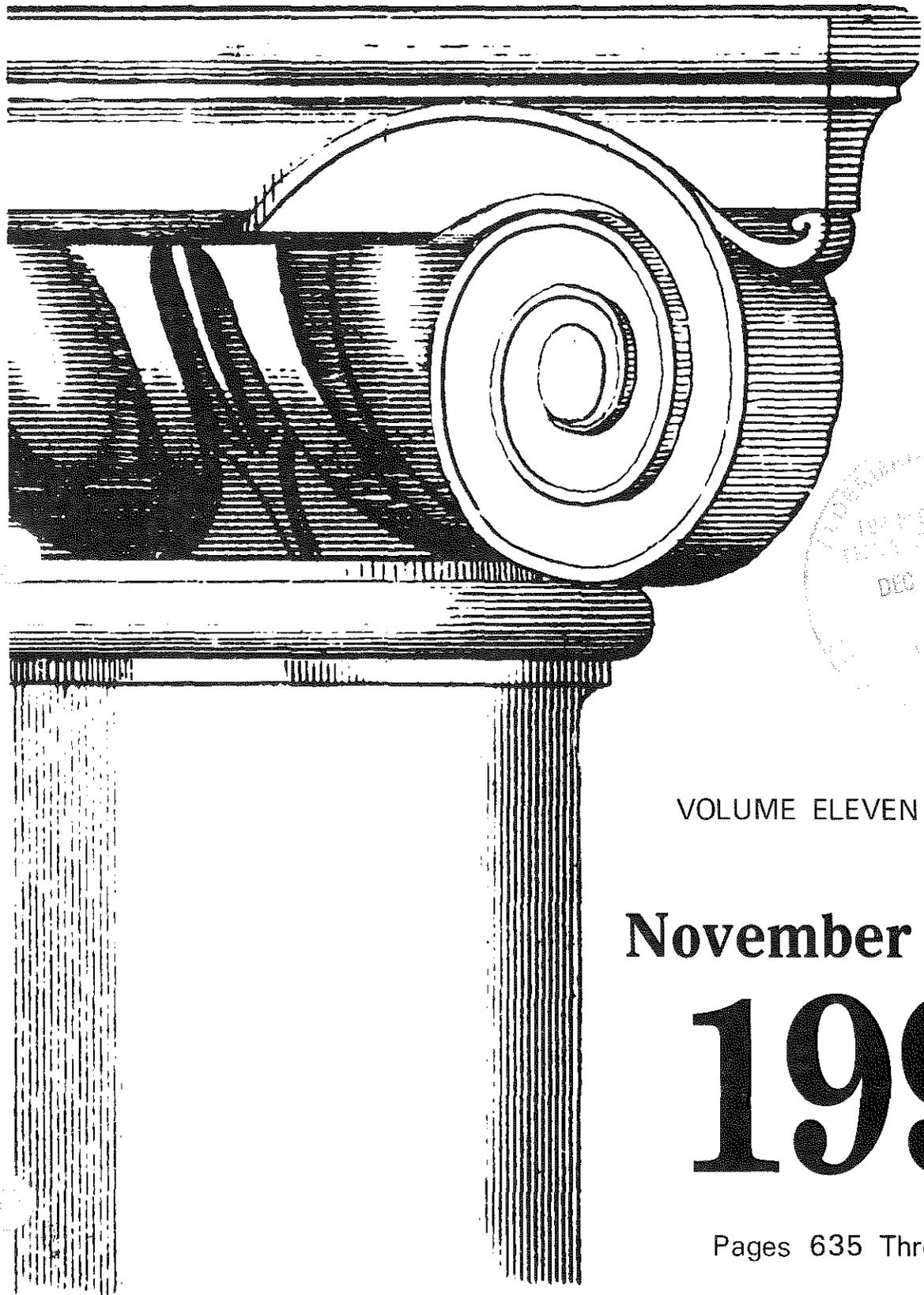
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THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME ELEVEN • ISSUE FIVE

November 28, 1994

1994

Pages 635 Through 788

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

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

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

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

Members of the Virginia Code Commission: Joseph V. Gartlan, Jr., Chairman, W. Tayloe Murphy, Jr., Vice Chairman; Russell M. Carneal; Bernard S. Cohen; Frank S. Ferguson; E. M. Miller, Jr.; Theodore V. Morrison, Jr.; William F. Parkerson, Jr.; Jackson E. Reasor, Jr.

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VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

October 1994 through September 1995

MATERIAL SUBMITTED BY
Noon Wednesday

PUBLICATION DATE

Volume 11

Sept. 14, 1994	Oct. 3, 1994
Sept. 28	Oct. 17
Oct. 12	Oct. 31
Oct. 26	Nov. 14
Nov. 9	Nov. 28
Nov. 22 (Tuesday)	Dec. 12
Dec. 7	Dec. 26
Index 1 - Volume 11	

Dec. 20, 1994 (Tuesday)	Jan. 9, 1995
Jan. 4, 1995	Jan. 23
Jan. 18	Feb. 6
Feb. 1	Feb. 20
Feb. 15	Mar. 6
Mar. 1	Mar. 20
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Mar. 15, 1995	April 3, 1995
Mar. 29	April 17
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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

BOARD OF CONSERVATION AND RECREATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Conservation and Recreation intends to consider amending regulations entitled: **VR 215-02-00. Stormwater Management Regulations.** The purpose of the proposed action is to update existing minimum technical criteria to reflect current engineering methods. However, the entire regulation will be reviewed to provide for the efficient and economical performances of stormwater management programs in Virginia.

The basis for this action is the Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia and all other Acts of Assembly and the Code of Virginia references conferring powers, duties and responsibilities of the board.

The basic goal of the Virginia Stormwater Management Program is to manage the quality and quantity of stormwater runoff resulting from land conversion and development to protect water quality, living resources and property. Section 10.1-603.1 of the Act states, "The General Assembly has determined that the lands and waters of the Commonwealth are great natural resources; that as a result of intensive land development and other land use conversions, degradation of these resources frequently occurs in the form of water pollution, stream channel erosion, depletion of groundwater resources, and more frequent localized flooding; that these impacts adversely affect fish, aquatic life, recreation, shipping, property values and other uses of lands and waters; that existing authorities under the Code of Virginia do not adequately address all of these impacts. Therefore, the General Assembly finds it in the public interest to enable the establishment of stormwater management programs."

The Act further authorizes the Virginia Conservation and Recreation Board to promulgate regulations which specify minimum technical and administrative procedures for stormwater management programs in Virginia. Among other things, the Act requires that these regulations be periodically modified to reflect current engineering methods. Stormwater management technologies and approaches have evolved rapidly over the past several years. The board finds it necessary to modify these regulations to reflect these changes and provide flexibility as well as consistency with other regulatory programs affecting stormwater management in the Commonwealth.

There are anticipated impacts on regulated entities and the public since the proposed modifications impose new requirements. Regulated entities and the public should benefit from enhancement of the regulation by increased flexibility of new engineering technologies and improvements in coordinating with other regulatory program requirements.

Alternatives:

1. Draft revisions to the existing regulation VR 215-02-00 and provide the regulated community with increased flexibility through the use of expanded engineering technologies and administrative procedures, and improve consistency with other regulatory requirements affecting stormwater management programs.

2. Take no action to amend the regulations. However, if the board does not amend the regulation, it will not fulfill the legislative intent to periodically modify regulations and incorporate new engineering technologies. Additionally, the regulated community will not benefit from flexibility and consistency of regulatory requirements currently available for stormwater management programs.

The Department of Conservation and Recreation is soliciting comments on the cost and benefits of the alternatives stated above or other alternatives.

The board seeks comments from interested persons on the intended action to include recommendations on the regulations and costs and benefits of any alternatives. To be considered, written comments should be directed to David S. Nunnally at the address below and must be received by 4 p.m. on January 4, 1995.

The Director of the Department of Conservation and Recreation has decided to form an ad-hoc advisory committee to assist the department in the development of the regulations. In addition, the department's staff will hold a public meeting at 8 p.m. on Monday, December 19, 1994, in the Board Room of the Henrico County Government Center, Administration Building, 4301 East Parham Road, Richmond, Virginia 23273, to receive views and comments and to answer questions of the public.

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 Mr. Nunnally at the address below or telephone at (804) 786-3998 or TDD (804) 786-2121. Persons needing

Notices of Intended Regulatory Action

interpreter services for the deaf must notify Mr. Nunnally no later than Monday, December 5, 1994.

The board intends to hold an informational proceeding (informal hearing) on the proposed regulations after the proposed regulations are published in The Virginia Register of Regulations. The board does not intend to hold a public hearing (evidential) on the proposed regulations after the regulations are published in The Virginia Register of Regulations.

Statutory Authority: § 10.1-603.4 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on January 4, 1995.

Contact: David S. Nunnally, Urban Conservation Engineer, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998.

VA.R. Doc. No. R95-79: Filed October 26, 1994, 11:44 a.m.

DEPARTMENT OF CONSERVATION AND RECREATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 217-02-00. Nutrient Management Training and Certification Regulations.** The purpose of the proposed action is to enable the department to operate a voluntary nutrient management training and certification program to certify the competence of persons preparing nutrient management plans. The nutrient management plans are prepared for the purpose of assisting land owners and operators in the management of land application of fertilizers, municipal sewage sludges, animal manures, and other nutrient sources for agronomic benefits, and for the protection of the Commonwealth's ground and surface waters. To accomplish this, the department would establish and implement certification procedures relating to certificate issuance and revocation, provide for nutrient management plan criteria, establish fees relating to a training and certification fund, and provide for other necessary procedures in order to operate a nutrient management training and certification program.

The basis for this action is the addition of § 10.1-104.2 to Article 1 (§ 10.1-100 et seq.) of Chapter 1 of Title 10.1 of the Code of Virginia, to provide for the promulgating of regulations to establish a voluntary nutrient management training and certification program, and a nutrient management training and certification fund.

This proposed regulatory action is necessary to develop and implement a voluntary nutrient management training and certification program required by the amendments of the 1994 Virginia General Assembly to Article 1 of Chapter

1 of Title 10.1 of the Code of Virginia.

There are anticipated impacts on potential nutrient management plan developers from the levy of training course and certification fees, time devoted to training, and program compliance. The public should benefit from increased consistency in nutrient management plans; increased protection of groundwater used for drinking; and increased protection of rivers, streams, lakes, Chesapeake Bay and other surface waters used for economic, recreational, and other beneficial uses. Additionally, the proposed regulatory action should increase the number of nutrient management plans prepared by private sector individuals, thereby resulting in the availability of more qualified persons to nutrient management plan users, and reducing the need for additional public sector personnel.

The department is unaware of any alternatives to this proposed action at this time which would meet the requirements of § 10.1-104.2 of the Code of Virginia.

The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternative actions. To be considered, written comments should be directed to Mr. H.R. Perkinson at the address below, and must be received by 4 p.m. on December 30, 1994. In addition, the department's staff will hold a public meeting on Monday, December 19, 1994, at 7 p.m. in the Board Room of the Henrico County Government Center, Administration Building, 4301 East Parham Road, Richmond, Virginia 23273, to receive views and comments and to answer questions of the public.

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 Mr. H.R. Perkinson at the address below or by telephone at (804) 786-2064. Persons needing interpreter services for the deaf must notify Mr. Perkinson no later than December 8, 1994.

The agency intends to hold a public hearing on the proposed regulation after publication in the Virginia Register.

Statutory Authority: § 10.1-104.2 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on December 30, 1994.

Contact: H.R. Perkinson, Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064.

VA.R. Doc. No. R95-78: Filed October 26, 1994, 11:43 a.m.

Notices of Intended Regulatory Action

DEPARTMENT OF EDUCATION (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider promulgating regulations entitled: **Regulations Governing Guidance and Counseling in the Public Schools of Virginia**. The purpose of the proposed action is to promulgate regulations that address parental involvement and consent relative to school guidance and counseling programs. The agency intends to hold a public hearing on the proposed regulation after publication in The Virginia Register.

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

Written comments may be submitted until December 28, 1994.

Contact: H. Douglas Cox, Director, Office of Student Services, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2402.

VA.R. Doc. R95-111; Filed November 9, 1994. 11:55 a.m.



DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to amend regulations entitled: **VR 355-29-100. Regulations Governing Vital Records (formerly VR 355-29-01)**. The purpose of the proposed action is to amend regulations to allow for the electronic reporting of birth data directly from hospitals to the State Health Department as required by 1994 General Assembly passage of HB 1044. One public hearing is planned during the public comment period following publication of the proposed regulations.

Statutory Authority: § 32.1-257 of the Code of Virginia.

Written comments may be submitted until November 30, 1994.

Contact: Deborah M. Little, Director, Office of Vital Records and Health Statistics, Department of Health, 305 James Madison Bldg., 109 Governor St., Richmond, VA 23219-3623, telephone (804) 371-6077 or FAX (804) 371-4800.

VA.R. Doc. R95-45; Filed October 12, 1994. 11:02 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.7. Client Appeals**. The purpose of the proposed action is to eliminate from the regulations the additional level of appeal provided by the Medical Assistance Appeals Panel (MAAP). The MAAP is not required by either federal law, regulation or state law. The agency does not intend to hold public hearings on this issue.

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

Written comments may be submitted until November 30, 1994, to Diana Salvatore, Director, Division of Client Appeals, 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.

VA.R. Doc. No. R95-46; Filed October 12, 1994. 11:29 a.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

BOARD OF GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Department of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: VR 325-01-2. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Public Hearing Date: December 16, 1994 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulation allows Virginia Department of Game and Inland Fisheries employees; U.S. government agency employees whose responsibilities include fisheries and wildlife management; and county, city, or town animal control officers in the performance of their official duties related to public health concerns or problem wildlife removal to capture, temporarily hold or possess, transport, release and when necessary humanely euthanize wildlife.

In addition the regulation allows employees or agents of other state wildlife agencies while operating in an official capacity to transport wildlife through the Commonwealth after properly notifying the department.

VR 325-01-2. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals.

§ 1. Possession, importation, sale, etc., of wild animals.

Under the authority of §§ 29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the board, when both the scientific and common names are listed, the scientific reference to genus and species will take precedence over common names.

§ 2. Permit required to import, liberate or possess predatory or undesirable animals or birds.

Under the authority of § 29.1-542 of the Code of Virginia, live wolves or coyotes, or birds or animals otherwise classed as predatory or undesirable, may not be imported into the Commonwealth or liberated therein, or possessed therein, except under a special permit of the board. Before such permit is issued, the importer shall make application to the department, giving the place of origin, the name and address of the exporter and a certificate from a licensed and accredited practicing veterinarian, or certified fish pathologist, certifying that the animal to be imported is not manifesting any signs of infectious, contagious, or communicable disease.

§ 3. Exclusions.

This regulation does not cover albino reptiles and albino amphibians or those domestic animals as defined in VR 325-01-1, § 5.

§ 4. Importation requirements, possession and sale of nonnative (exotic) animals.

A. Permit required. A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell wolves, wolf hybrids or those nonnative (exotic) animals listed below that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:

AMPHIBIANS:

Order	Family	Genus/Species	Common Name
Anura	Bufo	Bufo marinus	Giant or marine toad*
	Pipidae	Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	Ambystoma tigrinum mavortium	Barred tiger salamander
		A. t. diaboli	Gray tiger salamander
		A. t. melanostictum	Blotched tiger salamander

BIRDS:

Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*

FISH:

Proposed Regulations

Order	Family	Genus/Species	Common Name	illegularis	snake*
				Crocodylidae	All Species
				Gavialidae	All Species
Cypriniformes	Catostomidae	Ictiobus bubalus	Smallmouth buffalo*		Crocodiles*
		I. cyprinellus	Bigmouth buffalo*		Gavials*
		I. niger	Black buffalo*		
	Characidae	Pygopristis spp.	Piranhas		
		Pygocentrus spp.			
		Rooseveltiella spp.			
		Serrasalmo spp.			
		Serrasalmus spp.			
		Taddyaella spp.			
	Cyprinidae	Aristichyhs nobilis	Bighead carp*		
		Ctenopharyngodon idella	Grass carp or white amur		
		Hypophthalmichthys molitrix	Silver Carp*		
		Mylopharyngodon piceus	Black carp		
		Scardinius erythrophthalmus	Rudd		
		Tinca tinca	Tench*		
Perciformes	Cichlidae	Tilapia spp.	Tilapia		
		Gymnocephalus cernuum	Ruffe*		
Siluriformes	Clariidae	All species	Air-breathing catfish		

MAMMALS:

Order	Family	Genus/Species	Common Name
Artiodactyla	Suidae	All Species	Pigs or Hogs*
	Cervidae	All Species	Deer*
Carnivora	Canidae	All Species	Wild Dogs*, Wolves, Coyotes or hybrids thereof, Jackals and Foxes
	Ursidae	All Species	Bears*
	Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species	Weasels, Badgers,* Skunks and Otters
		Except Mustela putorius furo	Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongooses, and Fossas
	Herpestidae	All Species	Mongooses*
	Hyaenidae	All Species	Hyenas*
	Proteleidae	Proteles cristatus	Aardwolf*
Chiroptera	Felidae	All Species	Cats*
		All Species	Bats*
Lagomorpha	Leporidae	Lepus europeaeus	European hare
		Oryctolagus cuniculus	European rabbit

MOLLUSKS:

Order	Family	Genus/Species	Common Name
Veneroida	Dreissenidae	Dreissena polymorpha	Zebra mussel

REPTILES:

Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, Caimans*
	Colubridae	Boiga	Brown tree

B. Temporary possession permit for certain animals. Notwithstanding the permitting requirements of subsection A, a person, company or corporation possessing any nonnative (exotic) animal, designated with an asterisk (*) in subsection A, prior to July 1, 1992, must declare such possession in writing to the department by January 1, 1993. This written declaration shall serve as a permit for possession only, is not transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date(s) acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tatoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets. A permit is not required for monk parakeets (quakers) that have been captive bred and are closed-banded.

D. Exception for parts or products. A permit is not required for parts or products of those nonnative (exotic) animals listed in subsection A that may be used in the manufacture of products or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving shall be kept by the person, business or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Game and Inland Fisheries.

E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A that are imported or possessed by dealers, exhibitors, transporters, and researchers who are licensed or registered by the United States Department of Agriculture under the Animal Control Act (7 U.S.C. §§ 2131 et. seq.) will be deemed to be permitted pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license(s) or registration(s) from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.

F. Exemptions for hybrids between dogs (Canis familiaris) and wolves (Canis lupus). A permit will not be

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required to import, possess or sell hybrids between domestic dogs (*Canis familiaris*) and wolves (*Canis lupus*) until July 1, 1993.

G. All other nonnative (exotic) animals. All other nonnative (exotic) animals, not listed in subsection A may be possessed and sold; provided, that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to threatened/endangered species, and further provided, that such animals shall not be liberated within the Commonwealth.

5. Possession, transportation, and release of wildlife by authorized persons.

A. Department employees in the performance of their official duties; U. S. government agencies' employees whose responsibility includes fisheries and wildlife management; and county, city or town animal control officers in the performance of their official duties related to public health concerns or problem wildlife removal will be deemed to be permitted pursuant to this section to capture, temporarily hold or possess, transport, release, and when necessary humanely euthanize wildlife, provided that the methods of and documentation for the capture, possession, transport, release and euthanasia shall be in accordance with board policy.

B. Employees or agents of other state wildlife agencies while in the performance of their official duty in transporting wildlife through the Commonwealth will be deemed to be permitted pursuant to this section, provided that a list of animals to be transported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a letter of authorization from both the forwarding and receiving state agencies are provided to the department 24 hours prior to the transporting of such animals, and further provided that such animals shall not be liberated within the Commonwealth.

VA.R. Doc. No. R95-106; Filed November 9, 1994, 11:30 a.m.

* * * * *

Title of Regulation: VR 325-02-1. Game: In General.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Public Hearing Date: December 16, 1994 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

Section 26 establishes procedures licensed taxidermists are to follow so that they may sell unclaimed taxidermy specimens.

VR 325-02-1. Game: In General.

§ 1. Hunting in the snow.

Except as otherwise provided in VR 325-02-17, § 5, it shall be lawful to hunt game birds and game animals in the snow.

§ 2. Hunting with crossbows, arrows to which any drug, chemical or toxic substance has been added or explosive-head arrows prohibited.

A. Generally. Except as otherwise provided by law or regulation, it shall be unlawful to use a crossbow, arrows to which any drug, chemical or toxic substance has been added or arrows with explosive heads at any time for the purpose of hunting wild birds or wild animals. A crossbow is defined as any bow that can be mechanically held in the drawn or cocked position.

B. Crossbows permitted for persons with permanent physical disabilities. For the purposes of this section any person, possessing a medical doctor's written statement based on a physical examination declaring that such person has a permanent physical disability that prohibits the person from holding the mass weight of a conventional bow and arrow at arm's length perpendicular to the body, or drawing or pulling or releasing the bow string of a conventional bow, and thus prevents that person from hunting with conventional archery equipment, may hunt with a crossbow on his own property during established special archery seasons. The doctor's written statement must be carried by the person while hunting and a copy of the doctor's written statement must be provided to the department on a form provided by the department, prior to hunting with a crossbow and the department's verification form shall be presented upon demand to any officer whose duty it is to enforce the game and inland fish laws.

§ 3. Recorded wild animal or wild bird calls or sounds prohibited in taking game; coyotes and crows excepted.

It shall be unlawful to take or attempt to take wild animals and wild birds, with the exception of coyotes and crows, by the use or aid of recorded animal or bird calls or sounds or recorded or electrically amplified imitation of animal or bird calls or sounds; provided, that electronic calls may be used on private lands for hunting coyotes with the written permission of the landowner.

§ 4. Live birds or animals as decoys prohibited.

Game birds and game animals shall not be taken by the use or aid of live birds or animals as decoys.

§ 5. Poisoning of wild birds and wild animals prohibited; certain control programs excepted.

It shall be unlawful to put out poison at any time for the purpose of killing any wild birds and wild animals

provided that rats and mice may be poisoned on one's own property. The provisions of this section shall not apply to the Commissioner of Agriculture and Consumer Services, or his representatives or cooperators, and those being assisted in a control program following procedures developed under the "Virginia Nuisance Bird Law."

§ 6. Hunting with dogs or possession of weapons in certain locations during closed season.

A. National forests and department-owned lands. It shall be unlawful to have in possession a bow or a gun which is not unloaded and cased or dismantled, in the national forests and on department-owned lands and on lands managed by the department under cooperative agreement except during the period when it is lawful to take bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, waterfowl, in all counties west of the Blue Ridge Mountains and on national forest lands east of the Blue Ridge Mountains and migratory game birds in all counties east of the Blue Ridge Mountains. The provisions of this section shall not prohibit the conduct of any activities authorized by the board or the establishment and operation of archery and shooting ranges on the above-mentioned lands. The use of firearms and bows in such ranges during the closed season period will be restricted to the area within established range boundaries. Such weapons shall be required to be unloaded and cased or dismantled in all areas other than the range boundaries. The use of firearms or bows during the closed hunting period in such ranges shall be restricted to target shooting only and no birds or animals shall be molested.

B. Certain counties. Except as otherwise provided in VR 325-02-1, § 6-1, it shall be unlawful to have either a shotgun or a rifle in one's possession when accompanied by a dog in the daytime in the fields, forests or waters of the counties of Augusta, Clarke, Frederick, Page, Shenandoah and Warren, and in the counties east of the Blue Ridge Mountains, except Patrick, at any time except the periods prescribed by law to hunt game birds and animals.

C. Meaning of "possession" of bow or firearm. For the purpose of this section the word "possession" shall include, but not be limited to, having any bow or firearm in or on one's person, vehicle or conveyance.

D. It shall be unlawful to chase with a dog or train dogs on national forest lands or department-owned lands except during authorized hunting, chase, or training seasons that specifically permit these activities on these lands.

E. It shall be unlawful to possess or transport a loaded gun in or on any vehicle at any time on national forest lands or department-owned lands. For the purpose of this section a "loaded gun" shall be defined as a firearm in which ammunition is chambered or loaded in the magazine or clip, when such magazine or slip is found engaged or partially engaged in a firearm. The definition of a loaded muzzleloading gun will include a gun which is

capped or has a charged pan.

§ 6-1. Open dog training season.

A. Private lands and certain military areas. It shall be lawful to train dogs during daylight hours on rabbits and nonmigratory game birds on private lands, Fort A.P. Hill and Fort Pickett. Participants in this dog training season shall not have any weapons other than starter pistols in their possession, must comply with all regulations and laws pertaining to hunting and no game shall be taken; provided, however, that weapons may be in possession when training dogs on captive waterfowl and pigeons so that they may be immediately shot or recovered, except on Sunday.

B. Designated portions of certain department-owned lands. It shall be lawful to train dogs on quail on designated portions of the Amelia Wildlife Management Area, Chester F. Phelps Wildlife Management Area, Chickahominy Wildlife Management Area and Dick Cross Wildlife Management Area from September 1 to the day prior to the opening date of the quail hunting season, both dates inclusive. Participants in this dog training season shall not have any weapons other than starter pistols in their possession, shall not release pen-raised birds, must comply with all regulations and laws pertaining to hunting and no game shall be taken.

§ 7. Quantico Marine Reservation; Training or running dogs.

It shall be unlawful to train deer dogs at any time, or to train or run any dogs in the designated hunting areas between March 1 and September 1, both dates inclusive, within the confines of Quantico Marine Reservation.

§ 8. Quantico Marine Reservation; Hunting after sunset prohibited.

It shall be unlawful to hunt with any firearm or bow and arrow after sunset on any day within the confines of Quantico Marine Reservation.

§ 9. Hog Island Wildlife Management Area; Waterfowl refuge established.

Hog Island, in Surry County, and all of the waters of the James River within a radius of 1,000 yards contiguous thereto is hereby declared a waterfowl refuge for the purpose of developing a feeding and resting area for such birds.

§ 10. Hog Island Wildlife Management Area; Hunting, trapping, etc., prohibited; exception.

It shall be unlawful to hunt, shoot, kill, trap or molest or attempt to hunt, shoot, kill, trap or molest at any time any waterfowl including ducks, geese, brant, or coot, or to hunt, shoot, kill, trap, molest, or attempt to hunt, shoot, kill, trap, or molest any other birds or animals on or in

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the area described in § 9 of this regulation, except at designated times from waterfowl blinds established by the department, provided that the department may, when deemed necessary for the better development of said refuge, remove by trapping or otherwise any birds or animals as would not be beneficial to the purposes for which such refuge is established.

§ 11. Hog Island Wildlife Management Area; possession of loaded gun prohibited; exception.

It shall be unlawful to have in possession at any time a gun which is not unloaded and cased or dismantled on that portion of the Hog Island Wildlife Management Area bordering on the James River and lying north of the Surry Nuclear Power Plant, except while hunting deer or waterfowl in conformity with a special permit issued by the department.

§ 12. Disturbing waterfowl adjacent to Lands End Waterfowl Management Area.

It shall be unlawful to take, attempt to take, pursue or disturb waterfowl within the public waters adjacent to the Lands End Waterfowl Management Area located in King George County for such distance offshore as may be established by the board and properly posted so as to give adequate notice to the public.

§ 13. Hunting, etc., prohibited on Buggs Island and certain waters of the Gaston Reservoir.

It shall be unlawful to hunt or have in one's possession a loaded gun on Buggs Island or to shoot over or have a loaded gun upon the water on Gaston Reservoir (Roanoke River) from a point beginning at High Rock and extending to the John H. Kerr Dam.

§ 14. Trapping prohibited except by permit on certain wildlife management areas.

It shall be unlawful to trap except by department permit on the Chicahominy, Barbour's Hill, Briery Creek, Hog Island, Lands End, Pocahontas-Trojan, Powhatan and Saxis Wildlife Management Areas.

§ 15. Molesting, damaging, removing or disturbing traps prohibited; release of game from lawful traps prohibited.

It shall be unlawful to willfully molest, damage or remove any trap, or any lawfully caught bird or animal therefrom, or in any way disturb traps or snares legally set by another person.

§ 16. Marking of traps by person setting.

Any person setting or in possession of a steel leghold or body gripping trap or snare shall have it marked by means of nonferrous metal tag bearing his name and address. This requirement shall not apply to landowners on their own land, nor to a bona fide tenant or lessee

within the bounds of land rented or leased by him, nor to anyone transporting any such trap from its place of purchase.

§ 17. Trapping fur-bearing animals damaging property during closed season.

When fur-bearing animals are doing damage to crops or other property, the game warden of the county may issue a permit to the landowner or his lessee to trap such fur-bearing animals as are doing damage. Where such a permit is obtained by a landowner or a lessee, it shall be lawful during the closed season to trap such animals as are doing damage.

§ 18. Restricted use of body-gripping traps in excess of 7-1/2 inches.

The use of body-gripping traps with a jaw spread in excess of 7-1/2 inches is prohibited except when such traps are covered by water.

§ 19. Restricted use of above ground body-gripping traps in excess of five inches.

It shall be unlawful to set above the ground any body-gripping trap with a jaw spread in excess of five inches baited with any lure or scent likely to attract a dog.

§ 20. Restricted use of certain steel leg-hold traps.

It shall be unlawful to set above the ground any steel leg-hold trap with teeth set upon the jaws or with a jaw spread exceeding 6-1/2 inches.

§ 21. Use of deadfalls prohibited; restricted use of snares.

It shall be unlawful to trap, or attempt to trap, on land any wild bird or wild animal with any deadfall or snare; provided, that snares with loops no more than 12 inches in diameter and with the top of the snare loop set not to exceed 12 inches above ground level may be used with the written permission of the landowner.

§ 22. Dates for setting traps in water.

It shall be unlawful to set any trap in water prior to December 1.

§ 23. Animal population control.

Whenever biological evidence suggests that populations of game animals may exceed or threaten to exceed the carrying capacity of a specified range, or whenever the health or general condition of a species, or the threat of human public health and safety indicates the need for population reduction, the director is authorized to issue special permits to obtain the desired reduction during the open season by licensed hunters on areas prescribed by wildlife biologists. Designated game species may be taken

in excess of the general bag limits on special permits issued under this section under such conditions as may be prescribed by the director.

§ 24. Wanton waste.

No person shall kill or cripple and knowingly allow any nonmigratory game bird or game animal to be wasted without making a reasonable effort to retrieve the animal and retain it in their possession. Nothing in this section shall permit a person to trespass or violate any state, federal, city or county law, ordinance or regulation.

§ 25. Sunday hunting on controlled shooting areas.

A. Except as otherwise provided in the sections appearing in this regulation, it shall be lawful to hunt pen-raised game birds seven days a week as provided by § 29.1-514. The length of the hunting season on such preserves and the size of the bag limit shall be in accordance with rules of the board. For the purpose of this regulation, controlled shooting areas shall be defined as licensed shooting preserves.

B. It shall be unlawful to hunt pen-raised game birds on Sunday on controlled shooting areas in those counties having a population of not less than 54,000, nor more than 55,000, or in any county or city which prohibits Sunday operation by ordinance.

§ 26. Sale of unclaimed taxidermy specimens by licensed taxidermists.

Unclaimed mounted native wildlife specimens or their processed hides, when taken in accordance with the provisions of law and regulations, may be sold by a Virginia licensed taxidermist with the exception of black bears, migratory waterfowl, migratory birds and state and federally listed threatened and endangered species.

A mount or processed hide shall be considered unclaimed if it has been left in a taxidermy place of business for more than 30 days beyond the period the mount was to remain on the premises pursuant to a contract. This contract must inform the owner of the possibility of such sale. After the 30-day period a notice by registered or certified mail with a return receipt requested must be mailed to the owner of record therein, instructing him to reclaim the mount within 15 days of the notice. This notice shall identify the species and the date it was received, set forth the location of the taxidermist facility where it is held, and inform the owner of his rights to reclaim the mount within 15 days of this notice after payment of the specified costs. This notice shall state that the failure of the owner to reclaim the mount or hide within this 15-day time frame may result in the sale of the unclaimed mount or hide.

If a mount or hide is not claimed after the return of a signed certified receipt and within the 15-day period, then the taxidermist may sell the mount for an amount not to

exceed the remainder of the amount of the original invoice plus reasonable administrative and storage costs. Within seven days of the sale of any unclaimed mount the taxidermist shall notify the department in writing of the name and address of the purchaser, invoice price, species sold, taxidermist, and previous owners' name and address.

V.A.R. Doc. No. R95-107; Filed November 9, 1994, 11:29 a.m.

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.

BOARDS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES

Title of Regulation: VR 270-01-003, VR 470-02-01, VR 615-29-02, and VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 22.1-323.2, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10 and 66-24 of the Code of Virginia.

Effective Date: February 1, 1995.

Summary:

The Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are statutorily responsible, under the Code of Virginia, for the regulation of public and private sector residential facilities providing care, treatment, or education to children.

The regulation is designed to assure that adequate care, treatment, and education are provided by children's residential facilities. The revisions respond to legislation enacted by the Virginia General Assembly which permits the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services, to issue licenses/certificates for periods of up to three years. The revisions also respond to legislation enacted by the Virginia General Assembly concerning regulation of human research.

The revisions amended and clarified the requirements governing the duration of licenses/certificates (§§ 1.1 and 1.16 et seq.) and participation of residents in human research (§§ 1.1 and 2.25). Definitions have been added, amended, clarified, and consolidated. Measurable and specific criteria for determining the duration of licenses/certificates have been established. Sections have been added: (i) requiring compliance with the terms of licenses/certificates; and (ii) indicating that a license/certificate may be revoked if a facility engages in willful action which jeopardizes the care or protection of residents. The conditions when licenses/certificates may be modified have been expanded. The stipulation that facilities located on separate pieces of property must have separate

licenses/certificates was abolished. Early compliance has been deleted. Requirements that duplicate those of other regulatory agencies have been deleted. Requirements have been consolidated, to the extent possible, for public and private sector facilities. Approval of out-of-state facilities has been eliminated. The definition and requirements concerning participation of residents as subjects of human research were revised to conform with the statutory definition and the agencies' regulations.

The final regulation differs from the proposed regulation. A number of nonsubstantive revisions were made to improve clarity and ease of interpretation. Section 1.16 I was added specifying that a facility shall not be issued a license/certificate when noncompliance poses an immediate and direct danger to the residents. Section 1.17 B was revised to allow a regulatory authority the discretion to initially grant either an annual or conditional license/certificate to a new facility which is operated by an established sponsor, and which will serve the same target population as that being served by the sponsor. An expectation was added to § 1.17 C that a new facility must demonstrate an acceptable level of compliance with the regulation prior to being issued a conditional license/certificate. Dissonance between the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and the regulation was remedied by modifying §§ 1.11 B, 1.22 E, 1.23 C, 1.23 G, 1.39, 1.50, and 1.51 of the regulation. The situations when a license/certificate can be modified (§ 1.21) were adjusted to eliminate a change in the target population served by a facility.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from John J. Allen, Jr., Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1964. There may be a charge for copies.

VR 270-01-003, VR 470-02-01, VR 615-29-02, and VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.

PART I. INTRODUCTION.

Article 1.

Definitions.

§ 1.1. Definitions.

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

"Adaptive behavior" means the effectiveness or degree with which individuals with diagnosed mental disabilities meet the standards of personal independence and social responsibility expected of their age and cultural group.

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license/certificate.

"Approval" means the process of recognizing that a public facility or an out-of-state facility has complied with standards for licensure or certification. (In this document the words "license" or "licensure" will include approval of public and out-of-state facilities except when describing enforcement and other negative sanctions which are described separately for these facilities.)

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substances (e.g. hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

"Case record" or *"record"* means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Certificate to operate" means documentation of licensure or permission granted by the Department of Education to operate a school for the handicapped that is conveyed on a single license/certificate.

"Certification" means the process of recognizing that a facility has complied with those standards required for it to receive funding from one of the four departments for the provision of residential program services to children. (Under the Code of Virginia, the Board of Youth and Family Services is given authority to "approve" certain public and private facilities for the placement of juveniles.

Similarly, school boards are authorized to pay, under certain conditions, for special education and related services in nonsectarian private residential schools for the handicapped that are "approved" by the Board of Education. Therefore, in this context the word "approval" is synonymous with the word "certification" and will be termed certification for purposes of this process.)

"Chemical restraint" means the use of any pharmacological substance for the sole purpose of controlling a resident's behavior in the absence of a diagnosed medical or psychiatric condition. Chemical restraint does not include the appropriate use of medications as ordered by a licensed physician for treating medical or psychiatric conditions.

"Child" means any person legally defined as a child under state law. This term includes residents and other children coming in contact with the resident or facility (e.g., visitors).

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because he is mentally retarded, developmentally disabled, mentally ill, emotionally disturbed, a substance abuser, in need of special educational services for the handicapped, or requires security services.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity regulated under these standards whether that person is referred to as a patient, resident, student, consumer, recipient, family member, relative, or other term.

"Complaint" means an accusation against a licensed/certified facility regarding an alleged violation of standards or law.

"Confinement" means staff directed temporary removal of a resident from contact with people through placing the resident alone in his bedroom or other normally furnished room(s). Confinement does not include timeout or seclusion.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual residents.

"Coordinator" means the person designated by the Coordinating Committee to provide coordination and monitoring of the interdepartmental licensure/certification regulatory process.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not

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limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"Department of Youth and Family Services standards for youth facilities" means those additional standards which must be met in order for a facility to receive funding from the Department of Youth and Family Services for the provision of residential treatment services as a juvenile detention facility, a facility providing youth institutional services, a community group home or other residential facility serving children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Youth and Family Services except that the Interdepartmental Standards will be the Department of Youth and Family Services Standards for Youth Facilities for residential facilities receiving public funds pursuant to §§ 16.1-286 or 66-14 of the Code of Virginia for the provision of residential care to children in the custody of or subject to the jurisdiction of a juvenile court or of the Department of Youth and Family Services.

"DOE" means the Department of Education.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DSS" means the Department of Social Services.

"DYFS" means the Department of Youth and Family Services.

"Education standards" means those additional standards which shall be met in order for a facility to (i) receive a certificate to operate an educational program that constitutes a private school for the handicapped; or (ii) be approved to receive public funding for the provision of special education and related services to eligible children.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off of permanent staff or other situations which should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care except self admittance to a temporary care facility.

"Excursion" means a recreational or educational activity during which residents leave the facility under the direct supervision of facility staff for an extended period of time. Excursions include camping trips, vacations, and other similar overnight activities.

"Group home" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves up to 12 residents.

"Group residence" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves from 13 to 24 residents.

"Human research" means any ~~medical or psychological systematic investigation designed to develop or contribute to general knowledge and which utilizes~~ *utilizing* human subjects ~~who which may be exposed to the possibility of expose such human subjects to physical or psychological injury as a consequence of participation as subjects, and which departs from the application of those established and accepted therapeutic methods appropriate to meet the subjects' needs but does not include:~~

1. The conduct of biological studies exclusively ~~utilizing tissue or fluids after their removal or withdrawal from human subject in the course of standard medical practice;~~

2. Epidemiological investigations; or

3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death; to prevent the subject from becoming disfigured or physically or mentally incapacitated.

"Independent living program" means a program that is specifically approved to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Individual behavior management plan" means the planned, individualized, and systematic use of specific treatment techniques implemented by, or under the supervision of, personnel who have been professionally trained in behavior management and implemented to increase an individual's appropriate behaviors and to modify an individual's inappropriate or problem behaviors and replace them with behaviors that are appropriate and socially acceptable.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of each resident. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Interdepartmental standards" means those standards for residential care which are common to all four departments and which shall be met by all subject residential facilities for children in order to qualify for ~~licensure, certification or approval~~ *a license/certificate*.

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. Intrusive aversive therapy does not include verbal therapies, seclusion, physical or

mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychiatric medications which are used for purposes other than intrusive aversive therapy.

"Legal guardian" means the natural or adoptive parent(s) or other person(s), agency, or institution who has legal custody of a child.

"Licensee" means the person, corporation, partnership, association or public agency to whom a license license/certificate is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"License/certificate" means a document verifying approval to operate a residential facility for children and which indicates the status of the facility with respect to compliance with applicable licensure/certification standards.

"Licensing/certification authority" means the department or state board that is responsible under the Code of Virginia for the licensure, certification, or approval of a particular residential facility for children.

"Licensure/certification" means the process of granting legal permission to operate a residential facility for children and to deliver program services or recognizing that a facility has complied with standards. (Under the Code of Virginia, no person shall open, operate or conduct a residential school for the handicapped without a "certificate to operate" such school issued by the Board of Education. The issuance of such a "certificate to operate" grants legal permission to operate a school for the handicapped. Therefore, in this context, the term "certificate to operate" is synonymous with the word "licensure" and will be termed licensure for purposes of this process.)

"Live in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living unit" means the space in which a particular group of children in care of a residential facility reside. Such space contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the children who reside in the unit. Depending upon its design, a building may contain only one living unit or several separate living units.

"Management of resident behavior" means use of various practices, implemented according to group and individual differences, which are designed to teach situationally appropriate behavior and to reduce or eliminate undesirable behavior. Such practices include, but are not limited to, individual behavioral contracting, point systems, rules of conduct, token economies, and individual behavior management plans.

"Mechanical restraint" means the use of devices to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, but does not include the appropriate use of those devices used to provide support for the achievement of functional body position or proper balance and those devices used for specific medical and surgical treatment or treatment for self-injurious behavior.

"Mental disabilities certification standards" means those standards in addition to the Interdepartmental Standards which shall be met in order for a facility to receive funding from the Department of Mental Health, Mental Retardation and Substance Abuse Services for the provision of residential treatment services to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled or substance abusing residents.

"Mental disabilities licensure standards" means, for those facilities that do not receive funding from the Department of Mental Health, Mental Retardation and Substance Abuse Services, those standards in addition to the Interdepartmental Standards which must be met in order for a facility to be licensed to provide care or treatment to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled or substance abusing residents.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent. Parent means either parent unless the facility has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody, which provides to the contrary. Parent also includes a surrogate parent appointed pursuant to provisions of the Department of Education's regulations governing special education programs for handicapped children and youth. An individual 18 years or older may have the authority to assert any rights under the Department of Education's regulations in his own name.

"Pat down" means a thorough external body search of a clothed resident.

"Physical restraint" means the restraint of a resident's body movements by means of physical contact by staff members. Physical restraint does not include physical prompts or guidance used with individuals with diagnosed mental disabilities in the education or training of adaptive behaviors (See definition of "adaptive behavior").

"Placement" means an activity by any person which provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home or to a residential facility for children.

"Premises" means the tract(s) of land on which any

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part of a residential facility for children is located and any buildings on such tract(s) of land.

"Professional child and family service worker" means an individual providing social services to a resident of a residential facility and his family. Such services are defined in Part V, Article 16.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; or Youth and Family Services.

"Regulatory authority" means the department or state board that is responsible under the Code of Virginia for the licensure/certification of a residential facility for children.

"Resident" means a person admitted to a children's residential facility for supervision, care, training or treatment on a 24-hour per day basis. Resident includes children making preplacement visits to the facility.

"Residential facility for children" means a publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their legal guardians; that is subject to licensure, certification or approval licensure/certification pursuant to the provisions of the Code of Virginia cited in [~~the Legal Base Article 2 of this part~~]; and includes, but is not limited to, group homes, group residences, secure custody facilities, self-contained residential facilities, temporary care facilities and respite care facilities, except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as promulgated by the State Board of Social Services and in effect on January 1, 1987 (§ 63.1-196.4 of the Code of Virginia); and

2. Private psychiatric hospitals serving children will be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under its *"Rules and Regulations for the Licensure of Private Psychiatric Hospitals."*

"Respite care facility" means a facility that is specifically approved to provide short term, periodic residential care to children accepted into its program in order to give the legal guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority

to make decisions and to take actions necessary to assume responsibility for the safety and well-being of children assigned to his care. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

"Rest day" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Two successive rest days shall consist of a period of not less than 48 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive rest day immediately following the second shall consist of not less than 24 additional consecutive hours.

"Right" is something to which one has a natural, legal or moral claim.

"Routine admission" means the admittance of a child following evaluation of an application for admission, completion of preplacement activities, and execution of a written placement agreement.

"Rules of conduct" means a listing of rules or regulations which is maintained to inform residents and others about behaviors which are not permitted and the consequences applied when the behaviors occur.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Seclusion" means placing a resident in a room with the door secured in any manner that prevents the resident from opening it.

"Secure custody facility" means a facility designed to provide, in addition to the appropriate treatment or service programs, secure environmental restrictions for children who must be detained and controlled on a 24-hour basis.

"Self admission" means the admittance of a child who seeks admission to a temporary care facility as permitted by Virginia statutory law without completing the requirements for "routine admission."

"Self-contained residential facility" means a residential setting for 13 or more residents in which program activities are systematically planned and implemented as an integral part of the facility's staff functions (e.g., services are self-contained rather than provided primarily through community resources). The type of program may vary in intensity according to the needs of the residents. Such settings include nonmedical as well as state-operated hospital based care.

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"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Single license/certificate" means a document which grants approval to operate a residential facility for children and which indicates the status of the facility with respect to compliance with applicable certification standards.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Strip search" means a visual inspection of the body of a resident when that resident's clothing is removed and an inspection of the removed clothing including wigs, dentures, etc. except the performance of medical procedures by medical personnel.

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care, while approved plans of action to correct findings of noncompliance are being implemented.

["Systemic concern" means a documented, existing or potential problem which affects the overall operation of a program component within a facility. A systemic concern can exist in a program component even though the facility is maintaining substantial compliance with individual standards.]

"Systemic deficiency" means [documented, existing] violations [documented by a regulator] which indicate [a deficiency defects] in the overall operation of [one or more program components the facility] .

"Team" means one or more representatives of the licensing certification regulatory authority(ies) designated to visit a residential facility for children to review its compliance with applicable standards.

"Temporary care facility" means a facility specifically approved to provide a range of services, as needed, on an individual basis for a period not to exceed 60 days except that this term does not include secure detention facilities.

"Timeout" means temporarily removing a resident and placing the resident alone in a special timeout room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli.

"Treatment" means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental, behavioral or social functioning.

"Visually impaired child" means one whose vision, after best correction, limits his ability to profit from a normal or unmodified educational or daily living setting.

"Wilderness camp" means a facility which provides a primitive camping program with a nonpunitive environment and an experience curriculum for residents nine years of age and older who cannot presently function in home, school and community. In lieu of or in addition to dormitories, cabins or barracks for housing residents, primitive campsites are used to integrate learning and therapy with real living needs and problems from which the resident can develop a sense of social responsibility and self worth.

Article 2. Legal Base.

§ 1.2. Basis.

The Code of Virginia is the basis for the requirement that private residential facilities for children be licensed, certified and approved. It also authorizes the several departments to operate or reimburse certain public facilities. In addition, P. L. 94-63 and Title XX of the Social Security Act require the establishment of quality assurance systems.

§ 1.3. Responsibilities of the Board and Department of Youth and Family Services.

The State Board of Youth and Family Services and the Department of Youth and Family Services are responsible for approval of facilities used for the placement of court-referred juveniles, as specified by § 16.1-286 and §§ 66-13 and 66-14 of the Code of Virginia, for promulgating a statewide plan for detention and other care facilities and for prescribing standards for such facilities pursuant to §§ 16.1-310 through 16.1-314 of the Code of Virginia; and for establishing and maintaining a system of community group homes or other residential care facilities pursuant to § 66-24 of the Code of Virginia.

§ 1.4. Responsibilities of the Board of Education.

The State Board of Education is responsible for issuing certificates to operate (licenses) for residential schools for the handicapped in the Commonwealth of Virginia, as specified in Chapter 16 of of Title 22.1 (§§ 22.1-319 through 22.1-335) of the Code of Virginia. It is further responsible for the general supervision of the public school system for all school age residents of Virginia (for handicapped children, ages 2-21) and for approval of private nonsectarian education programs for the handicapped, as specified by § 22.1-218 of the Code of Virginia.

§ 1.5. Responsibilities of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

The Department of Mental Health, Mental Retardation

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and Substance Abuse Services is responsible for ~~licensure~~ of ~~licensing/certifying~~ facilities or institutions for the mentally ill, mentally retarded, and substance abusers within the Commonwealth of Virginia, as specified in Chapter 8 of Title 37.1 (§§ 37.1-179 through 37.1-189) of the Code of Virginia. It is also responsible for ~~the certification~~ of ~~licensing/certifying~~ group homes as specified in § 37.1-199 of the Code of Virginia.

§ 1.6. Responsibilities of the Department of Social Services.

The Department of Social Services is responsible for ~~licensure~~ of ~~licensing/certifying~~ certain child welfare agencies and facilities in Virginia, as specified in Chapter 10 of Title 63.1 (§§ 63.1-195 through 63.1-219) of the Code of Virginia. It is also responsible for ~~the certification~~ of ~~licensing/certifying~~ local welfare/social services department "agency operated" group homes, as specified in § 63.1-56.1 of the Code of Virginia.

Article 3. Interdepartmental Agreement.

§ 1.7. Interdepartmental agreement.

An agreement for interdepartmental regulation of children's residential facilities was approved by the boards and agency heads of the departments. A revised agreement was most recently approved on March 14, 1991. This agreement commits the above departments to apply the same standards to both public and private facilities and provides a framework for:

1. The joint development and application of ~~licensure and certification~~ ~~licensure/certification~~ standards;
2. A single coordinated ~~licensure, certification and approval~~ ~~licensure/certification~~ process that includes:
 - a. A single application for appropriate ~~licensure, certification or approval~~ ~~licensure/certification~~ ;
 - b. A system for review of compliance with applicable standards;
 - c. A ~~single~~ license/certificate issued under the authority of the appropriate department(s) or board(s); and
 - d. Clear lines of responsibility for the enforcement of standards.
3. An Office of the Coordinator to provide central coordination and monitoring of the administration of the interdepartmental ~~licensure/certification~~ regulatory program.

[Article 4. Preapplication Consultation Services.

§ 1.8. Availability of preapplication consultation services.

Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of the Coordinator and the participating departments.

§ 1.9. Purpose of preapplication consultation.

Preapplication consultation may be designed to accomplish the following purposes:

1. *To explain standards and statutes;*
2. *To help the potential applicant explore the operational demands of a licensed/certified residential facility for children;*
3. *To provide assistance in locating sources of information and technical assistance;*
4. *To refer the potential applicant to appropriate agencies, such as the Department of Health, State Fire Marshal, local fire department, and local building officials; and*
5. *To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed. Such comments shall be limited to advice on basic space considerations.*

Article 5. The Initial Application.

§ 1.10. Availability of application forms.

The application for a license to operate a residential facility for children shall be available from the Office of the Coordinator and the participating departments.

§ 1.11. Design of application forms.

All application forms and related information requests shall be designed to assure compliance with the provisions of standards and relevant statutes.

§ 1.12. Submission of completed applications.

Completed applications along with other information required for licensure/certification shall be submitted at least 60 days in advance of the planned opening date. Receipt shall be acknowledged.

Article 6. The Investigation.

§ 1.13. Team composition.

Following receipt and evaluation of each completed application, a team will be organized and made up of representatives from the departments which will be participating in the review of that particular facility.

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§ 1.14. Investigation.

The team will arrange and conduct an on-site inspection of the proposed facility; a thorough review of the proposed services; and investigate the character, reputation, status, and responsibility of the applicant.

Article 7. Visitation of Facilities.

§ 1.15. Monitoring compliance.

Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.]

[Article 4. General Licensing/Certification Requirements.

Article 8. Licenses/Certificates.

§ 1.8. Acceptable level of compliance.

§ 1.16. General requirements.

A.] All residential facilities for children shall demonstrate an acceptable level of compliance with the interdepartmental Standards and other applicable licensure/certification requirements (e.g., Mental Disabilities Licensure Standards) and shall submit a plan of corrective action acceptable to the licensing regulatory authority for remedying within a specified time any noncompliance in order to be licensed to operate or be certified to receive children in Virginia. Facilities also shall demonstrate an acceptable level of compliance with other applicable standards, such as Education Standards, Mental Disabilities Certification Standards and Department of Youth and Family Services Standards for Youth Facilities, and submit a plan of corrective action acceptable to the certification regulatory authority for remedying within a specified time any noncompliance in order to be certified or approved licensed/certified .

[§ 1.9. Investigations.

B.] Investigations of applications for licensure/certification will be carried out by representatives of the licensure/certification regulatory authority with each representative participating in the evaluation of compliance with applicable standards. The decision to license or certify license/certify will be based primarily on the findings and recommendations of these representatives of the licensing/certification regulatory authority.

[§ 1.10. Corporations.

C.] Corporations sponsoring residential facilities for children shall maintain their corporate status in

accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

[Article 5. The License/Certificate.

§ 1.11. Single licensure/certification process.

D.] The interdepartmental program will utilize a single licensure/certification regulatory process encompassing the Interdepartmental Standards and certification other licensure/certification standards. A single document license certificate will be issued to each qualified facility which will, under appropriate statutory authority(ies), grant permission to operate a residential facility for children or certify approval for the placement of children using public funds and which will indicate the status of each facility with respect to compliance that a facility has complied with applicable certification licensure/certification standards.

[§ 1.12. Terms of license/certificate.

E.] The terms of any license/certificate issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license/certificate is issued; (iii) the physical location of the facility; (iv) the nature of the population; (v) the maximum number of persons to be accepted for care; (vi) the effective dates of the license/certificate ; and (vii) other specifications and stipulations prescribed within the context of the standards.

[§ 1.13. F.] The facility shall comply with the terms of the license/certificate.

§ 1.13. [§ 1.14. Nontransferability of license/certificate.

G.] The license/certificate is not transferable and automatically expires when there is a change of ownership ; or sponsorship ; or location; or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed/certified .

§ 1.14. [Facilities maintained on separate pieces of property.]

Separate licenses/certificates are required for facilities maintained on separate pieces of property which do not have a common boundary, even though these may be operated under the same management and may share services or facilities.

[§ 1.15. Posting of license/certificate.

H.] The current license/certificate shall be posted at all times in a place conspicuous to the public.

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[I. A license/certificate shall not be issued to a residential facility for children which is subject to the regulatory authority of DOE, DMHMRSAS, or DSS when noncompliance poses an immediate and direct danger to the residents.

J. Intermediate sanctions authorized by statute may be imposed at the discretion of the regulatory authority(ies) in addition to the sanctions specified herein.]

[Article 6: Types of Licenses/Certificates.

§ 1.16. Annual license/certificate.

§ 1.17. Categories.

A. Triennial license/certificate.] I.] An annual A triennial license/certificate may shall be issued to a residential facility for children that is subject to the licensure regulatory authority of the Departments of Education; Mental Health; Mental Retardation and Substance Abuse Services; or Social Services DOE, DMHMRSAS, or DSS and which is applying for license/certificate renewal while holding an annual or triennial license/certificate when its activities, services and requirements substantially [substantially] meet or exceed the minimum standards and requirements set forth in the Interdepartmental Standards, applicable certification licensure/certification standards and any additional requirements that may be specified in relevant applicable statutes. An annual license/certificate is effective for 12 consecutive months, unless it is revoked or surrendered sooner.

§ 1.17. [Provisional and conditional license/certificate.]

A. A provisional license/certificate may be issued whenever an applicant is temporarily unable to comply with all of the requirements set forth in the Interdepartmental Standards or applicable certification standards and under the condition that the requirements will be met within a specified period of time. A facility with provisional licensure/certification is required to demonstrate that it is progressing toward compliance. A provisional license/certificate shall not be issued where the noncompliance poses an immediate and direct danger to the health and safety of the residents.

B. For those facilities for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority as specified in Chapter 8 of Title 37-1 of the Code of Virginia, at the discretion of the licensing authority a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such a conditional license may be renewed, but such conditional licensure and any renewals thereof shall not exceed a period of six successive months. A provisional license may be issued to a facility which has previously been fully licensed when such facility is temporarily unable to

comply with all licensing standards. Such provisional licensure and any renewals thereof shall not exceed a period of six successive months.

C. For those facilities for which the Department of Social Services is the licensing authority as specified in Chapter 10 of Title 63-1 of the Code of Virginia, a provisional license may be issued following the expiration of an annual license. Such provisional licensure and any renewals thereof shall not exceed a period of six successive months. At the discretion of the licensing authority, a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such a conditional license may be renewed, but such conditional licensure and any renewals thereof shall not exceed a period of six successive months.

[§ 1.17. B. Annual licenses/certificates.

A. 1.] An annual license/certificate shall be issued to a residential facility for children which is subject to the regulatory authority of DOE, DMHMRSAS, or DSS and:

[1. a.] Submits a renewal application while holding a conditional or provisional license/certificate and which demonstrates that its programs and services substantially comply with the Interdepartmental Standards, applicable licensure/certification standards, and any additional requirements specified in applicable statutes; [or]

[2. b.] Submits a renewal application while holding an annual or triennial license/certificate and one systemic deficiency has been identified during the licensure/certification period without the facility taking acceptable, documented corrective action [; or .]

[3. Whose sponsor requests establishment of a new facility to care for the same target population as that currently being served by the sponsor in facilities regulated through the Interdepartmental Regulatory Program.

2. An annual license/certificate may be issued to a residential facility for children which is subject to the regulatory authority of DOE, DMHMRSAS, or DSS and whose sponsor requests establishment of a new facility to care for the same target population as that currently being served by the sponsor in facilities regulated through the Interdepartmental Regulatory Program.]

[B. 3.] An annual license/certificate may be renewed, but an annual license/certificate and any renewals thereof shall not exceed a period of 36 successive months.

§ 1.18. [Extended license/certificate.]

An extended license/certificate may be issued following the expiration of an annual or an extended license/certificate provided the applicant qualifies for an annual license/certificate and, additionally, it is determined by the licensing/certification authority that (i) the facility has a satisfactory compliance history; and (ii) the facility has had no significant changes in its program, population, sponsorship, staffing and management, or financial status during the term of the previous annual or extended license. In determining whether a facility has a satisfactory compliance history, the licensing/certification authority shall consider the facility's maintenance of compliance as evidenced by licensing complaints; monitoring visits by staff of the licensing authority; reports of health, fire and building officials; and other sources of information reflecting on the facility's continued compliance with applicable standards. An extended license is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

[~~§ 1-18~~. C.] Conditional licenses/certificates.

[~~A~~. 1.] A conditional license/certificate shall be issued to a residential facility for children which is subject to the regulatory authority of DOE, DMHMRSAS or DSS [; demonstrates an acceptable level of compliance;] and is:

[~~1~~. a.] Beginning initial operation and whose sponsor is not operating one or more additional facilities regulated through the Interdepartmental Regulatory Program, or

[~~2~~. b.] Sponsored by a currently established Interdepartmental Regulatory Program sponsor who begins operation, at a new or currently regulated site, of a program serving a different target population than that being served by the sponsor.

[~~B~~. 2.] A facility holding a conditional license/certificate shall demonstrate progress toward compliance.

[~~C~~. 3.] A conditional license/certificate may be renewed, but a conditional license/certificate and any renewals thereof shall not exceed a period of six successive months.

[~~§ 1-18~~. D.] Provisional licenses/certificates.

[~~A~~. 1.] A provisional license/certificate shall be issued to a residential facility for children which is subject to the regulatory authority of DOE, DMHMRSAS, or DSS and:

[~~1~~. a.] Applies for renewal of an annual or triennial license/certificate, and

[~~2~~. b.] During the licensure/certification period there have been:

[~~a~~. (1)] Two or more occasions when the same systemic deficiency has been identified without the facility taking acceptable, documented corrective action; or

[~~b~~. (2)] Two or more occasions when different systemic deficiencies have been identified without the facility taking acceptable, documented corrective action.

[~~B~~. 2.] A provisional license/certificate shall be issued to a residential facility for children which is subject to the regulatory authority of DOE, DMHMRSAS, or DSS; holds a conditional license/certificate; and during the licensure/certification period, demonstrates that its programs and services do not substantially comply with the Interdepartmental Standards, applicable licensure/certification standards, or any additional requirements specified in applicable statutes.

[~~C~~. 3.] A provisional license/certificate may be renewed, but a provisional license/certificate and any renewals thereof shall not exceed a period of six successive months.

[~~D~~. 4.] A facility holding a provisional license/certificate shall demonstrate progress toward compliance. [A provisional license/certificate shall not be issued when the noncompliance poses an immediate and direct danger to the health and safety of the residents.]

~~§ 1-19~~. [~~§ 1-20~~. DYFS license/certificate.

E.] A residential facility for children operating under certification by the Department of Youth and Family Services may be issued a certificate license/certificate indicating the status of the facility with respect to compliance with the Interdepartmental Standards, applicable certification licensure/certification standards and any additional requirements specified in applicable statutes. Such a certificate is effective for a specified period not to exceed 24 consecutive months license/certificate shall be effective for the period specified by the Board of Youth and Family Services, unless it is revoked or surrendered sooner.

~~§ 1-20~~. [Term of certification.]

The term of any certification(s) issued on an annual, provisional or extended license/certificate shall be coincident with the effective dates of the license.

[~~§ 1-21~~. No fee required.

F.] There shall be no fee to the licensee for licensure, certification or approval licensure/certification.

[~~§ 1-18~~. Decision.

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Within 60 days of receipt of a properly completed application, the investigation will be completed and the applicant will be notified in writing of the decision regarding licensure/certification.

§ 1.19. Issuance.

Any stipulations of the licensure/certification shall be enumerated on the license/certificate or in an accompanying letter which is referenced on the license/certificate.

§ 1.20. Renewal.

A. Approximately 90 days prior to the expiration of a license/certificate, the licensee will receive notice of expiration and an application for renewal of the license/certificate. The materials to be submitted will be indicated on the application.

In order to renew a license/certificate, the licensee shall complete the renewal application and return it and any required attachments. The licensee should submit this material within 30 days after receipt in order to allow at least 60 days to process the application prior to expiration of the license/certificate.

B. The process for review of the facility and issuance or denial of the license/certificate will be the same as for an initial application.

§ 1.21. Modification.

The conditions of a license/certificate may be modified during the term of the license/certificate with respect to the capacity, residents' age range, facility location, or changes in the services.

The licensee shall submit a written report of any contemplated changes in operation which would affect either the terms of the license/certificate or the continuing eligibility for licensure/certification.

A determination will be made as to whether changes may be approved and the license/certificate modified accordingly or whether an application for a new license/certificate must be filed. The licensee will be notified in writing within 30 days of receipt of the request as to whether the modification is approved or a new license/certificate is required.

§ 1.22. Denial.

A. If denial of a license/certificate is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

B. Private facilities. The notification of intent to deny a license/certificate will be a letter signed by the regulatory authority(ies) and sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the regulatory authorities to deny;
2. A list of noncompliances and circumstances leading to the denial; and
3. Notice of the facility's right to appeal.

C. Locally-operated facilities. The notification of intent to deny a license/certificate will be a letter signed by the regulatory authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore, stating the reasons for the action, as well as the applicable state board or departmental sanctions or actions to which they are liable.

D. State-operated public facilities. The notification of intent to deny a license/certificate will be a letter signed by the regulatory authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the secretary stating the reasons for the action and advising appropriate sanctions or actions.

E. Appeals. Appeals shall be conducted as provided by the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

§ 1.23. Revocation.

A. The license/certificate may be revoked when the licensee:

1. Violates any provision of the applicable laws or any applicable standards made pursuant to such laws;
2. Permits, aids or abets the commission of any illegal act in such facility;
3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children;
4. Deviates significantly from the program or services for which a license/certificate was issued without obtaining prior written approval from the regulatory authority or fails to correct such deviations within the time specified; or
5. Engages in a willful action which jeopardizes the care or protection of residents.

B. If revocation of a license/certificate is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

C. Private facilities. The notification of intent to revoke a license/certificate will be a letter signed by the regulatory authority(ies) sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the regulatory

authority(ies) to revoke;

2. A list of noncompliance and circumstances leading to the revocation; and

3. Notice of the facility's right to appeal.

D. Locally-operated facilities. The notification of intent to revoke a license/certificate will be a letter signed by the regulatory authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore stating the reasons for the action as well as the applicable state board or departmental sanctions or actions to which they are liable.

E. State-operated public facilities. The notification of intent to revoke a license/certificate will be a letter signed by the regulatory authority(ies) sent by certified mail to the facility, the appropriate department head, and to the appropriate Secretary in the Governor's cabinet, stating the reasons for the action and advising appropriate sanctions or actions.

F. The suppression of illegal operations or activities involves action against a person or group operating without a license/certificate or operating after a license/certificate has expired or has been denied or revoked. All allegations of illegal operations shall be investigated promptly. After consultation with counsel, action may be initiated by the regulatory authority against illegally operating facilities by means of civil action, by injunction or by criminal action.

G. Appeals. Appeals shall be conducted as provided by the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.]

[Article 7.

Preapplication Consultation Services.

§ 1.22. Availability of preapplication consultation services.

Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of the Coordinator and the participating departments.

§ 1.23. Purpose of preapplication consultation.

Preapplication consultation may be designed to accomplish the following purposes:

1. To explain standards and statutes;
2. To help the potential applicant explore the operational demands of a licensed/certified/approved residential facility for children;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies; such as, the Department of Health, the State

Fire Marshal, local fire department, and local building officials; and

5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed. Such comments shall be limited to advice on basic space considerations.

Article 8.

The Initial Application.

§ 1.24. Availability of application forms.

The application for a license to operate a residential facility for children shall be available from the Office of the Coordinator and the participating departments.

§ 1.25. Design of application forms.

All application forms and related information requests shall be designed to assure compliance with the provision of standards and relevant statutes.

§ 1.26. Submission of completed applications.

Completed applications along with other information required for [] licensure, certification or approval [] licensure/certification shall be submitted at least 60 days in advance of the planned opening date. Receipt shall be acknowledged.

Article 9.

The Investigation.

§ 1.27. Team composition.

Following receipt and evaluation of each completed application, a team will be organized made up of representatives from the departments which will be participating in the review of that particular facility.

§ 1.28. Investigation.

The team will arrange and conduct an on-site inspection of the proposed facility; a thorough review of the proposed services; and investigate the character, reputation, status, and responsibility of the applicant.]

Article [10. 9.] Allowable Variance.

[§ 1.29. § 1.24.] Authority to waive compliance.

The licensing/certification regulatory authority has the sole authority to waive a standard either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The standard is not specifically required by statute

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or by the regulations of another government agency; and

3. Resident care would not be adversely affected.

[§ 1-30. § 1.25.] Request for variance.

Any request for an allowable a variance shall be submitted in writing to the licensing/certification regulatory authority.

[§ 1-31. § 1.26.] Denial of request.

The denial of a request for a variance is appealable [through the normal appeals process] when it leads to the denial or revocation of licensure/certification a license/certificate .

[Article 11.

Decision Regarding Licensure/Certification.

§ 1-32. Notification of decision.

Within 60 days of receipt of a properly completed application, the investigation will be completed and the applicant will be notified in writing of the decision regarding licensure/certification.

Article 12.

Issuance of a] License, Certificate or Approval. [License/Certificate.]

§ 1-33. Private facilities.

If licensure/certification (either annual, provisional or extended) is granted, the facility will be issued a license/certificate with an accompanying letter citing any areas of noncompliance with standards. This letter will also include any specifications of the license and may contain recommendations.

§ 1-34. Public and out-of-state facilities.

If approval is granted, the facility will be issued a certificate of approval indicating that it has met standards required for it to operate and receive public funds.

[§ 1-33. When licensure/certification is granted, the facility shall be issued a license/certificate. Any stipulations of the licensure/certification shall be enumerated on the license/certificate or in an accompanying letter which is referenced on the license/certificate.

Article 13.

Intent to Deny a] License, Certificate or Approval. [License/Certificate.]

§ 1-35. [§ 1-34. Notification of intent to deny.

If denial of a] license, certificate or approval [

license/certificate is recommended, the facility will be notified in writing of the deficiencies and the proposed action.]

§ 1-36. [§ 1-35. Private facilities.

The notification of intent to deny a] license or certificate [license/certificate will be a letter signed by the] licensing/certification [regulatory authority(ies) and sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the] licensing/certification [regulatory authorities to deny;
2. A list of noncompliances and circumstances leading to the denial; and
3. Notice of the facility's rights to a hearing.]

§ 1-37. [§ 1-36. Locally-operated facilities.

The notification of intent to deny a] license or certificate [license/certification will be a letter signed by the] licensing/certification [regulatory authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore, stating the reasons for the action, as well as the applicable state board or departmental sanctions or actions to which they are liable.]

§ 1-38. [§ 1-37. State-operated public facilities.

The notification of intent to deny] an approval [a license/certificate will be a letter signed by the] licensing/certification regulatory authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the Secretary stating the reasons for the action and advising appropriate sanctions or actions.]

§ 1-39. Out-of-state facilities.

The notification of denial of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1-40. [1-38. The hearing.

An interdepartmental hearing will be arranged when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia. Each] licensing/certification [regulatory authority will be provided with the report of the hearing on which to base the] licensing [regulatory authority's final decision. The Office of the Coordinator will be notified of the] licensing [regulatory authority's decision within 30 days after the

report of the hearing is submitted. When more than one] licensing/certification [regulatory authority is involved, they will coordinate the final decision.]

§ 1.41. [1.39. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the] licensing/certification [regulatory authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of denial, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.]

[Article 14.
Renewal of a License/Certificate.]

§ 1.42. [1.40. Renewal application.

Approximately 90 days prior to the expiration of a license/certificate, the licensee will receive notice of expiration and an application for renewal of the license/certificate. The materials to be submitted will be indicated on the application.

In order to renew a license/certificate, the licensee shall complete the renewal application and return it and any required attachments. The licensee should submit this material within 30 days after receipt in order to allow at least 60 days to process the application prior to expiration of the] license [license/certificate.]

§ 1.43. [1.41. Review.

The process for review of the facility and issuance or denial of the license/certificate will be the same as for an initial application (See Part I, Articles 8, 9, 12, 13).]

Article 15.
Early Compliance.

§ 1.44. [Conditions.]

A provisional or conditional license/certificate may be replaced with an annual license/certificate when all of the following conditions exist:

1. The facility complies with all standards as listed on the face of the provisional or conditional license/certificate well in advance of its expiration date and the facility is in substantial compliance with all other standards;
2. Compliance has been verified by an on-site observation by a representative(s) of the licensing/certification authority or by written evidence provided by the licensee; and
3. All other terms of the license/certificate remain the same.

§ 1.45. [Written request required.]

A request to replace a provisional license/certificate and to issue an annual license/certificate shall be made in writing by the licensee.

§ 1.46. [Effective date.]

If the request is approved, the effective date of the new annual license/certificate will be the same as the beginning date of the provisional license/certificate.

Article 16.
Situations Requiring a New Application.

§ 1.47. [New application.]

A new application shall be filed in the following circumstances:

1. Change of ownership or sponsorship;
2. Change of location; or
3. Substantial change in services provided or target population.

[Article 17. 15.
Modification of a License/Certificate.]

§ 1.48. [1.42. Modification of license/certificate.

The conditions of a license/certificate may be modified during the term of the] license [license/certificate with respect to the] number of residents, the [capacity, residents' age range ; facility location, or] other conditions which do not constitute substantial [changes in the services or target population.

The licensee shall submit a written report of any contemplated changes in operation which would affect either the terms of the license/certificate or the continuing eligibility for] a license/certificate [licensure/certification

A determination will be made as to whether changes may be approved and the license/certificate modified accordingly or whether an application for a new license/certificate must be filed. The licensee will be notified in writing within 30 days of receipt of this request as to whether the modification is approved or a new] license [license/certificate is required.]

[Article 18. 16.
Visitation of Facilities.]

§ 1.49. [Monitoring compliance.

§ 1.43. Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits

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is to monitor compliance with applicable standards.]

Article 19: [17. 10.]

Investigation of Complaints and Allegations.

§ 1.50: [§ 1.44: Responsibility.

§ 1.27. *Investigation of complaints and allegations.*]

The four departments are responsible for complete and prompt investigation of all complaints and allegations, and for notification of the appropriate persons or agencies when removal of residents may be necessary. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

[Article 20: 18.

Revocation of a License/Certificate.]

§ 1.51: [§ 1.45: *Grounds for revocation.*

The] license, certificate or approval [*license/certificate* may be revoked when the licensee:

1. Violates any provision of the applicable] licensing [laws or any applicable standards made pursuant to such laws;

2. Permits, aids or abets the commission of any illegal act in such facility;

3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children;] or

[4. Deviates significantly from the program or services for which a] license [*license/certificate* was issued without obtaining prior written approval from the] licensing/certification [*regulatory* authority or fails to correct such deviations within the time specified. or;

5. Engages in a willful action which jeopardizes the care or protection of residents.]

§ 1.52: [§ 1.46: Notification of intent to revoke.

If revocation of a] license, certificate or approval [*license/certificate* is recommended, the facility will be notified in writing of the deficiencies and the proposed action.]

§ 1.53: [§ 1.47: Private facilities.

The notification of intent to revoke a] license or certificate [*license/certificate* will be a letter signed by the] licensing/certification [*regulatory* authority(ies) sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the] licensing/certification [*regulatory* authorities to

revoke;

2. A list of noncompliances and circumstances leading to the revocation; and

3. Notice of the facility's rights to a hearing.]

§ 1.54: [1.48: Locally-operated facilities.

The notification of intent to revoke a] license or certificate [*license/certificate* will be a letter signed by the] licensing/certification [*regulatory* authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore stating the reasons for the action as well as the applicable state board or departmental sanctions or actions to which they are liable.]

§ 1.55: [1.49: State-operated public facilities.

The notification of intent to revoke] an approval [a *license/certificate* will be a letter signed by the] licensing/certification [*regulatory* authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the appropriate Secretary in the Governor's Cabinet, stating the reasons for the action and advising appropriate sanctions or actions.]

§ 1.56: Out-of-state facilities.

The notification of revocation of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.57: [§ 1.50: The hearing.

An interdepartmental hearing will be arranged, when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, § 9-6-14.1 et seq. of the Code of Virginia. Each] licensing/certification [*regulatory* authority will be provided with the report of the hearing on which to base the] licensing [*regulatory* authority's final decision. The Office of the Coordinator will be notified of the] licensing [*regulatory* authority's decision within 30 days after the report of the hearing is submitted. When more than one] licensing/certification [*regulatory* authority is involved, they will coordinate the final decision.]

§ 1.58: [§ 1.51: Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the] licensing/certification [*regulatory* authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of revocation, the facility shall cease operation or change

its program so that it no longer requires licensure/certification. This shall be done within 30 days.]

§ 1.59. [§ 1.52: Suppression of unlicensed operations.

The suppression of illegal operations or activities involves action against a person or group operating without a license/certificate or operating after a license/certificate has expired or has been denied or revoked. All allegations of illegal operations shall be investigated promptly. After consultation with counsel, action may be initiated by the] licensing/certification [regulatory authority against illegally operating facilities by means of civil action, by injunction or by criminal action.]

§ 1.60. [1.53: Appeals.

A. Following receipt of the final order transmitting the decision of the] licensing/certification [regulatory authority(ies) after an administrative hearing, the applicant/licensee has the right to appeal pursuant to the applicable sections of the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

B. Continued operation of a facility during the appeal process shall conform to applicable sections of the Code of Virginia.]

PART II. ORGANIZATION AND ADMINISTRATION.

Article I. Governing Body.

§ 2.1. Identification of licensee.

The residential facility for children shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. Delegation of responsibilities.

The licensee shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee.

Article 2. Responsibilities of the Licensee.

§ 2.3. Appointment of chief administrative officer.

The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. Written policies.

The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be

limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. Philosophy and objectives.

The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the population to be served and the program to be offered.

§ 2.6. Program review.

The licensee shall review, at least annually, the program of the facility in light of the population served and the objectives of the facility.

§ 2.7. Program changes.

The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Accountability.

§ 2.8. Financial plan.

The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.9. Availability of funds.

A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.10. Financial responsibility of private sector facilities.

A new facility operated by a corporation, unincorporated organization or association, an individual or a partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and

2. A balance sheet showing assets and liabilities.

§ 2.11. Repealed.

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§ 2.12. Financial responsibility of state or local government agencies.

Facilities operated by state or local government agencies, boards and commissions shall submit evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.13. Financial report.

Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in subdivisions 1, 2, and 3 above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

§ 2.14. Additional evidence of financial responsibility.

The facility shall provide additional evidence of financial responsibility as the ~~licensing~~ regulatory authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

§ 2.15. Financial record keeping.

There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

§ 2.16. Collection and disbursement of funds.

There shall be a written policy, consistent with generally accepted accounting principles, for collection and disbursement of funds unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

§ 2.17. Separation of financial records.

There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Article 5. Insurance.

§ 2.18. Liability insurance on premises and operations.

A facility shall maintain liability insurance covering the premises and the facility's operations.

§ 2.19. Liability insurance on vehicles.

There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

§ 2.20. Bonding.

Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

Article 7. Fund Raising.

§ 2.21. Fund raising.

The facility shall not use residents in its fund-raising activities without written permission of legal guardian.

Article 8. Relationship to ~~Licensing~~ Regulatory Authority.

§ 2.22. Establishing compliance.

The facility shall submit or make available to the ~~licensing~~ regulatory authority such reports and information as the ~~licensing~~ regulatory authority may require to establish compliance with these standards and the appropriate statutes.

§ 2.23. Notification of changes.

The governing body or its official representative shall notify the ~~licensing~~ regulatory authority(ies) within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program.

§ 2.24. Response to disaster, fire or emergency conditions.

In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the children in care, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children in care;

2. Take appropriate actions to remedy such conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and

3. Notify the licensing regulatory authority(ies) of the conditions at the facility and the status of the residents as soon as possible.

Article 9.

Participation of Residents in Research.

§ 2.25. Participation of residents in research.

The facility shall establish and implement written policies and procedures regarding the participation of residents as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia, unless the facility has established and implemented a written policy explicitly prohibiting the participation of residents as subjects of human research as defined by the above statute.

A facility which utilizes residents as subjects in human research shall document appropriate approval of each research project. A facility which does not utilize residents as subjects in human research shall have a written policy stating that residents will not be utilized.

Article 10.

Residents' Records.

§ 2.26. Case record.

A separate case record on each resident shall be maintained and shall include all correspondence relating to the care of that resident.

§ 2.27. Updating.

Each case record shall be kept up to date and in a uniform manner.

§ 2.28. Staff access.

Case records shall be maintained in such manner as to be accessible to staff for use in working with the resident.

Article 11.

Confidentiality of Residents' Records.

§ 2.29. Information access.

The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

§ 2.30. Policy and procedures.

There shall be written policy and procedures to protect the confidentiality of records which govern acquiring

information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the resident.

Article 12.

Storage of Confidential Records.

§ 2.31. Limitations on access.

Records shall be kept in areas which are accessible only to authorized staff.

§ 2.32. Storage of records.

Records shall be stored in a metal file cabinet or other metal compartment.

§ 2.33. Records not in use.

When not in use, records shall be kept in a locked compartment or in a locked room.

Article 13.

Disposition of Residents' Records.

§ 2.34. Retention.

Residents' records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

§ 2.35. Information permanently maintained.

Permanent information shall be kept on each resident even after the disposition of the resident's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Resident's name;
2. Date and place of resident's birth;
3. Dates of admission and discharge;
4. Names and addresses of parents and siblings;
5. Name and address of legal guardian;
6. Names and addresses of persons to whom resident was discharged;
7. Forwarding address of resident, if known; and
8. Reason for discharge.

§ 2.36. Disposition of records.

Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

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Article 14. Residential Facilities for Children Serving Persons Over the Age of 17 Years.

§ 2.37. Residential facilities for children serving persons over the age of 17 years.

Residential facilities for children subject to interdepartmental licensure/certification which are also approved to maintain in care persons over 17 years of age, shall comply with the requirements of the Interdepartmental Standards for the care of all residents, regardless of age, except that residential programs serving persons over 17 years of age, shall be exempt from this requirement when it is determined by the licensing/certification authority(ies) that the housing, staff and programming for such persons is maintained separately from the housing, staff and programming for the residents.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information.

Health information required by these standards shall be maintained for the chief administrative officer, for all staff members who come in contact with residents or handle food, and for any individual who resides in a building occupied by residents including any such persons who are neither staff members nor residents of the facility.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Screening for tuberculosis.

Within 30 days of employment or contact with residents each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed/certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Test results.

Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. Signature.

The statement shall be signed by a licensed physician the physician's designee, or an official of a local health department.

§ 3.5. Filing.

The statement shall be filed in the individual's record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Evaluations for tuberculosis.

Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

Article 4. Physical or Mental Health of Personnel.

§ 3.7. Examination.

At the request of the licensee/administrator of the facility or the licensing regulatory authority a report of examination by a licensed physician shall be obtained when there are indications that the care of residents may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Indication of physical or mental condition.

Any individual who, upon examination by a licensee-physician or as result of tests, shows indication of a physical or mental condition which may jeopardize the safety of residents or which would prevent the performance of duties:

1. Shall immediately be removed from contact with residents and food served to residents; and
2. Shall not be allowed contact with residents or food served to residents until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

Article 5. Qualifications.

§ 3.9. Applicability.

Standards in Part III, Articles 12-14 establishing minimum position qualifications shall be applicable to all facilities. In lieu of these minimum position qualifications, (i) facilities subject to the rules and regulations of the Virginia Department of Personnel and Training, or (ii) facilities subject to the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

§ 3.10. Compliance with qualifications.

Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions described in these standards shall meet the qualifications of that position(s) and shall fully comply with all applicable standards for each function.

§ 3.11. Contract personnel.

When services or consultations are obtained on a contract basis they shall be provided by professionally qualified personnel.

Article 6. Job Descriptions.

§ 3.12. Contents.

For each staff position there shall be a written job description which, at a minimum, shall include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.13. Distribution.

A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 7. Written Personnel Policies and Procedures.

§ 3.14. Approval.

The licensee shall approve written personnel policies.

§ 3.15. Accessibility.

The licensee shall make its written personnel policies readily accessible to each staff member.

§ 3.16. Job requirements.

The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each staff position possess the knowledge, skills and abilities specified in the job description for that staff position.

§ 3.17. Child abuse and neglect.

Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for management of resident behavior;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of child abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation. (See § 5.143)

§ 3.18. Staff knowledge.

Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

Article 8. Personnel Records.

§ 3.19. Contents.

A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A completed employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history.
2. Written references or notations of oral references;
3. Reports of required health examinations;
4. Annual performance evaluations; and
5. Documentation of staff development activities.

§ 3.20. Retention of personnel records.

Each personnel record shall be retained in its entirety for two years after employment ceases.

§ 3.21. Information permanently maintained.

Information sufficient to respond to reference requests on separated employees shall be permanently maintained. Information shall minimally include name, social security number, dates of employment, and position(s) held.

Article 9. Staff Development.

§ 3.22. Orientation and training.

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New employees, relief staff, volunteers and students, within one calendar month of employment, shall be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

§ 3.23. Ongoing staff development.

Provision shall be made for staff development activities, designed to update staff on items in § 3.22 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.24. Staff supervision.

Regular supervision of staff shall be provided.

§ 3.25. Method.

Regular supervision of staff shall not be the only method of staff development.

§ 3.26. Documentation.

Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

Article 10. Staff Supervision of Children.

§ 3.27. Consecutive work days.

No member of the child care staff shall be on duty more than six consecutive days between rest days except in an emergency except:

1. A child care staff member may attend training FOLLOWING WORKING AT THE FACILITY without a rest day. However, the staff member shall not work more than 10 consecutive days between rest days including working at the facility and training.
2. A child care staff member may accompany an excursion FOLLOWING WORKING AT THE FACILITY without a rest day. However, the staff member shall not work more than 14 consecutive days between rest days including working at the facility and the excursion.
3. A child care staff member accompanying an excursion shall not work at the facility for more than two consecutive days PRIOR TO THE EXCURSION.
4. A child care staff member may return to work at the facility without a rest day AFTER ACCOMPANYING AN EXCURSION OR ATTENDING TRAINING. However, a staff member who returns to

work at the facility shall not work more than six consecutive days between rest days including excursion and training days.

§ 3.28. Rest days.

Child care staff shall have an average of not less than two rest days per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.29. Consecutive work hours.

Child care staff other than live in staff shall not be on duty more than 16 consecutive hours except in an emergency.

§ 3.30. Staff on duty.

There shall be at least one responsible adult on the premises and on duty at all times that one or more children are present.

§ 3.31. Staff deployment.

Each facility shall develop and implement written policies and procedures which address deployment of staff and supervision of children. The number of children being supervised may vary among staff members except that the total number of child care staff on duty shall not be less than the minimum number required by §§ 3.33 and 3.34 to supervise the total number of children on the premises and participating in off campus, facility sponsored activities.

§ 3.32. Review of staff deployment policies.

Written policies and procedures governing deployment of staff shall be reviewed and approved by the regulatory authority prior to implementation.

§ 3.33. Supervision during waking hours.

During the hours that children normally are awake there shall be no less than one child care staff member awake, on duty and responsible for supervision of every 10 children, or portion thereof, on the premises or participating in off campus, facility sponsored activities except that:

1. In approved independent living programs, there shall be one child care staff member awake, on duty and responsible for supervision of every 15 children on the premises or participating in off campus, facility sponsored activities;
2. For children under four years of age, there shall be one child care staff member awake, on duty and responsible for supervision of every three children who are on the premises or participating in off campus, facility sponsored activities except that this requirement shall not apply to severely,

multihandicapped, nonambulatory children; and

3. For severely multihandicapped, nonambulatory children under four years of age, there shall be one child care staff member awake, on duty and responsible for supervision of every six children.

§ 3.34. Supervision during sleeping hours.

A. During the hours that residents normally are sleeping there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises.

B. There shall be at least one child care staff member awake and on duty:

1. In each building where 30 or more children are sleeping,
2. On each floor where 30 or more children are sleeping, and
3. On each major wing of each floor where 30 or more children are sleeping.

§ 3.35. Emergency telephone numbers.

A. When residents are away from the facility they and the adults responsible for their care during that absence shall be furnished with a telephone number where a responsible facility staff member or other responsible adult may be reached at all times except that this requirement shall not apply to secure detention facilities.

B. When children are on the premises of the facility, the staff on duty shall be furnished with a telephone number where the administrator or his designee may be reached at all times.

§ 3.36. Children's privacy.

Children shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This requirement shall not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to children whose physical or mental disabilities dictate the need for assistance with these activities as justified in the client's record.

§ 3.37. Searches.

A. If a facility conducts pat downs it shall develop and implement written policies and procedures governing them. A facility that does not conduct pat downs shall have a written policy prohibiting them.

B. Written policies and procedures governing pat downs shall be reviewed and approved by the regulatory

authority prior to implementation.

C. Written policies and procedures governing pat downs shall include:

1. A requirement that pat downs be limited to instances where they are necessary to prohibit contraband;
2. A listing of the specific circumstances when pat downs are permitted;
3. A statement that pat downs shall be conducted only in the specific circumstances enumerated in the written policies and procedures;
4. A requirement that pat downs be conducted by personnel of the same gender as the client(s) being searched;
5. A listing of the personnel authorized to conduct pat downs;
6. A statement that pat downs shall be conducted only by personnel authorized to conduct searches by the written policies and procedures;
7. A requirement that witnesses, if any, be of the same gender as the client(s) being searched; and
8. Provisions to ensure the client's privacy.

D. Strip searches and body cavity searches are prohibited except:

1. As permitted by other applicable state regulations, or
2. As ordered by a court of competent jurisdiction.

Article 11.
The Chief Administrative Officer.

§ 3.38. Responsibilities.

The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the residential facility for children.

§ 3.39. Delegation of duties.

Duties of the chief administrative officer may be delegated to qualified subordinate staff.

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§ 3.40. Description of delegated duties.

Duties delegated by the chief administrative officer shall be reflected in the job description of the position assigned each delegated function.

§ 3.41. Absence.

A qualified staff member shall be designated to assume responsibility for the operation of the facility in the absence of the chief administrative officer.

Article 12. The Program Director.

§ 3.42. Responsibilities.

The program director shall be responsible for the development and implementation of the programs and services (See Part V) offered by the residential facility for children.

§ 3.43. Qualifications.

A program director appointed after July 1, 1981, shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession; or
2. A graduate degree from an accredited college or university in a profession related to child care and development; or
3. A license or certification in the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

§ 3.44. Eligibility.

Any qualified staff member, including the chief administrative officer, may serve as the program director.

§ 3.45. Full-time program director.

When a facility is licensed/certified to care for 13 or more residents, a full-time, qualified staff member shall fulfill the duties of the program director.

Article 13. Child and Family Service Worker(s).

§ 3.46. Provision of counseling and social services.

If not provided by external resources in accord with § 5.45, counseling and social services (see § 5.43), shall be provided by a staff member(s) qualified to provide such

services.

§ 3.47. Qualifications.

If employment begins after July 1, 1981, the Child and Family Service Worker shall have:

1. A graduate degree in social work, psychology, counseling or a field related to family services or child care and development; or
2. A baccalaureate degree and two years of successful experience in social work, psychology, counseling or a field related to family services or child care and development (In lieu of two years of experience, the person may work under the direct supervision of a qualified supervisor for a period of two years); or
3. A license or certificate in the Commonwealth of Virginia to render services as a drug abuse or alcoholism counselor/worker only in facilities which are certified to provide drug abuse or alcoholism counseling; or
4. A license or certificate when required by law issued in the Commonwealth of Virginia to render services in the field of:
 - a. Social Work, or
 - b. Psychology, or
 - c. Counseling (individual, group or family).

Article 14. Child Care Staff.

§ 3.48. Daily living program.

In each child care unit a designated staff member shall have responsibility for the development of the daily living program within the child care unit.

§ 3.49. Coordination of services.

A designated staff member shall be responsible for the coordination of all services offered to each resident.

§ 3.50. Orientation, training and supervision.

A designated staff member(s) shall have responsibility for the orientation, training and supervision of child care workers.

§ 3.51. Qualifications for supervising of child care staff.

An individual employed after July 1, 1981, to supervise child care staff shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human

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services field, at least one of which shall have been in a residential facility for children; or

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

§ 3.52. Responsibilities.

The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned. This shall include:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Management of resident behavior; and
4. Helping to meet the goals and objectives of any required service plan.

§ 3.53. Minimum age.

A child care worker shall be no less than 18 years of age.

§ 3.54. Qualifications.

A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.) except that individuals employed prior to the effective date of these standards shall meet this requirement by July 1, 1986; and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

Article 15.
Relief Staff.

§ 3.55. Relief staff.

Sufficient qualified relief staff shall be employed to maintain required staff/child ratios during:

1. Regularly scheduled time off of permanent staff, and
2. Unscheduled absences of permanent staff.

Article 16.
Medical Staff.

§ 3.56. Availability of licensed physician.

Services of a licensed physician shall be available for treatment of residents as needed.

§ 3.57. Nursing license.

Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

§ 3.58. First aid.

At all times that children are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first-aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse is present at the facility.

§ 3.59. Cardiopulmonary resuscitation.

At all times that children are present there shall be at least one responsible adult on the premises who has received a certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

Article 17.
Recreation Staff.

§ 3.60. Recreation staff.

There shall be designated staff responsible for organized recreation who shall have:

1. Experience in working with and providing supervision to groups of children with varied recreational needs and interests;
2. A variety of skills in group activities;
3. A knowledge of community recreational facilities; and
4. An ability to motivate children to participate in constructive activities.

Article 18.
Volunteers and Students Receiving Professional Training.

§ 3.61. Utilization.

If a facility uses volunteers or students receiving professional training it shall develop written policies and procedures governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.

§ 3.62. Dependence on volunteers and students.

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The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.63. Selection, training and supervision.

The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the responsibility of designated staff members.

§ 3.64. Responsibilities.

Responsibilities of volunteers/students shall be clearly defined.

§ 3.65. Qualifications.

All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.

§ 3.66. Confidentiality.

Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.67. Liability and protection.

Volunteers/students shall be informed regarding liability and protection.

Article 19. Support Functions.

§ 3.68. Provision.

Facilities shall provide for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

§ 3.69. Requirements for food handling.

All food handlers shall comply with applicable State Health Department regulations and with any locally adopted health ordinances.

§ 3.70. Staff provision of support functions.

Child care workers and other staff may assume the duties of service personnel only when these duties do not interfere with their responsibilities for child care.

§ 3.71. Resident provision of support functions.

Residents shall not be solely responsible for support functions.

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Location.

§ 4.1. Location.

A residential facility for children shall be located so that it is reasonably accessible to schools, transportation, medical and psychiatric resources, churches, and recreational and cultural facilities.

Article 2. Buildings, Inspections and Building Plans.

§ 4.2. Inspection and approval of buildings and equipment.

All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed/certified purposes.

§ 4.3. Frequency of inspections.

At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. State fire officials or local fire authorities, as applicable, whose inspection shall determine compliance with the "Virginia Statewide Fire Prevention Code [(VR 394-01-6)]"; and
2. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operations; and
 - e. Swimming pools.

§ 4.4. Suitability.

The buildings shall be suitable to house the programs and services provided.

Article 3. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.5. Approval of building plans.

Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing ~~licensed~~ *licensed/certified* buildings shall be submitted to and approved by the ~~licensing/certification~~ *licensing/certification* regulatory authority and the following authorities, where applicable, before construction begins:

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1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.6. Documentation.

Documentation of the approvals required by § 4.5 shall be submitted to the ~~licensing~~ regulatory authority(ies).

Article 4. Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Minimum temperature.

Heat shall be evenly distributed in all rooms occupied by the residents such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Ventilation.

Natural or mechanical ventilation to the outside shall be provided in all rooms used by residents.

§ 4.9. Screens.

All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.10. Cooling or ventilation equipment.

Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by residents when the temperature in those rooms exceeds 85°F.

Article 5. Lighting.

§ 4.11. Artificial lighting.

Artificial lighting shall be by electricity.

§ 4.12. Areas to be lit.

All areas within buildings shall be lighted for safety.

§ 4.13. Night lights.

Night lights shall be provided in halls and bathrooms.

§ 4.14. Sufficient lighting.

Lighting shall be sufficient for the activities being

performed in a specific area.

§ 4.15. Emergency lighting.

Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. Outside lighting.

Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Article 6. Plumbing and Toilet Facilities.

§ 4.17. Maintenance.

All plumbing shall be maintained in good operational condition.

§ 4.18. Hot and cold running water.

There shall be an adequate supply of hot and cold running water available at all times.

§ 4.19. Precautions against scalding.

Precautions shall be taken to prevent scalding from running water. In all newly constructed or renovated facilities mixing faucets shall be installed.

§ 4.20. Toilet facilities.

There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit, and there shall be at least one bathroom equipped with a bathtub in each facility.

§ 4.21. Ratio.

There shall be at least one toilet, one hand basin and one shower or tub for every eight residents.

§ 4.22. Ratio in facilities built after July 1, 1981.

In any facility constructed or reconstructed after July 1, 1981, except secure detention facilities there shall be one toilet, one hand basin and one shower or tub for every four residents.

§ 4.23. Facilities for staff.

When a separate bathroom is not provided for staff on duty less than 24 hours, the maximum number of staff members on duty in the living unit at any one time shall be counted in the determination of the number of toilets and hand basins.

§ 4.24. Mirrors.

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There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals, secure detention facilities and learning centers.

§ 4.25. Personal necessities.

At all times an adequate supply of personal necessities shall be available to the residents for purposes of personal hygiene and grooming; such as, but not limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

§ 4.26. Wash cloths and towels.

Clean, individual wash cloths and towels shall be available once each week or more often if needed.

Article 7.

Facilities and Equipment for Residents with Special Toileting Needs.

§ 4.27. Special toileting needs.

When residents are in care who are not toilet trained:

1. Provision shall be made for sponging, diapering and other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leakproof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned with warm soapy water immediately after each use.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting an individual child or themselves with toileting.

Article 8.

Sleeping Areas.

§ 4.28. Separate sleeping areas.

When residents are four years of age or older, boys shall have separate sleeping areas from girls.

§ 4.29. Number of children.

No more than four children may share a bedroom or sleeping area.

§ 4.30. Children with special needs.

When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, children who are dependent upon

wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.31. Space around beds.

There shall be sufficient space for beds to be at least three feet apart at the head, foot and sides and five feet apart at the head, foot and sides for double-decker beds.

§ 4.32. Space requirements in facilities built after July 1, 1981.

In facilities previously licensed by the Department of Social Services and in facilities established, constructed or reconstructed after July 1, 1981, sleeping quarters shall meet the following space requirements:

1. There shall be not less than 450 cubic feet of air space per person;

2. There shall be not less than 80 square feet of floor area in a bedroom accommodating only one person;

3. There shall be not less than 60 square feet of floor area per person in rooms accommodating two or more persons; and

4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.33. Bed requirements.

Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed, a waterproof mattress cover.

§ 4.34. Changing bed linens.

Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.35. Mattresses and pillows.

Mattresses and pillows shall be clean and those placed in service after July 1, 1981, shall also be fire retardant as evidenced by documentation from the manufacturer.

§ 4.36. Cribs.

Cribs shall be provided for residents under two years of age.

§ 4.37. Drawers and closets.

Each resident shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.38. Sleeping environment.

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The sleeping area environment shall be conducive to sleep and rest.

§ 4.39. Smoking prohibited.

Smoking by any person shall be prohibited in sleeping areas.

Article 9. Privacy for Residents.

§ 4.40. Toilets.

Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy except in secure detention facilities.

§ 4.41. Bathtubs and showers.

Where bathrooms are not designated for individual use, bathtubs and showers, except in secure detention facilities, shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.42. Windows in bathrooms.

Windows in bathrooms shall provide for privacy.

§ 4.43. Sleeping areas.

Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily openable in case of fire or other emergency.

§ 4.44. Windows in sleeping and dressing areas.

Windows in sleeping and dressing areas shall provide for privacy.

Article 10. Living Rooms/Indoor Recreation Space.

§ 4.45. Living rooms.

Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is age appropriate.

§ 4.46. Indoor recreation space.

In facilities licensed to care for more than 12 residents there shall be indoor recreational space that contains recreational equipment appropriate to the ages and interests of the residents. Such indoor recreational space shall be distinct from the living room in each living unit required by § 4.45, but such space shall not be required in every living unit.

Article 11. Study Space.

§ 4.47. Provision and location.

Study space shall be provided in facilities serving a school age population and may be assigned in areas used interchangeably for other purposes.

§ 4.48. Environment.

Study space shall be well lighted, quiet, and equipped with at least tables or desks and chairs.

Article 12. Kitchen and Dining Areas.

§ 4.49. Dining areas.

Meals shall be served in areas equipped with sturdy tables and benches or chairs of a size appropriate for the sizes and ages of the residents.

§ 4.50. Kitchen facilities.

Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

§ 4.51. Emergency exits from walk-in refrigeration units.

Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

Article 13. Laundry Areas.

§ 4.52. Laundry areas.

If laundry is done at the facility, appropriate space and equipment in good repair shall be provided.

Article 14. Storage.

§ 4.53. Storage.

Space shall be provided for safe storage of items such as first-aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

Article 15. Staff Quarters.

§ 4.54. Separate bathroom and bedroom.

A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24-hours or more except, that when there are no more than four persons, including staff and family of staff, residing in, or on duty, in the living unit, a private bathroom is not required for staff.

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§ 4.55. Sharing of residents' bedrooms prohibited.

Off duty staff and members of their families shall not share bedrooms with residents.

§ 4.56. Separate living room.

When 13 or more residents reside in one living unit a separate (private) living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more.

§ 4.57. Provision of beds.

When child care staff are on duty for less than 24 hours, a bed shall be provided for use of each staff member on duty during night hours unless such staff member is required to remain awake.

Article 16. Office Space.

§ 4.58. Office space.

Space shall be provided for administrative activities including provision for storage of records and materials (See Part II, Article 12).

Article 17. Buildings and Grounds.

§ 4.59. Maintenance.

Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas, shall be safe, properly maintained and free of clutter and rubbish.

§ 4.60. Outdoor recreational space.

There shall be outdoor recreational space appropriately equipped for the residents.

Article 18. Equipment and Furnishings.

§ 4.61. Suitability.

All furnishings and equipment shall be safe, easy to clean, and suitable to the ages and number of residents.

§ 4.62. Telephone accessible to staff.

There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

§ 4.63. Possession and use of weapons.

The facility shall have a written policy governing the possession and use of firearms, pellet guns, air rifles and

other weapons on the premises of the facility that shall provide that no firearms, pellet guns, air rifles, or other weapons, shall be permitted on the premises of the facility unless they are:

1. In the possession of licensed security personnel; or
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for their lawful and safe use.

Article 19. Housekeeping and Maintenance.

§ 4.64. Maintenance.

The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.65. Upkeep.

The interior and exterior of all buildings shall be kept clean and free of rubbish.

§ 4.66. Ventilation.

All buildings shall be well-ventilated and free of stinky or foul odors.

§ 4.67. Waste disposal.

Adequate provisions shall be made for the collection and legal disposal of garbage and waste materials.

§ 4.68. Pests.

Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.69. Furnishings, linens, and equipment.

All furnishings, linens, and indoor and outdoor equipment shall be kept clean and in good repair.

§ 4.70. Laundering of linens.

A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

§ 4.71. Lead based paint.

Lead based paint shall not be used on any surfaces and items with which residents and staff come in contact.

Article 20. Farm and Domestic Animals.

§ 4.72. Quartering.

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Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating, and food preparation areas.

§ 4.73. Stables and corrals.

Stables and corrals shall be located so as to prevent contamination of any water supply.

§ 4.74. Waste disposal.

Manure shall be removed from stalls and corrals as often as necessary to prevent a fly problem.

§ 4.75. Tests, inoculations, and licenses.

All animals maintained on the premises shall be tested, inoculated and licensed as required by law.

§ 4.76. Stray domestic animals.

The premises shall be kept free of stray domestic animals.

§ 4.77. Pets's quarters.

Dogs and other small animal pets and their quarters shall be kept clean.

Article 21. Primitive Campsites.

§ 4.78. Applicability.

The standards in Article 21 through Article 28 are applicable exclusively to the residential environment and equipment at primitive campsites. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with the remaining standards in Part IV.

§ 4.79. Drainage.

All campsites shall be well drained and free from depressions in which water may stand.

§ 4.80. Topography.

Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

§ 4.81. Location.

Campsites shall not be in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

§ 4.82. Upkeep.

The campsite shall be free from debris, noxious plants,

and uncontrolled weeds or brush.

Article 22. Water in Primitive Campsites.

§ 4.83. Safe drinking water.

Drinking water used at primitive campsites and on hikes away from permanent campsites shall be from a source known to be safe (free of coliform organisms) or shall be rendered safe before use in a manner approved by the Virginia Department of Health.

§ 4.84. Water supply.

An adequate supply of water, under pressure where possible, shall be provided at the cooking area for handwashing, dishwashing, food preparation and drinking.

Article 23. Food Service Sanitation in Primitive Campsites.

§ 4.85. Food sources.

Food shall be obtained from approved sources and shall be properly identified.

§ 4.86. Milk products.

Milk products shall be pasteurized.

§ 4.87. Food and beverage maintenance.

Food and drink shall be maintained and stored so as to prevent contamination and spoilage.

§ 4.88. Food handling.

The handling of food shall be minimized through the use of utensils.

§ 4.89. Fruits and vegetables.

Fruits and vegetables shall be properly washed prior to use.

§ 4.90. Storage of food and food containers.

Food and food containers shall be covered and stored off the ground and on clean surfaces. Refrigerated food shall also be covered.

§ 4.91. Storage of condiments.

Sugar and other condiments shall be packaged or served in closed dispensers.

§ 4.92. Poisonous and toxic materials.

Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

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§ 4.93. Food handlers' health.

Persons with wounds or communicable diseases shall be prohibited from handling food.

§ 4.94. Food handlers' cleanliness.

Persons who handle food and eating utensils for the group shall maintain personal cleanliness, shall keep hands clean at all times, and shall thoroughly wash their hands with soap and water after each visit to the toilet.

§ 4.95. Cleanliness of work area.

Food contact surfaces shall be kept clean.

§ 4.96. Storage of utensils and cookware.

All eating utensils and cookware shall be properly stored.

§ 4.97. Disposal of single use items.

Disposable or single use dishes, receptacles and utensils shall be properly stored, handled and used only once.

§ 4.98. Storage of eating utensils.

Eating utensils shall not be stored with food or other materials and substances.

§ 4.99. Drinking cups.

The use of a common drinking cup shall not be permitted.

§ 4.100. Food maintenance.

Only food which can be maintained in a wholesome condition with the equipment available shall be used at primitive camps.

§ 4.101. Ice.

Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled, and dispensed in a sanitary manner and be free from contamination.

§ 4.102. Storage of perishable foods.

When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24 hours.

§ 4.103. Sanitation of utensils and cookware.

Eating utensils and cookware shall be washed and sanitized after each use.

§ 4.104. Condition of dishes, receptacles, and utensils.

No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in such a manner as to prevent proper cleaning and sanitizing.

§ 4.105. Solid waste disposal.

Solid wastes which are generated in primitive camps shall be disposed of at an approved sanitary landfill or similar disposal facility. Where such facilities are not available, solid wastes shall be disposed of daily by burial under at least two feet of compacted earth cover in a location which is not subject to inundation by flooding.

Article 24.

Toilet Facilities in Primitive Campsites.

§ 4.106. Toilet facilities.

Where a water supply is not available sanitary type privies or portable toilets shall be provided. All such facilities shall be constructed as required by the Virginia Department of Health.

§ 4.107. Waste disposal.

All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards to prevent access of flies and animals to their contents, and to prevent fly breeding.

§ 4.108. Location of privies.

Privies shall be located at least 150 feet from a stream, lake or well and at least 75 feet from a sleeping or housing facility.

§ 4.109. Ratio of toilet seats.

Primitive campsites which are not provided with approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

§ 4.110. Chemical control.

If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

Article 25.

Heating in Primitive Campsites.

§ 4.111. Heating equipment

All living quarters and service structures at primitive campsites shall be provided with properly installed, operable, heating equipment.

§ 4.112. Portable heaters.

No portable heaters other than those operated by electricity shall be used.

§ 4.113. Heaters using combustible fuel.

Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases.

§ 4.114. Combustible flooring.

If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, installed metal sheet, or other fireproof materials on the floor under each stove and extending at least 18 inches beyond the perimeter of the base of the stove.

§ 4.115. Fireproof walls and ceilings.

Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stove-pipe shall be of fireproof material.

§ 4.116. Insulating collar.

A vented metal collar or other insulating device shall be installed around a stove pipe or vent passing through a wall, ceiling, floor or roof to prevent melting or combustion.

§ 4.117. Draft of smoke.

A vented collar, insulating device, or chimney shall exit above the peak of the roof or otherwise be constructed in a manner which allows full draft of smoke.

§ 4.118. Automatic interruption of fuel supply.

When a heating system has automatic controls the controls shall be of the type which will cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

§ 4.119. Safe operation.

All heating equipment shall be maintained and operated in a safe manner to prevent the possibility of fire.

Article 26.

Sleeping Areas and Equipment in Primitive Campsites.

§ 4.120. Bedding condition.

Bedding shall be clean, dry, and sanitary.

§ 4.121. Bedding adequacy.

Bedding shall be adequate to ensure protection and comfort in cold weather.

§ 4.122. Sleeping bags.

If used, sleeping bags shall be fiberfill and rated for 0°F.

§ 4.123. Changing linens.

Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

§ 4.124. Bedwetters.

Bedwetters shall have their bedding changed or dried as often as it is wet.

§ 4.125. Mattress conditions.

If mattresses are used they shall be clean.

§ 4.126. Fire retardant mattresses.

Mattresses placed in service after July 1, 1981, shall be fire retardant as evidenced by documentation from the manufacturer.

§ 4.127. Mattress covers.

A mattress cover shall be provided for each mattress.

§ 4.128. Insect control.

Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

§ 4.129. Separate bedding.

A separate bed, bunk, or cot shall be made available for each person.

Article 27.

Clothing in Primitive Campsites.

§ 4.130. Adequacy.

Each resident shall be provided with an adequate supply of clean clothing suitable for outdoor living appropriate to the geographic location and season.

§ 4.131. Footwear.

Sturdy, water-resistant, outdoor shoes or boots shall be provided for each resident.

§ 4.132. Storage.

An adequate personal storage area shall be available for each resident.

Article 28.

Fire Prevention in Primitive Campsites.

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§ 4.133. Fire plan.

With the consultation and approval of the local fire authority a written fire plan shall be established indicating the campsite's fire detection system, fire alarm and evacuation procedures.

§ 4.134. Fire plan implementation.

The fire plan shall be implemented through the conduct of fire drills at the campsite at least once each month.

§ 4.135. Fire drills record.

A record of all fire drills shall be maintained.

§ 4.136. Fire drill record retention.

The record for each fire drill shall be retained two years subsequent to the drill.

§ 4.137. Fire extinguisher in food preparation area.

An approved 2A 10BC fire extinguisher in operable condition shall be maintained immediately adjacent to the kitchen or food preparation area.

§ 4.138. Fire extinguisher locations. ed

Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other combustion at the primitive campsite.

PART V. PROGRAMS AND SERVICES.

Article 1. Authority to Accept Children.

§ 5.1. Acceptance of children.

Children shall be accepted only by court order or by written placement agreement with legal guardians. This requirement shall not apply to temporary care facilities when a self admission is made according to Virginia law.

Article 2. Admission Procedures.

§ 5.2. Criteria for admission.

Each residential facility for children shall have written criteria for admission. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered; and
3. Intake and admission procedures.

§ 5.3. Accessibility of admission criteria.

The facility's criteria for admission shall be accessible to prospective residents, legal guardians, and placing agencies.

§ 5.4. Basis for acceptance.

The facility shall accept and maintain only those children whose needs are compatible with those services provided through the facility unless a child's admission is required by order of a court of competent jurisdiction.

§ 5.5. Respite care.

If a facility is specifically approved to provide residential respite care, acceptance by the facility of a child as eligible for respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

Article 3. Interstate Compact on the Placement of Children.

§ 5.6. Documentation of prior approval.

Documentation of the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, shall be retained in the record of each resident admitted from outside the Commonwealth of Virginia except that the requirements of this article shall not apply to a facility providing documentation that the administrator of the Interstate Compact has determined the facility is statutorily exempt from the Compact's provisions.

§ 5.7. Notification of discharge.

In cases of interstate placement, no later than 10 days after discharge the resident's record shall contain documentation that the Administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

Article 4. Emergency and Self Admissions.

§ 5.8. Policies and procedures required.

Facilities accepting emergency or self admissions shall:

1. Have written policies and procedures governing such admissions;
2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care or documentation of an oral request for care; and
3. Have written policies and procedures for obtaining a written placement agreement signed by the legal guardian or the order of a court of competent

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jurisdiction.

§ 5.9. Placement agreement.

Facilities which accept emergency or self admissions shall make and document prompt efforts to obtain a written placement agreement signed by the legal guardian or the order of a court of competent jurisdiction.

Article 5. Application for Admission.

§ 5.10. Evaluation.

Admission, other than an emergency or diagnostic admission, shall be based on an evaluation of an application for admission except that the requirements of this article shall not apply (i) to temporary care facilities, (ii) to court ordered placements, or (iii) to transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

§ 5.11. Application for admission.

A. Facilities accepting routine admissions shall develop an application for admission which is designed to compile information necessary to determine:

1. The physical needs of the prospective resident,
2. The educational needs of the prospective resident,
3. The emotional needs of the prospective resident,
4. The health needs of the prospective resident,
5. The protection needs of the prospective resident,
6. The suitability of the prospective resident's admission,
7. Whether the prospective resident's admission would pose any significant risk to the prospective resident, the facility's residents, or the facility's staff, and
8. Information necessary to develop a service plan.

B. The facility's application for admission shall be reviewed and approved by the regulatory authority prior to initial use and any subsequent revisions.

C. The application for admission, which follows the facility's approved format, shall be completed in its entirety prior to acceptance for care.

§ 5.12. Documentation.

The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.

Article 6. Preplacement Activities Documentation.

§ 5.13. Preplacement activities.

At the time of each routine admission, the facility shall document:

1. A preplacement visit by the resident accompanied by a family member, agency representative or other responsible adult;
2. Preparation through sharing information with the resident, the family and the placing agency about the facility, the staff, the population served, activities and criteria for admission; and
3. Written confirmation of the admission decision to the legal guardian and to the placing agency.

Article 7. Written Placement Agreement.

§ 5.14. Written placement agreement.

A. The requirements of this article shall not apply to admissions based upon receipt of the order of a court of competent jurisdiction. The record of each person admitted based on a court order shall contain a copy of the court order.

B. The facility, except a facility which accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop a written placement agreement which:

1. Authorizes the resident's placement,
2. Addresses acquisition of and consent for any medical treatment needed by the resident,
3. Addresses the rights and responsibilities of each party involved,
4. Addresses financial responsibility for the placement, and
5. Addresses resident absences from the facility.

C. The facility's placement agreement shall be reviewed and approved by the regulatory authority prior to initial use and any subsequent revisions.

D. Each resident's record shall contain a completed placement agreement, which follows the facility's approved format, signed by the legal guardian or placing agency prior to a routine admission.

Article 8. Face Sheet.

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§ 5.15. Face sheet.

A. The facility shall develop a face sheet which is designed to compile the identifying information necessary to enable the facility to provide routine and emergency care.

B. The face sheet shall be reviewed and approved by the regulatory authority prior to initial use and any subsequent revisions.

C. At the time of admission, each resident's record shall contain a completed face sheet which follows the facility's approved format.

D. Prompt efforts shall be made and documented to obtain any information which is missing or not available at the time of admission.

E. Information on the face sheet shall be updated when changes occur.

Article 9. Service Plan.

§ 5.16. Service plan.

An individualized service plan shall be developed and placed in the file of each resident within 30 days of admission except that the requirements of this article do not apply to secure detention facilities.

§ 5.17. Temporary care facilities.

An individualized service plan shall be developed and placed in the file of each resident of a temporary care facility within 72 hours of admission.

§ 5.18. Format.

A. The facility shall develop a format for individualized service plans which is designed to describe the:

1. Strengths and needs of the resident,
2. Resident's current level of functioning,
3. Goals and strategies established for the resident,
4. Projected family involvement,
5. Projected date for accomplishing each goal, and
6. Status of discharge planning except that this requirement shall not apply to a facility which discharges only upon receipt of the order of a court of competent jurisdiction.

B. The facility's format shall be reviewed and approved by the regulatory authority prior to initial use and any subsequent revisions.

C. Each plan shall follow the facility's approved format.

§ 5.19. Staff responsibility.

Staff responsible for daily implementation of the resident's individualized service plan shall be able to describe resident behavior in terms of the objectives in the service plan.

§ 5.20. Participation in development.

The following parties shall participate, unless clearly inappropriate, in developing the initial individualized service plan, in reviewing the plan quarterly, and in revising the plan as necessary:

1. The resident;
2. The resident's family, legal guardian, or legally authorized representative;
3. The placing agency; and
4. Facility staff.

§ 5.21. Statement of participation.

A statement describing the participation, or lack thereof, of each party in developing the initial service plan, reviewing the plan each quarter, and revising the plan when necessary shall be included in the resident's record.

Article 10. Quarterly Progress Reports.

§ 5.22. Quarterly progress reports.

For all facilities except secure detention facilities written progress reports shall be completed no later than 90 days from the date of admission and at least quarterly thereafter. The report shall be included in each resident's record.

§ 5.23. Quarterly progress report format.

A. The facility shall develop a format for quarterly progress reports which is designed to provide information on the:

1. Resident's progress toward the goals established in the service plan,
2. Family's involvement,
3. Continuing needs of the resident,
4. Progress towards discharge,
5. Status of discharge planning, and
6. Revisions, if any, to the service plan.

B. The facility's format shall be reviewed and approved by the regulatory authority prior to initial use and any subsequent revisions.

C. Each report shall follow the facility's approved format.

Article 11.

Transfer of Residents Between Residential Facilities Located in Virginia which are Operated by the Same Sponsor.

§ 5.24. Transfer of resident.

Except when transfer is ordered by order of a court of competent jurisdiction, at the time of transfer the receiving facility shall document:

1. A preplacement visit by the resident;
2. Preparation through sharing information with the resident, the family and the placing agency about the facility, the staff, the population served, activities and criteria for admission;
3. Written confirmation of the admission decision to the legal guardian and to the placing agency;
4. Receipt from the sending facility of a written summary of the child's progress while at the facility and the resident's current strengths and needs; and
5. Receipt of the child's record.

§ 5.25. Retention of records.

The sending facility shall retain a copy of the information required in § 2.35.

Article 12. Discharge.

§ 5.26. Criteria for discharge.

The facility shall have written criteria for termination of care that shall include:

1. Criteria for a resident's completion of the program which are consistent with facility's programs and services; and
2. Conditions under which a resident may be discharged before completing the program.

§ 5.27. Accessibility.

The facility's criteria for discharge shall be accessible to prospective residents, legal guardians, and placing agencies.

5.28. Court order.

The record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

§ 5.29. Respite care.

If a facility is specifically approved to provide residential respite care a resident shall be discharged when the legal guardian(s) no longer intend to use the facility's services.

§ 5.30. Documentation.

Except when discharge is ordered by a court of competent jurisdiction, prior to the planned discharge date each resident's record shall contain the following:

1. Documentation that discharge has been planned and discussed with the parent, legal guardian, child placing agency, and resident; and
2. A written discharge plan which follows the facility's approved format.

§ 5.31. Continuing care.

Information important to the resident's continuing care shall be made available or provided to the legal guardian or legally authorized representative, as appropriate.

§ 5.32. Discharge to legal guardian or authorized representative.

Residents shall be discharged only to the legal guardian or legally authorized representative.

§ 5.33. Discharge summary format.

A. This section shall not apply to a facility which discharges only upon receipt of the order of a court of competent jurisdiction. The record of each resident discharged by such facility shall contain a copy of the court order.

B. The facility shall develop a format for comprehensive discharge summaries which is designed to outline the:

1. Services provided to the resident,
2. Resident's progress,
3. Resident's continuing needs and recommendations, if any, for further services and care,
4. Reason(s) for discharge and name(s) of person(s) to whom resident was discharged, and
5. Dates of admission and discharge.

C. The facility's comprehensive discharge summary format shall be reviewed and approved by the regulatory

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authority prior to initial use and any subsequent revisions.

D. A comprehensive discharge summary, which follows the facility's approved format, shall be placed in the resident's record and sent to the person(s) or agency which made the placement no later than 30 days after discharge.

Article 13.

Placement of Residents Outside the Facility.

§ 5.34. Placement outside facility.

A resident shall not be placed outside the facility prior to the facility's obtaining a child placing agency license from the Department of Social Services except as permitted by statute or by order of a court of competent jurisdiction.

§ 5.35. Repealed.

§ 5.36. Repealed.

§ 5.37. Repealed.

§ 5.38. Repealed.

§ 5.39. Repealed.

§ 5.40. Repealed.

§ 5.41. Repealed.

§ 5.42. Repealed.

Article 14.

Counseling and Social Services.

§ 5.43. Counseling and social services.

For all facilities except secure detention facilities the program of the facility shall be designed to provide counseling and social services which address needs in the following areas:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family in maintaining their relationships and planning for the future care of the resident;
3. Utilizing appropriate community resources in providing services and maintaining contacts with such resources;
4. Helping the resident with problems affecting the ability to have satisfying personal relationships and use of the capacity for growth;

5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living; and

6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for return home, for independent living, or for other residential care.

§ 5.44. Documentation.

The provision of counseling and social services shall be documented in each resident's record except that this section does not apply to secure detention facilities.

§ 5.45. Provider.

For all facilities, except secure detention facilities, counseling and other social services consistent with the goals of the service plan shall be provided to meet the specific needs of each resident in one of the following ways:

1. By a qualified staff member;
2. By service staff of the agency that placed the resident provided such staff is available on an as needed basis rather than on a limited basis (e.g. quarterly or semiannually);
3. On a contract basis by a professional child and family service worker licensed to practice in the Commonwealth of Virginia, other state(s) or the District of Columbia; or
4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community based group.

Article 15. Residential Services.

§ 5.46. Structured program of care.

There shall be evidence of a structured program of care that is designed to:

1. Meet the resident's physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.47. Daily routine.

There shall be evidence of a structured daily routine that is designed to assure the delivery of program.

services.

§ 5.48. Activity log.

A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by residents including health and dental complaints or injuries.

§ 5.49. Log entries signed or initialed.

Entries in the daily activity log shall be signed or initialed by the person making the entry.

§ 5.50. Sleep and rest.

Routines shall be planned to assure that each resident shall have the amount of sleep and rest appropriate for his age and physical condition.

§ 5.51. Hygiene.

Staff shall provide daily monitoring and supervision, and instruction, as needed, to promote the personal hygiene of the residents.

Article 16. Health Care Procedures.

5.52. Health care procedures.

Facilities shall have written procedures for the prompt provision of:

1. Medical and dental services for health problems identified at admission;
2. Routine ongoing and follow-up medical and dental services after admission; and
3. Emergency services for each resident as provided by statute or by agreement with the resident's legal guardian.

§ 5.53. Medical and dental emergencies.

A. Written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy number or Medicaid number except that this requirement does not apply to secure detention facilities;

4. Information concerning:

- a. Use of medication,
- b. Medication allergies,
- c. Any history of substance abuse except that this requirement does not apply to secure detention, and
- d. significant medical problems; and

5. Written permission for emergency medical or dental care or a procedure and contacts for obtaining consent for emergency medical or dental care except that this section does not apply to secure detention facilities.

B. Temporary care facilities shall make and document prompt efforts to obtain the medical and dental information required in subsection A of this section.

§ 5.54. Respite care.

Facilities specifically approved to provide respite care shall update the information required by § 5.53 at the time of each individual stay at the facility.

Article 17. Physical Examinations.

§ 5.55. Initial examination.

Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility, except that (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified licensed/certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days after admission if a child is admitted on an emergency basis and a report of physical examination is not available, and (iii) this section does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

§ 5.56. Annual examination.

Following the initial examination, each resident shall have a physical examination annually except that this section does not apply to (i) security detention facilities, or (ii) temporary care facilities.

§ 5.57. Additional examinations and treatment.

In all facilities except (i) secure detention facilities, and (ii) temporary care facilities additional or follow-up examination and treatment shall be required when:

1. Prescribed by the examining physician; or

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2. Symptoms indicate the need for an examination or treatment by a physician.

§ 5.58. Examination report.

Each physical examination report shall be included in the resident's record.

§ 5.59. Content of examination report.

Each physical examination report shall include:

1. Information necessary to determine the health needs of the resident;
2. Date of the physical examination; and
3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

§ 5.60. Admission of child with communicable disease.

In all facilities except (i) secure detention facilities and (ii) temporary care facilities a child with a communicable disease, whose best interests would not be served by prohibiting admission, may be admitted only after a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and
2. The facility is aware of the required treatment for the child and procedures to protect residents and staff.

§ 5.61. Follow-up medical observation and treatment.

Recommendations for follow-up medical observation and treatment shall be carried out at the recommended intervals except that this section does not apply to (i) secure detention facilities or (ii) temporary care facilities.

§ 5.62. Dental care.

Except for (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities, each facility shall provide written evidence of:

1. Annual examinations by a licensed dentist; and
2. Follow-up dental care as recommended by the dentist or as indicated by the needs of each resident.

§ 5.63. Health complaints.

Each resident's record shall include notations of health and dental complaints and injuries showing symptoms and treatment given.

§ 5.64. Mental health record.

Each resident's record shall include a current record of ongoing psychiatric or other mental health treatment and reports, if applicable.

§ 5.65. Isolation of resident with communicable disease.

Provision shall be made for suitable isolation of any resident suspected of having a communicable disease.

§ 5.66. First-aid kit.

A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

Article 18. Medication.

§ 5.67. Security.

All medication shall be securely locked and properly labeled.

§ 5.68. Delivery.

Medication shall be delivered only by staff authorized by the director to do so.

§ 5.69. Side effects.

Staff authorized to deliver medication shall be informed of any known side effects of the medication and the symptoms of the effect.

§ 5.70. Program of medication.

A program of medication shall be instituted for a specific resident only when prescribed in writing by a licensed physician.

§ 5.71. Controlled substances.

Medications that are classified as "controlled substances" as defined in § 54.1-3401 of the Code of Virginia shall only be obtained from a licensed physician or from a licensed pharmacist upon individual prescription of a licensed physician.

§ 5.72. Daily log.

A daily log shall be maintained of all medicines received by the individual resident.

§ 5.73. Drug reactions or medication errors.

The attending physician shall be notified immediately of drug reactions or medication errors.

§ 5.74. Poison control center.

The telephone number of a Regional Poison Control

center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

§ 5.75. Syrup of Ipecac.

At least one 30cc bottle of syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 19. Nutrition.

§ 5.76. Three meals daily.

Provisions shall be made for each resident to have three nutritionally balanced meals daily.

§ 5.77. Planned menus.

Menus shall be planned at least one week in advance.

§ 5.78. Deviations from menu.

Any deviation(s) from the menu shall be noted.

§ 5.79. Menu retention.

The menus including any deviations shall be kept on file for at least six months.

§ 5.80. Daily diet.

The daily diet for residents shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

§ 5.81. Quantity of food.

The quantity of food served shall be adequate for the ages of the residents.

§ 5.82. Special diets.

Special diets shall be provided when prescribed by a physician.

§ 5.83. Religious dietary practices.

The established religious dietary practices of the resident shall be observed.

§ 5.84. Staff meals.

Staff who eat in the presence of the residents shall be served the same meals.

§ 5.85. Meal schedule.

There shall be no more than 15 hours between the

evening meal and breakfast the following day.

Article 20. Management of Resident Behavior.

§ 5.86. Policies and procedures.

The facility shall have written policies and procedures governing management of resident behavior. Rules of conduct, if any, shall be included in the written policies and procedures.

§ 5.87. Documentation and monitoring.

The facility shall have written procedures for documenting and monitoring management of resident behavior.

§ 5.88. Distribution of policies and procedures.

Written information concerning management of resident behavior shall be provided to prospective residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information; legal guardian(s); and referral agencies prior to admission except that for court ordered or emergency admissions this information shall be provided:

1. To residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, within 12 hours following admission,
2. To referral agencies within 72 hours following the resident's admission, and
3. To legal guardians within 72 hours following the resident's admission except that this requirement shall not apply:
 - a. To secure detention facilities;
 - b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Board of Youth and Family Services; and
 - c. When a state mental hospital is evaluating a child's treatment needs as provided by § 16.1-275 of the Code of Virginia.

§ 5.89. Distribution of substantive changes to policies and procedures.

When substantive revisions are made to policies governing management of resident behavior, written information concerning the revisions shall be provided to:

1. Residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability

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to understand the information, and referral agencies, and

2. Legal guardians except that this requirement shall not apply:

- a. To secure detention facilities;
- b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Board of Youth and Family Services; and
- c. When a state mental hospital is evaluating a child's treatment needs as provided in § 16.1-275 of the Code of Virginia.

§ 5.90. Responsibility for managing resident behavior.

Only trained staff members may manage resident behavior.

Article 21. Confinement.

§ 5.91. Confinement procedure.

When a resident is confined, the room shall not be locked nor the door secured in any manner that prevents the resident from opening it, except that this section does not apply to secure custody facilities such as learning centers and secure detention facilities.

§ 5.92. Communication with staff.

Any resident confined shall be able to communicate with staff.

§ 5.93. Monitoring.

There shall be a staff check on the room at least every 30 minutes.

§ 5.94. Documentation.

The use of confinement shall be documented when confinement is used as a technique for managing resident behavior.

Article 22. Prohibitions.

§ 5.95. Prohibited actions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's

record;

2. Limitation on contacts and visits with attorney, probation officer, regulatory personnel or placing agency representative;

3. Bans on contacts and visits with family or legal guardian(s) except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

4. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;

5. Any action which is humiliating, degrading, or abusive;

6. Corporal punishment;

7. Subjection to unsanitary living conditions;

8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;

9. Deprivation of health care;

10. Deprivation of appropriate services and treatment;

11. Application of aversive stimuli except as permitted as part of an intrusive aversive therapy plan approved pursuant to other applicable state regulations;

12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;

13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and

14. Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services to implement § 37.1-84.1 of the Code of Virginia and advocates employed by the Department for Rights of Virginians With Disabilities to implement §§ 51.5-36 through 51.5-39 of the Code of Virginia, PL 99-319 § 201.42 USC 10841, and PL 98-527, 42 USC § 6000 et seq.

Article 23. Chemical or Mechanical Restraints.

§ 5.96. Mechanical restraints.

The use of mechanical restraints is prohibited except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.

§ 5.97. Chemical restraints.

The use of chemical restraints is prohibited.

Article 24. Physical Restraint.

§ 5.98. Use.

Only after less intrusive interventions have failed or when failure to restrain a resident would result in harm to the resident or others, trained staff members may physically restrain a resident.

§ 5.99. Limitation on use.

The use of physical restraint shall be only that which is minimally necessary to protect the resident or others.

§ 5.100. Policies and procedures.

The facility shall have written policies and procedures governing the use of physical restraint.

§ 5.101. Alternatives.

The facility's procedures shall include methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

§ 5.102. Documentation.

Each application of physical restraint shall be fully documented in the resident's record including:

1. Date;
2. Time;
3. Staff involved;
4. Circumstances;
5. Reason(s) for use of physical restraint;
6. Duration;
7. Method(s) of physical restraint used; and
8. Less intrusive interventions which were unsuccessfully attempted prior to using physical restraint.

§ 5.103. Staff orientation.

Each staff member responsible for supervision of children shall receive basic orientation to the facility's physical restraint procedures and techniques and to less intrusive interventions:

1. Within seven days of employment, and
2. Prior to assuming sole responsibility for the supervision of one or more residents.

Article 25. Seclusion.

§ 5.104. Seclusion.

Seclusion is allowed only as permitted by other applicable state regulations.

Article 26. Timeout.

§ 5.105. Timeout

Timeout is allowed only as permitted by other applicable state regulations.

§ 5.106. Repealed.

§ 5.107. Repealed.

Article 27. Education.

§ 5.108. Enrollment.

Each resident of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia.

§ 5.109. Guidance and counseling.

The facility shall provide educational guidance and counseling for each resident in selection of courses and shall ensure that education is an integral part of the resident's total program.

§ 5.110. State and federal regulations.

Facilities operating educational programs for handicapped children shall operate those programs in compliance with applicable state and federal regulations.

§ 5.111. Contact with local school division.

When a handicapped child has been placed in a residential facility without the knowledge of school division personnel in the resident's home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of handicapped children.

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§ 5.112. Teacher qualifications.

When a facility has an academic or vocational program that is not certified or approved by the Department of Education, teachers in the program shall provide evidence that they meet the qualifications that are required in order to teach those specific subjects in the public schools.

Article 28. Religion.

§ 5.113. Policies.

The facility shall have written policies regarding the opportunities for the residents to participate in religious activities.

§ 5.114. Availability of policies.

The facility's policies on religious participation shall be available to the resident and any individual or agency considering the placement of a child in the facility.

§ 5.115. Coercion.

Residents shall not be coerced to participate in religious activities.

Article 29. Recreation.

§ 5.116. Program description.

There shall be a written description of the recreation program for the facility showing activities which are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the residents and which includes:

1. Opportunities for individual and group activities;
2. Free time for residents to pursue personal interests which shall be in addition to a formal recreation program;
3. Except in secure detention facilities, use of available community recreational resources and facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and
5. Regularly scheduled indoor and outdoor recreational activities that are specifically structured to develop skills and attitudes (e.g., cooperation, acceptance of losing, etc.).

§ 5.117. Supervision.

The recreational program provided indoors, outdoors

(both on and off the premises), and on field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the specific activities.

§ 5.118. Coeducational activities.

Opportunities shall be provided for coeducational activities appropriate to the ages and developmental levels of the residents.

Article 30. Community Relationships.

§ 5.119. Participation in community activities.

Opportunities shall be provided for the residents in a group living situation to participate in activities and to utilize resources in the community except that this section does not apply to secure detention facilities.

§ 5.120. Evaluation of community interest.

Community interest in residents and efforts on their behalf (public parties, entertainment, invitations to visit families) shall be carefully evaluated to ascertain that these are in the best interest of the residents.

Article 31. Clothing.

§ 5.121. Supply.

Provisions shall be made for each resident to have his own adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

§ 5.122. Style.

Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities.

§ 5.123. Selection.

Residents shall have the opportunity to participate in the selection of their clothing except that this section does not apply to secure detention facilities.

§ 5.124. Inspection.

Each resident's clothing shall be inventoried and reviewed at regular intervals to assure repair or replacement as needed.

§ 5.125. Disposition at discharge.

The resident shall be allowed to take personal clothing when the resident leaves the facility.

Article 32. Allowances and Spending Money.

§ 5.126. Value and use of money.

The facility shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money through earning, budgeting, spending, giving and saving except that this section does not apply to secure detention facilities.

§ 5.127. Policy.

There shall be a written policy regarding allowances except that this section does not apply to secure detention facilities.

§ 5.128. Availability of policy.

The written policy regarding allowances shall be made available to legal guardians at the time of admission except that this section does not apply to secure detention facilities.

§ 5.129. Safekeeping and record keeping.

The facility shall provide for safekeeping and for record keeping of any money that belongs to residents.

Article 33.
Work and Employment.

5.130. Assignment of chores.

Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the resident.

§ 5.131. Limitations.

Chores shall not interfere with regular school programs, study periods, meals or sleep.

§ 5.132. Employment.

Work assignments or employment outside the facility including reasonable rates of payment shall be approved by the program director with the knowledge and consent of the legal guardian except that this section does not apply to secure detention facilities.

§ 5.133. Wages.

The facility shall ensure that any resident employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment except that this section does not apply to secure detention facilities.

§ 5.134. Resident's earnings.

Any money earned through employment of a resident

shall accrue to the sole benefit of that resident.

Article 34.

Visitation at the Facility and to the Resident's Home.

§ 5.135. Policies and procedures.

The facility shall provide written visitation policies and procedures permitting reasonable visiting privileges and flexible visiting hours.

§ 5.136. Availability of policies and procedures.

Copies of the written visitation policies and procedures shall be made available to the parents, legal guardians, the resident, and other interested persons important to the resident no later than the time of admission except that when parents or legal guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 12 hours after admission.

Article 35.

Use of Vehicles and Power Equipment.

§ 5.137. Transportation.

Any transportation provided for or used by children shall be in compliance with state, federal or international laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 5.138. Safety rules for transportation.

There shall be written safety rules for transportation of children, including handicapped children, appropriate to the population served.

§ 5.139. Safety rules for vehicles and power equipment.

There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 36.
Reports to Court.

§ 5.140. Foster care plans.

When the facility has received legal custody of a child pursuant to §§ 16.1-279 A or 16.1-279 B of the Code of Virginia copies of any foster care plans (required by §§ 16.1-281 and 16.1-282 of the Code of Virginia) submitted to the court shall be filed in the resident's record except that this section does not apply to secure detention facilities.

Article 37.
Emergency Reports.

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§ 5.141. Reporting.

Any serious incident, accident or injury to the resident ; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported to the parent/legal guardian/placing agency within 24 hours.

§ 5.142. Content.

The resident's record shall contain:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the parent/legal guardian or placing agency; and
6. The name of the person to whom the report was made.

Article 38. Suspected Child Abuse or Neglect.

§ 5.143. Reporting.

Any case of suspected child abuse or neglect shall be reported immediately to the local department of public welfare/social services as required by § 63.1-248.3 of the Code of Virginia.

§ 5.144. Content.

The resident's record shall include:

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Procedures for Meeting Emergencies.

§ 6.1. Emergency procedures.

A. Written procedures shall be developed for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation including alternate housing.

B. Emergency procedures shall address the handling of residents with special needs.

C. Each new staff member shall be trained in procedures for handling residents with special needs in emergencies within seven days after employment.

D. Each new staff member shall be trained in procedures for handling residents with special needs in emergencies prior to assuming sole responsibility for the supervision of one or more children.

E. Emergency procedures shall be made known to each resident, as appropriate.

Article 2. Written Fire Plan.

§ 6.2: Written fire plan.

Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Content.

Each fire plan shall address the responsibilities of staff and residents with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of children with special needs, and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Posting of floor plans.

Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. Annual review.

The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. Notification of staff and residents.

The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. Posting.

The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which children sleep or participate in programs.

Article 4. Portable Fire Extinguishers.

§ 6.8. Installation and maintenance.

Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Accessibility.

Fire extinguishers shall be mounted on a wall or a post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 40 pounds, it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tied down, locked in a cabinet, or placed in a closet or on the floor, except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. Maintenance.

All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Inspection.

Each fire extinguisher shall be checked by properly

oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Professional maintenance.

Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Installation and maintenance.

Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each bedroom hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source; and
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Maintenance.

Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. Single station smoke detectors.

If the facility is provided with single station smoke detectors each smoke detector shall be tested by properly oriented facility staff at least once each month and if it is not functioning, it shall be restored immediately to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. Automatic fire alarm system.

If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making

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the inspection.

Article 6. Fire Drills.

§ 6.17. Frequency.

At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility occupied by residents.

§ 6.18. Content.

Fire drills shall include, as a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. Frequency of drills during each shift.

During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms.

False alarms shall not be counted as fire drills.

§ 6.21. Responsibility.

The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

§ 6.22. Documentation.

A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Staff tasks completed:
 - a. Doors and windows closed,

b. Head count,

c. Practice in notifying fire authority, and

d. Other;

7. Summary; and

8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. Retention of documentation.

The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. Program responsibility.

The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these standards and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the written fire plan;
3. Consult with the local fire authority, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7.

Staff Training in Fire Procedures.

§ 6.25. Training required within seven days of employment.

Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

§ 6.26. Training required before supervising children.

Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more children.

[§ 6.27. Repealed.

§ 6.28. Repealed.]

VA.R. Doc. No. R95-84; Filed November 1, 1994, 2:43 p.m.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

REGISTRAR'S NOTICE: The following regulations are exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia, which excludes from this Act the Department of Game and Inland Fisheries when promulgating regulations regarding the management of wildlife. However, the department is required by § 9-6.14:22 of the Code of Virginia to publish all proposed and final wildlife management regulations, including the length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Title of Regulation: VR 325-01-1. Definitions and Miscellaneous: In General.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1995.

Summary:

The amendments make it possible to fish without a trout stamp in "designated stocked trout waters" during the summer and early fall months when catchable trout are not being stocked and to clarify that fee fishing areas are considered designated stocked trout waters.

VR 325-01-1. Definitions and Miscellaneous: In General.

§ 1. Definitions; generally.

Words and phrases used in any regulations made by the board shall have the same meaning, unless the context clearly indicates otherwise, as is given for such words and phrases in the Virginia Game and Inland Fisheries laws contained in Title 29.1 of the Code of Virginia.

§ 2. Definitions; "Counties east of the Blue Ridge Mountains."

Whenever the words "counties east of the Blue Ridge Mountains," or language equivalent thereto, appear in a regulation of the board, such words shall apply to the following counties and cities:

Accomack, Albemarle, Amelia, Amherst, Appomattox, Arlington, Bedford, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesapeake City, Chesterfield, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Franklin, Gloucester, Goochland, Greene, Greensville, Halifax, Hampton City, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster,

Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Nelson, New Kent, Newport News City, Northampton, Northumberland, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Rappahannock, Richmond, Southampton, Spotsylvania, Stafford, Suffolk City, Surry, Sussex, Virginia Beach City, Westmoreland, and York.

§ 3. Definitions; "Counties west of the Blue Ridge Mountains."

Whenever the words "counties west of the Blue Ridge Mountains," or language equivalent thereto, appear in a regulation of the board, such words shall apply to the following counties:

Alleghany	Lee
Augusta	Montgomery
Bath	Page
Bland	Pulaski
Botetourt	Roanoke
Buchanan	Rockbridge
Carroll	Rockingham
Clarke	Russell
Craig	Scott
Dickenson	Shenandoah
Floyd	Smyth
Frederick	Tazewell
Giles	Warren
Grayson	Washington
Highland	Wise
	Wythe

§ 3-1. Definitions; Dismal Swamp Line.

Whenever the words "Dismal Swamp Line," or language equivalent thereto, appear in a regulation of the board, such words shall apply to a line: Beginning at a point on State Highway 10 where it intersects the Isle of Wight County line, thence along such highway to its intersection with the corporate limits of the City of Suffolk, thence through the corporate limits of the City of Suffolk to its intersection with State Secondary Highway 642, and thence along State Secondary Highway 642 (White Marsh Road) in a southerly and westerly direction to State Secondary Highway 604 (Desert Road), and thence southerly along State Secondary Highway 604 to the North Carolina line.

§ 4. [Repealed.]

§ 5. Definitions; "wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal" and "domestic animal."

In accordance with § 29.1-100 of the Code of Virginia, the following terms shall have the meanings ascribed to them by this section when used in regulations of the board:

"Wild animal" means any member of the animal kingdom, except domestic animals, including without

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limitation any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any hybrid thereof, except as otherwise specified in regulations of the board, or part, product, egg, or offspring thereof, or the dead body or parts thereof.

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia which have established wild, self-sustaining populations, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Nonnative (exotic) animal" means those species and subspecies of animals not naturally occurring in Virginia, excluding domestic and naturalized species.

The following animals are defined as domestic animals.

Domestic dog (*Canis familiaris*).

Domestic cat (*Felis catus*), including hybrids with wild felines.

Domestic horse (*Equus caballus*), including hybrids with *Equus asinus*).

Domestic ass, burro, and donkey (*Equus asinus*).

Domestic cattle (*Bos taurus* and *Bos indicus*).

Domestic sheep (*Ovis aries*) including hybrids with wild sheep.

Domestic goat (*Capra hircus*).

Domestic swine (*Sus scrofa domestica*), including pot-bellied pig.

Llama (*Lama glama*).

Alpaca (*Lama pacos*).

Camels (*Camelus bactrianus* and *Camelus dromedarius*).

Domesticated races of hamsters (*Mesocricetus* spp.).

Domesticated races of mink (*Mustela vison*) where adults are heavier than 1.15 kg or their coat color can be distinguished from wild mink.

Domesticated races of red fox (*Vulpes*) where their coat color can be distinguished from wild red fox.

Domesticated races of guinea pigs (*Cavia porcellus*).

Domesticated races of gerbils (*Meriones unguiculatus*).

Domesticated races of chinchillas (*Chinchilla laniger*).

Domesticated races of rats (*Rattus norvegicus* and *Rattus rattus*).

Domesticated races of mice (*Mus musculus*).

Domesticated races of European rabbit (*Oryctolagus cuniculus*).

Domesticated races of chickens (*Gallus*).

Domesticated races of turkeys (*Meleagris gallopavo*).

Domesticated races of ducks and geese distinguishable morphologically from wild birds.

Feral pigeons (*Columba domestica* and *Columba livia*) and domesticated races of pigeons.

Domesticated races of guinea fowl (*Numida meleagris*).

Domesticated races of peafowl (*Pavo cristatus*).

§ 6. Definitions; "Person."

The word "person," when used in the regulations of the board, may extend and be applied to bodies politic and corporate as well as individuals.

§ 7. Violations of regulations.

Any violation of any regulation or part thereof of the board is made a misdemeanor by §§ 29.1-505 and 29.1-746 of the Code of Virginia and persons convicted of such violation will be punished as provided in said sections or other applicable provisions of the Code of Virginia.

§ 8. Certificate on hunting, trapping and fishing license to be executed by licensee.

No state or county resident license to hunt, trap or fish in or on the lands or inland waters of this Commonwealth shall be deemed to be issued until the certificate printed on the reverse side thereof shall have been executed by the named licensee.

§ 9. Permits for drilling, dredging and other operations in Back Bay area.

Drilling, dredging and any other operation designed to recover or obtain shell, minerals or any other substance shall be unlawful on lands owned by or under the control of the Commonwealth of Virginia under Back Bay, its tributaries and the North Landing River from the North Carolina line to North Landing Bridge unless a permit is

first obtained from the board. Application for a permit under this section shall be made to the board in such form and substance as the board may require. Under the authority of § 29.1-103 of the Code of Virginia, the board shall grant or refuse such permits as conditions may require in order to prevent practices and operations which would harm the area for fish and wildlife.

§ 10. Prohibited use of vehicles on department-owned lands.

It shall be unlawful on department-owned lands to drive through or around gates designed to prevent entry with any type of motorized vehicle or to use such vehicles to travel anywhere on such lands except on roads open to vehicular traffic. Any motor-driven conveyance shall conform with all state laws for highway travel; provided, that this requirement shall not apply to the operation of motor vehicles for administrative purposes by department-authorized personnel on department-owned lands.

§ 11. Refusal to surrender licenses, permits, stamps or records to department representatives.

No agent, or any other person for him, in possession of issued or unissued hunting, fishing or trapping licenses, permits or stamps or records pertaining thereto, shall refuse to surrender upon demand such licenses, permits, stamps or records to department representatives authorized by the director to take such licenses, permits, stamps and records into custody.

§ 12. Appointment of new consignment agents for sale of hunting and fishing licenses.

A. Except as provided below, no person shall be appointed as a consignment agent for the sale of hunting and fishing licenses unless he first sells licenses on a cash basis for at least one year. In addition, the dollar volume of actual or projected sales must equal at least 90% of the average hunting and fishing license sales of consignment agents in the locality.

B. If the cash agent sells the required number of licenses, he may be appointed as a consignment agent, provided he is approved for a surety bond by the board's bonding company.

C. This regulation is applicable to new appointments and not to transfers of existing appointments; provided, that the director may appoint consignment agents as needed to provide for a minimum of two consignment agents within a locality. In addition, the director may appoint consignment agents on state-owned or state-leased facilities.

§ 13. Endangered and threatened species. Adoption of federal list; additional species enumerated.

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of

December 28, 1973 (16 U.S.C. 1531-1543), as amended, and declares all species listed thereon to be endangered or threatened species in the Commonwealth.

B. In addition to the provisions of subsection A, the following species are declared endangered or threatened in this Commonwealth, and are afforded the protection provided by Article 6, Chapter 5, Title 29.1 of the Code of Virginia:

1. Fish:

Endangered:

Dace, Tennessee	Phoxinus Tennesseeensis
Darter, duskytail	Etheostoma sp
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon

Threatened:

Darter, Carolina	Etheostoma collis
Darter, Tippecanoe	Etheostoma tippecanoe
Darter, greenfin	Etheostoma chlorobranchium
Darter, longhead	Percina macrocephala
Darter, western sand	Ammocrypta clara
Madtom, orangefin	Noturus gilberti
Paddlefish	Polyodon spathula
Shiner, emerald	Notropis atherinoides
Shiner, steelcolor	Cyprinella whipplei
Shiner, whitemouth	Notropis alborus

2. Amphibians:

Endangered:

Salamander, eastern tiger	Ambystoma tigrinum
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Threatened:

Salamander, Mabee's	Ambystoma mabeei
Treefrog, barking	Hyla gratiosa

3. Reptiles:

Endangered:

Rattlesnake, canebrake	Crotalus horridus atricaudatus
Turtle, bog	Clemmys muhlenbergii
Turtle, chicken	Deirochelys reticularia

Threatened:

Lizard, eastern glass	Ophisaurus ventralis
Turtle, wood	Clemmys insculpta

4. Birds:

Endangered:

Plover, Wilson's	Charadrius wilsonia
Wren, Bewick's	Thryomanes bewicki

Threatened:

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Sandpiper, upland	<i>Bartramia longicauda</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>
Sparrow, Bachman's	<i>Ammophila aestivalis</i>
Sparrow, Henslow's	<i>Ammodrammus henslowii</i>
Tern, gull-billed	<i>Sterna nilotica</i>

5. Mammals:

Endangered:

Bat, eastern big-eared	<i>Plecotus rafinesquii</i> <i>macrotis</i>
Hare, snowshoe	<i>Lepus americanus</i>
Shrew, water	<i>Sorex palustris</i>
Vole, rock	<i>Microtus chrotorrhinus</i>

6. Molluscs:

Endangered:

Bean, purple	<i>Villosa perpurpurea</i>
Cavesnail, Unthanks	<i>Holsingeria unthanksensis</i>
Coil, rubble	<i>Helicodiscus lirellus</i>
Coil, shaggy	<i>Helicodiscus diadema</i>
Combshell, Cumberland	<i>Epioblasma brevidens</i>
Deertoe	<i>Truncilla truncata</i>
Elephant-ear	<i>Elliptio crassidens</i>
Floater, brook	<i>Alasmidonta varicosa</i>
Heelsplitter, Tennessee	<i>Lasmigona holstonia</i>
Lilliput, purple	<i>Toxolasma lividus</i>
Mussel, oyster	<i>Epioblasma capsaeformis</i>
Mussel, slippershell	<i>Alasmidonta viridis</i>
Pigtoe, Ohio	<i>Pleurobema cordatum</i>
Pigtoe, pink	<i>Pleurobema rubrum</i>
Snuffbox	<i>Epioblasma triquetra</i>
Spectaclecase	<i>Cumberlandia monodonta</i>
Supercoil, spirit	<i>Paravitrea hera</i>

Threatened:

Papershell, fragile	<i>Leptodea fragilis</i>
Pearlymussel, slabside	<i>Lexingtonia dolabelloides</i>
Pigtoe, Atlantic	<i>Fusconaia masoni</i>
Pimpleback	<i>Quadrula pustulosa</i> <i>pustulosa</i>
Rabbitsfoot, rough	<i>Quadrula cylindrica</i> <i>strigillata</i>
Riversnail, spiny	<i>Io fluviialis</i>
Sandshell, black	<i>Ligumia recta</i>
Sheepnose	<i>Plethobasus cyphus</i>
Supercoil, brown	<i>Paravitrea septadens</i>

7. Arthropods:

Threatened:

Amphipod, Madison Cave	<i>Stygobromus stegerorum</i>
Pseudotremia, Ellett Valley	<i>Pseudotremia cavernarum</i>
Xystodesmid, Laurel Creek	<i>Sigmoria whiteheadi</i>

C. It shall be unlawful to take, transport, process, sell or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife.

§ 14. Endangered species; definitions.

For the purposes of §§ 29.1-564 through 29.1-570 of the Code of Virginia, § 13 of this regulation and this section:

1. "Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range within the Commonwealth, other than a species of the class Insecta deemed to be a pest whose protection would present an overriding risk to the health or economic welfare of the Commonwealth.

2. "Fish or wildlife" means any member of the animal kingdom, vertebrate or invertebrate, without limitation, and includes any part, products, egg or the dead body or parts thereof.

3. "Harass," in the definition of "take," means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

4. "Harm," in the definition of "take," means an act which actually kills or injures wildlife. Such act may include significant habitat modifications or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

5. "Person" means any individual, firm, corporation, association or partnership.

6. "Special concern" means any species, on a list maintained by the director, which is restricted in distribution, uncommon, ecologically specialized or threatened by other imminent factors.

7. "Species" includes any subspecies of fish or wildlife and any district population segment of any species or vertebrate fish or wildlife which interbreed when mature.

8. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess or collect, or to attempt to engage in any such conduct.

9. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the Commonwealth.

§ 15. Structures on department-owned lands and national forest lands.

A. It shall be unlawful to construct, maintain or occupy any permanent structure, except by permit, on department-owned lands and national forest lands. This provision shall not apply to structures, stands or blinds provided by the department.

B. It shall be unlawful to maintain any temporary dwelling on department-owned lands for a period greater than 14 consecutive days. Any person constructing or occupying any temporary structure shall be responsible for complete removal of such structures when vacating the site.

C. It shall be unlawful to construct, maintain or occupy any tree stand on department-owned lands and national forest lands ; provided, that portable tree stands which are not permanently affixed may be used.

§ 16. Nuisance species designated.

A. The board hereby designates the following species as nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Mammals:
 - a. House mouse (*Mus musculus*).
 - b. Norway rat (*Rattus norvegicus*).
 - c. Black rat (*Rattus rattus*).
 - d. Coyote (*Canis latrans*).
2. Birds:
 - a. European starling (*Sturnus vulgaris*).
 - b. English (house) sparrow (*Passer domesticus*).
 - c. Pigeon (Rock Dove) (*Columba livia*).

B. It shall be unlawful to take, possess, transport or sell all other wildlife species not classified as game, furbearer or nuisance, or otherwise specifically permitted by law or regulation.

§ 17. Taking and possession of certain rodents for private use.

Except as otherwise provided for in the Code of Virginia and regulations of the board, it shall be lawful to take and possess no more than three individuals of any single species of rodents (order Rodentia) for private use except for those species listed as game or furbearers, endangered or threatened (Code of Virginia, § 29.1-568), or listed as special concern, including the following:

1. Allegheny woodrat (*Neotoma floridana*).
2. Pungo mouse (*Peromyscus leucopus easti*).
3. Rock vole (*Microtus chrotorrhinus carolinensis*).
4. Cotton mouse (*Peromyscus gossypinus gossypinus*).

§ 18. Taking of invertebrates.

A. Earthworms. Earthworms may be taken at any time for private or commercial use.

B. Other invertebrates. Except as otherwise provided for in §§ 3.1-1020 through 3.1-1030 and 29.1-418 of the Code of Virginia and in VR 325-01-1, § 13, VR 325-01-2 and VR 325-03-5, § 1 invertebrates, other than those listed in endangered or threatened, may be taken for private use.

§ 19. Definitions; "designated stocked trout waters."

When used in regulations of the board, "designated stocked trout waters" will include those waters that are stocked with harvestable-sized trout and are listed by the director in the annual Trout Stocking Plan. *These waters will only be considered designated stocked trout waters from October 1 through June 15, both dates inclusive, except for fee fishing waters covered by VR 325-03-1, § 12, and urban fishing waters covered by VR 325-03-2, § 17.* Designated stocked trout waters are either posted by the department with appropriate "stocked trout waters" signs or are posted as fee fishing areas under VR 325-03-1, § 12 .

§ 20. Fees for miscellaneous permits.

A. Pursuant to §§ 29.1-417, 29.1-418, 29.1-422, 29.1-743 and other applicable provisions of the Code of Virginia, except as provided by these regulations the following fees shall be paid by applicants for the specified permits before any such permit may be issued.

Boat Ramp Special Use	
Nonprofit Public Use	\$10
Private/Commercial Use	\$50
Boat Regattas/Tournaments	\$50/day
Collect and Sell	\$50
Commercial Nuisance Animals	\$25
Deer Farming	\$350
Exhibitors	
Commercial Use	\$50
Educational/Scientific Use	\$20
Exotic Importation and Holding	\$10
Field Trial	\$25
Hold for Commercial Use	\$10
Propagation	
Commercial Use	\$50

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Private Use	\$20
Licensed Shooting Preserves	\$20
Rehabilitation	\$10
Scientific Collection	\$20
Special Hunting Permit	\$10
Striped Bass Tournament	\$10
Threatened & Endangered Species	\$20
Trout Catch-Out Pond	\$50
Wolf Hybrid – Individual	
Nonneutered	\$20/animal
Neutered	\$10/animal
Wolf Hybrid – Kennel	\$100

B. Veterinarians shall not be required to pay a permit fee or to obtain a permit to hold wildlife temporarily for medical treatment.

V.A.R. Doc. No. R95-108; Filed November 9, 1994, 11:31 a.m.

* * * * *

Title of Regulation: VR 325-01-2. Importation, Possession, Sale, Etc., of Animals.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1995.

Summary:

The amendments (i) clarify that this regulation applies to only native or naturalized albino amphibians and reptiles; and (ii) add the red shiner (Cyprinella lutrensis) to the list of nonnative (exotic) fish that cannot be imported, possessed, or sold without obtaining a special permit from the department.

VR 325-01-2. Importation, Possession, Sale, Etc., of Animals.

§ 1. Possession, importation, sale, etc., of wild animals.

Under the authority of §§ 29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the board, when both the scientific and

common names are listed, the scientific reference to genus and species will take precedence over common names.

§ 2. Permit required to import, liberate or possess predatory or undesirable animals or birds.

Under the authority of § 29.1-542 of the Code of Virginia, live wolves or coyotes, or birds or animals otherwise classed as predatory or undesirable, may not be imported into the Commonwealth or liberated therein, or possessed therein, except under a special permit of the board. Before such permit is issued, the importer shall make application to the department, giving the place of origin, the name and address of the exporter and a certificate from a licensed and accredited practicing veterinarian, or certified fish pathologist, certifying that the animal to be imported is not manifesting any signs of infectious, contagious, or communicable disease.

§ 3. Exclusions.

This regulation does not ~~cover~~ *prohibit the possession, importation, and sale of native or naturalized albino reptiles and albino amphibians, native or naturalized albino reptiles*, or those domestic animals as defined in VR 325-01-1, § 5.

§ 4. Importation requirements, possession and sale of nonnative (exotic) animals.

A. Permit required. A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell wolves, wolf hybrids or those nonnative (exotic) animals listed below that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:

AMPHIBIANS:

Order	Family	Genus/Species	Common Name
Anura	Bufo	Bufo marinus	Giant or marine toad*
	Pipidae	Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	Ambystoma ligurium mavortium	Barred tiger salamander
		A. t. diaboli	Gray tiger salamander
		A. t. melanostictum	Blotched tiger salamander

BIRDS:

Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*

FISH:

Order	Family	Genus/Species	Common Name
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Cypriniformes	Catostomidae	<i>Ictiobus bubalus</i>	Smallmouth* buffalo	Crocodylidae Gavialidae	Illegalis All Species	snake* Crocodiles* Gavials*
		<i>I. cyprinellus</i>	Bigmouth* buffalo			
		<i>I. niger</i>	Black buffalo*			
	Characidae	<i>Pygopristis</i> spp.	Piranhas			
		<i>Pygocentrus</i> spp.				
		<i>Rooseveltiella</i> spp.				
		<i>Serrasalmo</i> spp.				
		<i>Taddeyella</i> spp.				
	Cyprinidae	Aristichyphs	<i>nobilis</i>	Bighead carp*		
			<i>idella</i>	Grass carp or white amur		
<i>Cyprinella</i>		<i>lutrensis</i>	Red shiner			
		<i>Hypophthalmichthys</i>	Silver molitrix Carp*			
<i>Mylopharyngodon</i>		<i>piceus</i>	Black carp*			
<i>Scardinius</i>		<i>erythrophthalmus</i>	Rudd			
Perciformes		Cichlidae	<i>Tinca tinca</i>	Tench*		
			<i>Tilapia</i> spp.	Tilapia		
			<i>Gymnocephalus</i>	Ruffe*		
Siluriformes		Clariidae	All species	Air-breathing catfish		

MAMMALS:

Order	Family	Genus/Species	Common Name	
Artiodactyla	Suidae	All Species	Pigs or Hogs*	
	Cervidae	All Species	Deer*	
Carnivora	Canidae	All Species	Wild Dogs*, Wolves, Coyotes or hybrids thereof, Jackals and Foxes	
		Ursidae	All Species	Bears*
		Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species	Weasels, Badgers,* Skunks and Otters	
		Except <i>Mustela</i> <i>putorius furo</i>		Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongoosees, and Fossas	
	Herpestidae	All Species	Mongoosees*	
	Hyaenidae	All Species	Hyenas*	
	Protelidae	<i>Proteles</i> <i>crisatus</i>	Aardwolf*	
	Chiroptera	Felidae	All Species	Cats*
All Species			Bats*	
Lagomorpha	Leporidae	<i>Lepus</i> <i>europaeus</i>	European hare	
		<i>Oryctolagus</i> <i>cuniculus</i>	European rabbit	

MOLLUSKS:

Order	Family	Genus/Species	Common Name
Veneroida	Dreissenidae	<i>Dreissena</i> <i>polymorpha</i>	Zebra mussel

REPTILES:

Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, caimans*
	Colubridae	<i>Boiga</i>	Brown tree

B. Temporary possession permit for certain animals. Notwithstanding the permitting requirements of subsection A, a person, company or corporation possessing any nonnative (exotic) animal, designated with an asterisk (*) in subsection A, prior to July 1, 1992, must declare such possession in writing to the department by January 1, 1993. This written declaration shall serve as a permit for possession only, is not transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date(s) acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tatoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets. A permit is not required for monk parakeets (quakers) that have been captive bred and are closed-banded.

D. Exception for parts or products. A permit is not required for parts or products of those nonnative (exotic) animals listed in subsection A that may be used in the manufacture of products or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving shall be kept by the person, business or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Game and Inland Fisheries.

E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A that are imported or possessed by dealers, exhibitors, transporters, and researchers who are licensed or registered by the United States Department of Agriculture under the Animal Control Act (7 U.S.C. §§ 2131 et. seq.) will be deemed to be permitted pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license(s) or registration(s) from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.

F. Exemptions for hybrids between dogs (*Canus familiaris*) and wolves (*Canus lupus*). A permit will not be

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required to import, possess or sell hybrids between domestic dogs (*Canus familiaris*) and wolves (*Canus lupus*) until July 1, 1993.

G. All other nonnative (exotic) animals. All other nonnative (exotic) animals, not listed in subsection A may be possessed and sold; provided, that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to threatened/ endangered species, and further provided, that such animals shall not be liberated within the Commonwealth.

VA.R. Doc. No. R95-108; Filed November 9, 1994, 11:31 a.m.

* * * * *

Title of Regulation: **VR 325-02-27. Permits.**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1995.

Summary:

The amendments clarify that this regulation includes all wild animals and not just game animals.

VR 325-02-27. Permits.

§ 1. Poisoning of wild birds and wild animals destroying crops or property.

Notwithstanding the provisions of VR 325-02-1, § 5, the department may issue permits authorizing the putting out of poison for the purpose of killing wild birds and wild animals where they are destructive to crops or other property. Where such permits are issued, the poisoning shall be under the supervision of employees of the department.

§ 2. Collection of specimens of wild birds for scientific purposes.

Holders of permits issued under § 29.1-418 of the Code of Virginia to collect specimens of wild birds and their nests, with the eggs or young found therein, for scientific or museum purposes, shall report to the department on January 1 of each year the number of each species taken and the purpose for which collected.

§ 3. Breeding game birds and game animals for propagation and stocking; records.

Holders of permits issued under § 29.1-417 of the Code of Virginia to breed and rear wild game birds and wild animals in captivity and to sell and ship them alive for propagation or stocking shall keep a record showing the number of each species on hand, the number acquired and the number sold.

§ 4. Breeding game birds and game animals for propagation and stocking; labeling packages.

Packages containing wild birds and wild animals raised under a permit for propagation purposes shall bear labels showing the name and address of the breeder and the contents of the package.

§ 5. Breeding game birds and game animals for propagation and stocking; confinement; inspection.

Birds and animals raised under a permit for propagation purposes must be confined in a sanitary escape-proof enclosure. Such enclosure shall be open to inspection by representatives of the department at all times.

§ 6. Holding wild birds or wild animals for exhibition or advertising purposes.

Where an exhibit is educational and purposeful in nature, ~~wild game birds and wild game animals~~ may be exhibited ~~under~~ *with* a permit provided for in § 29.1-417 of the Code of Virginia, under such restrictions and conditions as the board may prescribe. ~~Where such a permit is issued for an exhibit which is not educational or purposeful in nature, such permit shall authorize the person to whom issued to hold only nongame wild animals and nongame wild birds as are listed in the application for the permit.~~

§ 7. Stuffing or mounting birds and animals; possession of game legally taken.

A holder of a permit to stuff and mount birds and animals or parts thereof for compensation or sale, as provided for in § 29.1-415 of the Code of Virginia may have in possession for such purpose only birds and animals which were legally taken.

§ 8. Stuffing or mounting birds and animals - records; inspections.

A. A holder of a permit to stuff or mount birds and animals shall keep a complete record of all transactions. Such records shall include the species to be mounted or tanned; the date of receipt; the name, address and telephone number of the person for whom the work is being performed; the name of the person who killed the specimen (if different from above); the hunting license or Virginia driving license number of such person; the county where the specimen was taken or, if taken out-of-state, the state in which it was taken; and the date the completed work was returned to the customer. Such records shall be retained for three years. These records, and the premises where such business is conducted, shall be open to inspection by representatives of the department during normal business hours.

B. Upon receipt of any specimen of wildlife, a holder of a permit shall immediately affix to such specimen a tag bearing the designation of the species, the name and

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address of the customer and the date the specimen was killed. Such tag shall remain affixed to the specimen, except when the specimen is actually in the process of being worked on, until it is delivered to the customer. A numbered tag, with numbers corresponding to the number of the line entry of the records required in subsection A of this section, may be used in lieu thereof.

§ 9. Breeding pheasants; records.

The holder of a permit provided for by §§ 29.1-417 and 29.1-514 of the Code of Virginia to breed pheasants in captivity and to sell and ship the same alive for breeding, or to kill, sell and ship the same for use as food shall keep a record of the number raised or acquired, number sold and the number on hand.

§ 10. Breeding pheasants; labeling packages.

Packages containing pheasants raised under a permit from the department shall bear a label giving the name and address of the breeders and the contents of the package.

§ 11. Breeding pheasants; confinement; inspection.

Pheasants raised under a permit from the department shall be confined in sanitary escape-proof enclosures, which shall be open to inspection by representatives of the department at all times.

§ 12. Repealed.

§ 13. Repealed.

§ 14. Shooting wild birds and wild animals from stationary vehicle by disabled person. *Repealed.*

Any person, upon application to a game warden and the presentation of a medical doctor's written statement that such person is permanently unable to walk, may, in the discretion of such game warden, be issued a permit to shoot wild birds and wild animals from a stationary vehicle during established open hunting seasons and in accordance with other existing laws and regulations. Such permit will be issued on a form provided by the department, which may authorize shooting from a stationary vehicle not less than 300 feet from nor across any public road or highway, and only when the bearer is properly licensed to hunt. Such permit shall be nontransferable, and any permit found in the possession of any person not entitled to such permit shall be subject to immediate confiscation by a game warden. Deer of either sex may be taken under the provisions of this permit in those counties where deer hunting is permitted.

§ 15. Duty to comply with permit conditions.

A permit holder shall comply with all terms and conditions of any permit issued by the Department of Game and Inland Fisheries pursuant to Title 29.1 of the

Code of Virginia and the regulations of the board pertaining to hunting, fishing, trapping, taking, attempting to take, possession, sale, offering for sale, transporting or causing to be transported, importing or exporting of any wild bird, wild animal or fish.

§ 16. Possession and display of a validation card or permit to hunt.

Every person required to obtain a validation card or permit to hunt must carry the validation card and permit on his person when hunting and shall present it immediately upon demand of any officer whose duty it is to enforce the game and inland fish laws. Penalty for violation of this section is prescribed by § 29.1-505 of the Code of Virginia.

V.A.R. Doc. No. R95-108; Filed November 9, 1994, 11:31 a.m.

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Title of Regulation: **VR 325-03-1. Fishing Generally.**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1995 (except § 1 effective July 1, 1995).

Summary:

The amendments (i) eliminate the closed season for trout, allowing for year-round trout fishing, to become effective July 1, 1995; (ii) clarify that the term creel limit includes live possession of fish; (iii) include a creel limit of four per day for striped bass in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay; (iv) reduce the creel limit for white bass from 25 to 5 in New River and Claytor Lake from the Buck Dam on New River in Carroll County downstream to the Claytor Lake Dam; (v) add a reference to VR 325-03-2, § 12.1; (vi) clarify that a permit is required to propagate and sell live game fish, or artificially raised catfish; (vii) add a new section numbered § 5 to prohibit the use of fish as bait in Lick Creek in Smyth and Bland Counties and Bear Creek in Smyth County, including their tributaries; (viii) clarify that written approval from the department is required to stock fish into inland waters, except privately owned ponds and lakes; (ix) clarify that a National Forest Permit is not required to fish in the Jackson River below Gathright Dam and Wilson Creek below Douthat Lake in Alleghany and Bath Counties; (x) rescind § 11 in its entirety; (xi) establish a starting date for permit requirements at fee fishing areas; (xii) allow the director to temporarily suspend the need for a special permit at fee areas if conditions cause suspension of trout stocking; (xiii) clarify that children-only fishing areas at Douthat State Park are reserved for children under

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12 years of age; and (xiv) clarify that fee fishing areas are designated stocked trout waters.

VR 325-03-1. Fishing Generally.

§ 1. Continuous open season for all species except trout .

Except as otherwise specifically provided by sections appearing in this regulation, there shall be a continuous open season for fishing to take all species of fish except trout (effective July 1, 1995) .

§ 2. Creel limits.

The creel limits (including live possession) for the various species of fish shall be as follows:

1. Largemouth, smallmouth and spotted bass, five a day in the aggregate.
2. Landlocked striped bass and landlocked striped bass X white bass hybrids, in the aggregate, four a day; except, that in Smith Mountain Reservoir and its tributaries, including the Roanoke River upstream to Niagara Dam, the limit shall be two a day in the aggregate. For anadromous (coastal) striped bass above the fall line in all coastal rivers, the limit shall be zero (catch and release only). *The creel limit on striped bass in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay shall be four per day.*
3. White bass, 25 per day . *except that in New River and Claytor Lake from the Buck Dam on New River in Carroll County downstream to the Claytor Lake Dam, the limit shall be five per day .*
4. Walleye or yellow pike perch and chain pickerel or jackfish, eight a day of each; except, that in Gaston Reservoir and Buggs Island (Kerr) Reservoir there shall be no daily limit for chain pickerel or jackfish.
5. Northern pike and muskellunge, two a day.
6. Sauger, eight per day.
7. Bluegill (bream) and other sunfish, excluding crappie (silver perch), rock bass (redestye) and Roanoke bass, 50 a day in the aggregate; crappie (silver perch) and rock bass (redestye), 25 a day of each species; Roanoke bass, 5 a day on the Nottoway and Meherrin rivers and their tributaries. There shall be no limit on any of the species included in this subdivision 7 in Gaston and Buggs Island (Kerr) Reservoirs and that portion of the New River from the Virginia-North Carolina state line downstream to the confluence of the New and Little Rivers in Grayson County.
8. American shad and hickory shad, in the James

River above the fall line (14th Street Bridge), in the Meherrin River above Emporia Dam and . in the Chickahominy River above Walkers Dam, in the Appomattox River above Harvell Dam, in the Mattaponi River and Pamunkey River above the Route 360 bridge, and in the Rappahannock River above the Route 1 bridge, zero (catch and release only). *Alewife and blueback herring in the James River above Boshers Dam, in the Meherrin River above Emporia Dam, in the Chickahominy River above Walkers Dam, in the Appomattox River above Harvell Dam, in the South Anna River above the U.S. Route 1 bridge, and in the Rappahannock River above Embrey Dam, zero (catch and release only).*

§ 3. Size limit.

Except as provided in this regulation and VR 325-03-2, §§ 5, 11, 12 . 12.1, and 13, there shall be no size limit on any species of fish.

1. There shall be a 30-inch minimum size limit on muskellunge, and a 20-inch minimum size limit on northern pike, landlocked striped bass (rockfish) and landlocked striped bass X white bass hybrids.
2. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass in Occoquan Reservoir from the reservoir dam upstream to the Lake Jackson Dam on Occoquan Creek and upstream to the Yates Ford Bridge (Route 612) on Bull Run Creek. It shall be unlawful to have any such bass less than 14 inches in length in one's possession on the above described waters of this reservoir.
3. There shall be a 12-inch minimum size limit on largemouth, smallmouth and spotted bass in the Chickahominy, Claytor, Philpott and Flannagan Reservoirs, and in Lake Moomaw (Gathright Project). It shall be unlawful to have any largemouth, smallmouth or spotted bass less than 12 inches in length in one's possession while on any of the waters mentioned in the preceding sentence.
4. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass on the Roanoke (Staunton) and Dan Rivers and their tributaries and impoundments (Gaston, John Kerr, Leesville and Smith Mountain Reservoirs) downstream from Niagara Dam on the Roanoke River and the Brantly Steam Plant Dam on the Dan River; except, that as many as two of such bass of a lesser size caught in such waters may be retained in the creel, but no more than two such bass may be in possession on such waters that are less than 14 inches in length.
5. It shall be unlawful to have any largemouth, smallmouth or spotted bass from 12 to 15 inches in length, both inclusive, in one's possession on North Anna Reservoir and its tributaries, on Briery Creek Lake (Prince Edward County), on Chesdin Reservoir

or the Appomattox River from the Brasfield (Chesdin) Dam to Bevel's Bridge on Chesterfield County Route 602, on Beaverdam Reservoir (Loudoun County) and on the waters of Quantico Marine Reservation.

6. It shall be unlawful to have any smallmouth, largemouth or spotted bass from 11 to 14 inches in length, both inclusive, in one's possession on the Shenandoah River, including the North and South Forks downstream from the Route 42 bridge on the North Fork and from the confluence of the North and South Rivers on the South Fork below Port Republic; on the New River from Claytor Dam to the West Virginia boundary line; on the James River from the confluence of the Jackson and Cowpasture rivers downstream to the Interstate 95 bridge at Richmond; on North Fork Pound Reservoir; or on the Clinch River within the boundaries of Scott, Wise, Russell or Tazewell Counties.

7. It shall be unlawful to have any largemouth, smallmouth or spotted bass less than 15 inches in length from March 1 through June 15, both inclusive, in the Virginia tidal tributaries of the Potomac River upstream of the Route 301 Bridge. There shall be no size limit for largemouth, smallmouth or spotted bass from June 16 through the last day of February in those tributaries.

8. It shall be unlawful to have any Roanoke bass less than eight inches in length in one's possession on the Nottoway and Meherrin rivers and their tributaries.

§ 4. Sale of freshwater molluscs, mussels, game fish or catfish prohibited.

It shall be unlawful to sell, offer for sale or buy any species of freshwater mollusc or mussel, game fish or catfish, provided that this shall not apply to game fish sold alive for propagation purposes, or catfish artificially raised, by a holder of a Permit to Propagate and Sell Certain Wildlife or Permit to Hold and Sell Certain Wildlife, or sold pursuant to VR 325-03-02, §§ 15 and 16, or to any catfish taken from tidewater or artificially raised.

§ 5. Fish used as bait prohibited in certain waters.

It shall be unlawful to use any species of fish as bait in the waters and tributaries of Lick Creek in Smyth and Bland counties and Bear Creek in Smyth County.

§ 6. Permit Approval required to stock fish into inland waters.

It shall be unlawful to stock any species of fish into any inland waters of the Commonwealth, without first obtaining a permit written approval to do so from the department. Nothing in this section shall be construed as restricting the use of native and naturalized species of fish in privately-owned ponds and lakes.

§ 7. Use of certain mechanical devices in tail waters of Kerr Dam.

It shall be unlawful to dispatch a lure by means of any mechanical device other than rod and reel in the tail waters of Kerr Dam for a distance of 600 yards below that dam.

§ 8. Fishing, collecting bait, etc., in tail waters of Leesville Dam.

It shall be unlawful to fish, attempt to fish, assist others in fishing or collect or attempt to collect bait while wading in any of the waters of the Roanoke River from Leesville Dam downstream a distance of 840 feet to a permanent overhead cable; provided, that this shall not be construed to prohibit persons from fishing from behind the safety railings of the Leesville Access Structure built by the department.

§ 9. Exception to requirement of national forest permit.

A national forest permit, as provided for in § 29.1-408 of the Code of Virginia shall not be required to fish from national forest lands in the North and South forks of the Shenandoah River or in Skidmore Lake in Rockingham County or in Lake Moomaw (Gathright Project), in the Jackson River below Gathright Dam, and in Wilson Creek downstream of Douthat Lake in Alleghany and Bath Counties.

§ 10. Department-owned or controlled lakes, ponds or streams; General regulations.

A. Motors and boats. Unless otherwise posted at each recognized entrance to any department-owned or controlled lake or pond or stream, the use of boats propelled by gasoline motors, sail or mechanically operated recreational paddle wheel is prohibited. Department employees and other government agency officials may use gasoline motors in the performance of official duties.

B. Method of fishing. Taking any fish at any department-owned or controlled lake or pond by any means other than by use of one or more attended poles with hook and line attached is prohibited.

C. Hours for fishing. Unless otherwise posted at each recognized entrance to any department-owned or controlled lake, pond or stream, the hours of use shall be from one hour before sunrise to one hour after sunset.

D. Seasons; hours and methods of fishing; size and creel limits; hunting. The open seasons for fishing, as well as fishing hours, methods of taking fish and the size, possession and creel limits, and hunting, for department-owned or department-controlled lakes, ponds or streams shall conform to the general regulations of the board unless otherwise excepted by posted notice displayed at each recognized entrance to the lake, pond or stream, in which case the posted regulations shall be in effect.

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E. Other uses. Camping overnight or building fires, except in developed and designated areas, swimming, wading in public fishing lakes, except by fishermen actively engaged in fishing and trapping for furbearers, is prohibited. Trapping may be authorized by special permit from the warden when requested to issue such permit or permits by the fish division.

F. Fishing tournaments, etc. It shall be unlawful to organize, conduct, supervise or solicit entries for fishing tournaments, rodeos or other fishing events on waters owned by the department, for which prizes are offered, awarded or accepted, either in money or other valuable considerations.

§ 11. ~~Department-owned or controlled lakes, ponds or streams; Silver Lake. Repealed.~~

A. ~~Season.~~

~~Except as otherwise provided in subsection B of this section, it shall be lawful to fish in Silver Lake in Rockingham County only during the season for taking trout.~~

B. ~~Carp taken by gig or bow and arrow.~~

~~Notwithstanding the provisions of subsection A of this section, it shall be lawful to take carp in Silver Lake by gig or by bow and arrow from 7 a.m. to 10 p.m., Eastern Standard Time, weekdays only, from May 10 through August 10, both dates inclusive.~~

§ 12. Department-owned or controlled lakes, ponds or streams; special daily permit for fishing in Clinch Mountain Wildlife Management Area, Douthat State Park Lake and Crooked and Wilson creeks.

It shall be unlawful to fish in the Clinch Mountain Wildlife Management Area (except in Little Tumbling Creek), in Douthat State Park Lake and in Wilson Creek both above the lake to the park boundary and downstream to the lower USFS boundary, and in the Crooked Creek fee fishing area in Carroll County without having first paid to the department for such privilege a daily use fee. Such daily use fee shall be in addition to all other license fees provided by law. Upon payment of the daily use fee the department shall issue a special permit which shall be signed and carried by the person fishing. This fee will be required from the ~~opening day of trout season~~ *third Saturday in March* through Labor Day at Clinch Mountain Wildlife Management Area (except Little Tumbling Creek) and at Crooked Creek fee fishing area in Carroll County, and from the ~~opening day of trout season~~ *third Saturday in March* through September 30 at Douthat State Park Lake and Wilson Creek, *except that the director may temporarily suspend fee requirements if conditions cause suspension of trout stocking*. During the remainder of the year, these waters will revert to designated stocked trout waters and a trout license will be required *except as provided in VR 325-01-1, § 19*. Upon written request from

Douthat State Park and subsequent approval from the department, the department may recognize clearly marked children only fishing areas within Douthat State Park. Within these "children only" areas, children 12 years old or less may fish without the daily use fee if accompanied by a fully licensed adult who has purchased a valid daily permit. *No person over 12 years of age may fish in these children-only areas. During the fee fishing season these waters will be subject to VR 325-03-2, §§ 6, 8, and 9, as it relates to designated stocked trout waters.*

§ 13. Special provision applicable to a portion of Witcher Creek (Cedar Key) within Smith Mountain Lake.

It shall be lawful to fish using only bait with a single point unweighted bait hook (no artificial lures allowed) in that portion of Witcher Creek in Smith Mountain Lake from behind the no wake buoy line at the mouth of the cove known as Cedar Key to the back of the cove from April 15 to May 31, both dates inclusive. For the purpose of this regulation, a single point unweighted bait hook is defined as a hook that does not have a weight affixed to the hook. Any other weight must be attached to the line at least 12 inches above the hook (no weights below the hook).

§ 14. Permits required for striped bass fishing rodeos; etc.

No person shall organize, conduct, supervise, or solicit entries for, striped bass fishing tournaments, rodeos, or other striped bass fishing events on the inland waters of this Commonwealth, for which prizes are offered, awarded, or accepted, either in money or other valuable considerations, without having applied for and obtained a permit from the department to do so. Exercising a due regard for the distribution, local abundance, economic value, breeding habits, and natural growth potential of striped bass in the affected public water, the director is authorized on behalf of the board to issue or deny permits pursuant to this section, and to establish such special rules for each tournament as may be deemed necessary, after consulting with the state fish biologist and with the approval of the board's fish committee as designated from time to time by the chairman. Failure to comply with all special rules and other provisions of any permit issued pursuant to this section may be deemed grounds for denying the permittee a permit for a similar event to be held within three years from the date of such failure of compliance.

§ 15. Shooting certain fish in Clinch River in Scott County.

It shall be lawful for any person holding a current license to fish to shoot suckers, redhorse and carp with a rifle, during the hours of sunrise to sunset, from April 15 to May 31, both inclusive, in the waters of the Clinch River within the limits of Scott County; except, that it shall be unlawful to shoot fish on Sunday, or within the limits of any town, or from any bridge. No more than 20 such fish may be so taken during any one day. All persons engaged in the shooting or the retrieval of fish pursuant to

this section shall have in their possession a current fishing license.

V.A.R. Doc. No. R95-108; Filed November 9, 1994, 11:31 a.m.

* * * * *

Title of Regulation: VR 325-03-2. Trout Fishing.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1994 (except §§ 1, 2, and 7 effective July 1, 1995).

Summary:

The amendments (i) drop the reference to "season" and "opening day" for taking trout, to become effective July 1, 1995; (ii) rescind § 2 in its entirety, to become effective July 1, 1995; (iii) reduce the creel limit for trout from six to two fish per day in Flannagan, Moomaw, and Philpott Reservoirs; (iv) rescind § 4 in its entirety so that the trout creel limit at fee fishing areas is the same as the statewide trout limit of six per day; (v) increase the minimum size limit of trout from 10 to 16 inches in Flannagan, Moomaw, and Philpott Reservoirs; (vi) rescind § 7 in its entirety, effective July 1, 1995; (vii) add portions of Green Cove Creek in Washington County from Route 859 downstream to its mouth and Whitetop Laurel Creek in Washington County upstream from the first railroad trestle above Taylor Valley to the mouth of Green Cove Creek at Creek Junction to the list of special regulation trout streams requiring use of only artificial lures with single hooks and a 12-inch minimum trout size limit; (viii) add a portion of the South Fork Holston River in Smyth County from a sign posted at the Jefferson National Forest boundary downstream from the confluence of the South Fork and Comers Creek upstream for approximately two miles to a sign posted at the upper Jefferson National Forest boundary to the list of special regulation trout streams requiring use of only artificial lures with single hooks, two trout per day creel limit, and 16-inch minimum trout size limit; (ix) amend § 13, which is for special regulation trout streams requiring use of only artificial lures and a nine-inch minimum trout size limit, by deleting Green Cove and Whitetop Laurel Creeks, adding a portion of Big and Little Wilson Creeks and their tributaries in Grayson County within the Grayson Highland State Park and the Jefferson National Forest Mount Rogers National Recreation Area, and deleting the special eight-inch minimum size limit exception for Conway River; (x) add a portion of Roaring Fork and its tributaries upstream from the southwest boundary of Beartown Wilderness Area in Tazewell County and in that section of the South Fork Holston River and its tributaries within the boundaries of the Buller Fish Culture Station in Smyth County to the special catch

and release trout streams; and (xi) add two weeks to the catch and release fishing season in delayed harvest trout streams by extending the ending date from May 15 to May 31.

VR 325-03-2. Trout Fishing.

§ 1. Season; general open season.

Except as otherwise specifically provided in the sections appearing in this regulation, ~~the open season there shall be a year-round season for taking trout shall be from 9 a.m. the third Saturday in March through February 1, both dates inclusive. Except for the first day, . However,~~ angling during the season in designated stocked trout waters shall *only* be permitted from 5 a.m. until one hour after sunset.

§ 2. Season; continuous open season. Repealed.

A. Certain lakes and reservoirs.

It shall be lawful to fish for trout in Moomaw (Gathright Project), Flannagan, South Holston and Philpott reservoirs at any time.

B. Commercially operated fishing ponds.

There shall be a continuous open season for taking trout in any department authorized commercially operated fishing ponds without creel or hour restrictions.

C. Trout fishing preserves.

There shall be a continuous open season for taking trout in any stream which the department has authorized to be operated as a trout fishing preserve without creel or hour restrictions. Such authorization will be given by the department only when such stream is stocked with trout at the owner's expense in an annual quantity approved by the department subsequent to the owner's application for tentative approval. Such preserves shall be deemed to be within the purview of § 29.1-612 of the Code of Virginia and shall not be exempt from license requirements.

§ 3. Creel limit; generally.

Except as otherwise specifically provided in the sections appearing in this regulation, the daily creel limit for taking trout shall be six, *except the daily creel limit shall be two in Flannagan, Moomaw and Philpott reservoirs.*

§ 4. Creel limit; Clinch Mountain Wildlife Management Area; Douthat State Park Lake; Wilson Creek; Crooked Creek fee fishing area. Repealed.

The daily creel limit for taking trout in the Clinch Mountain Wildlife Management Area (except in Little Tumbling Creek), in Douthat State Park Lake and in Wilson Creek both above the lake to the park boundary and downstream to the lower USFS boundary, and in the

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Crooked Creek fee fishing area in Carroll County shall be five.

§ 5. Size limit.

Except as otherwise specifically provided by the sections appearing in this regulation, there shall be a seven-inch minimum size limit on trout generally and a ~~10-inch~~ 16-inch minimum size limit on trout in Flannagan, Moomaw and Philpott Reservoirs.

§ 6. Methods and equipment used in fishing.

All seines, nets and the use of more than one rod or one line by any one person are prohibited while fishing in designated stocked trout waters, except it shall be lawful to use a hand-landing net to land fish legally hooked in all waters.

It shall be unlawful to fish with more than one hook attached to a single line in designated stocked trout waters and such hook must be used with bait or artificial lures; provided, however, this shall not be construed to prohibit the use of artificial lures with more than one hook.

§ 7. Fishing in designated stocked trout water prohibited except during open season. Repealed (Effective July 1, 1995.)

~~It shall be unlawful to fish in designated stocked trout waters except during the open season for taking trout. Fishing may continue in nondesignated stocked trout waters and wild trout streams during the closed season for taking trout, but all trout caught during this closed season must be immediately released, except as otherwise specifically provided in the sections appearing in this regulation.~~

§ 8. Fishing in certain waters after obtaining creel limit of trout prohibited.

It shall be unlawful to fish in designated stocked trout waters or in the waters covered by §§ 11, 12, 12.1, 13, and 14.1 (during the period from May 16 through September 30) of this regulation after the daily creel limit of trout is obtained.

§ 9. Feeding or baiting trout prohibited in designated stocked trout waters.

It shall be unlawful to feed or bait trout in designated stocked trout waters of the Commonwealth.

§ 10. "Artificial lure with single hook" defined.

For the purposes of this regulation "artificial lure with single hook" shall mean any single point hook lure (with no multiple point hooks) and shall include manufactured or handmade flies, spinners, plugs, spoons and facsimiles of live animals, but shall not be construed to include artificial fish eggs.

§ 11. Special provisions applicable to certain portions of Green Cove Creek, Jackson River, Smith Creek and Snake Creek and Whitetop Laurel Creek.

It shall be lawful to fish using only artificial lures with single hooks in that portion of *Green Cove Creek in Washington County from Route 859 downstream to its mouth*, Jackson River in Bath County from the swinging bridge located just upstream from the mouth of Muddy Run, upstream 3.0 miles to the last ford on FS 481D, in that portion of Smith Creek in Alleghany County from the Clifton Forge Reservoir Dam downstream to a sign at the Forest Service boundary above the C & O Dam, and on Snake Creek in Carroll County upstream from its mouth to Hall's Fork on Big Snake Fork and to the junction of Routes 922 and 674 on Little Snake Fork, and in *Whitetop Laurel Creek in Washington County upstream from the first railroad trestle above Taylor Valley to the mouth of Green Cove Creek at Creek Junction*. All trout caught in these waters under 12 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any bait or any trout under 12 inches in length in these areas.

§ 12. Special provisions applicable to certain portions of Buffalo Creek, Dan River, Sinking Creek, Smith Creek and Smith River, [*Mossy Creek*,] and South Fork Holston River.

A. It shall be lawful year around to fish using only artificial lures with single hooks in that portion of Buffalo Creek in Rockbridge County from the confluence of Colliers Creek upstream 2.9 miles to the confluence of North and South Buffalo Creeks, in that portion of Smith River in Henry County from signs below the east bank of Towne Creek for a distance of approximately three miles downstream and in that portion of the Dan River in Patrick County from Talbott Dam approximately six miles downstream to a sign posted just upstream from the confluence of Dan River and Townes Reservoir and in that portion of the South Fork Holston River in Smyth County from a sign posted at the Jefferson National Forest boundary downstream from the confluence of the South Fork and Comers Creek upstream for approximately two miles to a sign posted at the upper Jefferson National Forest boundary.

B. It shall be lawful year around to fish using only artificial flies with single hooks [*in that portion of Mossy Creek in Augusta County upstream from the Augusta/Rockingham County line to a sign posted at the confluence of Joseph's Spring*.] in that portion of Sinking Creek in Giles County from a cable and department sign 0.4 miles below the State Route 703 low-water bridge upstream 1.8 miles to a cable and department sign 0.1 miles above the Reynolds Farm covered bridge, in that portion of Sinking Creek in Craig County from a cable and department sign 1.0 mile below the State Route 642 Bridge upstream to a cable and department sign 0.5 miles above the State Route 642 Bridge, and in that portion of Smith Creek in Rockingham County from a sign posted 1.0 miles

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below the confluence of Lacy Spring to a sign posted 0.4 miles above Lacy Spring.

C. The daily creel limit in these waters shall be two trout a day year around and the size limit shall be 16 inches or more in length. All trout caught in these waters under 16 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any bait or any trout under 16 inches in length in these areas.

§ 12-1. [Special provision applicable to certain portions of Mossy Creek. *Repealed.*]

It shall be lawful year around to fish using only artificial flies with single hooks in that portion of Mossy Creek in Augusta County upstream from the Augusta/Rockingham County line to a sign posted at the confluence of Joseph's Spring. The daily creel limit in these waters shall be one trout a day year around and the size limit shall be 20 inches or more in length. All trout caught in these waters under 20 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any bait or any trout under 20 inches in length in this area.]

§ 13. Special provision applicable to certain portions of *Big Wilson Creek*, Conway River, ~~Green Cove Creek~~, Little Stony Creek, *Little Wilson Creek*, North Creek, North Fork Buffalo River, St. Mary's River ; ~~Whitetop Laurel~~ and Ramsey's Draft.

It shall be lawful to fish using only artificial lures with single hooks in that portion of the Conway River and its tributaries in Greene and Madison counties within the Rapidan Wildlife Management Area, ~~in that portion of Green Cove Creek in Washington County from Route 859 downstream to its mouth;~~ *in that portion of Big and Little Wilson Creeks and their tributaries in Grayson County within the Grayson Highland State Park and the Jefferson National Forest Mount Rogers National Recreation Area*, in that portion of Little Stony Creek in Giles County within the Jefferson National Forest, in that portion of Little Stony Creek in Shenandoah County within the George Washington National Forest, in that portion of North Creek in Botetourt County and its tributaries upstream from the first bridge above North Creek Campground, in the North Fork Buffalo River and its tributaries in Amherst County within the George Washington National Forest, in that portion of St. Mary's River in Augusta County and its tributaries upstream from the gate at the George Washington National Forest property line, ~~in that portion of Whitetop Laurel in Washington County upstream from the first railroad trestle above Taylor Valley to the mouth of Green Cove Creek at Creek Junction;~~ and in that portion of Ramsey's Draft and its tributaries in Augusta County within the George Washington National Forest. All trout caught ~~in the Conway River and its tributaries under eight inches in length and all trout caught in the other above named streams~~ *these waters* under nine inches in length shall be immediately returned to the water

unharmed. It shall be unlawful for any person to have in his possession any bait ; ~~any trout under eight inches in length on the Conway River or its tributaries or any trout under nine inches in length on the other above named streams while in these areas .~~

§ 14. Special provision applicable to Stewarts Creek Trout Management Area; certain portions of Dan, Rapidan , *South Fork Holston* and Staunton rivers, the East Fork of Chestnut Creek, *Roaring Fork*, and their tributaries.

It shall be lawful year around to fish for trout using only artificial lures with single hooks within the Stewarts Creek Trout Management Area in Carroll County, in the Rapidan and Staunton rivers and their tributaries upstream from a sign at the Lower Shenandoah National Park boundary in Madison County, in the Dan River and its tributaries between the Townes Dam and the Pinnacles Hydroelectric Project powerhouse in Patrick County and in the East Fork of Chestnut Creek (Farmer's Creek) and its tributaries upstream from the Blue Ridge Parkway in Grayson and Carroll counties , *and in Roaring Fork and its tributaries upstream from the [FS 886 stream crossing southwest boundary of Beartown Wilderness Area] in Tazewell County and in that section of the South Fork Holston River and its tributaries within the boundaries of the Buller Fish Culture Station in Smyth County .* All trout caught in these waters must be immediately returned to the water. No trout may be in possession at any time in these areas.

§ 14-1. Special provisions applicable to certain portions of Back Creek, North River and South River.

It shall be lawful to fish from October 1 through ~~May 15~~ *May 31* , both dates inclusive, using only artificial lures with single hooks in Back Creek (Bath County) from the Route 600 bridge just below the Virginia Power Back Creek Dam downstream 1.5 miles to the Route 600 bridge at the lower boundary of the Virginia Power Recreational Area, in the North River (Augusta County) from the base of Elkhorn Dam downstream 1.5 miles to a sign posted at the head of Staunton City Reservoir and in the South River from the Second Street Bridge upstream 2.4 miles to the base of Rife Loth Dam in the city of Waynesboro. From October 1 through ~~May 15~~ *May 31* , all trout caught in these waters must be immediately returned to the water unharmed, and it shall be unlawful for any person to have in possession any bait or trout. During the period of ~~May 16~~ *June 1* through September 30, ~~these waters shall revert to general trout regulations and the above restrictions will not apply.~~

§ 14-2. Special provisions applicable to certain portion of Jackson River.

It shall be unlawful to creel or possess trout on that portion of the Jackson River from Gathright Dam downstream to the Westvaco Dam at Covington. Such closure shall end when special regulations pertaining to trout fishing on such portion of the Jackson River are

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enacted by the Board of Game and Inland Fisheries.

§ 15. Bills of sale for trout creeded in commercially operated fishing ponds.

The operator of a commercially operated fishing pond shall be required to furnish each fisherman taking trout therein a bill of sale, which shall include the name of the fisherman, date, species and number of trout creeded. The fisherman shall retain this bill of sale as long as the fish are in his possession and a duplicate thereof shall remain with the operator of the commercially operated fishing pond and be made available for inspection by all authorized department personnel.

§ 16. Trout artificially raised for human consumption.

A. Permit required. It shall be unlawful to raise artificially raise brown trout, brook trout or rainbow trout for human consumption or to import into Virginia such trout for human consumption without first having obtained a permit from the department so to do.

B. Records. Any person who shall artificially raise brown trout, brook trout or rainbow trout for sale for human consumption or who shall import into the Commonwealth such trout for such purpose shall keep a record of the number and species, the number raised or, if imported, from whom purchased.

C. Inspection of premises or establishments. Any establishment raising trout or ordering, importing or possessing trout, as provided for in subsection A of this section, shall be open to inspection at all reasonable hours to any representative of the department.

D. Notice on menu of eating establishments serving trout. Any eating establishment serving brown trout, brook trout or rainbow trout shall advertise on the menu that such trout are artificially raised.

§ 17. Special provisions applicable to Urban Fishing Program waters.

Waters selected by the director for inclusion into the Urban Fishing Program will be considered designated stocked trout waters only from November 1 through April 30, thus a trout license is not required from May 1 through October 31. In addition, trout may be creeded from these waters year around and the daily trout creel limit shall be four.

VA.R. Doc. No. R95-108; Filed November 9, 1994, 11:31 a.m.

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Title of Regulation: VR 325-03-3. Seines and Nets.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1995.

Summary:

The amendments (i) add Franklin, Henry, and Patrick counties to legal areas for haul seine use; (ii) add time of year and gear type restrictions; (iii) require county game warden notification prior to use; (iv) restrict the use of haul seines in six specific streams or stream sections in Franklin and Patrick Counties; and (v) include Lick Creek in Smyth and Bland Counties and Bear Creek in Smyth County to waters where the use of seines, traps, and nets is prohibited.

VR 325-03-3. Seines and Nets.

§ 1. Haul seines to take fish for sale.

A. Authorization to take fish for sale. A haul seine permit shall authorize the person to whom issued to take fish for sale as specified with a haul seine from the waters designated in this section.

B. Permit holder to be present when seine operated. The holder of a haul seine permit must be present with the same at all times when it is being operated. The holder, however, may have others to assist him and such persons assisting are not required to have a permit.

C. Length and size of nets. The length of haul seine net shall not be more than 500 yards. The size of mesh shall be 1-1/2 inch bar mesh.

D. Season and fish to be taken in Chesapeake City; set nets prohibited. In the Northwest River, the open season to take carp, grinnel, or bowfin, and catfish, generally known in that section as roundfish, and herring with a haul seine shall be from November 1 through May 15, both dates inclusive. All set nets shall be prohibited in the Northwest River.

E. Season and fish to be taken in Virginia Beach City. In Back Bay and its natural tributaries (not including Lake Tecumseh and Red Wing Lake), North Landing River from the North Carolina line to Pungo Ferry (not including Blackwater River), the open season to take all fish, except game fish, with a haul seine shall be from November 1 through March 31, both dates inclusive.

F. Season and fish to be taken in Southampton County. In the Nottoway River, from Cary's Bridge to the North Carolina line, the open season to take shad, herring, mullet, and suckers, only, with a haul seine shall be from March 1 through May 15, both dates inclusive.

G. Labeling packages containing fish taken with haul seine. It shall be unlawful for any person to ship or otherwise transport any package, box or other receptacle containing fish taken under a haul seine permit unless the same bears a label showing the name and address of the owner of the seine and a statement of the kind of fish.

contained therein.

H. Reporting. The holder of a permit to take fish for sale by means of haul seines shall keep a record of the pounds of fish taken by species and location (name and county of water body), and the pounds of each species sold.

§ 2. Haul seines to take fish for personal use.

A. Authorization to take fish for personal use. Pursuant to §§ 29.1-412 and 29.1-416 of the Code of Virginia, a permit to use a haul seine to take fish for personal use authorizes the holder of such permit to take nongame fish (except for those species listed in VR 325-01-1, § 13) with a haul seine for private table use, but not for sale; only in the counties of Franklin, Henry and Patrick, and in those waters as specified in § 29.1-531 of the Code of Virginia in the county for which such permit is issued, except as otherwise prohibited in VR 325-03-1, § 10, VR 325-03-2, § 6 and VR 325-03-3, § 6, and in waters listed in subsection F of this regulation.

B. Holder to be present when seine operated. The holder of a permit to take fish with a haul seine for personal use must be present when the seine is being operated but may have other persons to assist him who are not required to have a permit. However, those assisting the permittee or handling live fish or both must meet the fishing license requirements of the Commonwealth.

C. Length and size of haul seines. The length of a haul seine to take fish for personal use shall not be more than [50 60] feet in length. The minimum size of mesh shall be 1-1/2-inch bar mesh (3-inch stretch mesh).

D. Season to take fish with a haul seine. The season to take fish with a haul seine for personal use shall be from July 1 through September 30, both dates inclusive.

E. Department notification required to use a haul seine. Persons permitted to use a haul seine for personal use must notify the [local county game warden regional law-enforcement office] a minimum of 48 hours prior to use.

F. Haul seine use restricted in certain areas. The use of haul seines for personal use is prohibited in the following stream sections of Franklin and Patrick counties:

FRANKLIN COUNTY

Roanoke River from County Route 634 crossing upstream to the Roanoke/Franklin County line.

PATRICK COUNTY

Smith River from Philpott Lake upstream including headwaters.

Rock Castle Creek from its confluence with Smith River upstream, including headwaters.

Dan River from VA/NC state line upstream to County Route 631 crossing.

Poorhouse Creek from its confluence with North Fork Mayo River upstream including headwaters.

North Fork Mayo River from its confluence with Poorhouse Creek upstream.

§ 3. Gill nets.

A. Authorization to take fish. A gill net permit shall authorize the holder thereof to take nongame fish during the times and in the waters and for the purposes provided for in this section. Such gill net shall not be more than 300 feet in length. The mesh size shall be not less than 1-1/2-inch bar or square mesh (3-inch stretch mesh). Each net shall be identified by a department tag provided with such permit. Only one department tag will be issued per gill net permit, and these must have matching numbers. Persons intending to operate more than one net must purchase matching number permits and tags for each net. All nets must be checked daily and all game fish returned to the wild.

B. Permit holder to be present when gill net is being set and checked for fish. The holder of a gill net permit must be present with the net at all times when it is being set and checked for fish. The holder may have others to assist him, and such persons assisting are not required to have a permit. However, those assisting the permittee must meet the fishing license requirements of the Commonwealth.

C. Time and place permitted in Southampton County. Gill nets may be used in Southampton County only in the Nottoway River from Cary's Bridge to the North Carolina line from March 1 through May 15, both dates inclusive, to take fish for private table use only and not for sale.

D. Times and places permitted in Virginia Beach City; fish which may be taken. Gill nets may be used in Virginia Beach City in Back Bay and its natural tributaries (not including Lake Tecumseh and Red Wing Lake) and North Landing River from the North Carolina line to Pungo Ferry (not including Blackwater River) for the taking of mullet only for table use and also for sale from July 1 through November 1, both dates inclusive; and for the taking of other nongame fish, except mullet, for table use and also for sale from November 1 through March 31, both dates inclusive. Gill nets set in Back Bay waters shall be at least 300 feet from any other net and at least 300 feet from the shoreline. All such nets must be marked at both ends and at least every 100 feet along the length of the net with a five-inch by 12-inch minimum dimensions float.

§ 4. Dip nets; generally.

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A. Authorization to take fish with dip nets. A county dip net permit shall authorize the holder to take shad, herring, mullet and suckers, in the county named on the face of the permit with a dip net in inland waters, except where otherwise prohibited by local legislation or by the sections appearing in this regulation.

B. Persons required to have permit; inspection by game wardens. A dip net permit shall be required for all persons using or assisting in the use of a dip net and permits shall be carried at all times while using such nets and shall be subject to inspection by game wardens.

C. Release of certain fish netted. All fish, except shad, herring, mullet, suckers and carp, when taken with a dip net shall be returned to the water alive with as little injury as possible.

D. Special provisions applicable only to suckers. The following special provisions shall apply only to the taking of suckers, with a dip net:

1. Not more than 20 may be taken by any person in one day;
2. The open season for taking same with a dip net shall be from February 15 through May 15, both dates inclusive; and
3. Dip nets for taking such fish shall not be more than six feet square.

§ 5. Dip nets; hedging prohibited.

It shall be unlawful to use hedging in connection with dip nets in the public inland streams.

§ 6. Seines, traps and nets prohibited in certain areas.

A. It shall be unlawful to use seines and nets of any kind for the taking of fish from the public waters of the Roanoke (Staunton) and Dan Rivers in Campbell, Charlotte, Halifax and Pittsylvania counties, and in the City of Danville; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked or the taking of fish bait from these waters pursuant to the provisions of VR 325-03-5.

B. *In Lick Creek in Smyth and Bland counties, and in Bear Creek in Smyth County, it shall be unlawful to use seines, nets or traps; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked.*

§ 7. Repealed.

VA.R. Doc. No. R95-108; Filed November 9, 1994, 11:31 a.m.

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Title of Regulation: VR 325-03-5. Aquatic Invertebrates, Amphibians, Reptiles and Nongame Fish.

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 1995.

Summary:

The amendments (i) clarify that salamanders cannot be sold as bait; (ii) clarify that threatened and endangered species cannot be collected and sold; (iii) clarify that a permit is required for commercial bait operations that sell native minnows or chubs; (iv) clarify that a permit is required to sell snapping turtles, crayfish, and hellgrammites; (v) clarify that certain amphibians and reptile species can be captive bred and sold under a permit issued by the department; and (vi) prohibit the sale of salamanders, except nonnative (exotic) newts.

VR 325-03-5. Aquatic Invertebrates, Amphibians, Reptiles and Nongame Fish.

§ 1. Taking aquatic invertebrates, amphibians, reptiles and nongame fish for private use.

A. Possession limits. Except as otherwise provided for in § 29.1-418 of the Code of Virginia, VR 325-01-1, § 13 and the sections of this regulation, it shall be lawful to capture and possess live for private use and not for sale no more than five individuals of any single native or naturalized (as defined in VR 325-01-1 § 5) species of amphibian and reptile and 20 individuals of any single native or naturalized (as defined in VR 325-01-1 § 5) species of aquatic invertebrate and nongame fish unless specifically listed below:

1. The following species may be taken in unlimited numbers from inland waters statewide: carp, bowfin, longnose gar, mullet, bullhead catfish, suckers, gizzard shad, blueback herring, white perch, yellow perch, alewife, stoneroller (hornyhead), fathead minnow, golden shiner and goldfish.

2. The following species may be taken in unlimited numbers from inland waters below the fall line: channel catfish, white catfish and blue catfish.

3. For the purpose of this regulation, "fish bait" shall be defined as native or naturalized species of minnows and chubs (Cyprinidae), salamanders, crayfish, and hellgrammites. The possession limit for taking "fish bait" shall be 50 individuals in aggregate, unless said person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, *except salamanders which cannot be sold pursuant to the provisions of VR 325-03-5, § 6*. However, stonerollers (hornyheads), fathead minnows, golden shiners and goldfish may be taken an

possessed in unlimited numbers as provided for in subdivision 1 of this subsection.

4. The daily limit for bullfrogs and snapping turtles shall be 15 and bullfrogs and snapping turtles may not be taken from the banks or waters of designated stocked trout waters.

B. Methods of taking species in subsection A. Except as otherwise provided for in the Code of Virginia, VR 325-01-1, § 13, other regulations of the board, and except in any waters where the use of nets is prohibited, the species listed in subsection A may only be taken by hand, hook and line, with a seine not exceeding four feet in depth by 10 feet in length, an umbrella type net not exceeding five by five feet square, small minnow traps with throat openings no larger than one inch in diameter, cast nets not to exceed six feet in radius and hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet (such cast net and hand-held bow nets when so used shall not be deemed dip nets under the provisions of § 29.1-416 of the Code of Virginia). Bullfrogs may also be taken by gigging or bow and arrow and, from private waters, by firearms no larger than .22 caliber rimfire.

C. Areas restricted from taking mollusks. Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take mussels and the spiny riversnail (*Io fluviatilis*) in the Tennessee drainage in Virginia (Clinch, Powell and the North, South and Middle Forks of the Holston Rivers and tributaries), and it shall be unlawful to take mussels in the James River and tributaries west of U.S. Route 29 and in the entire North Fork of the Shenandoah River.

D. Areas restricted from taking salamanders. Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take salamanders in Grayson Highlands State Park and on National Forest lands in the Jefferson National Forest in those portions of Grayson, Smyth and Washington counties bounded on the east by State Route 16, on the north by State Route 603 and on the south and west by U.S. Route 58.

§ 2. Taking minnows and chubs for sale.

A. "Haul seine" defined. "Haul seine," as used in this section, when used in the inland waters of the Commonwealth above where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 15 feet in length, and when used in the public inland waters below where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 100 feet in length. Such a term shall be construed also to include umbrella type nets without limit as to size and also small minnow traps with throat openings no larger than one inch in diameter.

B. Permit required. Except as provided for in VR 325-01-1, § 13, it shall be ~~unlawful~~ lawful to take minnows

and chubs (Cyprinidae) for sale from the inland waters of the Commonwealth ~~without having~~ with a permit therefor as provided for in § 29.1-416 of the Code of Virginia, *except that it is unlawful to take threatened and endangered species as listed in VR 325-01-1, § 13.*

C. Permit holder to be present when seine operated; persons assisting. The holder of a permit to seine for minnows and chubs (Cyprinidae) must be present at all times when the seine is being operated to catch minnows and chubs (Cyprinidae). Persons assisting in the operation of the haul seine need not obtain permits.

D. Records. The holder of a permit to take minnows and chubs (Cyprinidae) for sale shall keep a record of the approximate number of minnows and chubs (Cyprinidae) taken by location (name and county of water body) and sold, together with the amount received therefor.

E. Commercial bait operations. Commercial bait operations *must have a Permit to Hold or Sell Certain Wildlife or a Permit to Propagate and Sell Certain Wildlife. With the exception of those species listed in VR 325-01-1, § 13, these operations may possess and sell unlimited quantities of minnows and chubs (Cyprinidae), when possession is accompanied by a valid invoice or bill of sale from an individual permitted under subsection B of this section or from a properly permitted aquaculture facility in Virginia or out-of-state.*

§ 3. Taking of snapping turtles, crayfish and hellgrammites for sale.

It shall be lawful to take *and sell* snapping turtles, crayfish and hellgrammites ~~for sale with a Permit to Collect and Sell Snapping Turtles, Crayfish and Hellgrammites or a Permit to Hold and Sell Certain Wildlife under such restrictions and conditions as the board may prescribe.~~

§ 4. Releasing game fish from nets, traps, etc.

It shall be unlawful in the inland waters of the Commonwealth to take game fish in a seine, net pot or trap, and all game fish caught in such seines, nets, pots or traps shall immediately be returned without injury to the waters from which taken.

§ 5. Propagation and sale of certain amphibians and reptiles.

It shall be lawful to propagate and sell certain native species of captive bred amphibians and reptiles with a Permit to Propagate and Sell Certain Wildlife or a Permit to Hold and Sell Certain Wildlife under such restrictions and conditions as the board may prescribe.

§ 6. Prohibit the sale of salamander species.

It shall be unlawful to sell any species of salamander with the exception of nonnative newts (Salamandridae).

Final Regulations

VA.R. Doc. No. R95-108; Filed November 9, 1994, 11:31 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-04-8.16. DMAS-122 Adjustment Process.

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

Effective Date: January 1, 1995.

Summary:

The purpose of this regulation is to establish and clarify the DMAS-122 adjustment process for Medicaid recipients in long-term care facilities. Specifically, the roles of the Department of Medical Assistance Services (DMAS) and the Department of Social Services (DSS) and the responsibilities of the long-term care provider, DMAS, and DSS are clarified.

Federal regulations require that recipients share in the cost of their long-term care. DMAS uses the DMAS-122 adjustment process to carry out this requirement. The Medicaid program's payment to nursing facilities, intermediate care facilities for the mentally retarded, and long-stay acute care hospitals must be reduced by the amount of the patient's income, less certain deductions (the patient pay amount). Patient pay is the recipient's income minus fees paid to a guardian and \$30 which is set aside in the resident fund for such things as personal items. Federal regulations specify what items may and may not be charged to the resident fund account.

If a resident requires medical services not covered by Medicaid (e.g., dental services), the responsible local DSS may prepare a DMAS-122 that allows for funds normally available for nursing care to be available to pay for the noncovered medical services. Such services must not be covered in any form by Medicaid or be subject to third-party payment.

This regulation sets forth guidelines for DMAS, DSS, and providers to follow in authorizing adjustments to a recipient's patient pay amount. Prior to this regulation, there has been duplicative handling of requests between DMAS and DSS, which has resulted in lengthy periods of time before a request is reviewed as well as inconsistency in the approval process. By establishing guidelines, providers will know precisely what services may be reimbursed by adjusting patient pay amounts and what documentation is required for a timely review of the adjustment request. Thus, the DMAS-122 adjustment process will be managed more efficiently, and providers will receive responses to their requests in a more timely manner.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933. There may be a charge for copies.

VR 460-04-8.16. DMAS-122 Adjustment Process.

§ 1. Definitions.

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

"DMAS" or "the department" means the Virginia Department of Medical Assistance Services.

"DMAS-122" means the Medicaid form used to determine patient pay amounts and to request adjustments to the patient pay.

"DSS" means the Virginia Department of Social Services.

"Facility" means a nursing facility, intermediate care facility for the mentally retarded, or a long-stay acute care hospital enrolled in the Medicaid program.

"Medical necessity" means an item or service provided for the diagnosis or treatment of a patient's condition consistent with community standards of medical practice and in accordance with Medicaid policy.

"Preauthorization" means obtaining the approval necessary for receipt of a specified service from a specified provider for a specified recipient before the requested service is performed.

§ 2. Purpose and scope.

The department's payment to nursing facilities, intermediate care facilities for the mentally retarded, and long-stay acute care hospitals shall be reduced by the amount of the patient's income, less certain deductions (the patient pay amount) in conformance with 42 CFR 435 (rev. October 1, 1992). Amounts for medical or remedial care not subject to payment by a third party, including necessary medical or remedial care not covered under the State Plan for Medical Assistance (the Plan), shall be deducted during the calculation of patient pay amounts.

§ 3. Limitations.

A. A DMAS-122 adjustment request shall always be used as the last source of payment. If a recipient has other sources of possible payment (i.e., Medicare, major medical insurance, prescription insurance, dental insurance, etc.), payment must be sought first from those other sources.

B. Only the cost of medically necessary, resident-specific, customized, noncovered items or services may be deducted from patient pay. This shall include, but not necessarily be limited to, electric, motorized, or customized wheelchairs and other equipment not regularly supplied to residents by the facility as part of the cost of care. Supplies, equipment, or services used in the direct care and treatment of residents are covered services and must be provided by the facility. Covered items and services include, but are not necessarily limited to, standard wheelchairs, recliners, geriatric chairs, special mattresses, humidifiers, cots, and routine podiatry care (e.g., trimming nails for onychia, cleaning and soaking the feet, and other services performed in the absence of localized illness, injury, or symptoms involving the foot). Expenses incurred by the facility for covered items and services are considered "allowable expenses" and are covered by Medicaid as part of reimbursement to the facility for the resident's care; these costs cannot be deducted from patient pay.

C. Extenuating circumstances shall be considered for the provision of podiatry care when corrective trimming is performed to prevent further complications in a patient who has a systemic condition that has resulted in severe circulation deficits or areas of desensitization in the legs or feet. Trimming of nails for a systemic condition is limited to once every 60 days and must be medically necessary. In such cases, the facility is not responsible for routine podiatry care.

D. DMAS-122 adjustments shall be allowed for the cost of medically or remedially necessary services provided prior to Medicaid eligibility or prior to admission. Any decision made by DMAS or DSS to deny a service may be appealed to DMAS. Appeals must be made in writing by the resident or his legally appointed representative, as provided for in DMAS Client Appeals Regulations (VR 460-04-8.7).

E. The facility shall monitor the proper care of the resident's medical supplies and equipment. Requests for adjustment made because an item is lost or broken by facility staff must include documentation on the resident's interdisciplinary plan of care regarding proper care and treatment of the item. When loss or breakage is incurred as a result of facility staff following improper practices, the facility must replace the item.

F. All requests for DMAS-122 adjustments submitted by providers to either DMAS or DSS shall include:

1. The recipient's correct Medicaid identification number;
2. The current physician's orders for the noncovered service (not required for replacement of hearing aid batteries or eyeglass frames or for repair to hearing aids or eyeglasses);
3. Medical justification for the service being requested

(see subsection G of this section):

4. The service description;

5. Actual cost information;

6. Documentation that the recipient continues to need the equipment for which a repair, replacement, or battery is requested;

7. A statement of proof of denial or noncoverage by other insurance; and

8. A copy of the most current, fully completed Minimum Data Set (MDS) and quarterly review.

G. Medical justification documentation as specified in subdivision F 3 of this section shall include the following:

1. Physician prescription;

2. Identification of the diagnosis related to the reason for the request;

3. Identification of the resident's functional limitation;

4. Identification of the quantity needed, frequency of use, estimated length of use; and

5. Identification of how the item or service will be used in the resident's environment.

H. Adjustments of a recipient's patient pay amount may only be authorized by DMAS or DSS.

VA.R. Doc. No. R95-85; Filed October 27, 1994, 3:31 p.m.

Department of Medical Assistance Services
 600 East Broad Street
 Suite 1300
 Richmond, Virginia 23219

PATIENT INFORMATION

**INSTRUCTIONS FOR COMPLETION
 DMAS-122**

(Name of Provider)

Name _____ Sex _____ Birth Date _____
 Home Address _____ Medicaid ID # _____
 (For Use By Provider)

- I. PATIENT STATUS:** (Complete Appropriate Blocks)
 Report of any admission, discharge, and/or change of patient status.
 A. Patient admitted to this facility/service / /
 B. Patient discharged or expired on / /
 Home Hospital Other Institution Expired
 C. Patient level of care has changed from _____ to _____
 D. Request eligibility Determination or Confirmation
- II. REQUEST NEW MAP-122 FOR FOLLOWING REASON, CHECK ONE:**
 A. MAP Audit indicated:
 1. Patient Personal or Maintenance Allowance not indicated on present MAP-122
 2. Patient's income has changed. Latest _____ Social Check amount is _____
 3. Patient pay effective date not shown on Map-122 dated _____
 B. Other (Explain) _____
- III. INFORMATION:** (To Be Completed by Nursing Home Only)
 The Personal Fund Account is Within \$100.00 of the Medicaid allowed limits.
 PFA is \$ _____ as of _____ (Date)
 Name _____
 Title _____ Date _____

REMARKS:

- (For Use by Social Services)
- IV. A. ELIGIBILITY INFORMATION** (Check one)
 1. Has been found eligible for Medical Assistance effective _____ (Date)
 2. Does not meet the eligibility requirements for Medical Assistance
 3. Is currently a recipient of Medical Assistance
- B. FINANCIAL INFORMATION**
 1. Recipient patient has the following resources from which payment responsibility is determined:
 (Show full benefit from all sources.)
 a. \$ _____ Social Security
 b. \$ _____ VA
 c. \$ _____ Retirement
 d. \$ _____ Other Source
 Total \$ _____
2. \$ _____ a month is allocated for the patient's personal or maintenance needs
 3. \$ _____ a month is allocated for the need of dependents at home, if appropriate.
 4. \$ _____ Other _____
 5. \$ _____ a month is to be paid toward the cost of care beginning _____
- NOTE:** Income is to be applied to the cost of care in the month in which it is received. e.g., SSA checks received in January are applicable to the cost of care for January.
6. Has no responsibility to pay toward cost of care.

 Social Services Dept
 Name _____
 Title _____ Date _____

NOTE: INSTRUCTIONS ON REVERSE SIDE

PURPOSE OF FORM—For a local social services department and a nursing home or personal care provider to exchange information with respect to: (1) responsibility of an eligible patient to make payment toward the cost of care, (2) change in the level of care, (3) admission or discharge of a patient to an institution or personal care services, or death of patient, (4) or other information known to the provider that might involve a change in eligibility or patient pay responsibility.

USE OF FORM—To be prepared initially by either the provider or the local social services department for each nursing home or personal care patient at the time of eligibility determination or entry into the nursing home or personal care services program, to give the provider appropriate financial information. A new form is to be prepared by the local social services department at the time of each redetermination of eligibility and whenever there is any change in the patient's circumstances that results in a change in the amount of income to be paid toward the cost of care.

The form shall be prepared by the provider to request a Medicaid number, or eligibility determination or confirmation or to notify the local social services department of changes in the patient's circumstances.

NUMBER OF COPIES—Prepare in duplicate for nursing home patients and triplicate for personal care patients.

DISPOSITION OF COPIES—Local social services departments are to send the original to the provider and file the copy in the eligibility case folder. For personal care patients, a copy is sent to the Community-Based Care Section, Virginia Medical Assistance Program. When initiated by the provider, the original is to be sent to the local social services department and the copy filed in the patient's medical records. Personal care providers should send a copy to the Community-Based Care Section also. Forms are to be retained for a period of three years following the current fiscal year if a federal audit has been made within that period and no audit questions have been raised. If such an audit has not been made within that time, the form must be retained until an audit has been made or until the end of five years following the current fiscal year, whichever is earlier. In all cases, if audit questions have been raised, the form must be retained until questions are resolved.

DETAILED INSTRUCTIONS FOR COMPLETING THE FORM—The local social services department or provider, whichever initiates the form, is to complete the heading.

Sections I, II, and III are to be used by the provider to provide information or make specific requests of a local social services department.

Section IV is to be used by the local social services department to provide information concerning a patient's financial responsibility.

In Section IV-A, check the appropriate line 1, 2, or 3 for each applicant recipient.

Section IV-B is to be completed for each eligible patient as follows: (1) Section IV B 1, enter the amount of income and its source in the space provided; (2) Section IV B 2, enter the income level established for maintenance or personal needs allowance; (3) Section IV B.3, enter the amount of the patient's income that is allocated to dependents at home, if appropriate; (4) Section IV B 4, enter the amount of the patient's income that is allocated to other expenses (such as uncovered medical expenses) and indicate the purpose of the deduction; (5) Section IV B 5, enter the amount to be paid on the cost of care and the date this amount becomes effective; and (6) Section IV B.6, check this block if patient has no responsibility to make a payment toward his cost of care.

The patient pay must be applied to the cost of care each month before Medicaid responsibility begins. The provider must apply the full patient pay or that which covers charges on the first half of split billings.

Income is to be applied to the cost of care in the month in which it is received. i.e., Social Security Administration checks received on January 3 are applicable to the cost of care for January.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

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

Title of Regulation: VR 615-01-53. Aid to Families with Dependent Children (AFDC) Program - Determining AFDC Eligibility When the Only Dependent Child Receives Foster Care Benefits.

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

Effective Date: December 28, 1994.

Summary:

This regulation adopts the policy set forth in the Administration for Children and Families Action Transmittal 94-5 dated February 28, 1994, issued by the U.S. Department of Health and Human Services, which mandates that a specified relative, who meets all eligibility requirements, must be considered eligible to receive Aid to Families with Dependent Children benefits for his own needs even though the only dependent child living in the relative's home is receiving foster care maintenance payments.

Agency Contact: Copies of the regulation may be obtained from Richard Martin, Regulatory Coordinator, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1820. There may be a charge for copies.

VR 615-01-53. Aid to Families with Dependent Children (AFDC) Program - Determining AFDC Eligibility When the Only Dependent Child Receives Foster Care Benefits.

§ 1. Definitions.

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

"Aid to Families with Dependent Children (AFDC) Program" means the program administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Specified relative" means the degree of relationship which must exist between a caretaker and a dependent child in order for the caretaker-relative to qualify for

assistance under this program.

"Foster care maintenance payment" means a federal, state, or local payment made for the needs of a foster care child.

§ 2. Determining AFDC eligibility when the only dependent child receives foster care benefits.

A specified relative, who meets all other eligibility requirements, must be considered eligible to receive Aid to Families with Dependent Children benefits for his own needs even though the only dependent child living in the relative's home is receiving foster care maintenance payments. The needs and income of the child who receives foster care maintenance payments must not be considered in determining the amount of the assistance payment.

V.A.R. Doc. No. R95-83; Filed November 1, 1994, 2:43 p.m.

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

November 8, 1994

Ms. Carol A. Brunty
Commissioner
Department of Social Services
Theater Row Building
730 East Broad Street
Richmond, Virginia 23219

RE: VR 615-01-53 Aid to Families with Dependent Children (AFDC)
Program - Determining AFDC Eligibility When
the Only Dependent Child Receives Foster
Care Benefits

Dear Ms. Brunty:

This will acknowledge receipt of the above-referenced regulations from the Department of Social Services.

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

Sincerely,

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

Joan W. Smith
Registrar of Regulations

JSW:tle

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

PROPOSED REGULATIONS

Title of Regulations: Rules for Enforcement of the Underground Utility Damage Prevention Act.

Statutory Authority: §§ 12.1-13 and 56-265.30 of the Code of Virginia.

AT RICHMOND, NOVEMBER 1, 1994

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE940071

Ex Parte: In the matter of adopting rules necessary to implement the State Corporation Commission's authority to enforce the Underground Utility Damage Prevention Act

ORDER FOR NOTICE AND COMMENT

Section 56-265.30 of the Code of Virginia authorizes the State Corporation Commission ("Commission") to enforce the provisions of Chapter 10.3 of Title 56 of the Code of Virginia, also known as the Underground Utility Damage Prevention Act ("Act"). Section 56-265.30 also authorizes the Commission to promulgate any rules or regulations necessary to implement the Commission's authority to enforce the Act.

The Commission proposes to adopt the rules specified in Appendix A to this order as the procedures to be used to enforce the provisions of the Act.

It appearing that the public should be afforded an opportunity to file written comments concerning the Commission's proposal and to request a hearing before the Commission on any substantive objection which cannot be presented effectively in writing; accordingly,

IT IS ORDERED:

(1) That this matter be assigned Case No. PUE940071 and associated papers be filed therein;

(2) That, on or before November 30, 1994, any person may submit comments in support of, or in opposition to, the Commission's adoption of the Underground Utility Damage Prevention Rules as specified in Appendix A to this order with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(3) That, on or before November 30, 1994, any person who desires to be heard on the proposed rules shall file with the Clerk, State Corporation Commission, c/o

Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, a written request for such hearing together with the statement of reasons why their position cannot be expressed adequately in writing to the Commission;

(4) That the Division of Energy Regulation shall publish the following notice once in the Virginia Register and once as classified advertising in major newspapers of general circulation in the Commonwealth, publication to be completed by November 16, 1994;

PUBLIC NOTICE

Pursuant to Va. Code § 56-265.30, the State Corporation Commission ("Commission") proposes to adopt the following rules to implement Chapter 10.3 of Title 56 of the Code of Virginia, also known as the Underground Utility Damage Prevention Act ("Act").

RULES FOR ENFORCEMENT OF THE UNDERGROUND UTILITY DAMAGE PREVENTION ACT

1: Purpose

These rules delineate procedures used by the State Corporation Commission ("Commission") to enforce the provisions of Chapter 10.3 of Title 56 of the Code of Virginia, also known as the Underground Utility Damage Prevention Act ("Act").

2: Report of Probable Violations

Any person, as defined in § 56-265.15 of the Code of Virginia, may report probable violations of Chapter 10.3 of Title 56 to the State Corporation Commission, Division of Energy Regulation ("Division"). The reports of probable violations may be submitted to the Division in person, in writing, by phone, or by any other means of data transfer. All written reports of probable violations shall include the information requested on SCC Form DPA-1, if available. All probable violations shall be reported to the Division within 30 days of a person becoming aware of the circumstances constituting the probable violations.

3: Commission Staff Investigation of Probable Violations

Upon receipt of a report of a probable violation, the Commission Staff ("Staff") shall conduct an investigation to examine all the relevant facts regarding the reported probable violation. The investigation may include, among other things, records verification, informal meetings, teleconferences, and photo-documentation. Upon completion of the investigation, the Staff shall review its findings and recommendations with the Advisory Committee established in accordance with § 56-265.31 of the Act.

State Corporation Commission

4: Advisory Committee Review of Probable Violations

(4.1) The Advisory Committee ("Committee"), established by the Commission, shall meet on a periodic basis to review probable violations of the Act and the Staff's findings and recommendations relative to such violations. Upon determination of either the Staff or the Committee that a violation may have occurred, and that an enforcement action is required, the Staff shall take one or more of the following actions:

(1) Issue a warning letter to the person alleged to have committed the violation ("Respondent");

(2) Enter settlement negotiations with the Respondent. Upon reaching agreement on settlement terms, the Division shall present the proposed settlement to the Commission for final acceptance or rejection; or

(3) Request the issuance of a "Rule to Show Cause" order pursuant to Rule 4:11 of the Commission's Rules of Practice and Procedure.

(4.2) In the event that the Staff but not the Committee recommends enforcement action, the Staff shall report to the Commission the Committee's recommendation and reason(s) therefore.

(4.3) As soon as practicable after its establishment, the Committee shall develop and implement a set of bylaws. These bylaws shall delineate the Committee's practice and procedures relative to performing the duties assigned by the Commission, including the review of probable violations of the Act.

(4.4) If deemed necessary, the Committee shall establish one or more subcommittees of experts in the operations covered by the Act. These subcommittees shall assist the Committee in performing its assigned duties.

5: Commission Action

(5.1) The Commission may accept or reject a proposed settlement to resolve probable violations of the Act. If the Commission rejects a proposed settlement, a public hearing will be scheduled to receive evidence and take appropriate enforcement action as provided by the Commission's Rules of Practice and Procedure.

(5.2) If the Commission finds, after a hearing, that a violation has occurred or is continuing, it may issue a remedial order. The remedial order may direct the party(ies) to take any action which is consistent with such party's(ies)' obligations under the Act, including the payment of a civil penalty as provided by § 56-265.32. A remedial order issued by the

Commission under this section shall be effective upon issuance, in accordance with its terms, unless stayed, suspended, modified or rescinded.

(5.3) If the Commission finds that a violation has occurred or is continuing and presents an immediate potential danger to life, health, property or essential public service, the Commission may issue a temporary injunction and schedule a hearing and require the Respondent to show cause why it should not be enjoined on account of the alleged violation(s) of the Act.

6: Civil Penalties

(6.1) In determining the amount of any civil penalty included in a settlement, the nature, circumstances and gravity of the violation; the degree of the Respondent's culpability; the Respondent's history of prior offenses; and such other factors as may be appropriate shall be considered.

(6.2) The Respondent shall pay a civil penalty that has been assessed or compromised by submitting to the Division a certified check made payable to the Treasurer of Virginia in the correct amount. All such penalties shall be deposited in the Underground Utility Damage Prevention Special Fund and shall be used for administering the regulatory program authorized by the Act. An excess funds shall be used for public awareness programs established pursuant to Subsection B of § 56-265.16:1.

7: Petition for Reconsideration

Any person subject to an order from the Virginia State Corporation Commission may petition the Commission for reconsideration of its order under Section 8:9 of the Commission's Rules of Practice and Procedure.

8: Appeals Generally

Any final finding, decision setting the substantive law, order or judgment of the Commission may be appealed only to the Supreme Court of Virginia, subject to Va. Code § 12.1-39, et seq., and to Rule 5:21 of that Court.

Any person desiring to file written comments concerning this subject or to request a formal hearing on an objection which cannot be presented effectively in writing shall, on or before November 30, 1994, send such comments or request for hearing to the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216. A request for a hearing must state a substantive objection to the Commission's proposal and the reasons it cannot be presented effectively in writing. If the Commission does not receive any proper requests for

State Corporation Commission

hearing, the aforementioned rules may be adopted without hearing. Further information regarding this matter may be obtained from the Commission's Division of Energy Regulation, P.O. Box 1197, Richmond, Virginia 23209 or by telephone at (804) 371-9611.

(5) That, on or before November 30, 1994, the Division of Energy Regulation shall file with the Clerk of the Commission proof of publication of the notice prescribed herein.

AN ATTESTED COPY of this Order shall be sent to the Commission's Division of Energy Regulation and the Office of General Counsel.

Rules for Enforcement of the Underground Utility Damage Prevention Act.

§ 1. Purpose.

These rules delineate procedures used by the State Corporation Commission (commission) to enforce the provisions of Chapter 10.3 (§ 56-265.15 et seq.) of Title 56 of the Code of Virginia, also known as the Underground Utility Damage Prevention Act (Act).

§ 2. Report of probable violations.

Any person, as defined in § 56-265.15 of the Code of Virginia, may report probable violations of Chapter 10.3 of Title 56 to the State Corporation Commission, Division of Energy Regulation (division). The reports of probable violations may be submitted to the division in person, in writing, by phone, or by any other means of data transfer. All written reports of probable violations shall include the information requested on SCC Form DPA-1, if available. All probable violations shall be reported to the division within 30 days of a person becoming aware of the circumstances constituting the probable violations.

§ 3. Commission staff investigation of probable violations.

Upon receipt of a report of a probable violation, the commission staff (staff) shall conduct an investigation to examine all the relevant facts regarding the reported probable violation. The investigation may include, among other things, records verification, informal meetings, teleconferences, and photo-documentation. Upon completion of the investigation, the staff shall review its findings and recommendations with the Advisory Committee established in accordance with § 56-265.31 of the Act.

§ 4. Advisory Committee review of probable violations.

A. The Advisory Committee (committee), established by the commission, shall meet on a periodic basis to review probable violations of the Act and the staff's findings and recommendations relative to such violations. Upon determination of either the staff or the committee that a violation may have occurred, and that an enforcement

action is required, the staff shall take one or more of the following actions:

1. Issue a warning letter to the person alleged to have committed the violation (respondent);

2. Enter settlement negotiations with the respondent. Upon reaching agreement on settlement terms, the division shall present the proposed settlement to the commission for final acceptance or rejection; or

3. Request the issuance of a "Rule to Show Cause" order pursuant to Rule 4:11 of the commission's Rules of Practice and Procedure.

B. In the event that the staff but not the committee recommends enforcement action, the staff shall report to the commission the committee's recommendation and reason(s) therefor.

C. As soon as practicable after its establishment, the committee shall develop and implement a set of bylaws. These bylaws shall delineate the committee's practice and procedures relative to performing the duties assigned by the commission, including the review of probable violations of the Act.

D. If deemed necessary, the committee shall establish one or more subcommittees of experts in the operations covered by the Act. These subcommittees shall assist the committee in performing its assigned duties.

§ 5. Commission action.

A. The commission may accept or reject a proposed settlement to resolve probable violations of the Act. If the commission rejects a proposed settlement, a public hearing will be scheduled to receive evidence and take appropriate enforcement action as provided by the commission's Rules of Practice and Procedure.

B. If the commission finds, after a hearing, that a violation has occurred or is continuing, it may issue a remedial order. The remedial order may direct the party or parties to take any action which is consistent with such party's or parties' obligations under the Act, including the payment of a civil penalty as provided by § 56-265.32 of the Code of Virginia. A remedial order issued by the commission under this section shall be effective upon issuance, in accordance with its terms, unless stayed, suspended, modified or rescinded.

C. If the commission finds that a violation has occurred or is continuing and presents an immediate potential danger to life, health, property or essential public service, the commission may issue a temporary injunction and schedule a hearing and require the respondent to show cause why it should not be enjoined on account of the alleged violation(s) of the Act.

§ 6. Civil penalties.

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A. In determining the amount of any civil penalty included in a settlement, the nature, circumstances and gravity of the violation; the degree of the respondent's culpability; the respondent's history of prior offenses; and such other factors as may be appropriate shall be considered.

B. The respondent shall pay a civil penalty that has been assessed or compromised by submitting to the division a certified check made payable to the Treasurer of Virginia in the correct amount. All such penalties shall be deposited in the Underground Utility Damage Prevention Special Fund and shall be used for administering the regulatory program authorized by the Act. Any excess funds shall be used for public awareness programs established pursuant to subsection B of § 56-265.16:1 of the Code of Virginia.

§ 7. Petition for reconsideration.

Any person subject to an order from the Virginia State Corporation Commission may petition the commission for reconsideration of its order under Rule 8:9 of the commission's Rules of Practice and Procedure.

§ 8. Appeals generally.

Any final finding, decision setting the substantive law, order or judgment of the commission may be appealed only to the Supreme Court of Virginia, subject to § 12.1-39 et seq. of the Code of Virginia, and to Rule 5:21 of that Court.

V.A.R. Doc. No. R95-94; Filed November 3, 1994, 3:25 p.m.

* * * * *

Title of Regulation: Insurance Regulation No. 46. Rules Governing Essential and Standard Health Benefit Plan Contracts.

Statutory Authority: §§ 12.1-13, 38.2-223 and 38.2-3431 of the Code of Virginia.

AT RICHMOND, OCTOBER 27, 1994

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS940205

Ex Parte: In the matter of adopting Rules Governing Essential and Standard Health Benefit Plan Contracts

ORDER TO TAKE NOTICE

WHEREAS, Virginia Code § 12.1-13 provides that the

Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and Virginia Code § 38.2-223 provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed revised regulation entitled "Rules Governing Essential and Standard Health Benefit Plan Contracts;" and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed regulation;

THEREFORE, IT IS ORDERED:

(1) That the proposed regulation entitled "Rules Governing Essential and Standard Health Benefit Plan Contracts" be appended hereto and made a part of the record herein;

(2) That a hearing be held in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on November 29, 1994, for the purpose of considering the adoption of the proposed regulation;

(3) That, on or before November 22, 1994, any person desiring to comment on the proposed regulation shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(4) That an attested copy hereof, together with a copy of the proposed regulation, be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of this order, together with a copy of the proposed regulation, to all insurers, health services plans, and health maintenance organizations licensed to write accident and sickness insurance in the Commonwealth of Virginia; and

(5) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

Insurance Regulation No. 46. Rules Governing Essential and Standard Health Benefit Plan Contracts.

§ 1. Purpose.

The purpose of this regulation is to implement § 38.2-3431 D of the Code of Virginia, with respect to the recommendations of the Essential Health Services Panel, established pursuant to Chapter 847 of the 1992 Acts of the Assembly, and to establish the requirements for the essential health benefit plan and the standard health

benefit plan.

§ 2. Scope.

Every insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, each corporation providing individual or group accident and sickness subscription contracts, and each health maintenance organization or multiple employer welfare arrangement providing health care plans for health care services that offers coverage to the small employer or primary small employer market shall be subject to the provisions of this regulation if any of the following conditions are met:

1. Any portion of the premiums or benefits is paid by or on behalf of the small employer;
2. The eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium;
3. The small employer has permitted payroll deduction for the covered individual or any portion of the premium is paid by the small employer; or
4. The health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for the purposes of §§ 106, 125, or 162 of the United States Internal Revenue Code.

§ 3. Definitions.

For the purposes of this regulation;

"Adult" means an individual 18 years old and older up to the age of 65.

"Carrier" means any person that provides one or more health benefit plans or insurance in this Commonwealth, including an insurer, a health services plan, a fraternal benefit society, a health maintenance organization, a multiple employer welfare arrangement, a third party administrator or any other person providing a plan of health insurance subject to the authority of the commission.

"Case management" means a form of utilization review used to monitor and manage treatment and suggest appropriate medical services.

"Child" means an individual from birth to the age of 18 years.

"Coinsurance percentage" or "coinsurance" means the percentage of allowable charges allocated to the carrier and to the covered person.

"Copayment" means a specified charge that a covered

person must pay each time services of a particular type or in a designated setting are received by a covered person.

"Deductible" means the amount of allowable charges that must be incurred by an individual or a family per year before a carrier begins payment.

"First-degree relative" means a parent or child of an individual.

"Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

1. The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

- a. Be an institution operated pursuant to law;
- b. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and
- c. Provide 24-hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

2. The definition of the term "hospital" may state that such term shall not include:

- a. Convalescent homes, convalescent rest, or nursing facilities;
- b. Facilities primarily affording custodial, educational or rehabilitative care;
- c. Facilities for the aged, drug addicts or alcoholics; or
- d. Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof, for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

"Medical emergency" means a condition or chief complaint manifested by acute symptoms of sufficient severity which, without immediate and necessary medical attention, could reasonably be expected to result in (i) serious jeopardy to the mental or physical health of the individual, or (ii) danger of serious impairment of the individual's bodily functions, or (iii) serious dysfunction of

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any of the individual's organs, or (iv) in the case of a pregnant woman, serious jeopardy to the health of the fetus.

"Medically necessary" means a service acknowledged as acceptable medical practice by an established United States medical society for the treatment or management of pregnancy, illness, or injury which (i) is the most appropriate and cost-effective service to be provided safely to the patient, (ii) is consistent with the patient's symptoms or diagnosis, and (iii) is not experimental or investigative in nature. The fact that a physician prescribes a service does not automatically mean such service is medically necessary and will qualify for coverage.

"Medicare" shall be defined in any hospital, surgical or medical expense policy which relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of the Public Laws 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the 'Health Insurance for the Aged Act,' as then constituted and any later amendments or substitutes thereof," or words of similar import.

"Mental or nervous disorder" shall not be defined more restrictively than a definition including neurosis, psycho neurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind including physiological and psychological dependence on alcohol and drugs.

"Nurse" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse" or "registered nurse" are used without specific description as to type, then the use of such terms requires the carrier to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

"Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician."

"Plan" means the contracts offering the standard or essential benefits pursuant to §§ 38.2-3431 through 38.2-3434 of the Code of Virginia.

"Primary care provider" means the physician or other health care practitioner designated from a network of providers as the provider responsible for providing, managing or directing all health care received by the covered individual enrolled in a preferred provider organization or a health maintenance organization.

"Primary small employer," a subset of "small employer," means any person actively engaged in business that, on at least 50% of its working days during the preceding year, employed no more than 25 eligible employees and not less than two unrelated eligible employees, except as provided in subdivision A 2 of § 38.2-3523 of the Code of Virginia, the majority of whom are enrolled within this Commonwealth. Primary small employer includes companies that are affiliated companies or that are eligible to file a combined tax return. Except as otherwise provided, the provisions of this regulation that apply to a primary small employer shall apply until the earlier of the plan anniversary or one year following the date the employer no longer meets the requirements of this subsection.

§ 4. General requirements.

A. Every insurer, health services plan, fraternal benefit society, or health maintenance organization licensed to issue policies of accident and sickness insurance, subscription contracts, or evidences of coverage in this Commonwealth; and every multiple employer welfare arrangement operating in this Commonwealth and subject to the jurisdiction of the commission must notify the commission in writing of its intent to participate or not participate in the primary small group market or the small group market within 90 days of the effective date of this regulation.

B. All carriers issuing essential and standard plans must report to the commission annually by January 1 the number of primary small employers covered by the essential and standard plans. The report shall include the number of employees covered, including dependents, and their age and sex and shall be on the "Virginia Primary Small Employer Coverage Report" form.

C. Periodic demonstration of fair and active marketing of the essential and standard benefit plans shall be submitted to the commission by all carriers. The number of new plans issued, their geographic location, and industry must be submitted to the commission every six months beginning December 1, 1995, on the "Virginia Primary Small Employer New Business Report" form. Each federally qualified health maintenance organization must demonstrate to the commission's satisfaction its inability to offer the essential plan in the event the health maintenance organization believes that it is unable to offer such plan.

D. Carriers are not allowed to issue riders or endorsements which reduce or eliminate benefits, with the exception of dental benefits which may be provided by separate contract in accordance with § 38.2-3431 D of the Code of Virginia.

E. No contract may exclude coverage for a loss due to a preexisting condition for a period greater than 12 months as described in §§ 38.2-3432 A 1 and 38.2-3431 C of the Code of Virginia.

F. All contracts must comply with the requirements of Title 38.2 of the Code of Virginia which are not inconsistent with Article 5 (§ 38.2-3431 et seq.) of Chapter 34 of Title 38.2.

G. Carriers must provide 30 days advance notice to the commission and either the policyholder, contract holder, enrollee or employer of their decision to cease to write new business in the primary small employer market.

§ 5. Minimum standards for benefits for the Essential Benefit Plan Contracts.

Essential Benefit Plan Contracts shall include the following:

1. Inpatient hospital care of 21 days in a 12-month period for individuals 18 years and older; for individuals up to age 18, 21 days of inpatient hospital care and inpatient care beyond 21 days must also be covered when certified as medically necessary by the primary care provider when appropriate utilization review has been conducted and payment authorization has been obtained. Inpatient hospital care includes the following:

a. Daily room and board expenses and ancillary services including anesthesia, casts, dressings, drugs and medications, equipment, general nursing, inhalation therapy, intensive care unit stay, laboratory and x-ray services, oxygen services, radiation therapy, short-term physical therapy, special diets, supplies, use of operating room, and use of recovery room;

b. Inpatient medical services including primary, consultative and specialty provider services;

c. Inpatient therapeutic blood services, including blood derivatives and their administration and whole blood when a volunteer program is not available;

d. Inpatient mental health services upon referral by the primary care provider for up to 21 days per contract year; and

e. Newborn care.

2. Outpatient care.

a. Outpatient medical and surgical care including consultation, surgery, medication management visits for physical or psychiatric chronic or acute illnesses, and facility fees, when medically necessary and upon referral by the primary care provider;

b. Outpatient diagnostic services including testing and treatment upon referral by the primary care provider including outpatient radiation or chemotherapy treatment when medically necessary and upon referral by the primary care provider;

laboratory services, screening services, x-rays, or psychological testing;

c. Outpatient therapeutic blood services including blood derivatives and their administration and whole blood services when a volunteer blood program is not available; and

d. Outpatient mental health or substance abuse treatment services of up to 20 visits per contract year.

3. Maternity care. Maternity care shall be included consistent with the current recommendations of the American College of Obstetrics and Gynecology.

a. The existing recommendations include the following: diagnosis of pregnancy and, when medically indicated and consistent with the guidelines of the American College of Obstetrics and Gynecology, laboratory services and other diagnostic or testing procedures including amniocentesis, ultra sound, radiology, etc.;

b. Inpatient hospital services, including anesthesia, complications of pregnancy, delivery by vaginal and cesarean section, labor and delivery room, medications, operating or other special procedure rooms, etc.; and

c. Postpartum care.

4. Emergency services.

a. Prehospital emergency medical services, ambulance services, emergency hospital services, inpatient and emergency room;

b. Emergency room services for medical emergencies upon primary care provider certification;

c. Acute medical detoxification; and

d. Severe mental health crisis services, with ambulatory treatment. Inpatient treatment only on referral by primary care provider.

5. Preventive care. Preventive care shall be included for children consistent with the current recommendations of the American Academy of Pediatrics and for adults according to the recommendations of the American Academy of Family Physicians.

Existing recommendations include the following:

a. Eighteen preventive health visits from birth to age 18, including: documented child health history; physical examination; developmental or behavioral assessment; anticipatory guidance; immunizations,

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including diphtheria, tetanus, and pertussis (DTP), or diphtheria, tetanus toxoids, and acellular pertussis (DTaP), oral poliovirus (OPV), measles-mumps-rubella (MMR), and Hemophilus influenza type B (HIB), hepatitis B virus (HBV), and laboratory services.

b. One preventive health visit every one to three years for individuals from age 18 through age 39, including: documented health history; physical examination; laboratory or diagnostic procedures, including nonfasting or fasting blood cholesterol at least every five years; Papnicolauo smear annually for women who are sexually active or who were sexually active; or every three years, at the primary care provider's discretion, for women with three or more consecutive satisfactory normal annual examinations.

(1) Individuals who are determined to be in high-risk groups shall be covered for: fasting plasma glucose; rubella antibodies; Venereal Disease Research Laboratory and Rapid Plasma Reagin Tests; urinalysis for bacteriuria; chlamydial testing; gonorrhea culture; counseling and testing for Human Immunodeficiency Virus (HIV); hearing testing; tuberculin skin test; electrocardiogram; mammogram for women 35 years and older with a family history of premenopausally diagnosed breast cancer in a first-degree relative; and colonoscopy for individuals with a family history of familial polyposis coli or cancer family syndrome.

(2) The coverage must also include counseling on: diet; exercise; substance use; sexual practices, including sexually transmitted diseases and family planning; injury prevention; dental health; other primary preventive measures; and immunizations including a tetanus-diphtheria booster, every 10 years and for high-risk individuals, hepatitis B vaccine, pneumococcal vaccine, influenza vaccine annually, and measles-mumps-rubella vaccines.

c. One preventive health visit every one to three years for individuals from age 40 through age 64, including interval and family health history; physical examination; laboratory or diagnostic procedures including nonfasting or fasting blood cholesterol (at least every five years); Papnicolauo smear (annually for women who are or have been sexually active; every three years for women having three or more consecutive satisfactory normal annual examinations); mammograms bi-annually for women age 40 to age 49; mammograms annually for women age 50 and older; fasting plasma glucose; Venereal Disease Research Laboratory and Rapid Plasma Reagin Tests; urinalysis for bacteriuria; chlamydial testing; gonorrhea culture; counseling and testing for Human Immunodeficiency Virus (HIV); hearing test; tuberculin skin test; electrocardiogram; fecal occult blood or sigmoidoscopy for individuals aged 50 and

older who have first-degree relatives with colorectal cancer; a personal history of endometrial, ovarian, or breast cancer, or a previous diagnosis of inflammatory bowel disease, adenomatous polyps, or colorectal cancer; fecal occult blood or colonoscopy for individuals with a family history of familial polyposis coli or cancer family syndrome; and bone mineral content.

d. Counseling on diet, exercise, substance use, sexual practices, injury prevention, dental health, and other primary preventive measures.

e. Immunizations, including tetanus-diphtheria booster every 10 years; and for high-risk groups, hepatitis B vaccine, pneumococcal vaccine and influenza vaccine.

6. Prescription drugs. Prescription drug coverage shall be limited to generic drugs approved by the Virginia Voluntary Formulary Board unless a generic drug is not available. Prescription drugs include prescription contraceptives.

7. Durable medical equipment. Coverage for rental of medically necessary durable medical equipment and supplies, including oxygen, crutches, walkers, wheel chairs, hospital type beds, and traction equipment, shall be included when medically necessary.

8. Prescription or corrective lenses. Coverage for children for one pair of lenses per contract year. The selection of frames may be limited.

9. Dental care. Preventive and acute dental care for children as follows:

a. Two regular examinations per contract year;

b. X-rays where medically indicated;

c. Two prophylaxes per contract year;

d. One administration of topical fluoride per contract year;

e. Sealants for permanent molars for children between the ages of 6 to age 17;

f. Fillings not including multistructure resins in posterior teeth, temporary crowns of stainless steel and polycarbonate;

g. Temporary crowns of stainless steel and polycarbonate;

h. Pulpotomy with preauthorization;

i. Root canals with preauthorizations;

j. Space maintenance for early lost teeth with

preauthorization;

k. Oral surgery including extractions for relief of pain, infection or cystic lesions, biopsy, removal of tumors, cysts or medical or dental neoplasms; treatment of fractures of maxilla or mandible whether medical or dental; and correction of congenital facial deformities; and

l. Emergency care including palliative care, trauma care, replacement crowns, repair of space maintainers and repair of full or partial dentures.

10. Transplants. Transplants of the kidney or cornea exclusively.

§ 6. Minimum standards for benefits for the Standard Benefit Plan Contracts.

In addition to the benefits provided under the Essential Benefit Plan Contracts as required by § 5 of this regulation, Standard Benefit Plan Contracts shall include the following:

1. Inpatient hospital care of from 21 to 365 days in a 12-month period, when appropriate utilization review has been conducted and payment authorization has been obtained.

2. Prescription or corrective lenses. Coverage for adults for one pair of lenses per contract year. The selection of frames may be limited.

3. Dental care. Preventive and acute dental care for adults as follows:

a. Two regular examinations per contract year;

b. X-rays where medically indicated;

c. Two prophylaxes per contract year;

d. One administration of topical fluoride per contract year;

e. Diagnostic radiographs;

f. Fillings not including multistructure resins in posterior teeth, temporary crowns of stainless steel and polycarbonate;

g. Temporary crowns of stainless steel and polycarbonate;

h. Pulpotomy with preauthorization;

i. Root canals with preauthorizations;

j. Oral surgery including extractions for relief of pain, infection or cystic lesions, biopsy, removal of tumors, cysts or medical or dental neoplasms;

treatment of fractures of maxilla or mandible whether medical or dental; and correction of congenital facial deformities; and

k. Emergency examination and care including palliative, trauma care, replacement crowns, repair of space maintainers and repair of full or partial dentures.

4. Transplants. Transplants of the heart, liver and others when determined to be medically effective.

5. Rehabilitative care. Rehabilitative care shall be covered when properly referred by the primary care provider. Rehabilitative care shall include occupational therapy, physical therapy, and mental health and substance abuse therapy.

6. Audiology services. Audiology, speech, and hearing disorder services shall be covered when properly referred by the primary care provider. Audiology services shall include hearing aids.

7. Allergy treatments. Allergy treatments shall be covered when properly referred by the primary care provider. Treatments shall include skin testing and injections.

8. Posthospital care. Skilled nursing home care, hospice care, and home health visits shall be covered when approved by the primary care provider as part of an overall treatment plan to reduce or eliminate the need for inpatient hospital stay.

9. Case management services. Medical case management performed by or under the direction of the primary care practitioner, social case management performed under the direction of the primary care practitioner, and high-cost illness case management.

§ 7. Limitations and exclusions.

A. No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:

1. Preexisting conditions or disease, except for congenital anomalies of a covered dependent child;

2. Services or care not medically necessary;

3. Illness, treatment or medical condition arising out of:

a. War or act of war, whether declared or undeclared; participation in a felony, riot or insurrection, service in the armed forces or units auxiliary thereto; or

b. Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;

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4. Cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part, and reconstructive surgery because of congenital disease or anomaly of a covered dependent child which has resulted in a functional defect;

5. Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

6. Care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column;

7. Treatment provided in a government hospital; benefits provided under Medicare or other governmental program (except Medicaid) any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

8. Rest cures, custodial care and transportation;

9. Radial keratotomy;

10. Experimental or investigative medical and surgical procedures;

11. Autologous bone marrow transplants;

12. In vitro fertilization;

13. Telephone consultations, charges for not keeping appointments or charges for completing claim forms;

14. Hearing aids or examinations for these devices;

15. Services for surgical sexual transformation or sexual dysfunction;

16. Services for acupuncture;

17. Services for marital and family counseling, educational, behavioral, vocational, recreational and coma-stimulation therapy;

18. Sleep therapy;

19. Treatment for obesity, except for surgical treatment of morbid obesity;

20. Separate charges for local infiltration anesthesia or any anesthesia services conducted by the same doctor performing surgical or obstetrical services;

21. Smoking cessation aids or services of smoking cessation clinics;

22. Services by a home health agency, nursing facility or long-term care facility; and

23. Territorial limitations.

B. Waivers are not allowed to exclude, limit or reduce coverage or benefits for preexisting diseases or physical conditions.

§ 8. Cost-sharing requirements.

Each Essential Benefit Plan Contract must meet the minimum cost-sharing requirements for the appropriate delivery system:

1. Indemnity coverage.

a. For an employee enrolled under individual coverage a deductible of no more than \$500 per contract year; for an employee enrolled under coverage other than individual, a deductible of no more than \$1,000 in aggregate per contract year;

b. For an employee enrolled under individual coverage, an out-of-pocket limit of no more than \$3,000 per contract year; for an employee enrolled under other than individual coverage an out-of-pocket limit of no more than \$6,000 in aggregate per contract year;

c. Lifetime maximum of \$1 million per covered person; and

d. Carrier's coinsurance percentage of at least 70% of allowable charges.

2. Preferred provider coverage.

a. A covered person shall be responsible for no more than a \$400 inpatient hospital deductible and carrier's coinsurance of at least 70% of allowable charges after deductible for in-network benefits and a \$500 inpatient hospital deductible and carrier's coinsurance of at least 50% of allowable charges after deductible for out-of-network benefits;

b. \$15 per provider visit for at least four annual visits for in-network providers and \$20 per provider visit for out-of-network providers;

c. Carrier's coinsurance of at least 70% of allowable charges for in-network benefits and 40% for out-of-network benefits for:

(1) Outpatient visits;

(2) Laboratory and diagnostic tests;

(3) X-rays; and

(4) Prescriptions.

d. For an employee enrolled under individual coverage combined in-network and out-of-network, out-of-pocket limit of no more than \$5,000 per contract year; for an employee enrolled under other than individual coverage, out-of-pocket limit of no more than \$15,000 in aggregate per contract year; and

e. Lifetime maximum of \$1 million per covered person in-network and \$250,000 per covered person out-of-network.

3. Health maintenance organization not federally qualified.

a. A covered person shall be responsible for no more than the following:

(1) \$20 per visit for primary care provider,

(2) \$20 per visit for physician inpatient hospital services,

(3) \$20 for outpatient laboratory services, x-rays,

(4) \$10 per prescription, and

(5) \$400 per inpatient hospital admission;

b. For an employee enrolled under individual coverage, the out-of-pocket limit is no more than \$5,000 per contract year; for an employee enrolled under other than individual coverage, the out-of-pocket limit is no more than \$15,000 per contract year; and

c. Lifetime maximum of \$1 million per covered person.

4. Health maintenance organizations federally qualified.

a. A covered person shall be responsible for no more than the following:

(1) \$20 per outpatient visit,

(2) \$20 laboratory or diagnostic tests,

(3) \$20 x-rays, and

(4) \$10 per prescription;

b. For an employee enrolled under individual coverage, the out-of-pocket limit is no more than \$5,000 per contract year; for an employee enrolled under other than individual coverage, the out-of-pocket limit is no more than \$15,000 per contract year;

c. Lifetime maximum of \$1 million per covered person; and

d. No deductibles or limits on hospital stay.

§ 9. Required disclosure provisions.

A. After date of policy issue, any rider or endorsement that increases benefits or coverage with an accompanying increase in premium during the policy period must be agreed to in writing by the insured.

B. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

C. Policy limitations with respect to preexisting conditions must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

D. The availability of the toll-free number for the State Corporation Commission's Bureau of Insurance must be included in the plan.

§ 10. Severability.

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Virginia Primary Small Employer Coverage Report

Insurance Company Name:

NAIC Number: Date:

Contact Person:

Title:

Telephone Number:

ESSENTIAL HEALTH BENEFIT PLANS

Number of Primary Small Employer Groups Covered:

Number of Covered Employees:

State Corporation Commission

Male Female

Age 18-29

30-39

40-49

50-64

Number of Covered Dependents:

Male Female

Age 18-29

30-39

40-49

50-64

STANDARD HEALTH BENEFIT PLANS

Number of Primary Small Employer Groups Covered:

Number of Covered Employees:

Male Female

Age 18-29

30-39

40-49

50-64

Number of Covered Dependents:

Male Female

Age 18-29

30-39

40-49

50-64

Virginia Primary Small Employer New Business Report

Insurance Company Name:

NAIC Number: Date:

Contact Person:

Title:

Telephone Number:

Period Covered: to

ESSENTIAL HEALTH BENEFIT PLANS

Number of New Essential Plans Issued:

For each new essential plan issued, identify the industrial classification and geographical location of the employer below.

New Plan	Industrial Classification	Geographic Location
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

STANDARD HEALTH BENEFIT PLANS

Number of New Standard Plans Issued:

For each new standard plan issued, identify the industrial classification and geographical location of the employer below.

New Plan	Industrial Classification	Geographic Location
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

VA.R. Doc. No. R95-93; Filed November 3, 1994. 3:25 p.m.

State Corporation Commission

Title of Regulation: Rules Governing the Safety of Intrastate Hazardous Liquid Pipeline Systems.

Statutory Authority: §§ 12.1-13 and 56-555 of the Code of Virginia.

AT RICHMOND, NOVEMBER 2, 1994

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE940070

Ex Parte: In the matter of adopting rules to govern the safety of intrastate hazardous liquid pipelines pursuant to the Virginia Hazardous Liquid Pipeline Safety Act

ORDER FOR NOTICE AND COMMENT

Section 56-555 of the Code of Virginia authorizes the Commission to act for the United States Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act ("Act"), formerly at 49 U.S.C. App. §§ 2001 to 2014, codified on July 5, 1994, as 49 U.S.C. §§ 60101 et seq., with respect to intrastate pipelines located within the Commonwealth to the extent authorized by certification or agreement under Section 205 of the Act, codified as 49 U.S.C. § 60105.

The Commission proposes to adopt by reference Parts 195 and 199 of Title 49 of the Code of Federal Regulations as the minimum pipeline safety regulations applicable to the intrastate hazardous liquid pipelines located in the Commonwealth, along with the additional requirements specified in Appendix A to this Order.

IT APPEARING that the public should be afforded the opportunity to file written comments concerning the Commission's proposal and to request a hearing before the Commission on any substantive objection which cannot be presented effectively in writing; accordingly,

IT IS ORDERED:

(1) That this matter be assigned Case No. PUE940070 and all associated papers be filed therein;

(2) That, on or before December 2, 1994, any person may submit comments in support of, or in opposition to, the Commission's adoption of the pipeline safety rules and other requirements in Parts 195 and 199 of Title 49 of the Code of Federal Regulations and specified in Appendix A to this Order with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(3) That, on or before December 2, 1994, any person

who desires to be heard on the proposed regulations and other requirements shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, a written request for such hearing, together with a statement of reasons why their position cannot be expressed adequately in writing to the Commission;

(4) That the Division of Energy Regulation shall publish the following notice once in the Virginia Register and once as classified advertising in major newspapers of general circulation in the Commonwealth, publication to be completed by November 16, 1994:

PUBLIC NOTICE

Pursuant to Virginia Code § 56-555, the State Corporation Commission ("Commission") proposes to adopt Parts 195 and 199 of Title 49 of the Code of Federal Regulations ("C.F.R.") as the minimum pipeline safety regulations applicable to intrastate hazardous liquid pipeline systems in Virginia. Additionally, the Commission proposes that these pipeline systems report certain accidents in accordance with Section 195.52(b)(1) through (b)(6) of Title 49 C.F.R. to the Commission's Division of Energy Regulation.

Any person desiring to file written comments concerning this matter or to request a formal hearing on an objection which cannot be presented effectively in writing shall, on or before December 2, 1994, send such comments or request for hearing to the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216. A request for a hearing must state a substantive objection to the Commission's proposal and the reasons it cannot be presented effectively in writing. If the Commission does not receive any proper requests for hearing, the aforementioned gas safety regulations may be adopted without hearing. Further information regarding this matter may be obtained from the Commission's Division of Energy Regulation, P.O. Box 1197, Richmond, Virginia 23209, or by telephone at (804) 371-9611.

(5) That, on or before November 30, 1994, the Division of Energy Regulation shall file with the Clerk of the Commission proof of publication of the notice prescribed herein.

AN ATTESTED COPY of this Order shall be sent to the Commission's Division of Energy Regulation and the Office of General Counsel.

APPENDIX A

Rules Governing the Safety of Intrastate Hazardous Liquid Pipeline Systems

§ 1. Safety of intrastate hazardous liquid pipeline systems.

State Corporation Commission

A. These rules are adopted pursuant to § 56-555 of the Code of Virginia to establish safety and inspection requirements for intrastate hazardous liquid pipeline systems as defined by federal regulation promulgated under 49 U.S.C. § 60101.

B. Parts 195 and 199 of Title 49 of the Code of Federal Regulations are hereby adopted by reference as the minimum pipeline safety regulations applicable to intrastate hazardous liquid pipeline systems within the commission's jurisdiction.

C. Telephonic notices regarding incidents involving hazardous liquid pipeline systems shall be made, at the earliest practicable moment following discovery of the incident, to the commission's Division of Energy Regulation during the division's daily hours and to the commission's Manager of Pipeline Safety (pager number (804) 351-4100) during all other times. Such notices shall include the information listed in § 195.52(b)(1) through (b)(6) of Title 49 C.F.R.

D. The commission's Division of Energy Regulation may require certain written reports from the jurisdictional hazardous liquid pipeline systems to aid the commission staff in administering an effective pipeline safety program.

E. The commission's Division of Energy Regulation shall be empowered to submit and sign on behalf of the commission, such forms and applications as necessary to assure participation in hazardous liquid pipeline safety programs, as deemed advisable by the commission to assure an effective safety program in Virginia, but that the commission comptroller shall be empowered to sign on behalf of the commission those applications and forms pertaining to grants or reimbursement of expenses incurred by the commission in conducting the pipeline safety program in Virginia.

VA.R. Doc. No. R95-95; Filed November 4, 1994, 12:56 p.m.

* * * * *

FINAL REGULATION

Title of Regulation: Rules to Govern the Safety of Master-Metered Natural Gas Systems Pursuant to § 56-257.2 of the Code of Virginia.

Statutory Authority: § 56-257.2 of the Code of Virginia.

AT RICHMOND, OCTOBER 26, 1994

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE940050

Ex Parte: In the matter of adopting rules to govern

the safety of master-metered natural gas systems pursuant to § 56-257.2 of the Code of Virginia

ORDER ADOPTING RULES GOVERNING THE SAFETY OF MASTER-METERED NATURAL GAS SYSTEMS

Section 56-257.2 of the Code of Virginia authorizes the Commission to regulate the safety of natural gas facilities comprising a master-metered gas system as defined by federal regulations, except master-metered systems served by natural gas distribution systems owned and operated by a county, city, or town. Under § 56-257.2, the Commission may adopt such rules and regulations as are necessary to promote pipeline safety in the Commonwealth.

By Order for Notice and Comment ("Order") dated August 18, 1994, the Commission proposed to adopt by reference Parts 191 and 192 of Title 49 of the Code of Federal Regulations, along with the additional requirements specified in Appendix A attached to the Order, as the minimum pipeline safety regulations applicable to jurisdictional master-metered gas systems. The Order established notice requirements and dates for the submission of comments in support of or in opposition to the Commission's adoption of the proposed regulations, and provided procedures for requesting a hearing.

It appearing from the record that the Commission's publication requirements were met and that no comments or requests for hearing were received, the Commission is of the opinion and finds that the proposed regulations should be adopted. Accordingly,

IT IS ORDERED:

(1) That Parts 191 and 192 of Title 49 of the Code of Federal Regulations, along with the additional requirements specified in Appendix A of the Order for Notice and Comment dated August 18, 1994, are the minimum pipeline safety regulations applicable to jurisdictional master-metered gas systems; and

(2) That there being nothing further to be done herein, the same is hereby dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Commission's Division of Energy Regulation and the Office of General Counsel.

APPENDIX A

RULES GOVERNING THE SAFETY OF MASTER-METERED NATURAL GAS SYSTEMS

§ 1. Master-metered natural gas systems.

(1) A. These rules are adopted pursuant to § 56-257.2 of the Code of Virginia to establish safety and inspection

State Corporation Commission

requirements for master-metered natural gas systems as defined by federal regulations promulgated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. § 1671 et seq.), as amended.

(2) ~~That~~ B. Parts 191 and 192 of Title 49 of the Code of Federal Regulations are hereby adopted by reference as the minimum pipeline safety regulations applicable to master-metered systems within the commission's jurisdiction under § 56-257.2.

(3) ~~That~~ C. Telephonic notices regarding incidents involving master-metered gas systems shall be made, at the earliest practicable moment following discovery of the incident, to the commission's Division of Energy Regulation during the division's daily hours and to the commission's Manager of Gas Pipeline Safety (pager number (804) 351-4100) during all other times. Such notices shall include the information listed in Section 191.5 (b) (1) through (b) (5) of Title 49 C.F.R.

(4) ~~That~~ D. The commission's Division of Energy Regulation may require certain written reports from the jurisdictional master-metered systems to aid the commission staff in administering an effective gas pipeline safety program.

(5) ~~That~~ E. The commission's Division of Energy Regulation shall be empowered to submit and sign on behalf of the commission, such forms and applications as necessary to assure participation in natural gas pipeline safety programs, as deemed advisable by the commission to assure an effective safety program in Virginia, but that the commission comptroller shall be empowered to sign on behalf of the commission those applications and forms pertaining to grants or reimbursement of expenses incurred by the commission in conducting the gas pipeline safety program in Virginia.

VA.R. Doc. No. R95-96; Filed November 4, 1994, 12:57 p.m.

* * * * *

AT RICHMOND, NOVEMBER 7, 1994

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS940104

Ex Parte, In re: Determination of competition as an effective regulator of rates pursuant to Virginia Code § 38.2-1905.1.E.

FINAL ORDER

On September 13, 1994, pursuant to an order entered

herein July 20, 1994, the Commission conducted a hearing on whether competition is an effective regulator of rates charged for certain lines and subclassifications of commercial liability insurance, which lines and subclassifications were designated and set forth in the Commission's 1993 Report to the General Assembly pursuant to Virginia Code § 38.2-1905.1(C); and

At the hearing, other than the two witnesses who testified on behalf of the Bureau of Insurance, the only person to appear and make comment before the Commission in this proceeding was a public witness, Gordon McLean, President of The Virginia Insurance Reciprocal ("TVIR"). Among other things, Mr. McLean expressed the belief that the Bureau of Insurance, in its biennial study and recommendations, should take into account the experience of providers of the lines and subclassifications of insurance studied by the Bureau of Insurance other than licensed insurers, particularly risk retention groups.

We note that Virginia Code § 38.2-1905.2.A. requires only that licensed insurers report their experience to the Commission for the purposes of this proceeding. Risk retention groups, risk purchasing groups and surplus lines insurers, among others, are not required to file with the Commission supplemental reports containing the information required in Virginia Code § 38.2-1905.2.B. Accordingly, we find that, without an appropriate legislative amendment to the code section in question, the Bureau of Insurance need not consider, and the Commission may not require the filing of, the experience of providers of the lines and subclassifications of insurance concerned in this proceeding other than those providers who are licensed insurers as set forth in Virginia Code § 38.2-1905.2.A. Moreover, it appears to us that any consideration of an amendment to the aforesaid code sections to subject the providers in question to the requirements of such code sections should take into account the possible impediments which may be presented by federal constitutional and statutory law, particularly the federal law known as the Risk Retention Act of 1986.

NOW, THEREFORE, THE COMMISSION, having considered the record in this proceeding and the law applicable herein, is of the opinion, finds and ORDERS:

(1) That competition is not an effective regulator of the rates charged for the following lines and subclassifications of insurance: insurance agents professional liability; lawyers professional liability; medical professional liability; real estate agents professional liability; volunteer fire departments and rescue squad liability; and that, pursuant to Virginia Code § 38.2-1912, for twenty-seven (27) months from the date of this order or until further order of the Commission, whichever is sooner, all insurance companies licensed to write the aforesaid lines and subclassifications of insurance and, to the extent permitted by law, all rate service organizations licensed pursuant to the provisions of Chapter 19 of Title 38.2 of the Code of Virginia shall file with the Commissioner of Insurance any and all changes

State Corporation Commission

in the rates, prospective loss costs and supplementary rate information for these lines and subclassifications of insurance, and, pursuant to Virginia Code § 38.2-1912(B) and (D), such supporting data and information as is deemed necessary by the Commissioner of Insurance for the proper functioning of the rate monitoring process at least sixty (60) days before they become effective;

(2) That, while evidence was presented at the hearing concerning competition with respect to architects and engineers liability insurance, landfill liability insurance and environmental liability insurance (including underground tanks), pursuant to Virginia Code § 38.2-1903, and for good cause shown, these lines and subclassifications of insurance be, and they are hereby, exempted from the rate-filing requirements of Chapter 19 of Title 38.2 of the Code of Virginia;

(3) That the Bureau of Insurance shall conduct a study with any assistance offered by the American Insurance Association or its members to determine the desirability and practicability of separately assessing the various subclassifications of the Medical Professional Liability line of insurance and shall make any recommendation it has concerning its study at the time it seeks the Commission's approval of the reporting form to be used by insurers in preparation for the next biennial hearing in 1996;

(4) That the Bureau shall conduct a study to determine the desirability and practicability of including in the Bureau's biennial study and recommendations the experience of providers of the lines and subclassifications of insurance other than licensed insurers as provided in Virginia Code § 38.2-1905.2; and

(5) That the Bureau shall modify the information requested in the Supplemental Report to permit revisions to its Rate Service Organization ("RSO") Reliance Index in order to reflect the new role of RSO's and the reduced extent to which RSO filings may influence insurer pricing decisions.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Honorable James A. Gilmore, Attorney General of Virginia, in care of Gail D. Jaspen, Senior Assistant Attorney General, Office of the Attorney General, 101 North Eighth Street, Richmond, Virginia 23219; Gordon McLean, President, The Virginia Insurance Reciprocal, 4200 Innslake Drive, Glen Allen, Virginia 23060; Peter B. Smith, Senior Counsel, Office of the General Counsel, State Corporation Commission; and the Bureau of Insurance in care of Mary M. Bannister, Deputy Commissioner, who shall forthwith cause a copy of this order to be sent to all insurers licensed to transact the business of property and casualty insurance in the Commonwealth of Virginia and all rate service organizations licensed pursuant to Chapter 19 of Title 38.2 of the Code of Virginia.

V.A.R. Doc. No. R95-110; Filed November 9, 1994, 11:33 a.m.

* * * * *

BUREAU OF INSURANCE

November 7, 1994

Administrative Letter 1994-9

TO: All Insurers Licensed to Market Credit Life Insurance and Credit Accident and Sickness Insurance in Virginia

RE: I. Filing of Experience Reports and Adjustment of Prima Facie Rates

II. Filing of Premium Rates and Refund Formulas

I. Filing of Experience Reports and Adjustment of Prima Facie Rates

COMPLETION OF LINE I.G. OF THE CREDIT EXPERIENCE EXHIBIT

Administrative Letter 1992-18, dated August 31, 1992, advised insurers to complete Line I.G. in Parts 1 and 2 of the Credit Insurance Experience Exhibit based upon the prima facie rates set forth in that letter until instructed otherwise by the Virginia State Corporation Commission (hereinafter referred to as the Commission).

Insurers should change the method of completing Line I.G. of the Credit Experience Exhibit for reporting business for 1994 and for all future years until instructed otherwise as follows. Line 1.6. in Parts 1 and 2 labeled, "Earned Premium at Prima Facie Rates" on the Credit Insurance Experience Exhibit for direct business in the Commonwealth of Virginia should be completed based on the prima facie rates in effect December 31st of the reporting year, as set forth in the NAIC instructions.

II. Filing of Premium Rates and Refund Formulas

The Commission issued its Order Adopting Credit Life and Credit Accident and Sickness Insurance Rates for the Triennium 1995-1997, Case No. INS940096, on August 5, 1994. The Order sets forth rates for credit life insurance and credit accident and sickness insurance that are to be effective in Virginia on January 1, 1995. All insurers licensed to market credit life and credit accident and sickness insurance were mailed a copy of this Order and the adopted rates on August 10, 1994. These rates will remain in effect until January 1, 1998 as required by Section 38.2-3725 of the Code of Virginia, as amended.

In accordance with Sections 38.2-3728.A. and 38.2-3729.C. of the Code of Virginia, each company that markets credit life insurance or credit accident and sickness insurance in Virginia will be required to file an actuarial memorandum that sets forth the rates, rate formulas and refund formulas that it intends to use in Virginia effective January 1, 1995. This memorandum should include, but not be limited to, the specific single premium and monthly

outstanding balance (MOB) rates and rate formulas, the methodology used to calculate the credit accident and sickness MOB rates, all premium and refund formulas, including examples of each, and any other information required to document the development of these rates. It should also specify the date of previously approved formulas, provide the form numbers to which each rate or formula will apply, and provide a description of the referenced forms.

/s/ Steven T. Foster
Commissioner of Insurance

V.A.R. Doc. No. R95-109; Filed November 9, 1994, 11:33 a.m.

REFUNDS - CREDIT ACCIDENT AND SICKNESS INSURANCE

Section 38.2-3729.C. of the Code of Virginia requires that refund formulas for credit accident and sickness insurance with terms of 61 months or less develop refunds which are at least as favorable to the debtor as refunds based on the Rule of 78 or the actuarial method, whichever method is consistent with the original method of premium calculation. This section also requires that refund formulas for credit accident and sickness insurance with terms greater than 61 months develop refunds which are at least as favorable to the debtor as refunds based on the actuarial method. It has been determined that only the actuarial method is consistent with the original method of premium calculation for credit accident and sickness insurance. Thus, effective January 1, 1995, all filed forms and refund formulas must comply with this requirement, and refunds cannot be made based on the Rule of 78 for credit accident and sickness insurance.

DEVIATED PREMIUMS

Each company that has submitted and had approved a deviated premium rate is also reminded that these rates can be used only through December 31, 1994, in accordance with Section 38.2-3728.C. of the Code of Virginia. This section of the Code states that in no event will deviated rates remain in effect after the effective date that new prima facie rates are effective as set forth in Section 38.2-3730. A request for a deviated rate or rates to be effective on or after January 1, 1995 may be included as part of the actuarial memorandum referenced herein if desired. Please contact the Bureau of Insurance, in writing, for the specific requirements for such a filing, if needed.

My staff will review findings as promptly as possible, however, companies that delay making filings cannot be assured that our review can be completed by January 1, 1995. Any insurer that does not have revised rates approved must cease marketing credit life insurance and credit accident and sickness insurance in Virginia as of January 1, 1995, and until such date that it has new rates approved.

Should you have any questions regarding this matter, please contact Robert F. Grissom, Senior Insurance Market Examiner in the Bureau's Life and Health Forms and Rates Section at the address shown above.

MARINE RESOURCES COMMISSION

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all final regulations.

Title of Regulation: VR 450-01-0081. Pertaining to Summer Flounder.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: October 28, 1994.

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 and trip limits, minimum size limits, and a recreational bag and season limit. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia and amends VR 450-01-0081, which was promulgated by the Marine Resources Commission and made effective May 1, 1994. The effective date of this regulation is October 28, 1994.

~~§ 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. This regulation amends VR 450-01-0081 which was promulgated by the Marine Resources Commission and made effective January 1, 1994.~~

~~C. The effective date of this regulation is May 1, 1994.~~

VR 450-01-0081. Pertaining to Summer Flounder.

~~§ 2. 1. 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. 2. Commercial harvest quotas.~~

A. During the period of January 1, 1994, through December 31, 1994, commercial landings of Summer Flounder shall be limited to 3,411,000 pounds and shall be distributed as follows:

1. The commercial harvest of Summer Flounder from Virginia tidal waters for the period of January 1, 1994, through December 31, 1994, shall be limited to 300,000 pounds.

2. During the period of January 1, 1994, through March 31, 1994, landings of Summer Flounder harvested outside ~~the~~ of Virginia shall be limited to 2,000,000 pounds.

3. During the period of April 1, 1994, through June 30, 1994, landings of Summer Flounder harvested outside of Virginia shall be limited to 200,000 pounds.

4. During the period of July 1, 1994, through September 30, 1994, landings of Summer Flounder harvested outside of Virginia shall be limited to 200,000 pounds.

5. During the period of October 1, 1994, through December 31, 1994, landings of Summer Flounder harvested outside of Virginia shall be limited to ~~711,000~~ 1,000,347 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. 3. Commercial trip limitation.~~

A. During the periods (quarters) of January 1, 1994, through March 31, 1994, and October 1, 1994, through December 31, 1994, a commercial trip limit of 2,500 pounds of Summer Flounder harvested outside of, and landed in, Virginia shall be imposed, when it is projected that 85% of the quarterly quota has been taken.

B. During the period of April 1, 1994, through September 30, 1994, a commercial trip limit of 2,500 pounds of Summer Flounder harvested outside of, and landed in, Virginia is imposed.

C. During the above periods, as described in subsections A and B of this section, it shall be unlawful for any person, fishing outside of Virginia waters, to land from a vessel any amount of Summer Flounder exceeding 2,500 pounds.

D. The provisions of subsection A of this section relating to the period October 1, 1994, through December 31, 1994, are hereby superseded.

During the period October 28, 1994, through December 31, 1994, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 12,000 pounds per vessel per trip, except that when it is projected that 85% of the quota for the quarter October 1, 1994, through December 31, 1994, has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip.

The provisions of this subsection were approved by th

Marine Resources Commission as an emergency regulation on October 25, 1994, and are effective on October 28, 1994, for a period of 30 days unless subsequently adopted as a permanent regulation.

§ 5. 4. 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.

D. Length shall be measured in a straight line from tip of nose to tip of tail.

§ 6. 5. 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 eight 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 eight.

C. Charter, party and head boat captains or operators are ultimately responsible for the retention of the legal number of Summer Flounder.

§ 7. 6. Recreational fishing season.

The open recreational fishing season shall be from May 1 through October 31, 1994. After October 31, 1994, it shall be unlawful for any person to harvest Summer Flounder unless that person possesses a commercial fisherman registration license and gear license.

§ 8. 7. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

V.A.R. Doc. No. R95-86; Filed October 31, 1994, 12:14 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER NINE (94) (REVISED)

CREATING THE GOVERNOR'S COMMISSION ON CHAMPION SCHOOLS

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and § 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Champion Schools.

The Commission is classified as a gubernatorial advisory commission in accordance with § 2.1-51.35 and § 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to advise the Governor on all matters related to the development and implementation of the Champion Schools initiative for education reform. The Commission shall examine Virginia's public schools in their broadest context, identify deficiencies in Virginia's educational programs, and develop strategies to correct those deficiencies. The Commission shall develop specific recommendations for achieving the following goals:

1. Establishing higher standards of academic excellence.
2. Instituting achievement testing for accountability.
3. Involving parents in the educational experience of their children.
4. Creating excellence through the encouragement of competition and cooperation.
5. Enhancing the learning environment by curbing school violence and drug abuse.
6. Increasing student learning through the use of innovative technology.
7. Empowering parents and students as consumers of education by providing greater choice in education.
8. Evaluating funding sources and allocation to ensure access to high-quality education throughout Virginia.
9. Calling on local communities to develop new approaches to raise the level of student achievement.

The Commission shall conduct public meetings and discussions throughout the Commonwealth of Virginia for the purpose of receiving the views of citizens and engaging them in the Champion Schools education reform initiative and its implementation.

The Commission shall be composed of no more than sixty members appointed by the Governor and serving at his pleasure. The Commission shall be chaired by the

Secretary of Education, and the Superintendent of Public Instruction shall serve as vice chair. The Chair shall appoint an executive committee to guide the reform effort and shall designate advisory members as appropriate.

Such support as is necessary for the conduct of the Commission's work during the term of its existence shall be furnished by the Office of the Governor, the Office of the Secretary of Education, the Department of Planning and Budget, the Department of Education, and such other Executive agencies, with closely and definitely related purposes, as the Governor may designate. An estimated 9600 hours of staff support will be required to support the Commission. Funding necessary for the term of the Commission's existence shall be provided from sources, both state funds appropriated for the same purposes as the Commission and private contributions, as authorized by § 2.1-51.37(2) of the Code of Virginia. Direct expenditures for the Commission's work are estimated to be \$280,000.

Members of the Commission shall serve without compensation and shall receive expenses incurred in the discharge of their official duties only upon the approval of the Secretary of Education.

The Commission shall make an interim report to the Governor no later than December 1994, and shall issue such other reports and recommendations as it deems necessary or upon the request of the Governor. The Commission shall make a final report by a date to be determined by the Governor.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until May 24, 1995, unless amended or rescinded by further executive order.

Given under my hand and the seal of the Commonwealth of Virginia this 25th day of October, 1994.

/s/ George Allen
Governor

V.A.R. Doc. No. R95-89; Filed October 31, 1994, 12:13 p.m.

EXECUTIVE ORDER NUMBER THIRTY-ONE (94)

AUTHORITY AND RESPONSIBILITY OF THE GOVERNOR'S SECRETARIES AND OTHER SENIOR EXECUTIVE BRANCH OFFICIALS

By virtue of the authority vested in me by Sections 2.1-39.1, 2.1-51.8:1, 2.1-51.9, 2.1-51.14, 2.1-51.15, 2.1-51.17, 2.1-51.18, 2.1-51.20, 2.1-51.21, 2.1-51.26, 2.1-51.27, 2.1-51.33, 2.1-51.34, 2.1-51.39, 2.1-51.40, 2.1-51.41, 2.1-51.42, and 2.1-51.43 of the Code of Virginia, I hereby affirm and delegate to the individuals holding appointments in the positions named herein the powers and duties set out below, in accordance with the following conditions:

1. The delegations stated herein are subject always to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers.

2. The standing delegations stated herein are subject to all other orders and directives of the Governor that require actions to be taken by, or that otherwise delegate authority and responsibility to, Executive Branch officials and employees.

3. All major policy decisions and actions shall be reviewed by the Governor's Policy Office and shall be approved by the Director of Policy and by the Governor. Thereafter, each Secretary shall provide policy guidance to those persons under the Secretary's supervision who are authorized to take such actions set forth in this Executive Order, and shall be advised by such persons of any proposed actions that may be in conflict with such guidance.

4. In the event conflicts arise among agencies within a Secretarial area concerning any action authorized by this Executive Order, that Secretary is hereby authorized to resolve them. Should conflicts arise among agencies in more than one Secretarial area concerning any action authorized by this Executive Order, the matter shall be resolved by the Governor, or by the Chief of Staff acting in the Governor's behalf.

5. All reports and recommendations that by law are required from any entity to be presented to the Governor shall first be given to the Secretary to whom supervision over the entity had been assigned. Except as specifically delegated, however, the Governor retains the responsibility for the submission of reports and recommendations to the General Assembly.

6. All authority given to the Governor pertaining to emergencies, military affairs, appointments and membership in all organizations shall be retained by the Governor unless explicitly delegated by Executive Order.

7. In the event that the Secretary to whom powers and duties have been delegated herein is not available, I hereby affirm and delegate to the Chief of Staff such powers and duties during the Secretary's absence as may be required to carry out the functions delegated to that Secretary. In the event the Chief of Staff will be unavailable, and during his absence, the Chief of Staff may delegate any of the powers and duties conferred upon him under this Executive Order to one or more of the Governor's Secretaries whom he shall designate in writing.

Part I: Supervision of Agencies by the Governor's Secretaries and Related Duties

A. Agencies are assigned to the Secretaries as follows:

1. To the Secretary of Administration:

- a. Commission on Local Government
- b. Compensation Board
- c. Council on Human Rights
- d. Council on Information Management
- e. Department of Employee Relations Counselors
- f. Department of General Services
- g. Department of Information Technology
- h. Department of Personnel and Training
- i. Department of Veterans' Affairs
- j. State Board of Elections
- k. Virginia Veterans Care Center Board of Trustees

1. The following agencies shall report to the Secretary of Administration on administrative matters, but shall report directly to the Chief of Staff on executive policy matters:

- 1) Secretary of the Commonwealth
- 2) Virginia Liaison Office

2. To the Secretary of Commerce and Trade:

- a. Department of Agriculture and Consumer Services
- b. Department of Economic Development
- c. Department of Forestry
- d. Department of Housing and Community Development
- e. Department of Labor and Industry
- f. Department of Mines, Minerals and Energy
- g. Department of Minority Business Enterprise
- h. Department of Professional and Occupational Regulation
- i. Milk Commission
- j. Virginia Agricultural Council
- k. Virginia Employment Commission

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- l. Virginia Port Authority
- m. Virginia Racing Commission
- 3. To the Secretary of Education:
 - a. Christopher Newport University
 - b. The College of William and Mary in Virginia
 - c. Virginia Commission for the Arts
 - d. Department of Education
 - e. Frontier Culture Museum of Virginia
 - f. George Mason University
 - g. Gunston Hall
 - h. Innovative Technology Authority
 - i. James Madison University
 - j. Jamestown-Yorktown Foundation
 - k. Longwood College
 - l. Mary Washington College
 - m. Norfolk State University
 - n. Old Dominion University
 - o. Radford University
 - p. Southeastern Universities Research Association, Incorporated
 - q. Southwest Virginia Higher Education Center
 - r. State Council of Higher Education for Virginia
 - s. The Science Museum of Virginia
 - t. University of Virginia
 - u. Virginia College Building Authority
 - v. Virginia Commonwealth University
 - w. Virginia Community College System
 - x. Virginia Military Institute
 - y. Virginia Museum of Fine Arts
 - z. Virginia Polytechnic Institute and State University
 - za. Virginia State Library and Archives
 - zb. Virginia State University
- 4. To the Secretary of Finance:
 - a. Department of Accounts
 - b. Department of Planning and Budget
 - c. Department of the State Internal Auditor
 - d. Department of Taxation
 - e. Department of the Treasury
 - f. Treasury Board
- 5. To the Secretary of Health and Human Resources:
 - a. Department for the Aging
 - b. Department of the Deaf and Hard-of-Hearing
 - c. Department of Health
 - d. Department of Health Professions
 - e. Department of Medical Assistance Services
 - f. Department of Mental Health, Mental Retardation and Substance Abuse Services
 - g. Department of Rehabilitative Services
 - h. Department for the Rights of Virginians with Disabilities
 - i. Department of Social Services
 - j. Department for the Visually Handicapped
 - k. Governor's Employment and Training Department
 - l. Virginia Board for People with Disabilities
 - m. Virginia Council on Child Day Care and Early Childhood Programs
 - n. Virginia Health Services Cost Review Council
- 6. To the Secretary of Natural Resources:
 - a. Chesapeake Bay Local Assistance Department
 - b. Chippokes Plantation Farm Foundation
 - c. Department of Conservation and Recreation
 - d. Department of Environmental Quality
 - e. Department of Game and Inland Fisheries

- f. Department of Historic Resources
- g. Marine Resources Commission
- h. Virginia Museum of Natural History

7. To the Secretary of Public Safety:

- a. Commonwealth's Attorneys' Services Council
- b. Department of Alcoholic Beverage Control
- c. Department of Correctional Education
- d. Department of Corrections
- e. Department of Criminal Justice Services
- f. Department of Emergency Services
- g. Department of Fire Programs
- h. Department of Military Affairs
- i. Department of State Police
- j. Department of Youth and Family Services
- k. Virginia Parole Board

8. To the Secretary of Transportation:

- a. Department of Aviation
- b. Department of Transportation
- c. Department of Motor Vehicles
- d. Department of Rail and Public Transportation

B. With respect to the appropriate aforementioned agencies, each Secretary shall have authority and responsibility to:

1. Direct the development of goals, objectives, policies, and plans that are necessary to the effective and efficient operation of government;
2. Make recommendations to the Governor's Policy Office and the Governor regarding major policy issues, delegations of authority, and other matters affecting the development and implementation of policy positions and objectives on behalf of the Governor.
3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;
4. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or

officials;

5. Coordinate communications with the federal government and the governments of the other states, subject to guidelines established under the Governor's direction, in matters related to agency programs and activities.

6. Receive first all reports that by law are required from any assigned agency to be presented to the Governor. Except as specifically delegated, however, the Governor retains responsibility for the submission of reports to the General Assembly.

7. Receive all recommendations required of assigned agencies by statute to be made to the Governor and convey them to the Governor.

C. Responsibility for directing the formulation of a comprehensive program budget, as identified in § 2.1-398 of the Code of Virginia, is delegated in the following manner:

1. The Secretary of Administration shall direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for that portion of the area of General Government encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

2. The Secretary of Commerce and Trade shall direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for that portion of the area of Resources and Economic Development encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

3. The Secretary of Education shall direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for the area of Cultural Affairs encompassing agencies assigned to the Secretary in Part 1. A of this Executive Order. The Secretary of Education shall direct the preparation of alternative policies, plans, and budgets for the area of Elementary, Secondary, and Postsecondary Education encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

4. The Secretary of Finance shall direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for that portion of the area of General Government encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

5. The Secretary of Health and Human Resources shall direct the formulation of comprehensive program

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budget recommendations to the Governor through the Department of Planning and Budget for the area of Individual and Family Services encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

6. The Secretary of Natural Resources shall direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for that portion of the area of Resources and Economic Development encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

7. The Secretary of Public Safety shall direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for the area of Administration of Justice encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

8. The Secretary of Transportation shall direct the formulation of comprehensive program budget recommendations to the Governor through the Department of Planning and Budget for the area of Transportation encompassing agencies assigned to the Secretary in Part 1.A of this Executive Order.

D. Each Secretary shall serve as the liaison with nonstate agencies, interstate compacts, and other nonstate organizations that receive state appropriations or support directly or through state agencies that report to that Secretary.

E. Each Secretary is authorized to employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by statute or executive order, subject to the funds available for the operation of the office, state law and regulation, and such other orders and directives as may be issued under the authority of the Governor.

Part 2: Delegation of Authority to Officials Within the Secretariat of Administration

The persons holding appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing Section	Subject Matter of Authority Delegated
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A. To the Secretary of Administration:

2.1-20.1

Establish and approve health insurance plan for state employees and retired state employees to be

administered by Department of Personnel and Training.

2.1-20.1:1

Set policies regarding ownership of patents and copyrights of intellectual property developed by state employees.

2.1-20.1:02

Establish and approve health insurance plan for employees of local governments, local officers, teachers and retirees, and their dependents to be administered by Department of Personnel and Training.

2.1-114.2 A and B

Oversee and monitor establishment and maintenance of classification plan and administration of compensation plan.

2.1-234.13

Approve leases proposed by Virginia Public Building Authority, as lessee or lessor, and sale, transfer and conveyance of property acquired or constructed by the Virginia Public Building Authority.

2.1-489

Approve preparation and amendment of long-range site plan for location of state buildings in the Richmond area, acquisition of land to effect plan, and execution of projects.

2.1-490

Exempt certain projects from provisions of § 2.1-489.

2.1-504.2

Approve acquisition of real property by state agencies.

2.1-504.3

Approve conveyance and transfer of real property by state agencies.

2.1-504.4

Approve conveyance of easements and appurtenances thereto to utility companies, public service companies, cable television companies and political subdivisions by state agencies. Approve leases to a credit union for space in a state-owned office building after written approval by the Attorney General as to the form of the written lease agreements.

2.1-504.5

Approve conveyance of land to Department of Transportation by state agencies.

2.1-505

Authorize transfer of surplus state-owned property to Department of General Services.

2.1-511 A

Approve temporary transfer of real property between state agencies or temporary leases to private entities under stated conditions.

2.1-512

Approve sale or lease of surplus property.

2.1-512.1

Determine if mineral exploration, leasing or extraction is in public interest. Approve execution of leases or contracts.

2.1-526.3

Approve purchase of property and liability insurance and exempt any agency, institution of higher education or part thereof from any part of risk management and insurance program.

2.1-526.6

Approve insurance plan for state-use motor vehicles.

2.1-526.7

Approve insurance plan for state-owned or state-occupied buildings and state-owned contents.

2.1-526.8

Approve public liability insurance plan.

2.1-526.8:1

Approve insurance plans administered for political subdivisions, constitutional officers and other specified entities.

2.1-526.9

Approve blanket surety bonding plan for state employees.

2.1-526.10

Approve Workers' Compensation Insurance program for state employees.

4.1-103

Approve purchase or acquisition of title to land or buildings required for alcoholic beverage control purposes. Approve sale or conveyance of same.

7.1-20

Approve deeds conveying certain waste and unappropriated lands, plus certain marshlands in Accomack and Northampton counties.

7.1-23

Convey to political subdivisions, title to vacant land.

7.1-25.1

Accept lands in Virginia relinquished by the United States.

9-6.18

Approve withholding of compensation of agency officers or employees until they comply with Virginia Register Act.

9-81

Approve sale, granting or conveyance of real property by Virginia Museum of Fine Arts Board of Trustees.

9-84.1

Accept property known as The White House of the Confederacy, any buildings of the Confederate Memorial Literary Society, and the Lee House.

9-97 (5) and (6)

Approve requests from Jamestown-Yorktown Foundation to acquire lands, property and structures necessary to its purposes, or to lease land owned by the Foundation.

9-99.4 (7) and (8)

Approve acquisitions of real property by Virginia Frontier Culture Museum Board of Trustees. Approve leases of land by the Trustees.

9-254 (15)

Authorize percentage of net royalties to be shared with developers of patented, copyrighted, patentable, or copyrightable property.

10.1-109

Approve conveyance, leasing, renewal of leases or

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- transfer of property of the Department of Conservation and Recreation.
- 10.1-110
- Approve granting of easements over properties held or controlled by the state to governmental agencies, political subdivisions, public utilities and public service companies or authorities.
- 10.1-112
- Approve contracts and leases for revenue-producing capital projects in state parks.
- 10.1-114
- Approve terms and conditions for leasing of acquired commemorative facilities and historic sites by Director, Department of Conservation and Recreation.
- 10.1-201
- Approve terms and conditions for custody or leasing of property acquired through gift or contribution by Director, Department of Conservation and Recreation.
- 10.1-645
- Approve sale of water storage facilities authorized by § 10.1-638(B) to entity eligible for loan under § 10.1-638(A).
- 10.1-1190
- Approve major state projects after review of environmental impact statement, in order for State Comptroller to authorize payment of funds from the state treasury.
- 11-41 C.1
- Approve exception to competitive bid for procurement of insurance.
- 15.1-22
- Accept land by deed of gift from local governing body for establishment, operation or maintenance of branch of state-supported college or university.
- 15.1-264
- Approve acceptance by state institutions of higher education of conveyance from two or more political subdivisions of real property located in one of the political subdivisions.
- 15.1-265
- Approve, for higher education institutions, conveyance from any political subdivision of real property in that political subdivision or in an adjacent city or county.
- 15.1-945.3 (6)
- Approve schedule for assessment of local mandates.
- 23-4.1
- Approve sale, lease or conveyance of real property by boards of visitors or trustees of state educational institutions.
- 23-4.4
- Approve transfers by boards of visitors, State Board for Community Colleges, or their designees of interests in intellectual property developed wholly or significantly through use of state general funds under stated conditions.
- 23-9.1
- Approve, at request of State Board of Education, granting of easements on property of institutions under the Board to political subdivisions, cable television companies, public utility or public service companies.
- 23-49.21
- Approve, at request of Board of Old Dominion University, lease, sale or conveyance of real estate to which it has acquired title.
- 23-49.32
- Approve, at request of Christopher Newport College Board, lease, sale, or conveyance of real estate to which it has acquired title.
- 23-50.13
- Approve, at request of Virginia Commonwealth University Board, sale, lease or conveyance of real estate, including easements, to which it has acquired title.
- 23-77.1
- Approve, at request of University of Virginia Board, sale, lease or conveyance of real estate to which it has acquired title.
- 23-91.33
- Approve, at request of Board of George Mason University, sale, lease or conveyance of real estate to which it has acquired title.

23-91.44

Approve, at request of Mary Washington College Board, sale, lease or conveyance of real estate to which it has acquired title.

23-164.10

Approve, at the request of James Madison University Board, conveyance of easements for University property.

29.1-105

Approve contracts respecting lease of any land or buildings held by Board of Game and Inland Fisheries to private persons, corporations, associations, other agencies, public authorities, or political subdivisions.

37.1-12

Approve request of Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to raze buildings under Commissioner's supervision and control.

51.1-121 A & B

Select, with concurrence of Virginia Public Buildings Board, investment in sites and buildings by Virginia Retirement System for occupancy by state agencies. Select state agencies to occupy sites purchased by Virginia Retirement System Board.

51.1-702

Authorize the Virginia Retirement System Board to enter into federal-state agreement regarding Social Security Act benefits under stated conditions.

53.1-31

Approve contracts and leases for removal or mining of gas, oil or minerals found in real estate titled to Board of Corrections.

53.1-81

Authorize sale of state land for regional jail facilities.

53.1-95.9

Approve transfer of real property from state agencies and commissions to jail authorities.

57-5

Enter lease agreement with Sons of Confederate Veterans for the lease of Pelham Chapel.

B. To the Director, Department of General Services:

2.1-11.1

Designate certain officers to give surety bonds, fix penalties. Require new or additional bonds.

2.1-46

Assign and reassign rooms and space in public buildings at the seat of government.

2.1-48

Approve purchase of passenger vehicles and transfer of surplus motor vehicles among state agencies, in coordination with the Commissioner of the Department of Transportation.

2.1-132

Assign office space for Attorney General and supporting personnel.

2.1-154

Fix surety bond penalty for Auditor of Public Accounts. Determine Auditor's employees who should be bonded and approve their penalties fixed by the Auditor.

2.1-451

Order, through the Division of Purchases and Supply, the purchase of materials, equipment, supplies, and nonprofessional services otherwise exempted.

2.1-456

Issue notices to state agencies to desist from violations of centralized purchasing provisions.

2.1-457 B

Order the transfer or sale of surplus supplies or equipment under certain conditions.

2.1-466

Instruct Division of Purchases and Supply to edit state agencies' annual reports, solely to condense the size of such reports.

2.1-488.4(A) and (C) and 2.1-488.5

Approve and accept works of art and their location.

2.1-488.4 (B)

Approve or disapprove, with advice and counsel of

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- the Art and Architectural Review Board, plans to build, renovate, remodel, or remove structures on state property.
- 2.1-491
- Approve buildings and property as to their conformance with approved site plan.
- 2.1-496
- Approve purchase of furniture and repairs, including funding, required for certain buildings within master site plan of Capitol Square.
- 2.1-498
- Designate buildings for contract of utility services.
- 2.1-503
- Approve lease of state-owned property in the state site plan or lying near Capitol Square and prescribe rental period.
- 2.1-531
- Approve use of state-owned property for parking.
- 3.1-22.8
- Fix penalty for surety bonds required to be posted by certain officials of Chippokes Plantation Farm Foundation.
- 4.1-102
- Fix penalty and approve surety bonds for Alcoholic Beverage Control Board members.
- 5.1-1.3
- Fix surety bond penalty for Director, Department of Aviation.
- 7.1-33
- Regulate size and dimensions of state flag.
- 10.1-2006
- Fix surety bond penalty for members of the Board of Trustees of the Virginia Museum of Natural History.
- 10.1-2401 D
- Fix surety bond penalty for members of the Board of Trustees of the Virginia Historic Preservation Foundation.
- 11-39
- Provide written determination of public interest where federal grant transaction requirements do not conform to Virginia Public Procurement Act.
- 11-46.1
- Establish written procedures for debarment under Virginia Public Procurement Act.
- 11-55
- Approve modifications to fixed-price contracts under stated conditions. Revise restrictions, if necessary, on contract modifications.
- 15.1-374
- Approve location and maintenance of sewerage and surface drainage on or through state property or property of Confederate Memorial Association.
- 15.1-1350
- Fix penalty on surety bonds for members of Transportation District Commissions. Approve surety or guaranty company for such bonding.
- 18.2-139
- Consent to cut down or otherwise destroy trees growing on Capitol grounds.
- 21-163
- Fix surety bond penalties for members of sanitation district commissions and approve surety or guaranty company for such bonding.
- 22.1-133
- Answer requests of school boards for a flag of the Commonwealth for each new public school.
- 23-247
- Fix penalty on corporate surety bonds for Board of Trustees, Science Museum of Virginia.
- 33.1-9
- Fix surety bond penalty for Commonwealth Transportation Board.
- 36-111
- Fix surety bond penalty for State Building Code Technical Review Board.
- 37.1-44

Fix surety bond penalty for Commissioner of Mental Health, Mental Retardation and Substance Abuse Services.	63.1-19	Fix surety bond penalty for Board of Social Services.
42.1-16		
Approve surety bond of State Librarian.		C. To the Director, Department of Information Technology:
42.1-86	42.1-32.6	Approve Library Board's plan for communications centers and networking services.
Prescribe, with State Library Board, place and manner of preserving security copies of public records.		D. To the Director, Department of Personnel and Training:
44-21		
Approve surety bonds of Adjutant General and fiscal clerks in Department of Military Affairs.	2.1-29	Establish office hours for executive department agencies at the seat of government.
44-136		
Authorize Adjutant General to lease vacant armories under specified conditions.	2.1-114.2:1	Establish rules to regulate athletic leaves of absence for state employees.
46.2-202		
Fix surety bond penalty for Commissioner, Department of Motor Vehicles.	2.1-116 A (11)	Exempt certain laborers and temporary and hourly employees from provisions of Virginia Personnel Act.
52-3		
Fix surety bond penalty for Superintendent of State Police.	14.1-73.1:2	Provide Compensation Board with salary range for correctional officers and regulations for pay system for state employees administered by Department of Personnel and Training.
53.1-11		
Fix corporate surety bond penalty for Director, Department of Corrections.		Part 3: Delegation of Authority to Officials within the Secretariat of Commerce and Trade
54.1-305		The persons holding appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:
Fix surety bond penalty for Director, Department of Professional and Occupational Regulation.		Authorizing Section
58.1-201		Subject Matter of Authority Delegated
Fix surety bond penalty for State Tax Commissioner.		A. To the Secretary of Commerce and Trade:
58.1-212		
Provide offices for State Tax Commissioner.	2.1-51.6:3	Establish and administer, with advice of Director of Department of Economic Development, an anti-crime partnership program, in coordination with the Secretary of Public Safety.
60.2-109		
Fix penalty for surety bond for Commissioner, Virginia Employment Commission.		
63.1-6		
Fix surety bond penalty for Commissioner of Social Services.	3.1-690	

Governor

- Approve adoption of codes or marketing agreements approved by federal officials under Agricultural Adjustment Act.
- 3.1-739.1
- Accept rules and regulations in state's behalf regarding suppression of specified diseases in domestic animals. Cooperate accordingly with federal officials.
- 10.1-111
- Approve making and execution of leases, contracts or deeds for the removal or mining of minerals on Department of Conservation and Recreation property.
- 10.1-1149
- Execute Southeastern Interstate Forest Fire Protection Compact.
- 10.1-1150
- Execute Middle Atlantic Interstate Forest Fire Protection Compact.
- 10.1-1159
- Issue proclamations to close hunting and fishing season when extraordinary fire hazards exists.
- 10.1-1160
- Extend hunting season for a number of days not to exceed the number of days the proclamation of dry conditions was in effect.
- 13.1-985
- Approve articles of incorporation for industrial development corporations prior to issuance by State Corporation Commission.
- 40.1-22.1
- Authorize agreements with U. S. Occupational Safety and Health Administration to provide training to employees of Department of Labor and Industry and other state agencies to assist in enforcing Public Law 91-596.
- 45.1-381
- Execute Interstate Compact to Conserve Oil and Gas.
- 60.2-116
- Approve Virginia Employment Commission reciprocal agreements.
- 62.1-132.14
- Approve contracts known as "agreements of local cooperation" between Virginia Port Authority or other agencies designated by the Governor and the U. S. Army Corps of Engineers.
- B. To the Director, Department of Mines, Minerals and Energy:
- 45.1-382
- Serve as representative to Interstate Compact to Conserve Oil and Gas.
- C. To the Director, Department of Housing and Community Development:
- 15.1-1412 (A)
- Receive budget requests from planning district commissions.
- D. To the Director, Department of Forestry:
- 10.1-1158
- Issue proclamations prohibiting open burning.
- Part 4: Delegation of Authority to Officials within Secretariat of Education
- The persons holding appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:
- | Authorizing Section | Subject Matter of Authority Delegated |
|-----------------------------------|--|
| A. To the Secretary of Education: | |
| 23-38.33:1 A.4 | Approve nonfederal student loan programs of the State Education Assistance Authority. |
| 23-38.84 | Receive, with Secretary of Finance, annual statement of receipts, disbursements, and investments of the Virginia Higher Education Tuition Trust Fund, from governing board. |
| 23-132.3 | Approve plans for information dissemination by Virginia Cooperative Extension Service of Virginia Polytechnic Institute and State University and the Cooperative Extension Service Program of Virginia State University. |
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23-132.11

Request status report of the activities of Virginia Cooperative Extension and Agricultural Experiment Station of Virginia Polytechnic Institute and State University and the Cooperative Extension Service Program of Virginia State University.

23-261

Assign additional duties to State Council of Higher Education in its capacity as State Commission on Postsecondary Education.

B. To the Superintendent of Public Instruction

22.1-209.1:3

Receive an annual report from all school boards which have implemented the Advancement Via Individual Determination (AVID) Program.

Part 4: Delegation of Authority to Officials within the Office of Finance

The persons holding appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing Section	Subject Matter of Authority Delegated
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A. To the Secretary of Finance:

2.1-156

Approve, with Auditor of Public Accounts, uniform bookkeeping methods for localities.

2.1-174

Receive notice of absence of State Treasurer and State Comptroller when absence exceeds five days.

2.1-223.6

Approve payment of claims referred by State Comptroller otherwise not allowed due to expiration of time limits.

2.1-321

Approve temporary borrowing of monies by the Treasury Board.

2.1-393

Prepare annually, for Governor's submission to General Assembly, six-year estimates of revenue collections for the general fund and each major

nongeneral fund.

15.1-227.61

Investigate defaults of bonds, and instruct Comptroller to withhold payment.

23-30.01

Approve borrowing by an educational institution upon its endowment and other investments.

23-30.02

Approve an educational institution's borrowing funds to purchase real estate under certain conditions.

23-30.27:1 C

Request detail from higher education institutions on specific equipment to be acquired through Virginia College Building Authority. Approve emergency acquisition and leases under stated conditions.

23-38.10:7

Approve at the request of the board and president of higher education institution borrowing money under certain conditions to provide additional student loan funds.

23-38.84

Receive, with Secretary of Education, annual statement of receipts, disbursements, and investments of the Virginia Higher Education Tuition Trust Fund, from governing board.

36-55.41

Include in budget reported to presiding officer of each house of the General Assembly a sum that may be required to restore capital reserve fund of Housing Development Authority.

58.1-2

Enter into reciprocal agreements with other states for collection of taxes.

62.1-215 B

Include in budget reported to General Assembly a sum required to restore Virginia Resources Authority Capital reserve fund(s).

B. To the Director, Department of Planning and Budget:

2.1-224

Approve quarterly estimates of planned expenditures

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- prior to release of appropriation.
- 2.1-373 A (4)
Approve application for and/or expenditure of grants, gifts or bequests by Department for the Aging.
- 2.1-402
Adopt budget classifications.
- 2.1-493
Approve transfer of funds to Department of General Services from appropriations to other agencies for construction, alteration, reconstruction, and repair of buildings or acquisition of land for their use.
- 2.1-526.5 C
Approve allotments from State Insurance Reserve Trust Fund for damage or loss of state-owned structures or contents.
- 3.1-22.20
Allocate monies to Farmers Major Disaster Fund.
- 3.1-188.27 B
Approve funds for cooperative pest control efforts in adjacent states.
- 4.1-116 B
Approve amount of quarterly sums allowed for reserve fund of Department of Alcoholic Beverage Control.
- 10.1-709 B
Approve allocations from Special Emergency Assistance Fund in time of disaster under provisions of Public Beach Conservation and Development Act, after consultation with Secretary of Natural Resources.
- 23-9.9
Receive biennial budget requests from higher education institutions and budget recommendations from State Council of Higher Education.
- 23-19 (A), (B), (D) (H)
Receive higher education institutions' proposals for capital projects to be financed by bonds of the institution of higher education, for inclusion in the budget. Approve conditions of grants from federal government for capital projects. In developing recommendations for the Governor as to which capital projects proposed to be financed by bonds should be approved, DPB shall consult with the Department of General Services and State Council of Higher Education.
- 23-100.1
Approve, at request of Virginia Military Institute or its Board, acceptance of gifts, grants, devises, and bequests.
- 23-218
Approve acceptance of grants or contributions of money or property by State Board for Community Colleges.
- 28.2-1101
Approve solicitation, acceptance and use of public or private funds by Virginia Institute of Marine Science.
- 33.1-285.1
Include in budget reported to presiding officer of each house of the General Assembly a sum that may be required to restore the Commonwealth of Virginia Transportation funds.
- 37.1-42.1
Approve Commissioner's acceptance, on behalf of Department of Mental Health, Mental Retardation and Substance Abuse Services of donations, gifts and bequests; and acceptance, execution and administration of any trust in which the Department may have an interest.
- 42.1-57
Approve Library Board's acceptance of federal grants for libraries and allocation of such funds.
- 44-146.28
Expend and allot sufficient funds to carry out disaster service missions and responsibilities.
- 45.1-161.321
Authorize transfer of funds to Virginia Fuel Commission from state treasury.
- 51.1-145 K
Include in biennial appropriation bill contributions from state treasury to the retirement allowance account.

53.1-10

Approve acceptance of gifts, donations and bequests on behalf of Department of Corrections.

53.1-82.2

Approve agreements between the Treasury Board and localities or regional authorities concerning reimbursement of jail projects.

58.1-2146 A

Transfer funds from motor fuels fund for inspection of gasoline and motor grease measuring and distributing equipment and for inspection and analysis of gasoline for purity.

60.2-311

Include in budget reported to General Assembly a sum required to make replacements to the Unemployment Compensation Administration Fund.

60.2-506

Designate method of financing unemployment benefits for state employees.

63.1-36

Approve receipt of grants-in-aid funds and gifts by Department of Social Services to alleviate, treat or prevent poverty, delinquency or other social problems.

C. To the State Comptroller:

3.1-62

Examine records, books and accounts of produce market authorities.

D. To the State Treasurer:

2.1-185

Invest funds deposited in state treasury in excess of amount currently needed.

3.1-22.18

Approve farm disaster loans and increase or decrease maximum amount of loans.

3.1-68 through 3.1-70

Authorize loans from Produce Market Loan Fund.

Prescribe manner in which principal and interest shall be secured.

15.1-227.61

Investigate alleged defaults on local general obligation bonds. Withhold payment of state funds to local government in default and order payment to bond holders by State Comptroller. Give notice (as soon as practicable) of such defaults and of the availability of funds with the paying agent or the State Comptroller by a one-time publication in a daily paper of general circulation in the City of Richmond or by registered mail to the owners of registered bonds.

21-200 and 21-280

Accept filing of instrument(s) from bondholders in cases of default on sanitation district commission bonds for tidal and/or nontidal waters in order to have trustee appointed to represent bondholders.

22.1-168

Receive petition from Virginia Public School Authority or trustee to secure payment of sums necessary to cover default on bonds held by Authority or trustee.

23-19 (h)

Approve educational institutions' deposit of securities as collateral for federal loans for capital projects.

23-20

Receive bondholder certification of default on bonds issued by educational institutions.

62.1-209 B (11)

Accept petition from Virginia Resources Authority or trustees regarding default on local obligations owned by Authority or held by trustees.

Part 6: Delegation of Authority to Officials within the Secretariat of Health and Human Resources

The persons holding appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing
Section

Subject Matter of
Authority Delegated

A. To the Secretary of Health and Human Resources:

2.1-598

Submit state plan for community action agencies to U.S. Secretary of Health and Human Services.

Governor

9-297 C

Request Advisory Commission on Mandated Health Insurance Benefits to meet.

15.1-36.2 A, B, C, D, E, H

Receive reorganization plans from cities and counties for local human resources agencies under stated conditions. Issue guidelines for such plans. Direct state boards and commissions to modify rules, regulations and guidelines accordingly. Prepare submissions to General Assembly for Governor. Issue guidelines for maintaining records.

28.2-803

Request State Health Commissioner to examine or analyze fish or shellfish.

32.1-21

Approve Board of Health action authorizing State Health Commissioner to hold teaching position.

32.1-325

Approve state plan and amendments to the plan, for medical assistance services submitted to federal government.

32.1-330.1

Receive report from Board of Medical Assistance Services on the effects of the premium assistance program pursuant to the Ryan White CARE Act.

37.1-28

Authorize Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to receive and expend Social Security payments and retirement benefits on behalf of patients at institutions under Commissioner's control.

51.5-2

Designate agencies that serve the disabled to formulate cooperative plan in accordance with state law and federal Rehabilitation Act.

63.1-24

Request Board of Social Services to investigate questions and consider problems and report their findings and conclusions.

63.1-238.6 and .7

Develop, negotiate and enter into interstate compacts on behalf of the Commonwealth with other states

for the protection of adopted children receiving assistance from the Department of Social Services.

63.1-293

Change rules of any state agency to assure proper functioning of pilot programs for delivery of human services. Request variances or exceptions to federal rules governing administration or use of funds for human services programs.

63.1-298

Approve cost of administering pilot programs for delivery of human services (costs to be determined by appropriate state agencies and cities and counties where pilot programs are located).

B. To the Commissioner, Department of Social Services:

63.1-44

Approve establishment of welfare districts consisting of two or more cities and/or counties.

63.1-56.1

Approve establishment of facilities for children (or contracts for services) by local boards of welfare.

63.1-292

Authorize up to five counties or cities to develop and implement pilot programs for delivery of human services.

63.1-294

Promulgate rules and regulations for counties and cities desiring to establish pilot programs for human services delivery.

C. To the Commissioner, Department of Health:

32.1-283.1

Receive annual report from the Child Fatality Review Advisory Board.

Part 7: Delegation of Authority to Officials within the Secretariat of Natural Resources

The persons hold appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing
Section

Subject Matter of
Authority Delegated

A. To the Secretary of Natural Resources:

10.1-213

Approve amendments to the instruments of dedication of natural area preserves under stated conditions.

10.1-505

Approve or disapprove work plans and soil and water conservation programs embodied in federal laws which, by their terms or by related executive orders, require approval.

10.1-1402

Approve acquisition by Virginia Waste Management Board of lands to be used for hazardous waste management sites.

10.1-1430

Enter into agreements with federal government providing for discontinuance of the federal government's responsibilities regarding low-level radioactive waste.

10.1-1431

Authorize Waste Management Board to enter into agreements with federal government to cooperatively handle low-level radioactive waste.

10.1-1432

Approve acquisition by Virginia Waste Management Board of lands to be used for low-level radioactive waste facility sites.

10.1-1434

Approve request of Waste Management Board for resources and services of other state agencies in performance of Board's duties for hazardous waste facility sites.

10.1-1702

Determine state board, commission, office or officer through which "public bodies" may exercise powers under Open Space Land Act.

28.2-621

Approve, at request of Marine Resources Commissioner, lease of public oyster-planting grounds which may be required for dredging operations or spoils disposal areas in connection with federal navigation improvement projects.

28.2-1208

Approve, with Attorney General, certain easements and leases of beds of state waters recommended by Marine Resources Commission.

41.1-3

Control oyster bed, rock or shoal at Old Magazine at Westhampton and adjacent state lands. Issue regulations for use of this land in interest of state.

B. To the Commissioner, Marine Resources Commission:

28.2-1001

Receive copy of annual budget of Potomac River Fisheries Commission and place funds in state budget for the Commission.

C. To the Director, Department of Environmental Quality:

21-179

Receive reports of sanitation district commissions.

10.1-1411

Designate regional boundaries for solid waste management.

Part 7: Delegation of Authority to Officials within the Secretariat of Public Safety

The persons holding appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing
Section

Subject Matter of
Authority Delegated

A. To the Secretary of Public Safety:

2.1-51.6:3

Establish and administer anti-crime partnership program, in coordination with the Secretary of Commerce and Trade.

15.1-977.24

Receive, with the Secretary of Transportation, notification from cities barred from annexation that elect to be treated as immune counties for purposes of State Police services and highway maintenance and construction or notification of termination of such status.

16.1-313

Approve, for purposes of eligibility for construction

Governor

reimbursement, plans, including personnel needs, for construction of detention homes, group homes, or other residential care facilities for children in need of services or for delinquent or alleged delinquent youth.

44-158

Promulgate necessary rules and regulations to mobilize fire fighters to assist other political subdivisions during time a state of war exists between the United States and any foreign country.

44-204

Approve training for Virginia State Defense Force or National Defense Executive Reserve, not to exceed fifteen workdays per federal fiscal year.

46.2-1157

Issue order requiring inspection of motor vehicles, trailers, and semitrailers by Superintendent of State Police.

53.1-45

Approve alternatives for sale of articles produced or manufactured and services provided, other than on the open market, and in best interest of state, by Director, Department of Corrections.

53.1-80

Approve construction of local jails to qualify for reimbursement.

53.1-81

Approve construction of regional jails to qualify for reimbursement.

53.1-82

Approve enlargement or renovation of regional jails to qualify for reimbursement.

53.1-191

Approve credits towards terms of prisoners for injury or extraordinary services.

66-2

Provide direction to the Director of the Department of Youth and Family Services in the supervision of the agency.

B. To the Director, Department of Corrections:

53.1-45.1

Approve agreements with public or private entities to operate work programs in state correctional facilities.

C. To the Director, Department of Criminal Justice Services:

15.1-131.12

Approve the release of funds from Intensified Drug Enforcement Jurisdictions Fund to localities.

D. To the Coordinator, Department of Emergency Services:

44-146.27

Approve acceptance of services, supplies, materials, equipment, or funds from federal government or private sector to the state or through the state to any political subdivision, for emergency services purposes.

E. To the Adjutant General, Department of Military Affairs:

44-43

Convene general courts-martial of the National Guard.

44-75.1

Limited authority to call forth militia for certain small scale, emergency-related operations as may be specified in a separate executive order.

44-112

Make requisition of Secretary of Defense for federal funds to support the militia.

44-116

Have printed and distributed Code of Virginia copies of military laws of Virginia and Uniform Code of Military Justice of the United States, as deemed necessary.

F. To the Superintendent, Department of State Police:

52-9.1

Approve uniform and insignia design to be adopted by Superintendent of State Police for use of State Police Officers.

52-16

Establish and maintain radio and teletype system to aid local law enforcement personnel and

Department of State Police.

52-17

Negotiate with localities for sharing cost of communications system.

52-18

Designate districts for communications system.

52-19

Issue rules and regulations for communications system.

G. To the Director, Department of Youth and Family Services:

66-3 (3)

Approve agreements with public or private entities to operate work programs for children committed to the Department of Youth and Family Services.

Part 8: Delegation of Authority to Officials Within the Secretariat of Transportation

The persons holding appointments to the positions named herein shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing Section	Subject Matter of Authority Delegated
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A. To the Secretary of Transportation:

15.1-977.24

Receive, with the Secretary of Public Safety, notification from cities barred from annexation that elect to be treated as immune counties for purposes of State Police services and highway maintenance and construction or notification of termination of such status.

33.1-42

Approve incorporation or elimination of roads or streets into state highway system.

33.1-299

Approve turnpike projects proposed by Commonwealth Transportation Board.

33.1-340

Receive reports of refusal of highway contractors' associations to permit examination of papers,

records and accounts. Certify such information to Commonwealth Transportation Commissioner. Certify to Commonwealth Transportation Board that full examination has been made prior to further letting of any contracts with association members.

46.2-383

Approve destroying of conviction, forfeiture, assignment, acceptance or judgment records, under certain conditions, by Commissioner of Motor Vehicles.

46.2-703

Enter into reciprocal agreements, with advice of Reciprocity Board, with other states for assessing and collecting motor vehicle license fees.

46.2-750

Approve use of state-owned vehicles without regular official-state-use-only license plates by Department of Economic Development.

46.2-751

Direct Commissioner of Motor Vehicles to issue license plates for state-owned, passenger-type vehicles.

46.2-1127

Approve increases in axle and gross weight limits on Federal Interstate Highway System on recommendation of Department of Transportation.

59.1-162

Direct cooperation of Departments of Transportation and Motor Vehicles with Commissioner of Agriculture and Consumer Services in carrying out provisions of authorizing chapter for testing and inspecting gasoline and lubricating oil.

B. To the Commissioner, Department of Transportation:

2.1-47

Promulgate rules and regulations for the purchase, use, maintenance, and repair of state-owned vehicles. Perform certain administrative functions.

2.1-48

Approve purchase of passenger vehicles and transfer of surplus motor vehicles among state agencies, in coordination with the Director, Department of General Services.

C. To the Commissioner, Department of Motor Vehicles:

Governor

2.1-51.6

Administer highway safety program.

46.2-661

Extend, at his discretion, reciprocal privileges to vehicle owners residing in other states or in foreign countries.

Part 10: Delegation of Authority to the Secretary of the Commonwealth

A. The Secretary of the Commonwealth shall coordinate, and advise the Governor concerning recommendations for, executive appointments.

B. The Secretary of the Commonwealth shall have authority to take those actions or to sign, in my stead, those documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing Section	Subject Matter of Authority Delegated
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2.1-639.13 A

Prepare annually a list of officials and positions coming under Virginia Comprehensive Conflict of Interests Act. Notify officials of need to comply with the Act.

54.1-2012

Notify specified organizations of vacancies, caused by other than expiration of a term, on Real Estate Appraiser Board.

Part 11: Delegation of Authority to the Chief of Staff

A. The duties and powers conferred upon the Chief of Staff by Executive Order Number Three (94) are affirmed and incorporated herein by reference.

B. The Chief of Staff shall have authority to take those actions or to sign, in my stead, the documents referenced herein by subject matter in the cited Code of Virginia sections:

Authorizing Section	Subject Matter of Authority Delegated
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2.1-51.12 Supplement expense funds of Secretaries from funds appropriated to the Governor's Office.

55-184.1

Order and set terms of sale for escheated land. Deliver order to State Treasurer, to be transmitted to the escheator, who shall proceed to sell according to such order.

55-186.2

Sign and seal the grant, received from the State Treasurer, conveying escheated property from the Commonwealth to the escheat purchaser and deliver the grant to the State Librarian.

Part 12: Designation of Officials to Serve as Governor's Cabinet

In addition to the Governor's Secretaries as defined in Title 2.1 of the Code of Virginia, the following positions shall be deemed of cabinet rank: Chief of Staff; Secretary of the Commonwealth; Counselor to the Governor.

The Director of the Virginia Liaison Office and the Director of the Department of Planning and Budget shall regularly attend Cabinet meetings, together with such other officials and employees as the Governor or Chief of Staff may direct.

This Executive Order replaces Executive Order Number Thirty-Three (91), issued by Governor Lawrence Douglas Wilder on May 15, 1991, and Executive Order Number Thirty-Five (91), issued by Governor Lawrence Douglas Wilder on May 30, 1991.

This Executive Order shall be retroactively effective to October 1, 1994, upon its signing, and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 25th day of October, 1994.

/s/ George Allen
Governor

VA.R. Doc. No. R95-90; Filed October 31, 1994, 12:13 p.m.

EXECUTIVE ORDER NUMBER THIRTY-TWO (94)

DELEGATION OF APPROPRIATION AUTHORITY
CONFERRED BY CHAPTER 966 OF THE 1994
ACTS OF ASSEMBLY, CHAPTERS 781, 789, 849,
892, 894, AND 896 OF THE 1992 ACTS OF
ASSEMBLY, AND CHAPTER 5 OF THE 1994 ACTS
OF ASSEMBLY, SPECIAL SESSION I

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.1-39.1 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers, I hereby delegate to the individuals holding the positions named herein, the several powers and duties conferred upon me by the provisions of Chapter 966 of the 1994 Acts of Assembly (Appropriation Act for the 1994-1996 biennium), Chapters 781, 789, 849, 892, 894, and

896 of the 1992 Acts of Assembly (General Obligation Bond Acts), and Chapter 5 of the 1994 Acts of Assembly, Special Session I (Taxation of Retirement Income), as detailed below.

Unless otherwise specified, Item/Section references below, refer to Chapter 966 of the 1994 Acts of Assembly.

I. Delegations of Authority to Officials in the Office of Administration

A. To the Secretary of Administration:

Item/Section	Subject Matter
190 E.6	Approve lease agreement between State Board for Community Colleges and City of Norfolk, for establishment of downtown Norfolk campus for Tidewater Community College, pursuant to § 2.1-504.2, Code of Virginia.
232 G.2	Approve Old Dominion University's lease agreement pursuant to § 2.1-504.2, Code of Virginia.
242 D.2	Approve College of William and Mary lease agreement, pursuant to § 2.1-504.2, Code of Virginia.
260 B.2	Approve Christopher Newport University's lease agreement, pursuant to § 2.1-504.2, Code of Virginia.
625 C	Approve certain leases as required by Chapter 597, 1986 Acts of Assembly.
C-8.A	Approve acquisition of real estate pursuant to § 2.1-504.2, Code of Virginia, and any other applicable provisions of law.
C-9.10.1	Grant final written approval (pursuant to § 2.1-504.2, Code of Virginia) of lease agreement entered into by Department of General Services for a laboratory facility for Division of Forensic Science and Office of Chief Medical Examiner in Virginia Biotechnology Research Park in the City of Richmond.
C-22.B	Grant approval for State Board for Community

Colleges to accept real property on which facilities provided for in item C-22 will be located.

§ 4-4.01 o

Receive reports and comments of the Department of Historic Resources, through the Department of General Services, and make final determination on plans for significant alterations, remodeling, redecoration, and restoration on state-owned registered historic landmarks.

§ 4-4.01 q

Amend, adjust or waive any project review and reporting procedures of Executive agencies as may reasonably be required to promote the property improvement goals for which the lease agreement was developed, in the case of any lease agreement involving state-owned property controlled by an institution of higher education, where the lease has been entered into consistent with the provisions of § 2.1-511, Code of Virginia.

§ 4-5.09

Approve space planning procedures for leased facilities and waive requirements under which agencies can acquire property by lease, if such action may, in the opinion of the Governor, avoid an increase in cost or otherwise result in a measurable benefit to the state and funds are available within the appropriations made by Chapter 966.

§ 4-6.04 c.1

Approve basis for charging employees for parking spaces in state-owned facilities and determine the use of parking charges to pay costs of parking.

§ 4-8.01 c.2

Submit monthly reports on status of employment by the Attorney General, of special counsel in certain highway proceedings.

§ 4-8.01 c.3

Submit monthly report on changes in the level of compensation for job classes contained in compensation and classification plans.

B. To the Director, Department of General Services:

§ 2-1 C

Prescribe guidelines for purchase of equipment to be used in structures for which funds are provided.

§ 4-4.01 c

Governor

Approve preliminary requirements for capital projects.

§ 4-4.01 h

Require capital projects to conform with space planning guides approved by the Governor or General Assembly for any type of construction.

§ 4-4.01 k

Specify reporting requirements on capital projects, and take action necessary to insure expenditures for capital projects are made according to legislative intent, as defined in § 4-4.01 k.

§ 4-8.01 b.7

Submit monthly report on waivers of the requirements upon agencies acquiring property by lease to the Chairmen of House Appropriations and Senate Finance Committees.

§ 4-8.01 d.1

Submit reports on progress of capital projects to Chairmen of House Appropriations and Senate Finance Committees.

C. To the Director, Department of Information Technology:

§ 4-5.06 e

Approve expenditure for motion picture television and radio services production.

D. To the Director, Department of Personnel and Training:

§ 4-6.01 h

Approve a plan for a statewide employee meritorious service awards program, as provided in § 2.1-114.5.12, Code of Virginia.

§ 4-6.02

Establish uniform rules and regulations by which state agency heads may authorize, from funds appropriated to such department, institution or other state agency in Chapter 966 or subsequently made available for the purpose, compensation or expenses for employees pursuing approved training courses or academic studies to become better equipped for state employment.

II. Delegation of Authority to Officials in the Office of Education

A. To the Secretary of Education:

§ 4-8.01 e.2

Submit annual reports, as required, on the status of certain State Council of Higher Education exemptions to policy which prohibits use of funds for certain academic programs.

III. Delegations of Authority to Officials in the Office of Finance

A. To the Secretary of Finance:

§ 3-3.02

Direct State Comptroller to restore disputed charges against working capital funds.

§ 4-1.02 a

Restrain the State Comptroller from making further disbursements, in whole or in part, out of the appropriations to any agency expending its monies for any purposes other than those specified in Chapter 966.

§ 4-1.05 a.4

Report increases in appropriations.

§ 4-1.06 a.2

Certify funds available before payment for reappropriation is made in cases where the General Assembly provided for reappropriation payable from the general fund.

§ 4-1.06 a.3

Provide written approval for reappropriation of general fund appropriations which are unexpended on the last day of the 1st year of the biennium may be reappropriated for use in the 2nd year of the biennium.

§ 4-1.06 a.4 & a.5

Prescribe management standards under which unexpended appropriations may be reappropriated for institutions of higher education and other state agencies.

§ 4-1.08

Act on appeals of agency heads regarding allotment of funds from appropriations required by this act, by § 2.1-224 of the Code of Virginia and the authorization of rates of pay required by the act.

§ 4-4.01 e.1

Develop guidelines for use by the State Treasurer in

reviewing any request for a capital project which is 1) considered by the Governor for inclusion in the Executive Budget, and 2) is proposed to be financed by revenue bonds or federal loans.

§ 4-5.01 a

Designate appropriations for payment of claims settled pursuant to § 2.1-127, Code of Virginia.

§ 4-7.01 b.1 and c

Prescribe management standards and implement policies and procedures to restrict employment levels in the Executive Department.

§ 4-8.01 a.2

Make available annually to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees a report concerning the receipt of any nongeneral funds above the amount(s) specifically appropriated, their sources and the amounts for each agency affected.

Enactment 2, Section 3.C; Chapter 5, 1994 Acts of Assembly, Special Session 1

Supplement appropriations for certain state agencies for administrative expenses associated with the payment of claims pursuant to disputes involving taxation of retirement income and report such supplements to Chairmen of House Appropriations and Senate Finance Committees.

B. To the Director, Department of Planning and Budget:

568 C

Approve physical plant projects for local jails prior to payments from reappropriated funds.

578 F

Approve physical plant projects for local detention and group homes prior to payments from reappropriated funds.

578 H

Expend amounts necessary for administration of financial assistance for local facilities confinement, juvenile confinement, or construction for the Department of Youth Services.

624 N.1

Prescribe rules and regulations concerning the payment of wages, salaries, and employee benefits stated in item 624, by those agencies supported in whole or in part from nongeneral fund revenues.

625 A

Transfer monies from the appropriation in Item 625 to make payments on leases of instructional and research equipment from the Virginia College Building Authority, pursuant to the provisions of Chapter 597, Acts of Assembly of 1986.

625 D

Fulfill reporting requirements to General Assembly for lease payments and total value of equipment to be acquired by each higher education institution.

625 F

Approve emergency acquisitions of instructional and research equipment by institutions of higher education when the General Assembly is not in session, and report such acquisitions to the Chairmen of the House Appropriations and Senate Finance Committees. (See also Item 324 B.3)

627 I.1

Reduce agency general fund travel appropriations to accomplish savings estimated at \$3,000,000 in each year of the biennium.

627 I.2

Present to the Chairmen of the House Appropriations and Senate Finance Committees a listing of the transfers the Governor intends to make under Item 627 I.1, and their resulting impact on state agencies prior to taking any action to transfer savings to Item 627.

§ 2-1 D.5

Authorize preliminary design during the current biennium for capital projects for which appropriations for planning are contained in any appropriation act for the succeeding biennium, provided that preliminary design expenditures so authorized shall be paid out of the appropriations for the succeeding biennium.

§ 2-1 F

Prescribe rules and regulations for expenditures from items identified as Maintenance Reserve.

§ 2-1 G

Pursuant to Section 2 of Chapters 894 and 896 of the 1992 Acts of Assembly, increase the amounts allocated to the capital projects named in this subsection which were found to have exceeded estimated construction costs required for the project, by utilizing general obligation bond proceeds which

Governor

may become, or have become, available due to the fact that bids for other capital projects were lower than the amounts allocated for them.

§ 4-1.06 a.1

Unallot funds from reappropriated balances of Executive Department agencies which relate to three categories of unexpended appropriations, with such unallotted amounts to revert to the general fund.

§ 4-2.01 a.1

Give written approval for agencies soliciting and accepting donations, gifts, grants or contracts, under stated conditions.

§ 4-2.01 a.2

Issue written policies for agencies soliciting and accepting donations, gifts and grants under stated conditions.

§ 4-2.01 c.2

Higher Education planned excess revenues: receive documented information from institutions of higher education generating and retaining fees collected in excess of rates provided in § 4-2.01 c.3.

§ 4-2.02 a.2

Transfer funds to general fund from sale of surplus property not subject to § 2.1-457, Code of Virginia, unless General Assembly provides otherwise.

§ 4-2.03 b.1

Include estimated agency indirect cost recoveries in Budget Bill.

§ 4-4.01 d

Provide prior written approval for architectural or engineering planning, or construction of, or purchase of capital project before it is commenced or revised.

§ 4-4.01 d

Release from any capital project appropriation or reappropriation made pursuant to Chapter 966 such sum (or sums) as may be necessary to pay for the preparation of plans and specifications by architects and engineers, provided certain conditions are met.

§ 4-4.01 d

Approve the estimated costs of architectural or engineering fees paid on completion of the preliminary design for any such project.

§ 4-8.01 b. 1-6

Submit monthly reports on operating appropriations.

§ 4-8.01 c.1

Submit monthly reports on status of changes in positions and employment of state agencies affected to the Chairmen of House Appropriations and Senate Finance Committees.

§ 4-8.01 d.2

Submit monthly reports on progress of capital projects under Governor's authority in § 4-4.01 i. which addresses projects not included in the Appropriation Act and which meet specific requirements (e.g. auxiliary enterprise, continue effective operation of existing program).

§ 4-8.01 e.1

Submit monthly reports on status of new services requested by agencies and authorized by the Governor.

§ 2 & 9 of Chapters 781, 789, 849, 892, 894, 896, 1992 Acts of Assembly

Increase or decrease allocations to specific capital projects, within total amounts allocated (section 2, and increase appropriations for capital projects by the amount of the proceeds of donations, gifts, grants, or other nongeneral funds (section 9).

IV. Delegation of Authority to Officials in the Office of Public Safety

A. To the Secretary of Public Safety:

§ 4-5.03

Authorize transfer of prison labor, or farm commodities produced, at any state agency to any other state agency.

Should conflicts arise concerning any action authorized by this Executive Order, they shall be resolved by the Governor.

This Executive Order rescinds Executive Order Number Sixty (92) issued by Governor Lawrence Douglas Wilder on December 21, 1992.

This Executive Order shall be retroactively effective to July 1, 1994, upon its signing, and shall remain in full force and effect until June 30, 1996, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 25th day of October, 1994.

/s/ George Allen
Governor

VA.R. Doc. No. R95-91; Filed October 31, 1994, 12:13 p.m.

EXECUTIVE ORDER NUMBER THIRTY-THREE (94)

DECLARATION OF A STATE OF EMERGENCY
ARISING FROM A FIRE IN CHARLES CITY
COUNTY, VIRGINIA

On the afternoon of July 14, 1994, a large forest fire started in a remote area of eastern Charles City County. The cause of the fire is believed to be a lightning strike. Accessibility to the fire by ground firefighters was somewhat limited by the terrain. In order to "cool down" the fire head enough to allow ground-based firefighters to get close to the fire, it was thought necessary, as a precautionary measure, to use helicopter-borne water buckets from the Virginia Army National Guard. The Virginia Department of Forestry requested this Virginia National Guard assistance pursuant to a pre-existing agreement between the Department of Forestry and the Virginia National Guard. One National Guard helicopter with a crew of three was activated for a period of approximately two hours on July 14, 1994. The fire was successfully contained by 2:45 p.m. on July 14, 1994, prior to actual utilization of the Virginia National Guard aircraft.

The health and general welfare of the citizens of the affected locality required that state action be taken to help alleviate the conditions brought about by this situation, which constituted a natural disaster as contemplated under the provisions of Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me under the laws of the Commonwealth, including but not limited to Sections 44-75.1 and 44-146.17 of the Code of Virginia, as Governor, as Commander-in-Chief of the armed forces of the Commonwealth, and as Director of Emergency Services, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I proclaimed that a state of emergency existed in the affected area of the Commonwealth and directed that appropriate assistance be rendered by the agencies of the state government to alleviate these conditions.

I further directed that the Adjutant General of Virginia make available, on state active duty service, such members of the Virginia National Guard and such equipment as might be necessary to combat the fire in Charles City County.

Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

- (a) Workers' Compensation benefits provided to

members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs and the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

This Executive Order shall be retroactively effective to July 14, 1994, upon its signing, and shall remain in full force and effect until June 30, 1995, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard in the event of injury or death shall continue to remain in effect after termination of this Executive Order as a whole.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 25th day of October, 1994.

/s/ George Allen
Governor

VA.R. Doc. No. R95-92; Filed October 31, 1994, 12:13 p.m.

**GOVERNOR'S COMMENTS ON PROPOSED
REGULATIONS**

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT FOR THE AGING

Title of Regulation: **VR 110-01-01. Public Participation Guidelines (REPEAL).**

Title of Regulation: **VR 110-01-01:1. Public Participation**

Governor

Guidelines.

VA.R. Doc. No. R95-98; Filed November 3, 1994, 10:06 a.m.

* * * * *

Governor's Comments:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: November 4, 1994

VA.R. Doc. No. R95-100; Filed November 9, 1994, 11:06 a.m.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: **VR 230-30-002. Community Diversion Program Standards.**

Governor's Comments:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: November 4, 1994

VA.R. Doc. No. R95-105; Filed November 9, 1994, 11:06 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to State Agency Fee Schedule – Resource Based Relative Value Scale (RBRVS). VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates – Other Types of Care. VR 460-03-4.1921. Fees for Pediatric and Obstetric CPT Procedures. VR 460-03-4.1924. State Agency Fee Schedule.**

Governor's Comments:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: October 31, 1994

Title of Regulation: **State Plan for Medical Assistance Relating to Balloon Loan Financing. VR 460-03-4.1940:1. Nursing Home Payment System.**

Governor's Comments:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: October 31, 1994

VA.R. Doc. No. R95-99; Filed November 3, 1994, 10:06 a.m.

* * * * *

Title of Regulation: **VR 460-04-8.16. DMAS-122 Adjustment Process.**

Governor's Comment:

I have reviewed this regulation. The Secretary and the agency have assured me that this regulation is a reasonable and necessary means of implementing this federal requirement for the Medicaid program.

/s/ George Allen
Governor
Date: October 24, 1994

VA.R. Doc. No. R95-87; Filed October 26, 1994, 2:57 p.m.

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

Title of Regulation: **VR 470-02-03. Rules and Regulations for the Licensure of Private Psychiatric Hospitals (REPEAL).**

Title of Regulation: **VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities (REPEAL).**

Title of Regulation: **VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency Services Facilities. (REPEAL).**

Title of Regulation: **VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities (REPEAL).**

Title of Regulation: **VR 470-02-10. Rules and Regulations**

for the Licensure of Day Support Programs (REPEAL).

Date: November 4, 1994

Title of Regulation: VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities (REPEAL).

V.A.R. Doc. No. R95-104; Filed November 9, 1994, 11:06 a.m.

Title of Regulation: VR 470-02-13. Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: VR 672-20-20. Regulation Governing Management of Coal Combustion By-Products.

Governor's Comment:

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

I reserve the right to make final comments on this regulation after review of the public's comments.

/s/ George Allen
Governor
Date: November 4, 1994

/s/ George Allen
Governor
Date: October 24, 1994

V.A.R. Doc. No. R95-88; Filed October 26, 1994, 2:58 p.m.

V.A.R. Doc. No. R95-102; Filed November 9, 1994, 11:06 a.m.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Title of Regulation: VR 625-02-00. Erosion and Sediment Control Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: November 4, 1994

V.A.R. Doc. No. R95-103; Filed November 9, 1994, 11:06 a.m.

* * * * *

Title of Regulation: VR 625-02-01. Erosion and Sediment Control Certification Regulations.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in The Virginia Register of Regulations on July 11, 1994 (10:21 V.A.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in The Virginia Register of Regulations. This section of The Virginia Register has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF SOCIAL SERVICES

Notice of Review of Existing Regulations in the General Relief (GR) Program

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that the General Relief (GR) Program regulations listed below will be reviewed to determine if they should be continued, amended, or repealed.

Regulation

VR 615-01-14. Entitlement Date in the General Relief Program.

VR 615-01-24. Relocation Assistance in the General Relief Program.

VR 615-01-36. General Relief Locality Options.

VR 615-01-47. Disability Advocacy Project.

VR 615-01-48. General Relief Program: Deeming Income from Alien Sponsors.

Procedures for Submitting Comments

Written comments on the above regulations must be received no later than December 28, 1994, to be considered in the regulation review. The regulation about which comments are being made should begin by identifying the regulation by VR number and regulation title.

Please mail comments to the Medicaid Program Manager, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849. Comments may also be submitted by facsimile transmission (FAX number: 804-692-1704).

The department contact for any questions about this notice is Karen Cullen, Medicaid Program Consultant, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849. Telephone: (804) 692-1720.

* * * * *

Notice of Review of Existing Regulations in the Refugee Resettlement Program (RRP)

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that the Refugee Resettlement Program (RRP) regulation listed below will be reviewed to determine if it should be continued, amended, or repealed.

Regulation

VR 615-01-13. Funding Limitations for Refugee Resettlement.

Procedures for Submitting Comments

Written comments on the above regulation must be received no later than December 28, 1994, to be considered in the regulation review. The regulation about which comments are being made should begin by identifying the regulation by VR number and regulation title.

Please mail comments to the Medicaid Program Manager, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1849. Comments may also be submitted by facsimile transmission (FAX number: 804-692-1704).

The department contact for any questions about this notice is Carolyn Sturgill, Medicaid Program Consultant, Division of Benefit Programs, Department of Social Services, 730 East Broad Street, Richmond, VA 23219-1847. Telephone: (804) 692-1720.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

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 FAX two copies and do not follow up with a mailed copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 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

ERRATA

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

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

Publication: 11:2 VA.R. 259-262 October 17, 1994.

Correction to Final Regulation:

Page 259, column 2, definition of "Fiscal year," change "~~Fiscal year~~" means October 1 through September 30 to ["Fiscal year" means October 1 through September 30.]

Page 261, column 2, § 3.1 C, 4. ~~Providing space heaters.~~ should read, 4. 3. [Providing space heaters.]

Page 261, column 2, § 3.1 C, "5. [4. 3.]" should read "5. [4.]"

Page 261, column 2, § 3.1 C, "[5. 4.]" should read "[5.]"

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and The Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

† **December 7, 1994 - 9 a.m.** – Open Meeting

Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

† **January 11, 1995 - 1 p.m.** – Open Meeting

Fairgrounds on Strawberry Hill, 600 East Laburnum Avenue, Exhibition Hall, Norfolk Room, Richmond, Virginia. ☒

At this regular meeting, the board plans to discuss regulations and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of the other business, the board will review public comments for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Virginia Corn Board

† **November 30, 1994 - 10 a.m.** – Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg, Virginia. ☒

The fall meeting of the board. Financial matters and programs will be discussed. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate in the meeting should contact Rosser Cobb at least five days before the meeting date so that suitable arrangements can be made.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Marine Products Board

December 6, 1994 - 5:30 a.m. – Open Meeting
Sewell's Ordinary Restaurant, Route 17, Gloucester, Virginia. ☒

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business. Any person who needs any accommodation in order to participate at the meeting should contact Shirley Estes so that suitable arrangements can be made for any appropriate accommodation. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 551 Denbigh Boulevard, Suite B, Newport News, VA 23602, telephone (804) 874-3474.

Virginia Pork Industry Board

† **January 13, 1995 - 2 p.m.** – Open Meeting
Virginia State Fairgrounds, 600 East Laburnum Avenue, Washington Room, Richmond, Virginia. ☒

A regular meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact John H. Parker at least five days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Executive Director, Virginia Pork

Industry Board, 1012 Washington Bldg., 1100 Bank St.,
Richmond, VA 23219, telephone (804) 786-7092.

Virginia Soybean Board

† **December 6, 1994 - 10 a.m.** – Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg,
Virginia. ☒

The regular fall meeting. Financial matters and programs will be considered. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Rosser Cobb at least five days before the meeting date so that suitable arrangements can be made.

Contact: Rosser Cobb, Program Director, Virginia Soybean Board, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

STATE AIR POLLUTION CONTROL BOARD

December 2, 1994 - 9 a.m. – Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.
(Interpreter for the deaf provided upon request)

A regularly scheduled board meeting. This meeting is being held pursuant to § 10.1-1304 of the Code of Virginia.

Contact: Cindy M. Berndt, Manager, Regulatory Services, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378 or (804) 762-4021/TDD ☎

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

December 7, 1994 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4, Richmond, Virginia. ☒

A meeting to (i) approve minutes dated September 29, 1994; (ii) review enforcement files; (iii) review applications; (iv) review correspondence; and (v) conduct any board business.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Architects

NOTE: CHANGE IN MEETING DATE

December 2, 1994 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

A meeting to (i) approve minutes dated September 1, 1994; (ii) review enforcement files; (iii) review applications; (iv) review correspondence; and (v) conduct any board business.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Landscape Architects

December 1, 1994 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

A meeting to (i) approve minutes dated September 15, 1994; (ii) review enforcement files; (iii) review applications; (iv) review correspondence; and (v) conduct any board business.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Land Surveyors

December 6, 1994 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

A meeting to (i) approve minutes dated September 28, 1994; (ii) review enforcement files; (iii) review applications; (iv) review correspondence; and (v) conduct any board business.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Professional Engineers

December 1, 1994 - 1 p.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

A meeting to (i) approve minutes dated September 8 and October 20, 1994; (ii) review enforcement files;

Calendar of Events

(iii) review applications; (iv) review correspondence; and (v) conduct any board business.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

† **January 10, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☎

A regular meeting.

Contact: David E. Dick, Assistant Director, Board for Asbestos Licensing and Lead Certification, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

VIRGINIA AVIATION BOARD

† **December 19, 1994 - 7 p.m.** – Open Meeting
Sheraton Inn Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the Virginia Aviation Board. No formal actions will be taken. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Virginia Aviation Board, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† **December 20, 1994 - 10 a.m.** – Open Meeting
Sheraton Inn Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bimonthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Virginia Aviation Board, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

December 5, 1994 - 9 a.m. – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

BOARD FOR BRANCH PILOTS

December 13, 1994 - 9 a.m. – Public Hearing
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☎

A meeting to conduct general board business, and a public hearing on review of regulations in response to Executive Order 15(94).

Contact: David E. Dick, Assistant Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **December 1, 1994 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken early in the meeting. A tentative agenda is available from the Chesapeake Bay Local Assistance Department.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Central Area Review Committee

December 14, 1994 - 2 p.m. – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify

meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

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 ☎

Northern Area Review Committee

December 15, 1994 - 10 a.m. – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

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 ☎

Southern Area Review Committee

December 7, 1994 - 10 a.m. – Open Meeting
Town of Cape Charles Council Chambers, Corner of Mason and Plum, Cape Charles, Virginia. ☎ (Interpreter for the deaf provided upon request)

December 28, 1994 - 10 a.m. – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

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

† **December 8, 1994 - 9 a.m. – Open Meeting**
Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia.

A meeting to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. Public comment period

begins at 10 a.m. Please call ahead of time for possible changes in meeting time.

Contact: Richard Martin, Division of Management and Customer Service, Department of Social Services, Theater Row Bldg., 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1825.

COMPENSATION BOARD

November 30, 1994 - 1 p.m. – Open Meeting
December 22, 1994 - Noon – Open Meeting
Ninth Street Office Building, 202 North 9th Street, Room 913/913A, 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 710, Richmond, VA 23206-0686, telephone (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

December 19, 1994 - 7 p.m. – Open Meeting
Henrico County Government Center, Administration Building, Board Room, 4301 East Parham Road, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting on VR 217-02-00, Nutrient Management Training and Certification Regulation (refer to the Notices of Intended Regulatory Action section, page 412, for more detailed information). The meeting is 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 Mr. H.R. Perkinson. Persons needing interpreter services for the deaf must notify Mr. Perkinson no later than December 8, 1994.

Contact: H.R. Perkinson, Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064 or (804) 786-2121/TDD ☎

Board of Conservation and Recreation

† **December 13, 1994 - 10:30 a.m. – Open Meeting**
Pocahontas State Park, 10301 State Park Road, Dining Hall, Chesterfield, Virginia. ☎

A regular meeting.

Contact: Bonnie L. Phillips, Policy Analyst, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291 or (804) 786-2121/TDD ☎

Calendar of Events

December 19, 1994 - 8 p.m. – Public Hearing
Henrico County Government Center, 4301 East Parham Road, Administration Building, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting on VR 215-02-00, Stormwater Management Regulations (refer to the Notices of Intended Regulatory Action section, page 411, for more detailed information). The hearing is being held at facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact David S. Nunnally. Persons needing interpreter services for the deaf must notify Mr. Nunnally no later than December 5, 1994.

Contact: David S. Nunnally, Urban Conservation Engineer, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

December 8, 1994 - 10 a.m. – Open Meeting
December 9, 1994 - 10 a.m. – Open Meeting
December 12, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A formal hearing regarding the Board for Contractors v. Tomac Corporation. File No. 93-01269.

Contact: Earlyne Perkins, Legal Assistant, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0946.

† **December 21, 1994 - 9 a.m. – Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor Conference Room, Richmond, Virginia. ☎

A regular quarterly meeting of the board to address policy and procedural issues, and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact A.R. Wade. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: A.R. Wade, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8582 or (804) 367-9753/TDD ☎

Recovery Fund Committee

December 7, 1994 - 9 a.m. – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Christine Martine at (804) 367-8561. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561 or (804) 367-9753/TDD ☎

BOARD OF CORRECTIONS

† **December 14, 1994 - 10 a.m. – Open Meeting**
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Administration Committee

† **December 14, 1994 - 8:30 a.m. – Open Meeting**
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ☎

A meeting to discuss administration matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Committee on Certification Process Review

† **December 14, 1994 - Noon – Open Meeting**
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ☎

A meeting to discuss and review the board's certification process.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Correctional Services Committee

† **December 13, 1994 - 1 p.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss administration matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

December 3, 1994 – 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 Cosmetology intends to repeal regulations entitled: **VR 235-01-02, Board for Cosmetology Regulations, and VR 235-01-03, Nail Technician Regulations, and adopt regulations entitled: VR 235-01-02:1, Board for Cosmetology Regulations.** The purpose of this regulatory action is to repeal the existing Board for Cosmetology Regulations (VR 235-01-02) and Nail Technician Regulations (VR 235-01-03) and combine them into one set of new regulations (VR 235-01-02:1). The proposed regulations will achieve consistency with existing barber regulations and statutes as well as current board policies. Further, the proposed regulations will amend the Board for Cosmetology's license renewal procedures.

Statutory Authority: §§ 54.1-201 and 54.1-1202 B of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

December 5, 1994 - 9 a.m. – Open Meeting
December 12, 1994 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct examination cut-score study. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Deaf and Hard-of-Hearing Advisory Board

† **December 7, 1994 - 10 a.m.** – Open Meeting
Department for the Deaf and Hard-of-Hearing, Washington Building, 1100 Bank Street, 12th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular quarterly business meeting of the advisory board. The meeting is open to the public. Public comments will be received with advance notice.

Contact: Loretta H. Barker, Administrative Assistant, Department for the Deaf and Hard-of-Hearing, Washington Bldg., 1100 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 371-7892, toll-free 1-800-552-7917/(V/TTY) or (804) 225-2570/(V/TTY)

Telecommunications Relay Services Advisory Board

† **January 18, 1995 - 10 a.m.** – Open Meeting
Department for the Deaf and Hard-of-Hearing, 1100 Bank Street, 12th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular business meeting. This meeting is open to the public. Public comment will be permitted with advance notice.

Contact: Loretta H. Barker, Administrative Assistant, Department for the Deaf and Hard-of-Hearing, 1100 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 371-7892/(V/TTY), toll-free 1-800-552-7917/(V/TTY) or (804) 225-2570/TDD ☎

BOARD OF DENTISTRY

December 1, 1994 - 8:30 a.m. – Open Meeting
December 2, 1994 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

Formal hearings will be held on December 1. A meeting to conduct board business and committee meetings for legislative/regulatory, advertising, examination, continuing education, executive, and budget committees will be held on December 2. This is a public meeting. A 20-minute public comment period will be held at 8:40 a.m. on December 2, 1994; however, no other public comment will be taken. If the formal hearings are continued then regular board business will be conducted on December 1, 1994.

Contact: Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

December 9, 1994 - 9 a.m. – Open Meeting

Calendar of Events

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

Informal conferences.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

STATE BOARD OF ELECTIONS

November 28, 1994 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to canvass the November 8, 1994, general election for the U.S. Senate, U.S. House and the three proposed constitutional amendments.

Contact: Diane Anderson, Executive Secretary Senior, State Board of Elections, 200 N. Ninth St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, toll-free 1-800-552-9745 or toll-free 1-800-260-3466/TDD ☎

LOCAL EMERGENCY PLANNING COMMISSION - COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

December 13, 1994 - 3 p.m. – Open Meeting
Montgomery County Courthouse, Main and Franklin Streets, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☎

A meeting to develop a disaster simulation drill for field responders in Spring 1995, and also the appointment of new LEPC members.

Contact: Vincent D. Stover, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or FAX (703) 831-6093.

LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

† **December 7, 1994 - Noon** – Open Meeting
Vinton War Memorial, 814 Washington Avenue, Vinton, Virginia. ☎

† **January 25, 1995 - 9 a.m.** – Open Meeting
Salem Civic Center, 1001 Roanoke Boulevard, Room C, Salem, Virginia. ☎

A meeting to (i) receive public comment; (ii) receive report from community coordinators; and (iii) receive report from standing committee.

Contact: Chief Dan Hall, Fire Chief/Coordinator of Emergency Services, Salem Fire Department, 105 S.

Market St., Salem, VA 24153, telephone (703) 375-3080.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **December 7, 1994 - 3 p.m.** – Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A regular meeting.

Contact: L.A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 662-2298.

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **November 29, 1994 - 7 p.m.** – Public Hearing
Department of Environmental Quality, West Central Regional Office, 3015 Peters Creek Road, Conference Room, Roanoke, Virginia. ☎

An informational briefing and public hearing to consider a PSD application from Roanoke Electric Steel to construct and operate one ladle metallurgical station and to modify and operate one electric ore furnace at their Roanoke steel mill.

Contact: Gail Taber Steele, Environmental Engineer, Department of Environmental Quality, West Central Regional Office, 5338 Peters Creek Rd., Suite D, Roanoke, VA 24019, telephone (703) 561-7000.

† **December 1, 1994 - 7 p.m.** – Public Hearing
Radford City Council Chambers, Radford, Virginia. ☎

A public hearing to receive public comments on proposed Department of Environmental Quality air pollution permit for New River Industries, Inc., to install, modify and operate cellulose acetate yarn processing equipment.

Contact: Stanley Faggert, Environmental Engineer Senior, Department of Environmental Quality, 121 Russell Rd., P.O. Box 1190, Abingdon, VA 24212-1190, telephone (703) 676-5582.

† **December 12, 1994 - 10 a.m.** – Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4900 Cox Road, Conference Room, Richmond, Virginia. ☎

This public hearing will provide opportunity for public comment on air pollution related issues concerning an application from Quebecor Printing Richmond, Inc., to construct and operate a new rotogravure press and a new boiler at the existing facility located at 740 Impala Drive in Henrico County, Richmond, Virginia.

Calendar of Events

Contact: Gary Graham, Environmental Engineer, Department of Environmental Quality, Piedmont Regional Office, 4900 Cox Rd., Richmond, VA 23260, telephone (804) 527-5144.

Work Group on Detection/Quantitation Levels

January 18, 1995 - 1:30 p.m. – Open Meeting
Department of Environmental Quality, 4949 Cox Road, Lab Training Room, Room 111, Glen Allen, Virginia.

The department has established a work group on detection/quantitation levels for pollutants in the regulatory and enforcement programs. The work group will advise the Director of Environmental Quality. Other meetings of the work group have been scheduled at the same time and location for February 15, March 15, April 5, April 19, May 3, May 17, June 7, and June 21, 1995. However, these dates are not firm. Persons interested in the meetings of this work group should confirm the date.

Contact: Alan J. Anthony, Chairman, Work Group on Detection/Quantitation Levels, Department of Environmental Quality, 629 E. Main St., 2nd Floor, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4120.

VIRGINIA FIRE SERVICES BOARD

† **December 16, 1994 - 9 a.m.** – Open Meeting
Sheraton Inn Park South, Richmond, Virginia.

A business meeting to discuss training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Services, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

† **December 15, 1994 - 10 a.m.** – Open Meeting
Sheraton Inn Park South, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Services, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **December 15, 1994 - 9 a.m.** – Open Meeting
Sheraton Inn Park South, Richmond, Virginia.

A meeting to discuss fire training and policies. The

committee meeting is open to the public for their input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Services, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **December 15, 1994 - 1 p.m.** – Open Meeting
Sheraton Inn Park South, Richmond, Virginia.

A meeting to discuss fire training and policies. The committee meeting is open to the public for their input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Services, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FORESTRY

December 4, 1994 - 4 p.m. – Open Meeting

December 5, 1994 - 8 a.m. – Open Meeting

Department of Forestry Headquarters, Fontaine Research Park, 908 Natural Resources Drive, Charlottesville, Virginia. ☎

A workshop to study issues, and an open meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-1375, extension 3346 or (804) 977-6555/TDD ☎

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

January 10, 1995 - 9:30 a.m. – Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

January 13, 1995 – 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 Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-3. Preneed Funeral Planning Regulations.** The proposed amendments are designed to amend regulations in compliance with changes to federal law, clarify disclosure requirements for funeral homes to make to consumers and correct editorial errors and comply with Registrar's format.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St.,

Calendar of Events

4th Floor, Richmond, VA 23230, telephone (804) 662-9907.

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January 10, 1995 - 9:30 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.

January 13, 1995 – 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 Funeral
Directors and Embalmers intends to amend regulations
entitled: **VR 320-01-04. Regulations of the Resident
Trainee Program for Funeral Service.** The purpose of
the proposed amendments is to address maximum
limit on apprenticeship, supervision of trainee who has
completed program, requirements for final reporting,
failure to report, editorial changes, supervision for
active trainees, and reporting requirements for active
trainees.

Statutory Authority: §§ 54.1-2400, 54.1-2803 and 54.1-2817 of
the Code of Virginia.

Contact: Meredyth P. Partridge, Executive Director, Board
of Funeral Directors and Embalmers, 6606 W. Broad St.,
4th Floor, Richmond, VA 23230, telephone (804) 662-9907.

BOARD OF GAME AND INLAND FISHERIES

† **December 15, 1994 - Noon** – Open Meeting
Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia. ☒ (Interpreter for the
deaf provided upon request)

The Law and Education Committee will meet at noon.
This meeting will be followed by the Wildlife and Boat
Committee at 2 p.m. The Law and Education
Committee will discuss hunting and boating education
safety responsibility and ethics and the economic
benefits of wildlife management. The Wildlife and
Boat Committee will discuss the economic importance
of hunting, fishing and boating to the Commonwealth.
They will also discuss forthcoming hunting regulations,
and the procedure to be utilized for public input and
the schedule for the public meetings.

Contact: Phil Smith, Policy Analyst, Department of Game
and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104,
Richmond, VA 23230, telephone (804) 367-1000.

† **December 16, 1994 - 10 a.m.** – Open Meeting
Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia. ☒ (Interpreter for the
deaf provided upon request)

A meeting to consider for final adoption regulations
that provide for the capture, hold, transport and

release of nuisance wildlife and the sale of unclaimed
mounts by taxidermists. The board will determine
whether or not any of these proposed regulations or
other alternative regulatory language should be
adopted as final regulations. Regulations may be
proposed for advertisement that pertain to shooting
enclosures and fox pens. In addition, general and
administrative matters may be discussed. The board
may hold an executive session.

Contact: Phil Smith, Policy Analyst, Department of Game
and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104,
Richmond, VA 23230, telephone (804) 367-1000.

BOARD FOR GEOLOGY

December 1, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 3, Richmond,
Virginia. ☒

A regular meeting.

Contact: David A. Vest, Board Administrator, Board for
Geology, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8307 or (804) 367-9753/TDD ☎

DEPARTMENT OF HEALTH (STATE BOARD OF)

NOTE: CHANGE IN LOCATION

December 1, 1994 - Noon – Open Meeting
Richmond Airport Hilton Hotel, 5501 Eubanks Road,
Sandston, Virginia. ☒ (Interpreter for the deaf provided
upon request)

A worksession of the board. An informal dinner will
follow at 6:30 p.m.

Contact: Rosanne Kolesar, Office of the Commissioner,
Department of Health, P.O. Box 2448, Suite 214, Richmond,
VA 23218, telephone (804) 786-3564.

NOTE: CHANGE IN LOCATION

December 2, 1994 - 9 a.m. – Open Meeting
Richmond Airport Hilton Hotel, 5501 Eubanks Road,
Sandston, Virginia. ☒ (Interpreter for the deaf provided
upon request)

A business meeting and adjournment.

Contact: Rosanne Kolesar, Office of the Commissioner,
Department of Health, P.O. Box 2448, Suite 214, Richmond,
VA 23218, telephone (804) 786-3564.

Biosolids Permit Fee Regulation Advisory Committee

December 14, 1994 - 2 p.m. – Open Meeting
UVA Richmond Center, 7740 Shrader Road, Suite E,
Richmond, Virginia. ☒

A meeting to discuss the public participation issues related to the proposed regulation for fees for permits involving land application, marketing, or distribution of biosolids.

Contact: C.M. Sawyer, Division Director, Department of Health, Division of Wastewater Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

Biosolids Use Committee (formerly LASS)

December 14, 1994 - 10 a.m. - Open Meeting

UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ☒

A meeting to discuss issues related to the Biosolids Use Regulations recently adopted by the State Board of Health to regulate the land application, marketing, or distribution of biosolids.

Contact: C.M. Sawyer, Division Director, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

Food Service Advisory Committee

† **November 30, 1994 - 10 a.m. - Open Meeting**

Department of Housing and Community Development, Jackson Center, 501 North 2nd Street, 2nd Floor Conference Room, Richmond, Virginia. ☒

A regular meeting. This committee meets at least once a year to discuss and recommend food service policy, regulation, and programmatic changes to the Commissioner of Health for implementation.

Contact: John E. Benko, Division Director, Division of Food and Environmental Services, Department of Health, 1500 E. Main St., Suite 115, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3559.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

NOTE: CHANGE IN MEETING DATE

December 13, 1994 - 9:30 a.m. - Open Meeting

Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

December 4, 1994 - 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 Council of Higher Education for Virginia intends to amend regulations entitled: **VR 380-01-00. Public Participation Guidelines.** The proposed amendments correct some unclear language and put the regulations in compliance with the Administrative Process Act and Chapter 898 of the 1993 Acts of Assembly.

Statutory Authority: §§ 9-6.14:7.1 and 23-9.6:1 of the Code of Virginia.

Contact: Fran Bradford, Regulatory Coordinator, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

December 13, 1994 - 9:30 a.m. - Open Meeting

Virginia Commonwealth University, Richmond, Virginia.

A general business meeting. For more information, contact the council.

Contact: Anne M. Pratt, Associate Director, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632.

DEPARTMENT OF HISTORIC RESOURCES

Virginia Historic Resources Board

† **December 7, 1994 - 10 a.m. - Open Meeting**

General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting.

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

† **December 6, 1994 - 10 a.m. - Open Meeting**

General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider the following properties for the Virginia Landmarks Register and the National Register of Historic Places.

Calendar of Events

1. The Anchorage, Northumberland Co.
2. Belle Island, City of Richmond
3. Coan Baptist Church, Northumberland Co.
4. Danville National Cemetery, Danville
5. Falling Creek Ironworks Archaeological Site, Chesterfield Co.
6. Farmington, King and Queen County
7. Glendale Farm, Clarke County
8. Wickliffe Church, Clarke Co.
9. Sweet Briar College Historic District, Amherst 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 ☎

VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

† **December 2, 1994 - 10 a.m.** – Open Meeting
Sheraton Inn, Laburnum Road, Richmond, Virginia. ☒
(Interpreter for the deaf provided upon request)

The committee will continue its activities in planning HIV prevention for Virginia. The committee will discuss research activities and planning for 1995.

Contact: Elaine G. Martin, Coordinator, AIDS Education, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

December 6, 1994 - 9 a.m. – Open Meeting
January 3, 1995 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

STATEWIDE INDEPENDENT LIVING COUNCIL

December 14, 1994 - 10 a.m. – Open Meeting
December 15, 1994 - 9 a.m. – Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

In place of a regular quarterly meeting, the council will be in orientation training on the Rehabilitation

Act and responsibilities of the Statewide Independent Living Council.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD ☎ and Voice or (804) 662-9040/TDD ☎

VIRGINIA INTERCOMMUNITY TRANSITION COUNCIL

† **December 1, 1994 - 9 a.m.** – Open Meeting
Richmond Airport Hilton, 5501 Eubank Drive, Richmond, Virginia. ☒

State and local representatives from 13 state agencies, the Social Security Administration and representatives of the business and consumer community form the council. The council meets quarterly to focus on strategic targets to move Virginia forward in the development of statewide and systematic transition services for all youth with disabilities. Eleven-thirty to 12:30 of every meeting is designated for public comment to enable persons or groups who are not standing members of the council to express opinions and recommendations to the council regarding transition issues. The meeting will feature presentations by families and students in transition.

Contact: Kathy Trossi, Education Services Manager, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288-0300, telephone (804) 662-7606 or toll-free 1-800-552-5019; or Sharon deFur, Associate Specialist/Transition, Department of Education, P.O. Box 2120, Monroe Bldg., 20th Floor, Richmond, VA 23216, telephone (804) 225-2702.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† **December 1, 1994 - 10 a.m.** – Open Meeting
Richmond Technical Center, 2020 Westwood Avenue, Room 237, Richmond, Virginia. ☒

A regular meeting of the council to discuss and/or act on (i) revised state travel policy; and (ii) EEO review policy.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382.

Migrant and Seasonal Farmworkers Board

† **December 14, 1994 - 10 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Calendar of Events

A regular meeting of the board.

Contact: Patti C. Bell, Staff Coordinator, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2385 or (804) 786-2376/TDD ☎

Safety and Health Codes Board

December 19, 1994 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The tentative agenda items for consideration by the board include:

1. Retention of DOT markings, placards, and labels; Final Rules 1910.1201; 1915.100; 1917.29; 1918.100; 1926.61.
2. Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment, 1915.11 - 1915.16, 1915.7.
3. Safety Standard for Fall Protection in the Construction Industry; Final Rules, 1926.500-1926.503.
4. Occupational Exposure to Asbestos; Final Rules, 1910.1001; 1926.1101; 1915.1001.
5. Hazardous Waste Operations and Emergency Response, 1910.120 and 1926.65.
6. Logging Operations; Final Rule, 1910.266, 1928.21 and 1910.269.
7. Approval of Regulatory Review of Boiler and Pressure Vessels (VR 425-01-75)
8. Approval of Regulatory Review of Boiler and Pressure Vessels Certification (VR 425-01-64).
9. Approval of Regulatory Review of Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees (VR 425-01-74).

Contact: John J. Crisanti, Director, Enforcement Policy, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384, FAX (804) 786-8418 or (804) 786-2376/TDD ☎

STATE COUNCIL ON LOCAL DEBT

December 21, 1994 - 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 the 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 1879, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

November 30, 1994 - 3 p.m. – Open Meeting
Hillsville, Virginia (location to be determined)

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

December 12, 1994 - 9 a.m. – Cancelled

December 13, 1994 - 9 a.m. – Cancelled

December 14, 1994 - 9 a.m. – Cancelled
Ashland-Hanover County area; site to be determined.

Meetings regarding the petition by the Town of Ashland seeking a Commission on Local Government order establishing the rights of the town to annex territory in Hanover County have been cancelled.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

December 12, 1994 - 7:30 p.m. – Cancelled
Ashland-Hanover County area; site to be determined.

Public hearing regarding a petition by the Town of Ashland seeking a Commission on Local Government order establishing the rights of the town to annex territory in Hanover County has been cancelled.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508.

STATE LOTTERY BOARD

† **December 19, 1994 - 10 a.m.** – Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☎ (Interpreter for deaf provided upon request)

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda,

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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) 367-3106 or (804) 367-3000/TDD ☎

MARINE RESOURCES COMMISSION

† **December 20, 1994 - 9:30 a.m.** – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing. Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

BOARD OF MEDICAL ASSISTANCE SERVICES

† **December 15, 1994 - 10 a.m.** – Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

An open meeting to discuss medical assistance services and to take action on issues pertinent to the board.

Contact: Patricia A. Sykes, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958.

BOARD OF MEDICINE

Advisory Board of Occupational Therapy

† **January 10, 1995 - 10 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to receive reports from the chairperson and vice-chair, review regulations and public comments on regulatory review, elect officers, and discuss any other business that may come before the board. The chairperson will entertain public comments during the first 15 minutes of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Credentials Committee

December 10, 1994 - 8:15 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☎

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Executive Committee

December 9, 1994 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 1 and 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to review cases of files requiring administrative action, adopt amendments for approval of promulgation of regulations as presented, and act upon certain issues as presented. The chairman will entertain public comments following the adoption of the agenda for 10 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

† **January 13, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review current regulations, respond to public comments concerning regulatory review and such other business that may come before the

advisory board. The chairperson will entertain public comments following the adoption of the agenda for 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

December 16, 1994 - 9 a.m. - Open Meeting

Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 109 Governor St., 13th Floor, Richmond, Virginia. ☎

† **January 27, 1995 - 9 a.m. - Open Meeting**

Southside Complex, West Washington Street, Petersburg, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

December 5, 1994 - 1 p.m. - Open Meeting

Central Virginia Training Center, Lynchburg, Virginia. ☎

A regular monthly meeting. Agenda to be published on Monday, November 28, 1994. Agenda can be obtained by calling Jane Helfrich.

Sunday - Informal session - 4 p.m. and 7 p.m.

Monday - Informal session - 8:30 a.m.

Regular session 1 p.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ADVISORY COUNCIL

December 8, 1994 - 9 a.m. - Open Meeting

Shoney's Inn, 7007 West Broad Street, Conference Room 110, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bimonthly council meeting. Time is provided for public comment at the start of the meeting.

Contact: Kenneth Shores, PAIMI Coordinator, Department for Rights of Virginians with Disabilities, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962/TDD ☎ and Voice

GOVERNOR'S MINED LAND RECLAMATION ADVISORY BOARD

† **December 15, 1994 - 10 a.m. - Open Meeting**

Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review and discuss recent Interstate Mining Compact Commission issues associated with the coal industry.

Contact: Danny R. Brown, Division Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8152.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† **December 7, 1994 - 1 p.m. - Open Meeting**

† **January 4, 1995 - 1 p.m. - Open Meeting**

† **February 1, 1995 - 1 p.m. - Open Meeting**

Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Coal Combustion By-Products/Biosolids Work Group to advise the agency on development of guidelines for the placement of coal combustion by-products and biosolids on Division of Mined Land Reclamation permitted sites. This work group is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

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† **December 12, 1994 - 9:30 a.m.** – Open Meeting

† **January 9, 1995 - 9:30 a.m.** – Open Meeting

† **February 13, 1995 - 9:30 a.m.** – Open Meeting

Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting of the Permit Streamlining/Standardization Work Group to advise the agency on development of standardized, streamlined permit applications. This workgroup meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

† **December 14, 1994 - 1 p.m.** – Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Karen Ruby, Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0481.

JOINT COMMITTEE ON PRESCRIPTIVE AUTHORITY FOR NURSE PRACTITIONERS

December 5, 1994 - 1 p.m. – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 465-12-01 and VR 495-03-01. Prescriptive Authority for Nurse Practitioners

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Corinne Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909.

BOARD OF NURSING

† **December 8, 1994 - 8:30 a.m.** – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A special conference committee comprised of two members of the Virginia Board of Nursing will conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

Contact: M. Teresa Mullin, R.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Disciplinary Issues Committee

† **December 5, 1994 - 9 a.m.** – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to review a memorandum of understanding between the Department of Health Professions, the Board of Nursing and the Virginia Nurses' Association regarding impaired nurses.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Nurse Aide Registry

† **December 5, 1994 - 9 a.m.** – Open Meeting

T.C. Williams High School, 3330 King Street, Conference Room, Alexandria, Virginia. ☒ (Interpreter services for the deaf provided upon request)

Formal administrative hearings will be held on this date for nurse aides Fannie M. Ragland and Sorie Nabie. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., M.S.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7310 or (804) 662-7197/TDD ☎

† **December 8, 1994 - 9 a.m.** – Open Meeting

† **December 13, 1994 - 9 a.m.** – Open Meeting

† **December 15, 1994 - 9 a.m.** – Open Meeting

Department of Health Professions, 6606 West Broad Street.

4th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Informal conferences will be held for the Nurse Aide Registry. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., M.S.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7310 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† **November 28, 1994 - 3 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A two-member task force of the board will review regulations prior to board beginning regulatory review.

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

November 29, 1994 - 9:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

A regular board meeting.

Contact: Meredyth Partridge, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

November 29, 1994 - 9:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 500-01-2:1. General Regulations
VR 500-01-3. Public Participation Guidelines

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Meredyth Partridge, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St.,

Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

† **December 5, 1994 - 2:30 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A three-member special conference committee will conduct informal conferences.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF OPTOMETRY

† **December 19, 1994 - 8 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Informal conference meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

BOARD OF PHARMACY

November 30, 1994 - 10 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia.

Informal conferences.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

VIRGINIA POLYGRAPH EXAMINERS ADVISORY BOARD

November 29, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A meeting for discussing regulations, Executive Order 15(94), the examination and other routine business matters. A public comment period will be scheduled during the meeting. No public comment will be

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accepted after that period. However, the meeting is open to the public. Any person who needs any accommodations in order to participate in the meeting should contact Nancy Taylor Feldman at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Nancy Taylor Feldman, Assistant Director, Virginia Polygraph Examiners Advisory Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

BOARD OF PROFESSIONAL COUNSELORS

† **December 1, 1994 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

Informal conferences will be held at 9 a.m., 11 a.m., and 1 p.m. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9967.

December 2, 1994 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 3, Richmond, Virginia. ☒

A meeting to consider committee reports, conduct regulatory review, act on correspondence and any other matters under the jurisdiction of the board to include a public hearing to receive comments on the following regulations at 9:30 a.m.: VR 560-01-01, Public Participation Guidelines, and VR 560-01-03, Substance Abuse Counselor Certification. A half-hour public comment period will begin at 9 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

December 2, 1994 - 9:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 560-01-01. Public Participation Guidelines
VR 560-01-03. Substance Abuse Counselor Certification

These regulations will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least

burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

Advisory Board on Rehabilitation Providers

† **December 9, 1994 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☒

A meeting to hear recommendations and concerns regarding the establishment of education, experience and standards of practice requirements for rehabilitation providers.

Contact: Janet Delorme, Research Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

NOTE: CHANGE IN PUBLIC HEARING DATE
November 30, 1994 - 10 a.m. – Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

December 19, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Professional and Occupational Regulation intends to amend regulations entitled: **VR 190-01-1:1. Regulations Governing Employment Agencies.** The purpose of the proposed amendments is to establish the requirements for licensure of employment agencies, employment agency controlling persons and employment agency counselors, including a fee adjustment.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-1302.1 of the Code of Virginia.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

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NOTE: CHANGE IN PUBLIC HEARING DATE
November 29, 1994 - 10 a.m. – Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4A, Richmond Virginia.

December 19, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Professional and Occupational Regulation intends to amend regulations entitled: **VR 190-03-1. Regulations Governing Polygraph Examiners.** The amendments clarify the qualifications for licensure and licensure by reciprocity, establish a waiver of internship requirement, provide information regarding examination, simplify procedures for renewal and reinstatement of licenses, and establish criteria for approval of polygraph schools. The most substantive change is the increase in fees for polygraph licenses, intern registrations, examination, and renewal and reinstatement fees as needed in accordance with § 54.1-113 of the Code of Virginia. All other amendments are for clarity, simplicity, and readability.

Statutory Authority: §§ 54.1-113 and 54.1-1802 of the Code of Virginia.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

BOARD OF PSYCHOLOGY

December 6, 1994 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 565-01-1:1. Public Participation Guidelines .

Each regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913.

Advisory Committee on Certified Practices

† **December 2, 1994 - 1 p.m.** – Open Meeting
† **December 8, 1994 - 10 a.m.** – Open Meeting
Blue Ridge Hospital, Route 20 South, 4th Floor East

Conference Room, Charlottesville, Virginia. ☒

A subcommittee meeting to draft definitions pertaining to the certification of sex offender treatment providers.

Contact: Janet Delorme, Research Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

REAL ESTATE APPRAISER BOARD

November 29, 1994 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct a Cut Score Study for the state Real Estate Appraiser examination.

Contact: George O. Bridewell, Examination Administrator, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☒

Complaints Committee

December 6, 1994 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review complaints prior to the board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☒

REAL ESTATE BOARD

December 5, 1994 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Real Estate Board Regulations.** The proposed amendments differentiate between sales and leasing practices, eliminate rental location agent regulations, allow use of professional names, clarify other existing regulations, and adjust fees.

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Contact: Joan L. White, Assistant Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

† **December 6, 1994 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

The board is conducting informal fact-finding conferences pursuant to the Administrative Process Act in order for the Real Estate Board to make case decisions. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Barbara B. Tinsley, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589.

† **December 7, 1994 - 8:30 a.m.** – Open Meeting
† **December 8, 1994 - 8:30 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular business meeting of the board to include review of investigative matters, consideration of applications, and various requests to the board for information and potential legislation.

Contact: Joan L.W. McMichael, Assistant Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† **December 8, 1994 - 10 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

The council will continue work on developing and monitoring a plan to strengthen Virginia's recycling infrastructure and markets; setting forth strategies primarily designed to improve the supply, quantity, and quality of recyclables; and providing strategies for increasing the demand for recycled products and expanding the capacity of collectors, processors and manufacturers to handle and use specified recyclable materials.

Contact: Paddy Katzen, Special Assistant to Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

BOARD OF REHABILITATIVE SERVICES

December 1, 1994 - 10 a.m. – Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly business meeting.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 662-9040/TDD ☎

VIRGINIA RESOURCES AUTHORITY

December 13, 1994 - 9:30 a.m. – Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to approve minutes of the meeting of November 8, 1994; 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, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

VIRGINIA SMALL BUSINESS ADVISORY BOARD

† **November 29, 1994 - 9 a.m.** – Open Meeting
Department of Economic Development, Riverfront Towers West, 901 East Byrd Street, 19th Floor Board Room, Richmond, Virginia.

A regular meeting of the board.

Contact: David V. O'Donnell, Director of Small Business Development, Department of Economic Development, 901 E. Byrd St., Suite 1800, Richmond, VA 23219, telephone (804) 371-8252.

TREASURY BOARD

December 21, 1994 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant

Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

December 7, 1994 - 8 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, the board will receive comments on the following regulations.

VR 645-01-0:1. Public Participation Guidelines

This regulation will be reviewed to ensure (i) that it is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) that it is mandated or authorized by law; (iii) that it offers the least burdensome alternative and most reasonable solution; and (iv) that it is clearly written and easily understandable. Written comment may be sent to the board before December 15, 1994.

Contact: Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915.

† **December 7, 1994 - 8:15 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A formal hearing and regular board meeting. Public comment will be accepted at the beginning of the meeting.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

† **December 8, 1994 - 8:30 a.m. - Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

VIRGINIA RACING COMMISSION

December 14, 1994 - 9:30 a.m. - Open Meeting

State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, Virginia. ☒

A regular commission meeting and review of regulations.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA VOLUNTARY FORMULARY BOARD

December 16, 1994 - 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 drug products to the formulary that became effective on May 1, 1994. Copies of the proposed revisions to the formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on December 16, 1994, will be made a part of the hearing record.

Contact: James K. Thomson, Bureau of Pharmacy, Department of Health, 109 Governor St., Room B 1-9, Richmond, VA 23219, telephone (804) 786-4326.

† **January 19, 1995 - 10:30 a.m. - Open Meeting**
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

December 8, 1994 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

A regular meeting.

Contact: David E. Dick, Assistant Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

Calendar of Events

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **January 5, 1995 - 10 a.m.** – Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A public hearing on proposed fees followed by a regular board meeting on matters which may require board action. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Persons desiring to participate in the public hearing or meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230-4917 or (804) 367-8590.

BOARD OF YOUTH AND FAMILY SERVICES

† **December 1, 1994 - 10 a.m.** – Open Meeting
700 Centre Building, 7th and Franklin Streets, 4th Floor,
Richmond, Virginia. ☒

A general meeting to review programs recommended for certification or probation, consider adoption of draft policies, and to discuss other matters that may come before the board.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

LEGISLATIVE

VIRGINIA CODE COMMISSION

† **December 21, 1994 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor
Conference Room, Richmond, Virginia.

A regular meeting.

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Building, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

Title 15.1 Recodification Task Force

December 15, 1994 - 10 a.m. – Open Meeting

General Assembly Building, 910 Capitol Square, 6th Floor,
Conference Room, Richmond, Virginia.

A meeting to suggest changes to Title 15.1.

Contact: Michelle Browning, Executive Secretary, Division of Legislative Services, General Assembly Bldg., 910 Capitol Square, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

† **December 5, 1994 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor
Conference Room, Richmond, Virginia. ☒

A meeting to review Virginia Growth Strategies Act and preview the 1995 legislative session.

Contact: Katherine L. Imhoff, Executive Director, Commission on Population Growth and Development, General Assembly Bldg., 910 Capitol St., Room 519 B, Richmond, VA 23219, telephone (804) 371-4949.

COMMISSION ON YOUTH

December 12, 1994 - 1 p.m. – Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond,
Virginia.

The commission will receive the legislative recommendations of the task forces for studies SJR 130 and HJR 260, hold a public hearing on youth-related issues, and review Commission on Youth members' other youth-related legislation.

Contact: Joyce Huey, Commission on Youth, General Assembly Building, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-2481.

CHRONOLOGICAL LIST

OPEN MEETINGS

November 28

Elections, State Board of
† Nursing Home Administrators, Board of

November 29

Nursing Home Administrators, Board of
Polygraph Examiners Advisory Board, Virginia
Real Estate Appraiser Board
† Small Business Advisory Board, Virginia

Calendar of Events

November 30

- † Agriculture and Consumer Services, Department of
 - Virginia Corn Board
- Compensation Board
- † Health, Department of
 - Food Service Advisory Committee
- Local Government, Commission on
- Pharmacy, Board of

December 1

- † Chesapeake Bay Local Assistance Board
- Dentistry, Board of
- † Environmental Quality, Department of
- Geology, Board for
- Health, State Board of
- † Intercommunity Transition Council, Virginia
- † Labor and Industry, Department of
 - Virginia Apprenticeship Council
- Landscape Architects, Board for
- † Professional Counselors, Board of
- Professional Engineers, Board for
- Rehabilitative Services, Board of
- † Youth and Family Services, Board of

December 2

- Air Pollution Control Board, State
- Architects, Board for
- Dentistry, Board of
- Health, State Board of
- † HIV Prevention Community Planning Committee
- Professional Counselors, Board of
- † Psychology, Board of
 - Committee on Certified Practices

December 4

- Forestry, Board of

December 5

- Barbers, Board for
- Cosmetology, Board for
- Forestry, Board of
- Mental Health, Mental Retardation and Substance Abuse Services, State Board of
- † Nursing, Board of
 - Disciplinary Issues Committee
 - Nurse Aide Registry
- † Nursing and Medicine, Committee of the Joint Boards of
- † Population Growth and Development, Commission on
- Prescriptive Authority for Nurse Practitioners, Joint Committee on

December 6

- Agriculture and Consumer Services, Department of
 - Virginia Marine Products Board
 - Virginia Soybean Board
- † Historic Resources, Department of
 - State Review Board
- Hopewell Industrial Safety Council
- Land Surveyors, Board for
- Psychology, Board of

- Real Estate Appraiser Board
 - Complaints Committee
- † Real Estate Board

December 7

- † Agriculture and Consumer Services, Department of
- Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Chesapeake Bay Local Assistance Board
 - Southern Area Review Committee
- † Deaf and Hard-of-Hearing Advisory Board, Department of
- † Emergency Planning Committee, Local - Roanoke Valley
- † Emergency Planning Committee, Local - Winchester
- † Historic Resources, Department of
 - Historic Resources Board
- † Mines, Minerals and Energy, Department of
- Professional and Occupational Regulation, Department of
 - Recovery Fund Committee
- † Real Estate Board
- Veterinary Medicine, Board of

December 8

- † Child Day-Care Council
- Contractors, Board for
- † Nursing, Board of
 - Nurse Aide Registry
- Protection and Advocacy for Individuals with Mental Illness Advisory Council
- † Psychology, Board of
 - Advisory Committee on Certified Practices
- † Real Estate Board
- † Recycling Markets Development Council, Virginia
- † Veterinary Medicine, Board of
- Waste Management Facility Operators, Board for

December 9

- Contractors, Board for
- Dentistry, Board of
- Medicine, Board of
 - Executive Committee
- † Professional Counselors, Board of
 - Advisory Board on Rehabilitation Providers

December 10

- Medicine, Board of
 - Credentials Committee

December 12

- Contractors, Board for
- Cosmetology, Board for
- † Mines, Minerals and Energy, Department of
- Youth, Commission on

December 13

- † Conservation and Recreation, Department of
- † Corrections, Board of
 - Correctional Services Committee
- Emergency Planning Commission, Local - County of

Calendar of Events

Montgomery/Town of Blacksburg
† Health Services Cost Review Council, Virginia
Higher Education for Virginia, State Council of
† Nursing, Board of
- Nurse Aide Registry
Resources Authority, Virginia

December 14

Chesapeake Bay Local Assistance Board
- Central Area Review Committee
† Corrections, Board of
- Administration Committee
- Committee on Certification Process Review
Health, Department of
- Biosolids Permit Fee Regulation Advisory
Committee
- Biosolids Use Committee
Statewide Independent Living Council
† Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
† Motor Vehicles, Department of
- Medical Advisory Board
Virginia Racing Commission

December 15

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Code Commission, Virginia
- Title 15.1 Recodification Task Force
† Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
† Game and Inland Fisheries, Board of
† Mined Land Reclamation Advisory Board, Governor's
† Medical Assistance Services, Board of
† Nursing, Board of
- Nurse Aide Registry

December 16

† Fire Services Board, Virginia
† Game and Inland Fisheries, Board of
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- State Human Rights Committee

December 19

† Aviation Board, Virginia
Conservation and Recreation, Department of
Labor and Industry, Department of
- Safety and Health Codes Board
† Lottery Department, State
† Optometry, Board of

December 20

† Aviation Board, Virginia
† Marine Resources Commission

December 21

† Contractors, Board for
Local Debt, State Council on

Treasury Board

December 22

Compensation Board

December 28

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

January 3, 1995

Hopewell Industrial Safety Council

January 4

† Mines, Minerals and Energy, Department of

January 9

† Mines, Minerals and Energy, Department of

January 10

† Asbestos Licensing and Lead Certification, Board for
† Medicine, Board of
- Advisory Board on Occupational Therapy

January 11

† Agriculture and Consumer Services, Department of

January 13

† Agriculture and Consumer Services, Department of
- Virginia Pork Industry Board
† Medicine, Board of
- Advisory Board on Physical Therapy

January 18

† Deaf and Hard-of-Hearing, Department of
- Telecommunications Relay Services Advisory Board
Environmental Quality, Department of
- Work Group on Detection/Quantitation Levels

January 19

† Voluntary Formulary Board, Virginia

January 25

† Emergency Planning Committee, Local - Roanoke
Valley

January 27

† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- State Human Rights Committee

February 1

† Mines, Minerals and Energy, Department of

February 13

† Mines, Minerals and Energy, Department of

PUBLIC HEARINGS

November 29

† Environmental Quality, Department of
Professional and Occupational Regulation, Board for

November 30

Professional and Occupational Regulation, Board for

December 1

† Environmental Quality, Department of

December 12

† Environmental Quality, Department of

December 13

Branch Pilots, Board for

December 16

Voluntary Formulary Board, Virginia

December 19

Conservation and Recreation, Department of
- Board of Conservation and Recreation

January 5, 1995

† Waterworks and Wastewater Works Operators, Board
for

January 10

Funeral Directors and Embalmers, Board of

Calendar of Events
