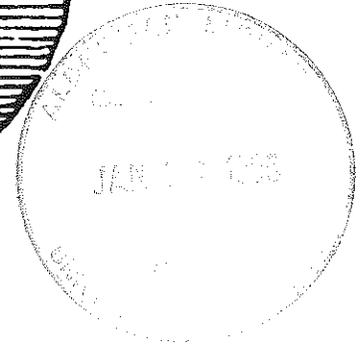
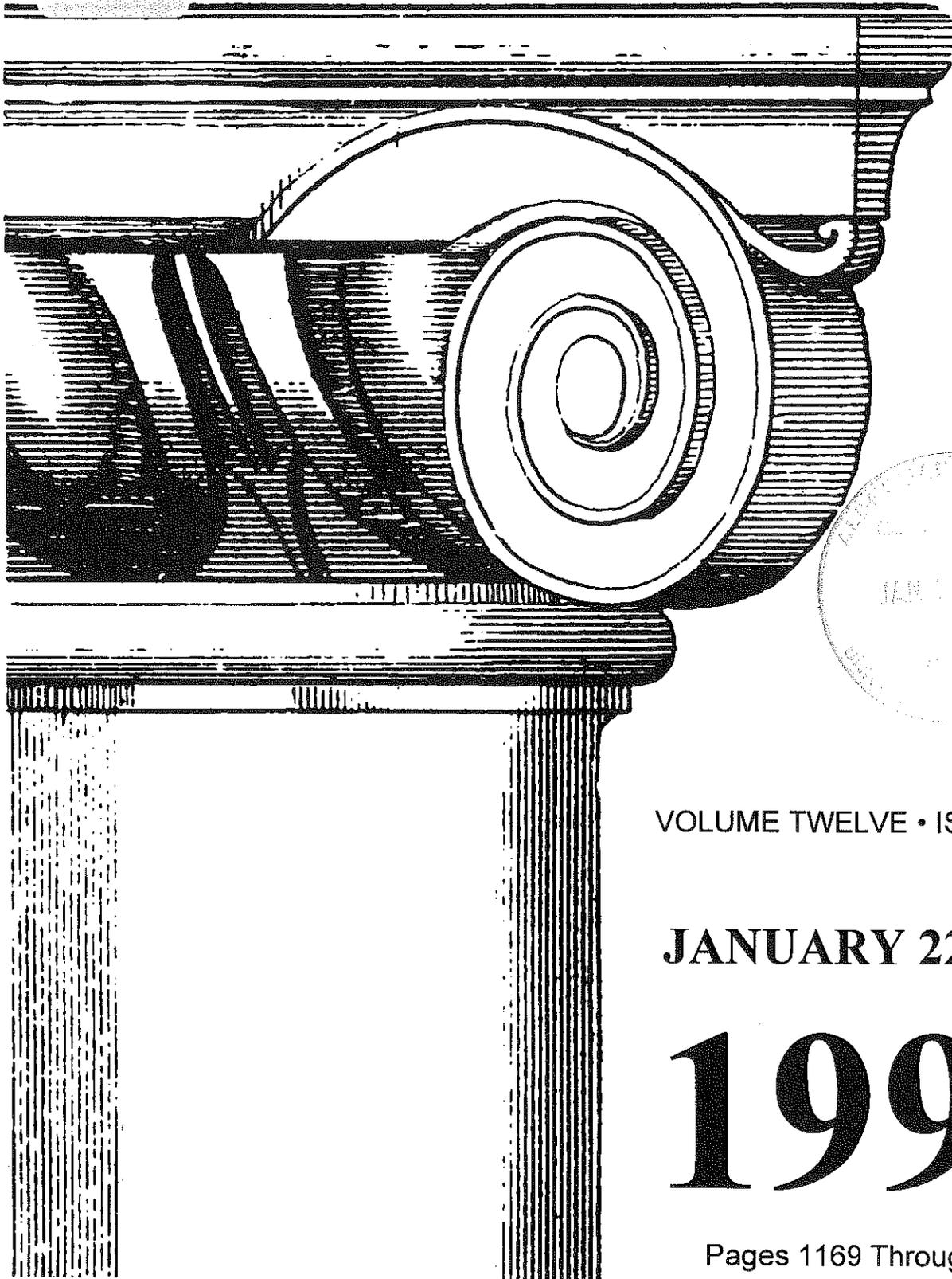


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THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME TWELVE • ISSUE NINE

JANUARY 22, 1996

1996

Pages 1169 Through 1274

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 new and amended sections of regulations, both as proposed and as finally adopted, 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 and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 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 agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

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

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) deliver the Notice of Intended Regulatory Action to the Registrar in time to be published within 60 days of the effective date of the emergency regulation; and (ii) deliver the proposed regulation to the Registrar in time to be published within 180 days of the effective date of the emergency regulation. If the agency chooses not 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 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. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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Staff of the Virginia Register: **E. M. Miller, Jr.**, Acting Registrar of Regulations; **Jane D. Chaffin**, Assistant Registrar of Regulations.

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (New Source Review Permits)**. The purpose of the proposed action is make the provisions of the regulation consistent with current federal requirements and the state objectives for the permit program.

Public Meeting: A public meeting will be held by the department in the Training Room, First Floor, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 9 a.m. on Thursday, February 8, 1996, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. on Friday, February 9, 1996, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The contemplated regulation is essential to protect the health, safety or welfare of citizens and for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

Among the primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (i.e., attainment). Once the pollution levels are

within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (i.e., maintenance).

A state implementation plan is the key to the air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards - that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented, the sanctions consisting of loss of federal funds for highways and other projects and/or more restrictive requirements for new industry. Generally, the plan is revised, as needed, based upon changes in the Federal Clean Air Act and its requirements.

The basic approach to developing a SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain the air quality standards. Once the air quality standard is attained, the agency must have a program to continuously monitor air quality to ensure that it meets the standards. The agency must also have a means to monitor compliance by sources, to prevent the construction of a new or modified source if it will cause a violation of the air quality standards, and to take action as necessary to prevent air pollution levels in the air from creating an emergency condition. In addition, development and enforcement of regulations under the SIP must be continually pursued, as well as development of new plan revisions as federal laws and regulations change.

Most of the agency's regulations are designed to provide the means for implementing and enforcing control measures (primarily stationary source and some mobile source) necessary to carry out the SIP. The chief stationary source control measures are to establish emission standards for existing sources and to require a permit for new or modified sources. The permit is the agency's means to limit the amount of pollutant from the source by means of new source performance standards, and in some cases, to determine its siting.

Section 120-08-04 provides a way to establish source-specific regulatory requirements for a specific source without having to adopt broad-based regulatory requirements for a category of sources. The regulation provides a means to make control measures federally enforceable without federal review through

Notices of Intended Regulatory Action

the use of state operating permits. In this way, the state is in control of the issuance of the permits.

Section 120-08-04 was developed to provide a procedural and legal basis for the issuance, as needed, of a permit to operate for stationary sources that (i) enhances the agency's ability to ensure compliance with emission standards, (ii) reduces the levels of allowable emissions for existing stationary sources to provide for growth of new emissions, and (iii) provides a state and federally enforceable mechanism to enforce source specific program requirements. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the application review. In addition, the regulation was intended to provide a transition into the implementation of the federal Title V operating permit program in the state.

While the rationale for the existence of the regulation is still valid, the immediate need for the regulation has changed somewhat since the time of its development. Due to insufficient resources, the department has been unable to implement the state operating permit program until now and to provide the transition into the Title V program that was intended. At this time, numerous sources have been determined to be subject to the Title V program because of their potential to emit. Potential to emit must be calculated at maximum design capacity and maximum hours of operation except where federally enforceable permit conditions limit these factors. Permits issued under the state operating permit program will be used to limit the potential to emit of many of the sources which would otherwise be subject to the Title V program.

The regulation has been adopted into the State Implementation Plan by EPA. Due to this status, permits issued under the regulation are both federally and state enforceable. Therefore, the regulation can be used to write permits that limit emissions for sources whose owners are willing to take limits that can legally exempt them from the requirements for an operating permit under Title V of the federal Clean Air Act. Such permits, because they are federally enforceable, do not need EPA approval.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option meets the stated purpose of the regulation amendments: to make the provisions of the regulation consistent with current federal requirements and the state objectives for the permit program.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option could involve the adoption of numerous new regulations that would impose undue administrative burdens and require extensive federal oversight. This approach would not be consistent with current state goals for the air quality program.
3. Take no action to amend the regulations and continue to use the regulation in its current state. This option would not be consistent with current federal

requirements and the state objectives for the permit program.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable Statutory Requirements: The contemplated regulation amendments are mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

- (1) establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;
- (2) establish schedules for compliance;
- (3) establish a program for the enforcement of the emission limitations and schedules for compliance; and
- (4) require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

Section 161 mandates that a state implementation plan include emissions limitations and other such measures as may be necessary to prevent significant deterioration of air quality in each region designated pursuant to § 107 as attainment or unclassifiable.

40 CFR 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including the following:

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and record-keeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Notices of Intended Regulatory Action

Subpart L (Legal Authority) specifies identification of legal authority to implement plans.

Section 51.230 of Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

- (1) adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
- (2) enforce applicable laws, regulations, and standards, and seek injunctive relief;
- (3) obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;
- (4) abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;
- (5) prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;
- (6) require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and
- (7) make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 of Subpart L requires the identification of legal authority as follows:

- (1) the provisions of law or regulation which the state determines provide the authorities required under § 51.231 must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and
- (2) the plan must show that the legal authorities specified in Subpart L are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

As an alternative to traditional administrative means (regulations, orders, and new source permits), EPA has recognized the use of state operating permits for the purpose of making CAA requirements federally enforceable. This has been done through the promulgation of a final rule (54 FR 27274, June 28, 1989) which addresses the approval of state operating permit programs into state implementation plans. The final rule also specifies the five criteria that must be met by

a state operating permit program in order to be approved into a state implementation plan.

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

Public comments may be submitted until 4:30 p.m. on Friday, February 9, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Mary E. Major, Policy Analyst Senior, Office of Air Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or (804) 698-4021/TDD ☎

VA.R. Doc. No. R96-151; Filed December 15, 1996, 1:48 p.m.

Notice of Intended Regulatory Action

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Notices of Intended Regulatory Action

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A key strategy for managing the growth of new emissions is the permit program for new and modified stationary sources. The basic program requires that owners obtain a permit from the

agency prior to the construction of a new industrial or commercial facility or the expansion of an existing one. Through preconstruction technology reviews and the issuance of permits, the agency ensures that new or modified facilities progressively minimize their adverse impact upon the air quality. Therefore, the implementation of new and modified source permit program, emission increases from new and expanding stationary sources can be managed so that affected areas can attain and maintain the air quality standards and accommodate growth.

The basic program (in existence since 1972) was later supplemented by mandate of the CAA with requirements that differ according to the facility's potential to emit a specified amount of a specific pollutant and the air quality status of the various areas within the state where the facility is or will be located. Requirements for facilities considered to be major due to their potential to emit a specified pollutant are more stringent than for less polluting facilities. Requirements for major facilities located or locating in those areas which have ambient air quality concentrations that have not been maintained at or below the health-based standard for a pollutant (nonattainment areas) are considerably more stringent than for those areas which have concentrations maintained at or below the standard (prevention of significant deterioration (PSD) areas). Permits issued in nonattainment areas require the facility owner to apply control technology that meets the lowest achievable emission rate and to obtain emission reductions from existing sources in the area such that the reductions offset the increases from the proposed facility by a ratio greater than one for the emissions contributing to the nonattainment situation. Permits issued in PSD areas require the facility owner to employ control technology that is the best available and, in some cases, to monitor ambient air quality at the site where the facility will be located to determine ambient air background levels of the pollutants to be emitted.

Section 120-08-01 provides a procedural and legal basis for the issuance of a new source permit for proposed new or expanded facilities that will (i) enable the agency to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards, (ii) to assess the impact of the emissions from the facility on air quality, and (iii) provide a state and federally enforceable mechanism to enforce permit program requirements. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review.

Section 120-08-01 requires permits for major new and modifying sources that do not qualify either as PSD or nonattainment area major sources. Permits under § 120-08-01 are also required for sources emitting at levels that are above the exemption levels specified in Appendix R of the regulations.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulation to satisfy the provisions of the law and associated regulations and policies. This option is being considered because it meets the stated purpose of the regulation: to make the provisions of the regulation consistent with current federal requirements and the state objectives for the permit program.

Notices of Intended Regulatory Action

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because the regulation needs to be made consistent with current federal requirements and the state objectives for the permit program.

3. Take no action to amend the regulation and continue to use the regulation in its current state. This option is not being considered because, without change, the regulation would not be consistent with current federal requirements and the state objectives for the permit program.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable Statutory Requirements: The contemplated regulation amendments are mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

- (1) establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;
- (2) establish a program for the enforcement of the emission limitations and schedules for compliance; and
- (3) establish programs for the regulation and permitting of the modification and construction of any stationary source within the areas covered by the plan to assure the achievement of the ambient air quality standards.

40 CFR 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, as summarized below.

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart I (Review of New Sources and Modifications) specifies legally enforceable procedures, public availability of information on sources, identification of responsible agency, and administrative procedures.

Section 51.160 of Subpart I specifies that the plan must stipulate legally enforceable procedures that enable the permitting agency to determine whether the construction or modification of a facility, building, structure or installation, or combination of these will result in either a violation of any part of a control strategy or interference with attainment or maintenance of a national standard and, if such violation or interference would occur, the means by which the construction or modification can be prevented. The procedures must identify types and sizes of facilities, buildings, structures or installations which will be subject to review and discuss the basis for determining which facilities will be subject to review. The procedures must provide that owners of facilities, buildings, structures or installations must submit information on the nature and amounts of emissions and on the location, construction and operation of the facility. The procedures must ensure that owners comply with applicable control strategies after permit approval. The procedures must discuss air quality data and modeling requirements on which applications must be based.

Section 51.161 of Subpart I specifies that the permitting agency must provide opportunity for public comment on information submitted by owners and on the agency's analysis of the effect of construction or modification on ambient air quality, including the agency's proposed approval or disapproval. Section 51.161 also specifies the minimum requirements for public notice and comment on this information.

Section 51.162 of Subpart I specifies that the responsible agency must be identified in the plan.

Section 51.163 of Subpart I specifies that the plan must include administrative procedures to be followed in determining whether the construction or modification of a facility, building, structure or installation will violate applicable control strategies or interfere with the attainment or maintenance of a national standard.

Subpart L (Legal Authority) specifies identification of legal authority to implement plans and assignment of legal authority to local agencies.

Section 51.230 of Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

- (1) adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
- (2) enforce applicable laws, regulations, and standards, and seek injunctive relief;
- (3) obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources; and

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(4) prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard.

Section 51.231 of Subpart L requires the identification of legal authority as follows:

(1) the provisions of law or regulation which the state determines provide the authorities required under § 51.231 must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

(2) the plan must show that the legal authorities specified in Subpart L are available to the state at the time of submission of the plan.

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

Public comments may be submitted until 4:30 p.m. on Friday, February 9, 1996, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Dr. Kathleen Sands, Policy Analyst, Office of Air Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4021, FAX (804) 698-4510 or (804) 698-4021/TDD ☎

VA.R. Doc. No. R96-150; Filed December 15, 1996, 1:48 p.m.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 380-02-01 [8 VAC 40-30-10 et seq.] Regulations Governing the Approval of Certain Institutions to Confer Degrees, Diplomas and Certificates.** The purpose of the proposed action is to address inefficiencies contained in current regulations, update regulations to reflect changing technologies, and address a gap in the state's quality assurance measures. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 23-265 of the Code of Virginia.

Public comments may be submitted until January 26, 1996, to Elizabeth Griffin, State Council of Higher Education for Virginia, Monroe Building, 101 North 14th Street, 9th Floor, Richmond, VA 23219.

Contact: Fran Bradford, Regulatory Coordinator, State Council of Higher Education for Virginia, Monroe Building, 101 North 14th Street, 9th Floor, Richmond, VA 23219, telephone (804) 225-2613.

VA.R. Doc. No. R96-134; Filed December 5, 1995, 12:44 p.m.

DEPARTMENT OF TAXATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-10-9.1. Retail Sales and Use Tax: Audiovisual Tape and Film Production.** The purpose of the proposed regulation is to explain the department's policy regarding the exemption for tapes and other audiovisual works for broadcasting or commercial exhibition generally, and for the production, transfers of tangible property, and equipment and parts used in the production of such audiovisual works. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until February 1, 1996.

Contact: W. Bland Sutton, III, Tax Policy Analyst, Department of Taxation, Office of Tax Policy, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-6358 or FAX (804) 367-0045.

VA.R. Doc. No. R96-127; Filed December 5, 1995, 3:02 p.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

VIRGINIA AVIATION BOARD

January 30, 1996 - 7:30 p.m. -- Public Hearing
Omni Hotel, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

February 21, 1996 - 10 a.m. -- Public Hearing
Department of Motor Vehicles, 2300 West Broad Street,
Conference Room, 7th Floor, Richmond, Virginia.

April 1, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Aviation Board intends to amend regulations entitled: **VR 165-01-02:1 [24 VAC 5-20-10 et seq.] Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.** The purpose of the proposed action is to amend the Virginia Aviation Regulations to (i) comply with statutory changes; and (ii) enact provisions identified per the comprehensive review of regulations (Executive Order 15(94)).

Statutory Authority: §§ 5.1-2.2 and 5.1-2.15 of the Code of Virginia.

Contact: Michael A. Waters, Policy Analyst Senior,
Department of Aviation, 5702 Gulfstream Rd., Sandston, VA
23150-2502, telephone (804) 236-3631, FAX (804) 236-3625,
toll-free 1-800-292-1034, or (804) 236-3624/TDD

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.

VIRGINIA AVIATION BOARD

Title of Regulation: ~~VR-465-04-02:4~~, *24 VAC 5-20-10 et seq.*
Regulations Governing the Licensing and Operation of Airports, and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.

Statutory Authority: §§ 5.1-2.2 and 5.1-2.15 of the Code of Virginia.

Public Hearing Dates: January 30, 1996 - 7:30 p.m.
February 21, 1996 - 10 a.m.

Written comments may be submitted until April 1, 1996.
(See Calendar of Events section
for additional information)

Basis: The Aviation Regulations, also called the "Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia," are issued by the Virginia Aviation Board under the authority found in § 5.1-2.2 of the Code of Virginia. This section provides that the Aviation Board "shall...promulgate such rules and regulations...as may be proper and necessary to promote and develop safe aviation practices and operations" in Virginia.

Purpose: Since the regulations were last amended in 1992, there have been several changes in Title 5.1 of the Code of Virginia which require corresponding changes in the Aviation Regulations so that they remain consistent with the laws of the Commonwealth. In addition, the Department of Aviation recently completed a comprehensive review of the Aviation Regulation in compliance with Governor Allen's Executive Order Number 15 (94). This review revealed other changes in the regulations which are necessary to keep them consistent with the Aviation Board's responsibility "to promote and develop safe aviation practices and operations" in Virginia.

Substance and Issues: The key provisions of the proposed amended Aviation Regulations are as follows. The issues involved in all the recommended changes are directly related to providing a more reasonable, less intrusive, and safer operating environment for aviation users in Virginia, including aircraft owners and operators, air passengers, and airport owners and sponsors.

1. The amendments to Part I, Definitions, eliminate two definitions related to aerial application permits for agricultural spraying by aircraft as unnecessary; revise the definition of the word "airline" to make it consistent with a 1995 revision to Title 58.1 of the Code of Virginia related to the application of Aircraft Sales and Use Tax to aircraft owned or operated by airlines in Virginia; and revise the definition of "contract carrier permit" to make it consistent with federal regulations for definitional purposes. The issues involved proposed changes which are covered in other sections of the regulations.

2. The amendments to 24 VAC 5-20-20 clarify that a reference in the section refers to the Virginia "Tax" Commissioner. There is no significant advantage or disadvantage to either the state or the public.

3. The amendments to 24 VAC 5-20-70 clarify a reference to aircraft operated by scheduled passenger airlines. There is no impact on the state. Air passengers may benefit because a person/firm who proposed to provide scheduled passenger service by air would have to meet appropriate federal safety standards.

4. 24 VAC 5-20-80 adds a requirement for a person to apply for a "contract carrier permit" before he or she operates an aircraft "for hire" to carry passengers or property "on demand." In compliance with § 5.1-9.2 of the Code of Virginia, the Department of Aviation has been issuing contract carrier permits without the benefit of a corresponding regulation since the responsibility was transferred to the department from the State Corporation Commission in 1979. There is minimal impact because of the limited number of contract carriers and that the proposal is only designed to codify existing practice of the Department of Aviation.

5. In Part III, various revisions and new additions relate to public-use airport licenses and the minimum standards for operating a public-use airport. These sections have been revised to make them conform with the action of the 1995 Session of the General Assembly which amended §§ 5.1-7, 5.1-88.7 through 5.1-88.10, and repealed § 5.1-8. In addition, the minimum standards for licensure have been revised to clarify certain standards and reduce, for example, the minimum runway width requirement from 60 feet to 50 feet for a public-use airport. There may be some cost advantages to the state and to certain airports which will see the cost to comply with more costly standards reduced. On the other hand, some airports, which may not be able to be brought into compliance because of incompatible terrain or geographical features which are too costly to correct or mitigate, may not be able to continue to remain open to the public without restricting the type of aircraft which can use the airport.

6. Amendments to Part IV clarify the role of the Department of Aviation and the Aviation Board in the determination of an airport hazard and the criteria used for that determination. There is no significant advantage or disadvantage to either the state or the public.

7. Part V is eliminated as it relates to aerial application aircraft as unnecessary, redundant with requirements of at least one other agency, and unreasonably burdensome to operators. This proposal was coordinated and recommended with the concurrence of the Department of Agriculture and Consumer Services. This should be of little impact on the state and it should be of some benefit to aerial applicators.

8. Amendments to Part VI increase the threshold amount for a reportable aircraft accident from \$500 to \$1,000 based on advice received from the Virginia State Police, who enforce this section of the regulations (§ 5.1-23). This may ease the burden of the State Police to prepare aircraft accident reports. 24 VAC 5-20-350 is revised to add a requirement that public-use airport sponsors provide proof of continued financial responsibility. Added as a result of the action of the 1995 Session and related to §§ 5.1-88.7 through 5.1-88.10, it will help to ensure that the public is adequately protected by stipulating minimum insurance requirements for airport owners/operators. There is a very minor impact on the department and on airport owners/sponsors because of the annual reporting requirement. There may be some cost impact on some airport owners who may be underinsured.

9. Amendments to Part VII propose to repeal 24 VAC 5-20-360 as unnecessary, unreasonable and unenforceable for holders of contract carrier permits from landing at other than licensed, public-use airports. There is no significant advantage or disadvantage to either the state or the public.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected; the projected number of persons and employment positions to be affected; and the projected costs to affected businesses or entities to implement or comply with the regulation. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The proposed amendments modify Virginia's current Aviation Regulations so as to:

1. Require a contract carrier permit for persons operating as contract carriers pursuant to Federal Aviation Regulation Part 135, or providing student flight instruction pursuant to Federal Aviation Regulations Part 61 or Part 141, and require a one-time \$50 fee for issuance of a contract carrier permit;
2. Change the minimum requirements for airport licensing by reducing the minimum required runway width from 60 to 50 feet;
3. Provide conditions under which the minimum requirements for airport licensing may be waived, and provide for temporary conditional license of public-use airports in cases where minimum requirements for licensure are not met;
4. Reduce the fee required for licensing public-use airports from \$100 to \$50;

5. Remove requirements for the certification and use of aerial application (crop-dusting) aircraft;

6. Increase the threshold amount of damage necessary before an aircraft accident must be reported to the appropriate authorities from \$500 to \$1,000;

7. Remove current landing restrictions for contract carrier permit holders.

8. Require annual proof of liability insurance from airport operators;

Estimated Economic Impact

Item 1

The portion of the proposed regulation pertaining to contract carrier permits and the associated one-time fee of \$50 simply replicates existing statutory requirements found in §§ 5.1-9.3 and 5.1-9.5 of the Code of Virginia. As such, this portion of the proposed regulation creates no new requirements and, therefore, will have no economic impact.

Item 2

The proposed change in minimum required runway width for public-use airports from 60 to 50 feet would have two primary economic impacts.

Based on estimates provided by DOAV, the proposed change would reduce by approximately \$2,361,000 the costs associated with bringing into compliance airports that currently do not meet the minimum runway width requirement. Because the bulk of such airport improvements are funded through the Commonwealth Airport Fund, roughly \$1,909,000 of this \$2,361,000 reduction in compliance costs would represent a savings to the Commonwealth.

Second, the proposed change could potentially have adverse consequences for public safety. There are reasons, however, to believe that such an outcome is unlikely. According to information provided by the National Association of State Aviation Officials, the majority of states do not currently license public-use airports, and of those states that do license public-use airports the vast majority require a minimum runway width of 50 feet or less. In addition, the 50 foot minimum runway width requirement reflects prior standards used by the Federal Aviation Agency for airports employing visual flight rules only (e.g., no instrument landings). Finally, in conversations with personnel from relevant stake-holder associations (e.g., American Association of Airport Executives and Aircraft Owners and Pilots Association) no safety concerns were voiced regarding the proposed change in the minimum standard.

Item 3

The primary economic impact of providing conditions under which the minimum requirements for airport licensing may be waived and airports not meeting minimum standards may be conditionally licensed is a possible increase in the Commonwealth's liability exposure. To determine the potential for such economic impact, DPB requested and received an opinion on the matter from the Office of the Attorney General. According to that opinion, "granting a

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waiver, in and of itself, would not cause liability to be visited on the Commonwealth." Based on this information, it is the opinion of DPB that this portion of the proposed regulation will have no economic impact.

Item 4

There are two potential economic impacts associated with the proposed \$50 reduction in the fee required for licensing public-use airports.

The first is simply the reduction in compliance costs and fee revenues generated by the fee reduction. According to information provided by DOAV, approximately 10 public-use airports apply for, or renew, their licenses each year. This implies a total reduction in compliance costs and fee revenues of \$500 annually.

The second potential economic impact of the fee reduction is the effect it may have on the number of public-use airports applying for licensure in Virginia. However, because the licensing fee represents such a trivial proportion of total airport development and operating costs, the fee reduction is unlikely to have any impact on the number of public-use airports operating in Virginia.

Items 5 through 7

It is the opinion of DPB that, although items five through seven will effectively lessen the regulatory burden placed on the public by removing duplicative or unnecessarily restrictive regulatory requirements, these portions of the proposed regulation will not have significant economic consequences and, therefore, will not generate any economic impact.

Item 8

The proposed requirement for annual proof of liability insurance from airport operators should not impose an additional economic burden on operators who currently adhere to prudent business management practices. In addition, such a requirement is reasonably justified to protect the Commonwealth's financial involvement in public-use airports through the Commonwealth Airport Fund.

Projected Number of Businesses or Other Entities to Whom the Regulation will Apply

The proposed regulation applies to the 69 licensed public-use airports and the 244 registered private-use airports currently operating in Virginia.

Localities and Types of Businesses Particularly Affected

No localities are particularly affected. The proposed regulation does particularly affect private airports, public-use airports, private aircraft operators, commercial aircraft operators, and the flying public.

Projected Employment Effects

The regulation is not anticipated to have a measurable effect on employment.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:

The Department of Aviation has reviewed the economic impact analysis prepared by the Department of Planning and Budget for the proposed amendments to the Virginia Aviation Regulations. The department concurs and agrees with the analysis prepared by DPB in all respects.

Summary:

The proposed amendments:

1. Eliminate two definitions in 24 VAC 5-20-10 related to aerial application permits for agricultural spraying by aircraft; revise the definition of the word "airline"; and revise the definition of "contract carrier permit."
2. Clarify that a reference in 24 VAC 5-20-20 refers to the Virginia "Tax" Commissioner.
3. Clarify a reference to aircraft operated by scheduled passenger airlines in 24 VAC 5-20-70.
4. Revise 24 VAC 5-20-80 to provide a requirement for a person to apply for a "contract carrier permit" before he operates an aircraft "for hire" to carry passengers or property "on demand."
5. Propose various revisions and add new provisions to Part III related to public-use airport licenses and the minimum standards for operating a public-use airport. In addition, the minimum standards for licensing a public-use airport are proposed to be revised to clarify certain standards and reduce, for example, the minimum runway width requirement from 60 feet to 50 feet.
6. Revise 24 VAC 5-20-190 to clarify the role of the Department of Aviation and the Aviation Board in the determination of an airport hazard and the criteria used for that determination.
7. Eliminate Part V, as it relates to aerial application aircraft.
8. Increase the threshold amount for a reportable aircraft accident from \$500 to \$1,000. Revise 24 VAC 5-20-350 to add a requirement that public-use airport sponsors provide proof of continued financial responsibility.
9. Repeal 24 VAC 5-20-360 for holders of contract carrier permits from landing at other than licensed, public-use airports.

24 VAC 5-20-10 et seq. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.

CHAPTER 20.
REGULATIONS GOVERNING THE LICENSING AND
OPERATION OF AIRPORTS AND AIRCRAFT AND
OBSTRUCTIONS TO AIRSPACE IN THE
COMMONWEALTH OF VIRGINIA.

PART I.
DEFINITIONS.

§-1.1. 24 VAC 5-20-10. Definitions.

Whenever used in these regulations this chapter, unless the context or subject matter requires otherwise, the following

words or terms have the meaning herein ascribed to them, respectively:

~~"Aerial application" means the dispensing or discharge of any liquid spray, dust aerosol, fog or organic or inorganic matter used or useful as a fertilizer or a pesticide (this would include herbicides and fungicides) from an aerial application aircraft.~~

~~"Aerial application aircraft" means any aircraft (including helicopters of any type) which is equipped with any apparatus or mechanism designed or used to dispense or discharge liquid spray, dust, seed, aerosol, fog or organic or inorganic matter used or useful as a fertilizer or a pesticide from the air.~~

"Aircraft" means any contrivance now known or hereafter invented, which is controlled, used, and usually occupied by a person for the purpose of navigation and transportation through the air, excepting "hang glider" as defined in § 5.1-1 of the Code of Virginia.

~~"Airline" means an air carrier operation under Federal Aviation Regulation Regulations found in 14 CFR Part 121, 129 or Part 135 if operating with an exemption from Title IV of the Federal Aviation Act to provide providing scheduled passenger service.~~

"Airman" means any individual, including the person in command, and any pilot, mechanic, or member of the crew, who engages in the navigation of aircraft while under way within Virginia airspace; any individual who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft, aircraft engines, propellers or accessories; and any individual who serves in the capacity of aircraft dispatcher.

"Airport" means any area of land or water which is used or intended for use for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities including rights-of-way, easements and all airport buildings and facilities located thereon.

"Airspace" means all that space above the land and waters within the boundary of this state.

"Antique aircraft" means any aircraft used solely for exhibit or demonstration flying, constructed by the original manufacturer, or his licensee, on or before December 31, 1945, and any Beech G-17, any post-World War II Fairchild 24, or any Monocoupe.

"Approach surface" means a surface longitudinally centered on the extended runway centerline and extending outward and upward. For non-Federal Aid Airports, the surface extends at a slope of 15:1 from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

1. 1,200 feet at a distance of 5,000 feet for that end of a runway with only visual approaches.

2. 2,000 feet at a distance of 5,000 feet for that end of a runway having or proposing to have a nonprecision instrument approach procedure.

See also Appendix B of these regulations 14 CFR 77.25, 77.28, and 77.29 for design standards as they apply to federal aid airports.

"Aviation" means transportation by air; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or landing areas, including but not limited to navigable airspace, or other air navigation facilities, and air instruction.

"Board" means the Virginia Aviation Board.

~~"Certificate" means an aerial application aircraft certificate issued by the department.~~

"Civil aircraft" means any aircraft other than a public aircraft.

"Commercial operator" means a person, except an airline, who operates any aircraft for the purpose of rental or charter or for any other purpose from which revenue is derived.

"Conical surface" for a nonfederal aid airport means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 15:1 for a horizontal distance of 4,000 feet. See also Appendix B of these regulations 14 CFR 77.25, 77.28 and 77.29 for standards as they apply to federal aid airports.

"Contract carrier permit" means a permit issued by the department to contract carriers operating under 14 CFR Part 61, 135, or 141 for transport of passengers or aircraft freight on demand by air. Owners of aircraft who contract to provide flight instruction in their aircraft for profit are required to have a contract carrier permit.

"Department" means the Department of Aviation.

"Effective runway length" means the distance from the point at which the obstruction clearance plane associated with the approach end of the runway intersects the centerline of the runway at the far end thereof.

"Hazards" for airports means any fixed or mobile structure, object or natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

"Helipad" means a rectangular or square specially prepared surface that may be turf or paved, which is designated specifically for the purpose of landing and takeoff of helicopter aircraft.

"Heliport" means any identifiable area on land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters, or other rotorcraft, appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements and all heliport buildings and facilities located thereon.

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"*Heliport approach surface*" means a surface beginning at each end of the heliport primary surface with the same width as the primary surface, and extending outward and upward. Reference ~~Appendix B of these regulations~~ 14 CFR 77.25, 77.28, and 77.29 for design standards.

"*Heliport primary surface*" means the area of the primary surface coinciding in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

"*Heliport transitional surface*" means a surface extending outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces. Reference ~~Appendix B of these regulations~~ 14 CFR 77.25, 77.28, and 77.29 for design standards.

"*Horizontal surface*" means a horizontal plane 150 feet above the established airport elevation. Reference ~~Appendix B of these regulations~~ 14 CFR 77.25, 77.28, and 77.29 for design standards.

"*Imaginary surfaces*" are those surfaces as defined herein for nonfederal aid airports and in ~~Part 77.25, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations~~ 14 CFR 77.25. Reference ~~Appendix B of these regulations~~ 14 CFR 77.25, 77.28, and 77.29 for the definitions and design standards for heliports, military, and federal aid airports.

"*Intrastate air transportation*" means air transportation between two or more airports within Virginia, or air transportation to and from the same airport in Virginia without an intermediate stop outside Virginia.

"*Landing area*" means any local specific site, whether over land or water, including airports and intermediate landing fields, which is used or intended to be used for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing or repair of aircraft, or for receiving or discharging passengers or cargo.

"*Noncommercial dealer*" means a person who owns and offers for sale a minimum of three aircraft during any consecutive 12-month period, which aircraft are not used for personal use, rental, charter or for any purpose from which revenue is derived.

"*Obstacle*" means any fixed or mobile object that is located on an area intended for the surface movement of aircraft, or that extends above a defined imaginary surface intended to protect aircraft in flight, that interferes with the situating or operation of navigational aids, or that may control the establishment of instrument procedures.

"*Obstruction*" means any object, obstacle, or structure, man-made or otherwise, which penetrates any of the imaginary surfaces at an aircraft landing area.

"*Obstruction clearance plane*" means a plane sloping upward from the runway at a slope of 15:1 to the horizontal and tangent to or clearing all obstructions within a specified area surrounding the runway as shown in a profile view of that area. For federal aid airports the slope of the plane is 20:1.

"*Person*" means any individual, corporation, government, political subdivision of the Commonwealth, or governmental subdivision or agency, business trust, estate, trust, partnership, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"*Primary surface*" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 100 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The minimum width of a primary surface is 200 feet. See also ~~Appendix B of these regulations~~ 14 CFR 77.25, 77.28, and 77.29 for standards as they apply to federal aid airports.

"*Public aircraft*" means an aircraft used exclusively for the service of any state or political subdivision thereof, or the federal government.

"*Relocated threshold*" means a landing threshold that has been relocated from the physical end of the runway.

"*Runway*" means a rectangular specially prepared surface that may be turf or paved which is designated specifically for the purpose of landing and taking off of aircraft.

"*Runway safety area*" means a rectangular area, symmetrical about the runway centerline, which includes the runway, runway shoulders, and stopways, if present. The portion abutting the edge of the runway shoulders, runway ends and stopways is cleared, drained, graded, and usually turfed. Under normal conditions, the runway safety area is capable of supporting snow removal, firefighting, and rescue equipment and of accommodating occasional passage of aircraft without causing major damage to the aircraft.

"*Stopway*" or "*overrun*" means any area beyond the takeoff runway, no less wide than the runway and centered upon the extended centerline of the runway, able to support the airplane during an aborted takeoff without causing structural damage to the airplane, and designated by the airport authorities for use in decelerating the airplane during an aborted takeoff.

"*Structure*" means any object, including a mobile object, constructed or erected by man, including but not limited to buildings, towers, cranes, smokestacks, earth formations, overhead transmission lines, flag poles, and ship masts.

"*Threshold*" means the beginning of that portion of the runway identified for the landing of aircraft.

"*Transitional surface*" for nonfederal aid airports means a surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 5 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface. See also ~~Appendix B of these regulations~~ 14 CFR 77.25, 77.28, and 77.29 for standards as they apply to federal aid airports.

"*Ultralight*" means any aircraft that (i) is used or intended to be used for manned operation in the air by a single occupant, (ii) is used or intended to be used for recreation and sport

purposes only, and (iii) does not have any U.S. or foreign air worthiness certificate, and (iv) weighs less than 254 pounds empty weight, excluding floats and safety devices which are intended for deployment in a potentially catastrophic situation; and (v) that has a fuel capacity not exceeding 5 U.S. gallons; and (vi) is not capable of more than 55 knots calibrated airspeed at full power in level flight and has a power-off stall speed which does not exceed 24 knots calibrated airspeed.

PART II.
AIRCRAFT.

§-2.1. 24 VAC 5-20-20. Aircraft to be licensed.

Every resident of this state owning a civil aircraft, every nonresident owning a civil aircraft based in this state over 60 days during a 12-month period, all aerial application aircraft operating within this state and every owner of a civil aircraft operated in this state as a for-hire intrastate air carrier shall, before the same is operated in this state, apply to the department for, and obtain from the department, an aircraft license for such civil aircraft.

No aircraft as defined in § 5.1-1 of the Code of Virginia, except a public aircraft or a balloon, shall be licensed by the department unless and until the applicant thereof furnishes proof of financial responsibility in the amounts required for each aircraft for which a license is applied for.

Except as provided below, the tax on the sale or use of an aircraft required to be licensed by this Commonwealth shall be paid by the purchaser or user of such aircraft and collected by the Virginia Tax Commissioner prior to the time the owner applies to the Department of Aviation for, and obtains, a *such* license thereof.

The tax on the gross receipts from each aircraft licensed for commercial use shall be paid by the dealer to the *Virginia* Tax Commissioner on or before the 20th day of each month.

§-2.2. 24 VAC 5-20-30. Application for aircraft license.

Owner(s) who holds a currently effective registration certificate for an aircraft issued by the Federal Aviation Administration shall make application for an aircraft license upon appropriate forms to be prescribed and furnished by the department. Such owner(s) shall provide all information as requested thereon, provided, however, the failure of the Federal Aviation Administration to require registration of an aircraft, including, for example an ultralight, shall not of itself operate to excuse the owner thereof from the licensing requirements contained in §-2.1 above 24 VAC 5-20-20. The owner shall certify every application for an aircraft license.

§-2.3. 24 VAC 5-20-40. Expiration and renewal of licenses.

Every aircraft license issued by the department shall expire 12 months from date of issuance, except for antique aircraft as hereinafter provided, unless sooner suspended or revoked by the department. Every such license shall be renewed annually upon application of the owner on appropriate forms prescribed and furnished by the department and upon payment of the fees required by these regulations, such renewal shall take effect on the date of issuance.

Every antique aircraft license issued by the department shall expire on the date of sale of such aircraft, unless sooner suspended or revoked by the department.

No license issued by the department for an aircraft shall be transferable.

§-2.4. 24 VAC 5-20-50. License decals to be carried or displayed.

The aircraft license decal issued by the department for an aircraft required to be licensed by these regulations shall be displayed at all times centered below the right-hand horizontal stabilizer on the fuselage or immediately aft of the cabin entry door of such aircraft; it shall be readily visible from the outside of such aircraft and shall be subject to inspection by any person charged with the duty of enforcing the aviation laws of this state.

Aircraft license decals issued to antique aircraft and balloons may, in lieu of being displayed, be carried with the aircraft papers in such aircraft and shall be subject to inspection by any person charged with the duty of enforcing the aviation laws of this state.

§-2.5. 24 VAC 5-20-60. Transfer of registration or interest in aircraft; surrender of license.

The owner of an aircraft licensed by the department under the provisions of these regulations who transfers or assigns his registration or interest in such aircraft shall immediately notify the department in writing of such transfer or assignment and shall furnish the department with the name and address of the person to whom such transfer or assignment was made and shall remove or obliterate the decal license so as to indicate its cancellation prior to delivery of the aircraft to the transferee or assignee and shall request the department to cancel such decal license.

§-2.6. 24 VAC 5-20-70. Commercial, noncommercial and dealer's licensing.

Persons engaged in commercial operations may obtain commercial single aircraft licenses or a commercial fleet license covering all aircraft owned by any such dealer or commercial carrier.

Noncommercial dealer aircraft licenses shall be issued to dealers for demonstration flights only. This license shall not be valid while the aircraft is being used for personal use, rental, charter or for any purpose from which revenue is derived.

Commercial single, commercial fleet or noncommercial dealer aircraft licenses will be issued in lieu of regular licensing for each aircraft and may be obtained from the department upon application therefore upon a form prescribed by the department and the payment of the fees required by these regulations *this chapter*. Such license shall expire one year from the date of the issuance of such license. Upon the issuance of such license, the department shall issue to such licensee decals of distinguishing color which shall be displayed by such licensee as required by §-2.4 of these regulations 24 VAC 5-20-50.

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All corporate applicants applying for commercial licenses shall be Virginia corporations or duly authorized to transact business in Virginia.

Such dealer decals may be used on aircraft owned by such dealer when operated in this state by such dealer or his authorized representatives for demonstration for sale.

Commercial air carriers licensed under a commercial fleet aircraft license and providing regular scheduled air service shall be exempt from displaying licensing decals.

Any aircraft sold to or used by the United States or any of the governmental agencies thereof, the Commonwealth of Virginia or any political subdivision thereof, shall be exempt from such commercial license requirements.

Any aircraft operated by any air carrier operating under ~~Federal Aviation Regulation 14 CFR Part 121, 129 or Part 135, if operating with an exemption from Title IV of the Federal Aviation Act to provide~~ *providing* scheduled passenger service, shall be exempt from such commercial license requirements.

§ 2-7. 24 VAC 5-20-80. Commercial operators.

In addition to the licensing requirements identified in 24 VAC 5-20-70, any person who proposes to operate or engage in business as a contract carrier by aircraft, to include carrying passengers or property on demand, pursuant to 14 CFR Part 135, or providing student flight instruction for a fee, pursuant to 14 CFR Part 61 or 141, must first secure a contract carrier permit from the department authorizing them to conduct such operation or to engage in such business. Such permit may be obtained from the department upon application thereof upon a form prescribed by the department and the payment of a one-time fee of \$50. All commercial fleet operators shall submit to the department a monthly report, on forms provided by the department, listing all aircraft owned or leased by such operator.

§ 2-8. 24 VAC 5-20-90. Lease or rental of unlicensed aircraft.

It shall be unlawful for any person to lease or rent an unlicensed aircraft to any person.

§ 2-9. 24 VAC 5-20-100. Operation of aircraft.

All aircraft operations shall be conducted in conformity with Federal Aviation Regulations as amended from time to time and violation of such federal regulations shall also constitute a violation of these regulations *this chapter*.

§ 2-10. 24 VAC 5-20-110. Fees.

The annual fee for a license or renewal thereof: noncommercial aircraft shall be \$5.00; commercial single aircraft shall be \$10; noncommercial dealer aircraft shall be \$50 and commercial fleet aircraft shall be \$75 payable at the time of application.

The fee for replacement of a lost license shall be \$2.00 for either noncommercial or commercial aircraft licenses *upon satisfactory proof that such replacement is necessary or in the public interest*.

PART III. AIRPORTS AND LANDING AREAS.

~~§ 3-1. 24 VAC 5-20-120. Licenses.~~

Airports and landing areas, except private landing areas as defined in § 5.1-7.2 of the Code of Virginia, shall be licensed by the department pursuant to § 5.1-7 of the Code of Virginia *and 24 VAC 5-20-140. Such airports and landing areas having enterprises engaged in commercial aviation or persons operating any airport or landing field area proposing to add or extend the runways of such airport or landing field area shall, in addition to such license, obtain a permit therefor from the department apply for an amended license pursuant to § 5.1-8 5.1-7 of the Code of Virginia, see § 3-3. Such An initial license or permit renewal thereof will be issued following review and recommendation determination of the board department for compliance with § 5.1-7 of the Code of Virginia and 24 VAC 5-20-140. Private landing areas as defined in § 5.1-7.2 shall only be registered as provided for in 24 VAC 5-20-170. An application for a license or permit shall be executed by the applicant or a duly authorized agent, under oath, on forms prescribed by the department, and shall be filed with the department.*

Airports and landing areas which are issued licenses pursuant to § 5.1-7 of the Code of Virginia shall be open to the general public on a nondiscriminatory basis. An application for such license shall be submitted to the department by the applicant or his duly authorized agent under oath on forms prescribed by the department. Such license shall remain in effect for the period specified until suspended, amended or revoked by the department.

~~§ 3-2. Permits. 24 VAC 5-20-130. [Repealed.]~~

~~§ 3-3. 24 VAC 5-20-140. Minimum requirements for licensing.~~

The minimum standards which are required for initial and continued licensing ~~or permitting~~ under §§ 5.1-7 ~~and 5.1-8~~ of the Code of Virginia will provide for:

1. An effective runway length of ~~2200~~ 2,000 feet, with 100 feet of overrun *on each end*, and obstructed approach surfaces of 15:1 horizontal to vertical slope at each end of the runway.
2. An unobstructed primary surface(s) which is 2,200 feet in length and 200 feet in width.
3. An unobstructed transition surface(s) of 5:1 slope on either side of the primary and approach surfaces.
4. A minimum runway width of ~~60~~ 50 feet, and minimum runway safety area width of ~~130~~ 120 feet.
5. A displaced threshold, if an approach surface to either physical end of the runway is obstructed and the obstacle cannot be removed, shall be located down the runway at the point where the obstruction clearance plane intersects the runway centerline.
6. An airport runway licensed ~~or permitted~~ specifically and solely for the purpose of accommodating short-takeoff-and-landing aircraft may, at the discretion of the

department, be less than 2,000 feet in length; however, all other dimensional standards will apply.

7. A heliport used for commercial public use purposes will provide for minimum dimensions of 75 feet square. The heliport will have unobstructed primary, approach, and transition surfaces in accordance with their definitions in these regulations *this chapter*.

8. In addition to the investigation required for safety provisions as outlined in § 5.1-8 5.1-7 of the Code of Virginia, a detailed consideration of the economic, social, and environmental effects of the airport location shall be conducted. These considerations ~~may~~ shall include public hearings as required to assure consistency with the goals and objectives of such planning as has been carried out by the community.

9. *Proof of financial responsibility prescribed in Chapter 8.2 (§ 5.1-88.7 et seq.) of Title 5.1 of the Code of Virginia must be furnished at the time of application of license, and such financial responsibility thereafter must be maintained.*

24 VAC 5-20-145. *Waiver of minimum requirements.*

Subdivisions 1, 2, 3, and 4 of 24 VAC 5-20-140 may be waived upon application to the board setting forth the reasons that these standard(s) sought to be waived cannot be met.

Considerations for granting the waiver shall be limited to topographical impossibility, possible financial expense to the Virginia Aviation Fund, volume and type of traffic and safety experience at the airport.

Any airport having a license issued prior to October 1, 1995, and not meeting one or more minimum standards as defined in 24 VAC 5-20-140, shall be exempt from having to comply with those noncomplying standards for as long as the airport remains an active public-use facility. Should such airport cease to be open to the public for one year, and subsequently reopen, it shall be required to comply with all applicable minimum standards for licensure.

All airports or landing areas that hold licenses as of September 30, 1995, that do not meet the minimum standards in effect on September 30, 1995, do not need to apply for a waiver in order to be relicensed. In compliance with § 5.1-7 of the Code of Virginia, the department shall issue a conditional license to all airports which were licensed as public-use airports on October 1, 1995, which did not meet the minimum standards for licensure in effect on that date.

§ 3-4. 24 VAC 5-20-150. *Transfer of licenses.*

No license or ~~permit~~ issued by the department for the operation of an airport or landing area may be transferred by the licensee or ~~permittee~~ without first obtaining the approval of the department and ~~review and recommendation of the board for such transfer.~~

Application for approval of a transfer of a license shall be made on forms prescribed by the department and may be granted only after satisfactory evidence has been submitted which shows that the proposed transferee (i) is capable of operating the airport or landing area in accordance with the

laws of this Commonwealth and these regulations; and (ii) is financially responsible *per Chapter 8.2 (§ 5.1-88.7 et seq.) of Title 5.1 of the Code of Virginia*, and has paid or guaranteed payment of all financial commitments due the Commonwealth under Title 5.1 of the Code of Virginia or ~~these regulations this chapter.~~

Before such transfer shall be made the transferee by written agreement shall assume the unfulfilled obligation to the Commonwealth to operate the airport or landing area under any and all agreements executed by any prior licensee or licensees of such airport or landing area to procure state funds for such airport or landing area.

Upon death, dissolution, or bankruptcy of a licensee, the airport license may be transferred. Transfer shall be effected within 180 days after death or dissolution of the licensee or the airport license shall become null and void.

§ 3-5. 24 VAC 5-20-160. *Public waters landing rights.*

Counties, cities, and towns shall have the power to establish, maintain, and operate airports and landing areas and other navigation facilities in, over, and upon any public waters of this Commonwealth, or any submerged land under such public waters, within the limits or jurisdiction of or bordering on such counties, cities or towns. Any such areas established shall follow all the applicable permitting and licensing requirements of Part III of ~~these regulations (24 VAC 5-20-120 et seq.)~~.

§ 3-6. 24 VAC 5-20-170. *Private or personal nonlicensed airports.*

Any person owning property utilized for landing aircraft that is solely for private or personal use, and which is not open to the general public, shall be required only to register the landing area if it is not within five nautical miles of a commercial licensed airport. Registration shall be accomplished on forms provided by the department.

Any person establishing private or personal airports within five nautical miles of a licensed airport shall be licensed if the applicant airport does not pose a hazard to the airspace and utilization by aircraft of the licensed airport in question.

Prior to final registration or licensing of a private or personal airport, the applicant airport shall provide to the department written information from the local government having jurisdiction over such airport that such airport has received approval from the locality with respect to zoning, special use permit, or any other land use requirements.

Aircraft landing at these landing areas and nonpublic-use airports shall have prior approval of the landowners or controlling agency when reasonably practical. Aircraft landing at other than licensed airports without such prior approval shall not be removed therefrom without the consent of the owner or lessee of such property.

§ 3-7. 24 VAC 5-20-180. *Fees.*

The fee for ~~licensing a commercial, issuing a license of a public use airport or landing area~~ in accordance with § 3-4 24 VAC 5-20-120 shall be \$400 \$50.

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~~The fee for issuing a permit pursuant to § 3.2 shall be \$50. No fee is charged for registering a private use airport under 24 VAC 5-20-170.~~

PART IV. OBSTRUCTIONS TO AIRSPACE.

~~§ 4.1. 24 VAC 5-20-190. Determination of hazard.~~

~~The Department of Aviation shall conduct an aeronautical study, when needed to satisfy the requisites of this regulation, and to determine the effect of any structure that penetrates any imaginary surface upon the safe and efficient operation of any licensed, military, or government air navigation facility or airport. This determination shall be made based on standards criteria as defined by these regulations and Federal Aviation Regulations, Part 77. 24 VAC 5-20-200. If a structure constitutes an "obstruction" in accordance with these standards, it shall be presumed to be a "hazard" until determined otherwise the by Virginia Aviation Board.~~

~~§ 4.2. 24 VAC 5-20-200. Obstruction criteria.~~

~~In conducting any study required by these regulations this chapter the department may consider, but not be limited to, at least the following factors: Federal Aviation Regulations Parts 14 CFR 77.25, 77.28, and 77.29; Airport Traffic Patterns; IFR Airways and Routes; VFR routes and designated practice areas; and terminal airspace and instrument approach procedures.~~

~~§ 4.3. 24 VAC 5-20-210. Obstruction permit procedure.~~

~~This process shall not be applicable in those counties, cities, and towns which have satisfied the local ordinance provisions of § 15.1-491.02 of the Code of Virginia. See § 4.4, Model Airport Safety Zoning Ordinance 24 VAC 5-20-220.~~

~~Any person seeking an obstruction permit from the board, as required by § 5.1-25.1 of the Code of Virginia, pertaining to structures hazardous to air navigation shall submit to the department a permit request on such forms as prescribed by the department, including any ancillary data required by the department.~~

~~Upon receipt of such request, the department shall (i) notify the applicant of said receipt and supply available information pertaining to the obstruction analysis, with the date and location of the applicable board meeting; (ii) conduct an analysis of the request using the criteria in §§ 4.1 and 4.2 24 VAC 5-20-190 and 24 VAC 5-20-200 within 90 days from the date of receipt, unless it advises the applicant that such analysis will take longer; (iii) shall forward to the board its analysis in the form of a staff report with the concurrent recommendations regarding the permit request.~~

~~The board shall consider each permit request at the next regularly scheduled meeting, following the completion of the department staff report. Its consideration may include, but is not limited to, the department's staff report, any verbal and written testimony of the applicant, any analysis of the Federal Aviation Administration, and any comments from the local jurisdiction(s) where the structure is to be located. All decisions issued by the board shall be issued in writing stating the reasons for same. Any affirmative decision may be accompanied by conditions deemed appropriate by the~~

~~board including, but not limited to, obstruction marking, lighting, and similar safety features.~~

~~The applicant, if given an affirmative decision by the board, shall not be relieved by that decision of any local requirements as to zoning, building, variance, or other permits as may be required.~~

~~§ 4.4. 24 VAC 5-20-220. Model airport safety zoning ordinance.~~

~~Any county, city, or town in the Commonwealth seeking to comply with the mandate of § 15.1-491.02 of the Code of Virginia to enact local obstruction ordinances shall abide by the following:~~

~~1. The Model Airport Safety Zoning Ordinance developed by the Department of Aviation shall be used as a guide by localities. A copy of such ordinance is found in Appendix A (24 VAC 5-20-400) of these regulations this chapter.~~

~~2. The provisions of any locally adopted ordinance shall be in substantial conformity with the Model Airport Safety Zoning Ordinance. Substantial conformity shall include, but not be limited to, protection of airspace from intrusions as described in Articles 3, 4, and 7 of the Model.~~

~~3. The department may, at the request of a local governing body, review any ordinance submitted prior to adoption by such locality. In conducting its review the department shall make an evaluation regarding the integrity of such ordinance with respect to the requisites of the Model Airport Safety Zoning Ordinance. The review of the department may include, but not be limited to, the evaluation with respect to the Model Ordinance, any comments of the locality, and its opinion concerning the expected effectiveness of the ordinance as it relates to the general intent of § 15.1-491.02 of the Code of Virginia.~~

PART V. AERIAL APPLICATION AIRCRAFT.

~~§ 5.1. Certificate required.~~

~~Aerial application aircraft operating within this state must be licensed and certificated by the department. Application therefore must be made by the federally registered owner of the aircraft on forms prescribed by the department.~~

~~§ 5.2. Requirements for certificate.~~

~~Before any aerial application aircraft will be certificated by the department, such aircraft must be certificated by the Federal Aviation Administration, licensed by the department, equipped with approved shoulder harness, and the owner must furnish proof of financial responsibility as required by § 5.1-88.1 of the Code of Virginia.~~

~~§ 5.3. Duration of certificates.~~

~~Certificates, unless sooner suspended, cancelled or revoked by the department, shall remain in effect for the period to coincide with the Virginia aircraft license or for the period covered by the insurance policy bond or other security on file with the department, whichever expires first.~~

~~§ 5.4. Renewal of certificates.~~

~~Certificates may be renewed by the department upon application on forms prescribed by the department, provided satisfactory evidence is furnished by the applicant that the requirements herein established for issuance of an original certificate have been met.~~

~~§ 5.5. Use of approved pesticides.~~

~~Each holder of an aerial applicator certificate shall ensure that pesticides used are approved and registered with the Virginia Department of Agriculture and Consumer Services, 1100 Bank Street, P.O. Box 1163, Richmond, Virginia 23210, Phone (804) 786-3708, pursuant to § 5.1-5, and Chapter 14 of Title 3.1 of the Code of Virginia.~~

~~24 VAC 5-20-230 through 24 VAC 5-20-270. [Repealed.]~~

PART VI. V.
SUSPENSION, MODIFICATION AMENDMENT OR
REVOCATION OF LICENSES.

24 VAC 5-20-275. Conditional licenses.

If an airport or landing area cannot meet the requirements for licensure that have been adopted by the department, or having met those requirements cannot maintain compliance, the department may issue conditional licenses to allow time for the airport or landing areas to take steps to meet those requirements. Such conditional licenses shall specify the nonstandard requirements and dictate the time allowable for the standards to be brought into compliance, that time being the same as the duration of the conditional license.

~~§ 6.1. 24 VAC 5-20-280. Sanctions, notice and appeals.~~

~~The department may immediately temporarily suspend or modify any license, or permit or certificate issued pursuant to Chapter 1 of Title 5.1 of the Code of Virginia and these regulations this chapter for violation of any of the provisions of the aviation laws of Virginia or of these regulations this chapter, at the instance of any person, upon duly sworn affidavit of such person, or upon its own motion. Such sanction shall be effective upon receipt of written notice of the sanction by the licensee at his last known address as disclosed by the records of the department. Such temporary sanction shall be effective for a period not to exceed 90 days.~~

~~The department may permanently suspend, modify or revoke any license, or permit or certificate issued pursuant to Chapter 1 of Title 5.1 of the Code of Virginia and these regulations this chapter for violation of any of the provisions of the aviation laws of Virginia or of these regulations this chapter, at the instance of any person, by duly sworn affidavit of such person, or on its own motion. Such action shall be effective 10 days after receipt of written notice of the action by the licensee at his last known address as disclosed by the records of the department, unless the licensee shall, before that time, show cause why such sanction should not be imposed.~~

~~Temporary or permanent suspensions, modifications or revocations by the department may be appealed by filing a written notice of appeal with the director of the department within 10 days of receipt of the notice of sanction, requesting an opportunity to be heard and to present evidence. Such an~~

opportunity will be afforded by the director not later than 21 days after receipt by him of the written notice of appeal. The director will give written notice to the licensee of his decision to affirm, modify or rescind the sanction within 10 days after this hearing.

The sanctions enumerated in this regulation shall be cumulative with other enforcement powers conferred upon the department by these regulations or by statute, and no action taken hereunder shall limit the jurisdiction of the department to impose other penalties authorized by these regulations or by statute.

PART VII. VI.
GENERAL.

~~§ 7.1. 24 VAC 5-20-290. Report of accidents.~~

~~The pilot, or any member of the crew able to do so, or the owner or lessee of an aircraft involved in an accident or incident in this state resulting in injury to or death of any person or damage to the property of others in an amount in excess of \$500 or damage to the aircraft in an amount in excess of \$500 \$1,000 shall immediately report such accident or incident to the Virginia State Police, the Federal Aviation Administration, and to the National Transportation Safety Board if required. Such report shall show the license number of the aircraft, the name of the pilot, the time and place of the accident or incident, the name or names of the persons killed or injured or whose property was damaged, and whether the persons injured or killed were passengers in the aircraft or members of the crew of the aircraft and the nature and extent of the injuries to persons or damage to property. Within five days after such accident or incident, the owner or lessee of such aircraft shall make a full and complete report thereof in writing to the Virginia State Police and the Federal Aviation Administration.~~

~~State police and local police authorities of any city, incorporated town or county, shall preserve aircraft wreckage until the arrival of the National Transportation Safety Board or the Federal Aviation Administration. Until the board or its authorized representative takes custody of aircraft wreckage, mail, or cargo, such wreckage, mail and cargo may be disturbed or moved only to the extent necessary:~~

1. To remove persons injured or trapped;
2. To protect the wreckage from further damage; or
3. To protect the public from injury

~~§ 7.2. 24 VAC 5-20-300. Airport hazards.~~

~~Commercial, public-use airport and landing area owners, operators and managers shall maintain vigilance as to airport conditions and shall notify the nearest Federal Aviation Administration Flight Service Station and the Department of Aviation whenever any known hazards to aircraft exist at such airport or landing area. Known hazards are any conditions which create an unsafe situation and include uncut grass on any runway in excess of eight inches in height.~~

~~§ 7.3. 24 VAC 5-20-310. Emergency services.~~

~~The department, in the interest of the public, will exercise direction and surveillance of the programs of the Department~~

Proposed Regulations

of Emergency Services which relate to aviation within the state.

§ 7.4. 24 VAC 5-20-320. Use of department's aircraft by other state agencies.

Upon request, the department may authorize the use of its aircraft by other state agencies. The department shall be reimbursed by any such agency for such use on the basis of the direct and indirect cost per flying hour of its aircraft as determined by the department. All sums collected for such use shall be credited to the Aviation Special Fund.

§ 7.5. 24 VAC 5-20-330. Aviation facilities constructed in whole or in part with state funds.

Before any funds appropriated by the General Assembly of Virginia for the promotion of aviation, the construction or improvement of aviation facilities at any county, municipal or privately-owned, commercial, public-use airport or heliport, the owner thereof shall enter into a written agreement with the department, acting through the director, which shall provide for operation of such airport or heliport as a public-use facility for a minimum period of 20 years. The owner of any such aviation facility and his or its transferees, successors and assignees who fails to fulfill the period of operation specified in any such agreement shall be liable for the return of any such funds on a pro rata basis.

Privately owned or publicly owned hospitals may establish and maintain airports and may restrict the public use of such airports to takeoff and landing of any aircraft for medical emergencies only; such airports may be funded in accordance with this regulation.

§ 7.6. 24 VAC 5-20-340. Enforcement.

It shall be the duty of the department to assist all law-enforcement officers of this state in the enforcement of the provisions of Title 5.1 of the Code of Virginia and these regulations promulgated pursuant thereto.

§ 7.7. 24 VAC 5-20-350. Annual aircraft survey and report of financial responsibility.

To provide an annual physical count of based aircraft, all Virginia licensed or registered airports shall submit annually a survey of all based aircraft with information as required on a form provided by the department.

Annually, the owner or operator of each licensed airport or landing area shall provide to the department, on appropriate forms prescribed and furnished by the department or by a certificate provided by the insurance carrier setting out the name of the insurance carrier and the coverage provided, the term of such coverage. In the event the coverage is canceled or terminated for any reason, notice of such action shall be filed with the department within 30 calendar days.

The department must receive such annual aircraft survey and annual proof of financial responsibility within 45 days of survey transmittal. Submission of the financial responsibility report is considered a minimum requirement for licensure as described in subdivision 9 of 24 VAC 5-20-140. Failure to submit both the annual aircraft survey and annual proof of financial responsibility may cause the department to seek

sanctions as provided for in Part V (24 VAC 5-20-275 et seq.).

§ 7.8. ~~Contract carrier permit holders: landing restrictions. 24 VAC 5-20-360. [Repealed.]~~

~~Holder of Virginia Contract Carrier permits operating for hire aircraft shall operate to and from licensed commercial, public-use airports only, with the following exceptions: Permit holders may operate to and from other landing areas on an infrequent basis upon consent of the person contracting for such services and with financial responsibility assured as required under § 5.1-9.5 of the Code of Virginia.~~

~~Operation must also be in compliance with § 8.2 of these regulations.~~

§ 7.9. 24 VAC 5-20-370. Posting of traffic patterns and chart of local student practice area.

Each fixed base operator at a commercial, public-use licensed airport or landing area shall post and keep posted a copy of the airport traffic pattern and an aeronautical chart with the local student practice area clearly outlined thereon in a conspicuous place available to airmen at such airport or landing area.

§ 7.10. 24 VAC 5-20-380. Posting of regulations.

Each fixed base operator at a commercial, public-use licensed airport or landing area shall post and keep posted a copy of these regulations.

§ 7.11. 24 VAC 5-20-390. Effective date.

These regulations shall become effective as provided for in the Administrative Process Act.

24 VAC 5-20-400. Appendix A: Airport Safety Zoning Ordinance.

PREAMBLE

AN ORDINANCE regulating and restricting the height of structures and objects or natural growth, and otherwise incidentally regulating the use of property in the vicinity of the airports in (-insert name of locality-) by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; providing for enforcement; and imposing penalties.

The ordinance is adopted pursuant to the authority conferred by §§ 15.1-427 through 15.1-503 of the Code of Virginia. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the airports and residents in (-insert name of locality-); and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airports and the public investment therein. Accordingly, it is declared:

1. That is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of obstructions that are hazards to air navigation be prevented;

2. That the creation or establishment of an obstruction has the potential for being a public nuisance and may injure the area served by the airports;

3. That the (-insert name of locality-) derives economic development and enhanced interstate commerce from (-insert name of airports(s)) that are held strictly to the highest possible safety standards; and

4. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

Be it ordained by (-insert name of local governing body-):

ARTICLE 1
SHORT TITLE.

§ 1.1. This ordinance shall be known and may be cited as the (-insert name of locality-) Airport Safety Zoning Ordinance.

ARTICLE 2.
DEFINITIONS.

§ 2.1. As used in this ordinance, the following terms shall have the meanings respectively ascribed to them, unless the context clearly requires otherwise:

"Administrator": The official charged with the enforcement of this ordinance. He or she shall be the (-insert title of designated local official-).

"Airport": (-insert name of affected airport or airports-).

"Airport elevation": The highest point on any usable landing surface expressed in feet above mean sea level.

"Approach surface": A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface, and at the same slope as the approach zone height limitation slope set forth in Article 4 of this ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

"Approach, transitional, horizontal, and conical zones": The airspace zones as set forth in Article 3 of this ordinance.

"Conical surface": A surface extending horizontally twenty feet for every one foot vertically from the periphery of the horizontal surface.

"Hazard to air navigation": An obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of navigable airspace in the Commonwealth.

"Height": For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.

"Horizontal surface": A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

"Nonconforming use": Any preexisting structure or object of natural growth which is inconsistent with the provisions of this ordinance or any amendment to this ordinance.

"Obstruction": Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, or penetrates any surface or zone floor, set forth in Article 4 of this ordinance.

"Permit": A document issued by (-insert name of locality-) allowing a person to begin an activity which may result in any structures or vegetations exceeding the height limitations provided for in this ordinance.

"Person": Any individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity. The term includes a trustee, a receiver, an assignee, or a similar representative of any of them.

"Primary surface": A surface, with a specified width as provided in Article 3 of this ordinance, longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

"Runway": A specified area on an airport prepared for landing and takeoff of aircraft.

"Structure": Any object, including a mobile object, constructed or installed by any person, including but not limited to buildings, towers, cranes, smokestacks, earth formations, towers, poles, and electric lines of overhead transmission routes, flag poles, and ship masts.

"Transitional surfaces": Surfaces which extend outward perpendicular to the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

"Vegetation": Any object of natural growth.

"Zone": All areas provided for in Article 3 of this ordinance, generally described in three dimensions by reference to ground elevation, vertical distances from the ground elevation, horizontal distances from the runway centerline and the primary and horizontal surfaces, with the zone floor set at specific vertical limits by the surfaces found in Article 4 of this ordinance.

ARTICLE 3.
AIRPORT SAFETY ZONES.

§ 3.1. In order to carry out the provisions of this ordinance, there are hereby established certain zones which include all of the area and airspace of (-insert name of locality-) lying equal to and above the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to (-insert name of airport or airports-). These zones are established as overlay zones, superimposed over the existing base zones, being more specifically zones of airspace that do not affect the uses and activities of the base zones except as provided for in Article 5 of this ordinance. An area located in more than one of the following zones is

Proposed Regulations

considered to be only in the zone with the most restrictive height limitation. These zones are as follows:

"Airport zone": A zone that is centered about the runway and primary surface, with the floor set by the horizontal surface.

"Approach zone": A zone that extends away from the runway ends along the extended runway centerline, with the floor set by the approach surfaces.

"Transitional zone": A zone that fans away perpendicular to the runway centerline and approach surfaces, with the floor set by the transitional surfaces.

"Conical zone": A zone that circles around the periphery of and outward from the horizontal surface, with the floor set by the conical surface.

The source of the specific geometric standards for these zones are to be found in Part 77.25, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations. A copy of these standards is found in Appendix A of this ordinance.

ARTICLE 4.

AIRPORT SAFETY ZONE HEIGHT LIMITATIONS.

§ 4.1. Except as otherwise provided in this ordinance, in any zone created by this ordinance no structure shall be erected, altered, or maintained, and no vegetation shall be allowed to grow to a height so as to penetrate any referenced surface, known as the floor, of any zone provided for in Article 3 of this ordinance at any point.

§ 4.2. The height restrictions, or floors, for the individual zones shall be those planes delineated as surfaces in Part 77.25, Subchapter E (Airspace), of Title 14 of the Code of Federal Regulations, or in successor federal regulations. A copy of these standards is found in Appendix A of this ordinance.

ARTICLE 5.

USE RESTRICTIONS.

§ 5.1. Notwithstanding any other provision of this ordinance, and within the area below the horizontal limits of any zone established by this ordinance, no use may be made of land or water in such a manner as to:

1. Create electrical interference with navigational signals or radio communication between the airport and airborne aircraft;
2. Diminish the ability of pilots to distinguish between airport lights and other lights;
3. Result in glare in the eyes of pilots using the airport;
4. Impair visibility in the vicinity of the airport;
5. Create the potential for bird strike hazards; or
6. Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

ARTICLE 6. NONCONFORMING USES.

§ 6.1. Except as provided in § 6.2 of this ordinance, the regulations prescribed by this ordinance shall not require the removal, lowering, or other change or alteration of any structure or vegetation not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained in this ordinance shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

§ 6.2. Notwithstanding the provision § 6.1, the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator to indicate to operators of aircraft the presence of that airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the airport owners, and not the owner of the nonconforming structure in question.

ARTICLE 7. PERMITS.

§ 7.1. Except as provided in §§ 7.1, 7.2, and 7.3 of this Article, no structure shall be erected or otherwise established in any zone created by this ordinance unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which desired with and sufficient geometric specificity to determine whether the resulting structure would conform to the regulations prescribed in this ordinance. No permit for a structure inconsistent with this ordinance shall be granted unless a variance has been approved as provided in § 7.4.

§ 7.2. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto other than with relief as provided for in § 7.4.

§ 7.3. Whenever the administrator determines that a nonconforming structure has been abandoned or more than fifty percent destroyed, physically deteriorated, or decayed, no permit shall be granted that would enable such structure to be rebuilt, reconstructed, or otherwise refurbished so as to exceed the applicable height limit or otherwise deviate from the zoning regulations contained in this ordinance, except with the relief as provided for in § 7.4.

§ 7.4. Any person desiring to erect or increase the height or size of any structure not in accordance with the regulations prescribed in this ordinance may apply for a variance from such regulations to the (-insert board of zoning appeals or other entity-). Such application shall be properly advertised and be reviewed and considered through a public hearing. Prior to being considered by the (-insert board of zoning appeals or other entity-) the application for variance shall be accompanied by a determination from the Virginia Department of Aviation as to the effect of the proposal on the

Proposed Regulations

operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall only be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance. Additionally, no application for a variance to the requirements of this ordinance may be considered by the (-insert board of zoning appeals or other entity-) unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within fifteen days after receipt, the (-insert board of zoning appeals or other entity-) may act independent of the airport owner's position to grant or deny the variance.

§ 7.5. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be deemed necessary by the Federal Aviation Administration, the Virginia Department of Aviation, or the administrator. If deemed proper with reasonable cause by the (-insert board of zoning appeals or other entity-), this condition may be modified to require the owner of the structure in question to permit the airport owner, at his own expense, to install, operate, and maintain the necessary markings and lights.

ARTICLE 8. ENFORCEMENT.

§ 8.1. The administrator shall administer and enforce the regulations prescribed in this ordinance. He or she shall be vested with the police power incumbent to carry out and effectuate this ordinance, including the action of injunction, prosecution and other available means through the (-insert name of circuit court having jurisdiction in the locality-). Applications for permits and variances shall be made to the administrator on a form published for that purpose.

ARTICLE 9. APPEALS.

§ 9.1. Any person aggrieved, or any officer, department, board, or bureau of (-insert name of locality-) affected by a decision of the administrator may appeal such decision to the (-insert board of zoning appeals or other entity-).

ARTICLE 10. JUDICIAL REVIEW.

§ 10.1. Any person aggrieved or any taxpayer adversely affected by any decision of the (-insert board of zoning appeals or other entity-) may appeal to the (-insert name of circuit court having jurisdiction in the locality-).

ARTICLE 11. PENALTIES.

§ 11.1. Each violation of this ordinance or of any regulation, order, or ruling promulgated under this ordinance shall constitute a misdemeanor and be punishable by a fine of no

more than five hundred dollars. Each day on which a violation occurs shall constitute a separate offense.

ARTICLE 12. CONFLICTING REGULATIONS.

§ 12.1. Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same subject, where the conflict is with respect to the height of structures or vegetation, and the use of land, or any other matter, the more stringent limitation or requirement shall govern.

ARTICLE 13. SEVERABILITY.

§ 13.1. Should any portion or provision of this ordinance be held by any court to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole, or any part of the ordinance other than the part held to be unconstitutional or invalid.

ARTICLE 14. ADOPTION.

§ 14.1. Be it resolved that this ordinance has been properly drawn, legally advertised, and presented through a public hearing before the governing body of (-insert name of locality-) on (-insert month, day, year-). Be it further resolved that the effective date of this ordinance is (-insert month, day, year-) and that the ordinance from that date forward carries the full weight of law within (-insert name of locality-) until and unless altered otherwise by the governing body.

VA.R. Doc. No. R96-174; Filed January 3, 1996, 1:18 p.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 regulation.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulation 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 Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revisions.

Title of Regulation: ~~VR 425-02-09 16~~ **VAC 25-90-1910.1001. Asbestos Standard for General Industry (29 CFR 1910.1001).**

Effective Date: March 1, 1996.

Summary:

Federal OSHA corrected technical and typographical errors in the preamble and regulatory text of the final asbestos standards. In addition, members of the public asked OSHA to "clarify, correct, or reconsider" certain regulatory provisions. This federal correction, effective nationally on June 29, 1995, includes the following:

1. Clarification that regulated areas need not be established for "Class II" or "Class III" work producing negative exposure assessments when the employer can show that "work is being performed by properly trained and informed workers in areas to which no other workers have access." Class II work is defined as removal of asbestos-containing material that is not surfacing material or thermal system insulation, such as floor or ceiling tiles, siding, roofing, and transite panels. Class III work constitutes repair and maintenance activities involving intentional disturbance of asbestos-containing and presumed asbestos-containing material.
2. Removal of more extensive medical removal requirements that were inadvertently included in the original construction and shipbuilding standards for workers who perform lower-risk work. Also, reinstatement of language which had been omitted from the appendices that addresses work practices for brake and clutch repair work in general industry and shipbuilding.
3. Other changes that affect training, respiratory protection and hazard communication provisions of the standards.

Agency Contact: Copies of the regulation may be obtained from John J. Crisanti, Department of Labor and Industry,

Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Asbestos Standard for General Industry (29 CFR 1910.1001) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On December 11, 1995, the Safety and Health Codes Board adopted an identical version of federal OSHA's corrections to 29 CFR 1910.1001, Asbestos Standard for General Industry which were published in the Federal Register, Vol. 60, No. 125, pp. 33974-34002, Thursday, June 29, 1995, along with corrections to 29 CFR 1915.1001, Occupational Exposure to Asbestos, Shipyard Employment, and 29 CFR 1926.1101, Asbestos Standard for Construction Industry. The amendments as adopted are not set out.

When the regulations, as set forth in the corrections to the Asbestos Standards for General Industry, 29 CFR 1910.1001 are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Regulation
Secretary of Labor	Commissioner of Labor and Industry
Agency	Department
October 11, 1994	May 1, 1995
February 21, 1995	April 18, 1995
June 29, 1995	March 1, 1996

VA.R. Doc. No. R96-159; Filed December 19, 1995, 10:37 a.m.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

January 5, 1996

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219

ATTN: John J. Crisanti, Director, Office of Enforcement Policy

Dear Mr. Ashby:

This letter acknowledges receipt of VR 425-02-09, Asbestos Standard for General Industry, § 1910.1001, from the Department of Labor and Industry.

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

Sincerely,

E. M. Miller, Jr. /jc

E. M. Miller, Jr.
Acting Registrar of Regulations

Final Regulations

Title of Regulation: ~~VR 425-02-66 16~~ VAC 25-90-1910.1025.
Lead Standard, General Industry (29 CFR 1910.1025).

Effective Date: March 1, 1996.

Summary:

Federal OSHA determined that it is economically feasible for the brass and bronze ingot manufacturing industry as a whole to achieve an air lead limit of 75 µg/m³. The air lead limit is to be achieved by engineering and work practice controls. Once the U. S. Court of Appeals for the District of Columbia lifts the stay of implementation of paragraph (e)(1), the industry has six years from the date the stay is lifted to comply. These amendments revised the Implementation Schedule (Table I) of paragraph (e)(1) to reflect the current status of compliance dates for the engineering and work practice requirements for the lead industries.

These amendments also revised Table I based on the lifting of judicial stays on March 8, 1990, and on July 19, 1991, for other specific industries. The stays had been in effect with respect to compliance requirements set forth in paragraph (e)(1) of the lead standard. Accordingly, lead industries affected by the lifting of the stay must implement engineering and work practice controls in accordance with the date specified for the particular industry in Table I of paragraph (e)(1).

These amendments also made technical changes and corrections to the standard, amending portions of the standard that are unclear, obsolete or inconsistent with current compliance requirements. Additionally, it also amended certain information in the appendices to 29 CFR 1910.1025 that may have been misleading.

Agency Contact: Copies of the regulation may be obtained from John J. Crisanti, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Lead Standard, General Industry (29 CFR 1910.1025) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On December 11, 1995, the Safety and Health Codes Board adopted amendments to Lead Standard, General Industry, 29 CFR 1910.1025, which were published in the Federal Register, Vol. 60, No. 196, pp. 52856-52859, Wednesday, October 11, 1995. The amendments as adopted are not set out.

When the regulations, as set forth in the amendments to the Lead Standard for General Industry, 29 CFR 1910.1025, are applied to the Commissioner of the Department of Labor and

Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 11, 1995	March 1, 1996

VA.R. Doc. No. R96-160; Filed December 19, 1995, 10:36 a.m.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

January 5, 1996

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219

ATTN: John J. Crisanti, Director, Office of Enforcement Policy

Dear Mr. Ashby:

This letter acknowledges receipt of VR 425-02-66, Lead Standard, General Industry, § 1910.1025, from the Department of Labor and Industry.

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

Sincerely,

E. M. Miller, Jr. / jc

E. M. Miller, Jr.
Acting Registrar of Regulations

Final Regulations

Title of Regulation: ~~VR 425-02-178 16 VAC 25-100-1915.1001.~~ Occupational Exposure to Asbestos, Shipyard Employment (29 CFR 1915.1001).

Effective Date: March 1, 1996.

Summary:

Federal OSHA corrected technical and typographical errors in the preamble and regulatory text of the final asbestos standards. In addition, OSHA clarified, corrected, and reconsidered certain regulatory provisions. The corrections, published in the Federal Register on June 29, 1995 (60 FR 33974), include:

1. Clarification that regulated areas need not be established for "Class II" or "Class III" work producing negative exposure assessments when the employer can show that "work is being performed by properly trained and informed workers in areas to which no other workers have access." "Class II" and "Class III" work were defined. Language inadvertently included was removed and other language which had been omitted was reinstated. Additional changes were made that affect training, respiratory protection and hazard communication provisions of the standards.

2. Corrections published in the Federal Register on July 13, 1995 (60 FR 36043) affected the definitions of "Class III asbestos work" and "Disturbance," in paragraph (b) of 29 CFR 1915.1001, Occupational Exposure to Asbestos Standard, Shipyard Industry.

3. Subsequent amendments also affecting only the Construction and Shipyard Employment industries were published in the Federal Register on September 29, 1995 (60 FR 50411). These amendments further corrected and clarified various provisions of the asbestos standards which concern requirements for dropcloths; removal of gaskets; handling of bituminous or asphaltic pipeline coating; usage of powered air-purifying respirators; and EPA-approved or state-approved competent/qualified person training.

Agency Contact: Copies of the regulation may be obtained from John J. Crisanti, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Occupational Exposure to Asbestos, Shipyard Employment (29 CFR 1915.1001) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On December 11, 1995, the Safety and Health Codes Board adopted an identical version of federal OSHA's corrections to

Occupational Exposure to Asbestos, Shipyard Employment, 29 CFR 1915.1001, which were published in the Federal Register, Vol. 60, No. 125, pp. 33974-34001, Thursday, June 29, 1995, along with corrections to 29 CFR 1910.1001, Asbestos Standard for General Industry, 29 CFR 1926.1001 and Asbestos Standard for Construction Industry, 29 CFR 1926.1101. Additionally, the board adopted identical versions of subsequent federal OSHA corrections and amendments to 29 CFR 1915.1001, Occupational Exposure to Asbestos, Shipyard Employment, published with corrections to 29 CFR 1926.1101, Asbestos Standard for Construction, 29 CFR 1926.1101, in the Federal Register, Vol. 60, No. 134, pp. 36043-36044, Thursday, July 13, 1995, and in the Federal Register, Vol. 60, No. 189, pp. 50411-50413, Friday, September 29, 1995, respectively. The amendments as adopted are not set out.

When the regulations, as set forth in the corrections and amendments to the Occupational Exposure to Asbestos, Shipyard Employment, 29 CFR 1915.1001, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Equivalent
Secretary of Labor	Commissioner of Labor and Industry
Agency	Department
October 11, 1994	May 1, 1995
February 21, 1995	April 18, 1995
June 29, 1995	March 1, 1996
July 13, 1995	March 1, 1996
October 1, 1995	March 1, 1996

VA.R. Doc. No. R96-157; Filed December 19, 1995, 10:37 a.m.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

January 5, 1996

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219

ATTN: John J. Crisanti, Director, Office of Enforcement Policy

Dear Mr. Ashby:

This letter acknowledges receipt of VR 425-02-178, Occupational Exposure to Asbestos, Shipyard Employment, § 1915.1001, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Final Regulations

Title of Regulation: ~~VR 425-02-40 16 VAC 25-175-~~
1926.1101. Asbestos Standard for Construction Industry
(29 CFR 1926.1101).

Effective Date: March 1, 1996.

Summary:

Federal OSHA corrected technical and typographical errors in the preamble and regulatory text of the final asbestos standards. In addition, OSHA clarified, corrected, and reconsidered certain regulatory provisions. The corrections, published in the Federal Register on June 29, 1995 (60 FR 33974), include: clarification that regulated areas need not be established for "Class II" or "Class III" work producing negative exposure assessments when the employer can show that "work is being performed by properly trained and informed workers in areas to which no other workers have access." "Class II" and "Class III" work were defined. Language inadvertently included was removed and other language which had been omitted was reinstated. Additional changes were made that affect training, respiratory protection and hazard communication provisions of the standards.

Corrections published in the Federal Register on July 13, 1995 (60 FR 36043) affected the definitions of "Class III asbestos work" and "Disturbance," in paragraph (b) of 29 CFR 1926.1101, Asbestos Standard for Construction Industry, and 29 CFR 1915.1001, Occupational Exposure to Asbestos Standard, Shipyard Industry.

Subsequent amendments also affecting only the Construction and Shipyard Employment industries were published in the Federal Register on September 29, 1995 (60 FR 50411). These amendments further corrected and clarified various provisions of the asbestos standards which concern requirements for dropcloths, removal of gaskets, handling of bituminous or asphaltic pipeline coating, usage of powered air-purifying respirators, and EPA-approved or state-approved competent/qualified person training.

Agency Contact: Copies of the regulation may be obtained from John J. Crisanti, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Asbestos Standard for Construction Industry (29 CFR 1926.1101) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On December 11, 1995, the Safety and Health Codes Board adopted an identical version of federal OSHA's corrections to 29 CFR 1926.1001, Asbestos Standard for Construction

Industry, which was published in the Federal Register, Vol. 60, No. 125, pp. 33974-34001, Thursday, June 29, 1995, along with corrections to 29 CFR 1910.1001, Asbestos Standard for General Industry, and 29 CFR 1915.1001, Occupational Exposure to Asbestos, Shipyard Employment. Additionally, the board adopted identical versions of subsequent federal OSHA corrections and amendments to 29 CFR 1926.1101, Asbestos Standard for Construction Industry, published with corrections to 29 CFR 1915.1001, Occupational Exposure to Asbestos, Shipyard Employment, in the Federal Register, Vol. 60, No. 134, pp. 36043-36044, Thursday, July 13, 1995, and in the Federal Register, Vol. 60, No. 189, pp. 50411-50413, Friday, September 29, 1995, respectively. The amendments as adopted are not set out.

When the regulations, as set forth in the corrections and amendments to the Asbestos Standard for Construction Industry, 29 CFR 1926.1101, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Regulations
Secretary of Labor	Commissioner of Labor and Industry
Agency	Department
October 11, 1994	May 1, 1995
February 21, 1995	April 18, 1995
June 29, 1995	March 1, 1996
July 13, 1995	March 1, 1996
October 1, 1995	March 1, 1996

VA.R. Doc. No. R96-158; Filed December 19, 1995, 10:37 a.m.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

January 5, 1996

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
Powers-Taylor Building
13 South Thirteenth Street
Richmond, VA 23219

ATTN: John J. Crisanti, Director, Office of Enforcement Policy

Dear Mr. Ashby:

This letter acknowledges receipt of VR 425-02-10, Asbestos Standard for Construction Industry, § 1926.1101, from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a small flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

Final Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (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 3, which excludes regulations which consist only of changes in style or form or corrections of technical errors, and in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: ~~VR 460-04-8.6.~~ **12 VAC 30-110-720 through 12 VAC 30-110-1010. Spousal Impoverishment.**

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

Effective Date: March 1, 1996.

Summary:

The purpose of this action is to conform state regulations to federal guidance concerning the treatment of court-ordered spousal support in determining the eligibility of institutionalized individuals who have a spouse living in the community. These regulations are necessary to ensure that the resources of a couple are correctly allocated between spouses when eligibility determinations are made.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

12 VAC 30-110-720 through 12 VAC 30-110-1010. Spousal Impoverishment.

~~PART I. GENERAL.~~

~~Article 1.~~

~~PART V. SPOUSAL IMPOVERISHMENT.~~

~~Subpart 1. Definitions.~~

~~§ 1.1. 12 VAC 30-110-720. Definitions.~~

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

"*Acceptable medical evidence*" means either (i) certification by a nursing home preadmission screening committee; or (ii) certification by the individual's attending physician.

"*Applicable percent*" means that percentage as defined in § 1924 (d)(3)(B) of the Social Security Act.

"*As soon as practicable*" (as it relates to transfer of resources) means within 90 days from the date an institutional spouse agrees to transfer resources to the community spouse, unless the department determines that a longer period is necessary.

"*At the beginning of a the first continuous period of institutionalization*" means the first calendar month of the ~~most recent~~ a continuous period of institutionalization or receipt of waiver services.

"*Community spouse*" means a person who is not an inpatient at a medical institution or nursing facility and who is married to an institutionalized spouse.

"*Community spouse maintenance needs allowance*" is an amount by which the applicable percentage of 1/12 of the Federal Poverty Level for a family of two, in effect on July 1 of each year, plus an excess shelter allowance exceeds the amount of monthly income otherwise available to the community spouse. The community spouse maintenance allowance cannot exceed \$1,500 adjusted annually in accordance with § 1924(g) except pursuant to a court order or an amount designated by a DMAS hearing officer.

"*Community spouse resource allowance*" means the difference between a couple's countable resources and the greatest of (i) the spousal share, not to exceed \$60,000; or (ii) the spousal resource standard, \$12,000; or (iii) an amount transferred to the community spouse by the institutionalized spouse pursuant to a court support order; or (iv) an amount designated by a department hearing officer. For services furnished during a calendar year after 1989, the dollar amounts specified in this section shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"*Continuous period of institutionalization*" means 30 consecutive days of institutional care in a medical institution or nursing facility, or 30 consecutive days of receipt of waiver services, or 30 consecutive days of a combination of institutional and waiver services. Continuity is broken only by 30 or more days absence from institutionalization or waiver services.

"*Countable resources*" means all nonexempt resources, except for a couple's home, contiguous property, household goods, and one automobile. These items are exempt for purposes of determining the combined and separate resources of institutionalized and community spouses only.

"*Department*" means the Department of Medical Assistance Services.

"*Dependent child*" means a child age 21 years old or older, of either spouse, who lives with the community spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to the Internal Revenue Code.

"*Dependent family member*" means a parent, *minor child*, dependent child, or dependent sibling, including half brothers and half sisters and siblings gained through adoption, of either member of a couple who resides with the community

spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to the Internal Revenue Code.

"Exceptional circumstances resulting in significant financial duress" means circumstances other than those taken into account in establishing the spousal maintenance allowance for which the community spouse incurs expenses in amounts that he cannot be expected to pay from the spousal maintenance allowance or from amounts held in the community spouse resource allowance.

"Excess shelter allowance" means the actual monthly expense of maintaining the community spouse's residence that exceeds 30% of the community spouse maintenance needs allowance, but limited to the total of (i) rent or mortgage, including interest and principal; (ii) taxes and insurance; (iii) any maintenance charge for a condominium or cooperative; and (iv) utilities, if not included in the rent or maintenance charge, except that utility expenses will not be included to the extent that they exceed the standard deduction under the Food Stamp program that would be appropriate to the number of persons living in the community spouse's household.

"Federal Poverty Level" or *"FPL"* means the annual Federal Poverty Level as computed by the Office of Management and Budget and published in the Federal Register.

"Initial determination" means:

1. Eligibility determinations made in conjunction with Medicaid applications filed during an individual's most recent continuous period of institutionalization; or
2. The first redetermination of eligibility for a Medicaid eligible institutionalized spouse after being admitted to an institution or receiving waiver services.

"Initial redeterminations" means those redeterminations of eligibility for a Medicaid eligible spouse which are regularly scheduled, or which are made necessary by a change in the individual's circumstances.

"Institutionalized spouse" means a married person who is an inpatient at a medical institution or nursing facility or who is receiving waiver services and who is likely to remain in such facility or under such care for at least 30 consecutive days, and whose spouse is not an inpatient at a medical institution or nursing facility.

~~*"Likely to remain in an institution"* means a reasonable expectation based on acceptable medical evidence that an individual will be institutionalized for 30 consecutive days, even if his institutionalization or waiver services actually terminate in less than 30 consecutive days.~~

"Maintenance needs standard" means an income standard to which a community spouse's or other family member's income is compared in order to determine the community spouse's and other family members' maintenance allowance.

"Medical institution" or *"nursing facility"* means hospitals and nursing facilities (including ICF/MR), consistent with the definitions of such institutions found in the Code of Federal Regulations at 42 CFR 435.1009, 440.40 and 440.150 and

which are authorized under Virginia law to provide medical care.

"Minor" means a child under age 21, of either spouse, who lives with the community spouse.

"Other family member's" means children who are minors or dependent, and dependent parents and siblings of either member of a couple who reside with the community spouse.

"Other family member's maintenance needs allowance" means an amount for each family member, equal to 1/3 of the applicable percentage of 1/12 of the FPL for a family of two in effect on July 1 of each year, reduced by the amount of the monthly income of that family member.

"Otherwise available income or resources" means income and resources which are legally available to the community spouse and to which the community spouse has access and control.

"Promptly assess resources" means within 45 days unless the delay is due to nonreceipt of documentation or verification, if required, from the applicant or from a third party.

"Resource assessment" means an appraisal completed by request of a couple's combined countable resources at the beginning of each the first continuous period of institutionalization of the institutionalized spouse beginning on or after September 30, 1989.

"Spousal resource standard" means the minimum amount of a couple's combined countable resources (\$12,000 in 1989 and as increased each year beginning in 1990 by the same percentage increase as in the Consumer Price Index), necessary for the community spouse to maintain himself in the community.

"Spousal share" means 1/2 of the couple's countable resources at the beginning of the most recent first continuous period of institutionalization, or at the beginning of a the first continuous period of receipt of waiver services, as determined by a resource assessment.

"Spouse" means a person who is legally married to another person under Virginia law.

"State Plan" means the State Plan for Medical Assistance.

"Undue hardship" means denial of Medicaid eligibility would result in the institutionalized spouse being removed from the institution and unable to purchase life sustaining medical care.

"Waiver services" means Medicaid reimbursed home or community-based services covered under a § 1915(c) waiver approved by the Secretary of the United States Department of Health and Human Services.

Final Regulations

PART II. Subpart II.

Resource Assessments and Eligibility.

Article 1. General.

~~§ 2-1.~~ 12 VAC 30-110-730. Applicability.

Resource assessment and resource eligibility rules contained in ~~Part II of these regulations~~ *this subpart* shall apply to:

1. Persons whose first continuous period of institutionalization began on or after September 30, 1989; and
2. Institutionalized persons who leave the institution, or cease receiving waiver services, for at least 30 consecutive days and who are readmitted to the institution for a continuous period, or begin receiving waiver services for a continuous period, on or after September 30, 1989.

Article 2. Assessments of Couple's Resources.

~~§ 2-2.~~ 12 VAC 30-110-740. Resource assessment initiated.

A resource assessment shall be initiated:

1. Upon payment of a fee, if any, the amount of which is determined by the Department of Social Services, by either member of a couple, or a representative acting on behalf of either spouse, if the institutionalized spouse has not applied for Medicaid; or
2. Upon application for Medicaid by an institutionalized spouse who has a community spouse.

~~§ 2-3.~~ 12 VAC 30-110-750. Notification of documentation required.

When a resource assessment is initiated, the Department of Social Services shall notify the applicant of all relevant documentation required to be submitted for the assessment.

~~§ 2-4.~~ 12 VAC 30-110-760. Failure to provide documentation.

If an applicant fails to provide requested documentation within 45 days of receipt of notification sent pursuant to ~~§ 2-3~~ 12 VAC 30-110-750, the department shall notify him that the assessment cannot be completed.

~~§ 2-5.~~ 12 VAC 30-110-770. Notification of assessment and appeal rights.

The department shall provide each member of a couple with copies of the completed resource assessment and the documentation used to produce it. The department shall notify the couple of the procedure by which to appeal the resource assessment.

~~§ 2-6.~~ 12 VAC 30-110-780. Appeal of resource assessment.

A. Not accompanied by a Medicaid application. If the resource assessment was conducted without a concurrent Medicaid application, it may not be appealed pursuant to the existing Client Appeals regulations (~~VR-460-04-8.7~~) (*Part I* (12 VAC 30-110-10 *et seq.*) of this chapter) by an ineligible

spouse, but ineligible spouses will have an opportunity to appeal assessment findings if and when their institutionalized spouses apply for Medicaid.

B. Medicaid application. A resource assessment which was conducted pursuant to a Medicaid application submitted by the institutionalized spouse may be appealed pursuant to existing Client Appeals regulations (~~VR-460-04-8.7~~) (*Part I* (12 VAC 30-110-10 *et seq.*) of this chapter).

Article 3. Resource Eligibility Determinations for Institutionalized Spouses.

~~§ 2-7.~~ 12 VAC 30-110-790. Applicability.

This article shall be used to determine an institutionalized spouse's initial and continuing eligibility for his current continuous period of institutionalization.

~~§ 2-8.~~ 12 VAC 30-110-800. Initial eligibility determinations.

Except as provided in ~~§§ 2-10 and 2-11 of these regulations~~ 12 VAC 30-110-820 and 12 VAC 30-110-830, an institutionalized spouse is *resource* eligible for Medicaid if the difference between the couple's combined countable resources and *its the* community spouse resource allowance, as defined in ~~§ 4-4~~ 12 VAC 30-110-720, is equal to or less than the appropriate Medicaid resource limit for one person.

~~§ 2-9.~~ 12 VAC 30-110-810. Initial determinations of ineligibility.

A. If the difference between a couple's current combined countable resources and *its the* community spouse resource allowance is greater than the appropriate Medicaid resource limit for one person, the institutionalized spouse shall be ineligible for Medicaid until the couple's combined countable resources are reduced to the greatest of:

1. The state's spousal resource standard (\$12,000 or *higher amount determined in accordance with subsection B of this section*) plus the appropriate Medicaid resource limit for one person; or
2. The spousal share (not to exceed \$60,000 or *higher amount determined in accordance with subsection B of this section*) plus the appropriate Medicaid resource limit for one person; or
3. ~~A court-ordered spousal share~~ *The amount transferred by an institutionalized spouse to the community spouse under a court order for spousal support* plus the appropriate Medicaid resource limit for one person; or
4. A spousal allowance determined necessary by a department hearing officer plus the appropriate Medicaid resource limit for one person.

5. B. For services furnished during a calendar year after 1989, the dollar amounts specified in this section shall be increased by the same percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

~~§ 2.10. 12 VAC 30-110-820.~~ Revisions to the community spouse resource allowance.

For the purposes of this article, a community spouse resource allowance may be revised if:

1. A department hearing officer determines on appeal that the income generated from the community spouse resource allowance as originally calculated as described in ~~§ 2.9 12 VAC 30-110-810~~ of this article is inadequate to raise the community spouse's income to the minimum amount to be deducted as a maintenance allowance in the post-eligibility determination made pursuant to ~~Part III of these regulations Subpart III (12 VAC 30-110-920 et seq.)~~; or
2. A department hearing officer determines on appeal that the original calculation was incorrect; or
3. The department determines that the original information with which the spousal share was calculated was incorrect; or
4. An institutionalized spouse transfers resources to a community spouse pursuant to a court order for spousal support.

~~§ 2.11. 12 VAC 30-110-830.~~ Additional resource exclusions.

If an institutionalized spouse has resources exceeding the appropriate Medicaid resource limit for one person, the following are deducted from his resources for the purpose of establishing eligibility, as appropriate:

1. The amount of resources which the institutionalized spouse has transferred to the community spouse or to other dependents pursuant to a court support order;
2. Any support rights of the institutionalized spouse spouse has assigned to the Commonwealth;
3. Any support rights which cannot be assigned due to the institutionalized spouse's legal incompetency and upon which the Commonwealth would have a legal right to recover against the community spouse;
4. An amount necessary to make the individual eligible if the department determines that the denial of Medicaid would create undue hardship as defined in ~~§ 1.1 of these regulations 12 VAC 30-110-720.~~

~~§ 2.12. 12 VAC 30-110-840.~~ Redetermination of eligibility of institutionalized spouses.

Beginning with the first calendar month following the date of the initial determination of eligibility, unless ~~§ 2.18 or 2.19 of these regulations 12 VAC 30-110-900 or 12 VAC 30-110-910~~ applies, the institutional spouse's continuing eligibility shall be determined based solely on resources held in his name. The community spouse's resources shall not be deemed available to the institutional spouse in the month following the initial month of ongoing eligibility.

~~§ 2.13. 12 VAC 30-110-850.~~ Post-eligibility resource transfers.

After an initial determination of eligibility and during the protected period specified in 12 VAC 30-110-860, an institutionalized spouse may transfer to his community

spouse any of the community spouse resource allowance which is not already titled to the community spouse. Any amount of the community spouse resource allowance which is not transferred pursuant to this section and which is not actually available to meet the community spouse's needs, shall be deemed available to the institutional spouse for the purpose of determining continuing eligibility.

~~§ 2.14. 12 VAC 30-110-860.~~ Protected periods of eligibility.

Subject to ~~§ 2.15 12 VAC 30-110-870~~, for 90 days after an initial determination of eligibility, an institutionalized spouse's eligibility shall be protected (i.e., the resources in the community spouse resource allowance shall not be attributed to the institutionalized spouse) to allow him time to legally transfer resources pursuant to ~~§ 2.13 12 VAC 30-110-850~~ if the institutionalized spouse expressly indicates his intention to effect such a transfer. Absent such an expression of intent, the protected period will not extend beyond the end of the month in which eligibility is being determined. The department may extend the protected period if it finds an extension is necessary.

~~§ 2.15. 12 VAC 30-110-870.~~ Exception to protected period of eligibility.

If, at the time of an initial determination of eligibility, a community spouse has title to resources equal to or exceeding his community spouse resource allowance, no protected period of eligibility shall exist. In this circumstance, an institutionalized spouse may transfer resources in any amount to the community spouse, pursuant to § 1917 of the Social Security Act, but there shall be no protected period of eligibility for doing so.

~~§ 2.16. 12 VAC 30-110-880.~~ Additional resources acquired during protected period of eligibility.

If a couple obtains additional resources during a protected period of eligibility, the additional resources shall be exempt during the protected period if:

1. The new resources combined with other resources that the institutionalized spouse intends to retain do not exceed the appropriate Medicaid resource limit for one person, or
2. The institutionalized spouse intends to transfer the new resources during the protected period of eligibility to the community spouse, and the community spouse's resources are less than the community spouse resource allowance.

~~§ 2.17. 12 VAC 30-110-890.~~ Resources transferred pursuant to § 1917 of the Act.

Provided transfers are made within one month of the initial determination of eligibility or within the protected period specified in 12 VAC 30-110-860, resources held by an institutionalized spouse shall not be counted in determining continuing eligibility when § 1917 transfers are made to parties for which there is no penalty for failure to receive equitable value, or transfer for which equitable value is received.

Final Regulations

~~§ 2.18.~~ 12 VAC 30-110-900. Resource eligibility determinations in retroactive periods.

A. First application for Medicaid. In each of the three months preceding an institutionalized spouse's first application for Medicaid in the current continuous period of institutionalization for which resource eligibility is to be determined, the community spouse resource allowance shall be deducted from the couple's combined countable resources.

B. Later applications for Medicaid. In later applications for the same period of institutionalization, including retroactive months, the community spouse resource allowance shall not be deducted ~~for~~ from the couple's combined countable resources except in the first month in the retroactive period for which eligibility is being determined.

~~§ 2.19.~~ 12 VAC 30-110-910. Eligibility for community spouses and other family members.

Resources are considered under the eligibility rules which would apply to the community spouse and other family members, regardless of the rules governing the institutionalized spouse.

PART III. Subpart III. Post-Eligibility Process.

Article 1. General.

~~§ 3.1.~~ 12 VAC 30-110-920. Applicability.

The post-eligibility process contained in ~~Part III of these regulations~~ *this subpart* shall apply to persons living in a nursing facility and to persons receiving services under home and community-based waivers. This process determines how much such persons contribute to the cost of their institutional care or waiver services.

Article 2. Income.

~~§ 3.2.~~ 12 VAC 30-110-930. Determining income.

A couple's income shall be determined as follows, without regard to state laws governing community property or division of marital property:

1. Income from nontrust property. Unless a department hearing officer determines that the institutionalized spouse has proven to the contrary by a preponderance of the evidence:

- a. Income paid to one spouse belongs to that spouse;
- b. Each spouse owns one-half of all income paid to both spouses jointly;
- c. Each spouse owns one-half of any income which has no instrument establishing ownership;
- d. Income paid in the name of either spouse, or both spouses and at least one other party, shall be considered available to each spouse in a proportionate share. When income is paid to both spouses and each spouse's individual interest is not specified,

consider one-half of their joint interest in the income as available to each spouse.

2. Income from trust property. Ownership of trust property shall be determined pursuant to the State Plan, except as follows:

a. Each member of a couple owns the income from trust property in accordance with the trust's specific terms.

b. If a trust instrument is not specific as to the ownership interest in income, ownership shall be determined as follows:

- (1) Income paid to one spouse belongs to that spouse;
- (2) One-half income paid to both spouses shall be considered available to each spouse;
- (3) Income from a trust paid in the name of either spouse, or both spouses and at least one other party, shall be considered available to each spouse in a proportionate share. When income from a trust is paid to both spouses and each spouse's individual interest is not specified, consider one-half of their joint interest in the income as available to each spouse.

Article 3. Patient Pay.

~~§ 3.3.~~ 12 VAC 30-110-940. Applicability.

After all appropriate deductions pursuant to ~~§§ 3.4, 3.5, and 3.6~~ 12 VAC 30-110-950 through 12 VAC 30-110-970 have been made from an institutionalized spouse's gross monthly income pursuant to this article, the balance shall constitute the amount the institutionalized spouse shall pay for institutional or waiver services.

~~§ 3.4.~~ 12 VAC 30-110-950. Mandatory deductions from institutionalized spouse's income.

The following amounts shall be deducted from the institutionalized spouse's gross monthly income:

1. A personal needs allowance of \$30; and
2. The community spouse maintenance allowance as calculated pursuant to ~~§ 3.5~~ 12 VAC 30-110-960; and
3. The family maintenance allowance, if any, as calculated pursuant to ~~§ 3.6~~ 12 VAC 30-110-970; and
4. Incurred medical and remedial care expenses recognized under state law, not covered under the State Plan and not subject to third party payment.

~~§ 3.5.~~ 12 VAC 30-110-960. Community spouse maintenance allowance.

A. The community spouse maintenance allowance shall be the greatest of the following amounts:

1. The total of the community spouse maintenance needs standard and the excess shelter allowance; or
2. An amount set in a spousal support court order; or

3. An amount determined necessary by a department hearing officer because of exceptional circumstances resulting in extreme financial duress.

B. Deductions are not made from the income of the institutionalized spouse income when the allowances are not actually made available to the community spouse.

~~§ 3.6.~~ 12 VAC 30-110-970. Family members maintenance needs allowance.

A. An amount equal to 1/3 of the minimum monthly standard for the community spouse, without regard to excess shelter allowances, minus each family member's income, shall be deducted for the maintenance of each family member.

B. This allowance is to be deducted regardless of whether the institutionalized spouse actually makes the allowance available to the family member.

~~PART IV.~~
~~Subpart IV.~~
Appeals.

Article 1.
General.

~~§ 4.1.~~ 12 VAC 30-110-980. Applicability.

The appeals process contained in ~~Part IV of these regulations~~ *this subpart* shall apply to appeals of initial determinations and redeterminations of resources and income amounts and allowances made in connection with applications for Medicaid benefits by spouses institutionalized for a continuous period on or after September 30, 1989, or receiving waived services for a continuous period on or after September 30, 1989, pursuant to existing Client Appeals regulations (*Part 1 (12 VAC 30-110-10 et seq.) of this chapter*).

Article 2.
Notification.

~~§ 4.2.~~ 12 VAC 30-110-990. Notices.

Written notices are to be provided to the institutionalized spouse and the community spouse advising them of:

1. The amounts deducted for spousal and family allowances used in the post-eligibility calculation; and
2. Their rights to appeal the amounts deducted in the calculations for determining the spousal and family allowances used in the post-eligibility calculation.

~~§ 4.3.~~ 12 VAC 30-110-1000. Regulatory authority.

Hearings and appeals held for the purpose of ~~§ 4.1~~ 12 VAC 30-110-980 are consistent with regulations at 42 CFR § 431, Subpart E.

~~§ 4.4.~~ 12 VAC 30-110-1010. Hearing officer authority.

Through the appeals process applicable as described in ~~§ 4.1 of these regulations~~ 12 VAC 30-110-980, hearing officers shall prescribe appropriate increases in spousal maintenance allowances in the event they determine that exceptional circumstances exist which cause *significant* financial duress to the community spouse.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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

January 5, 1996

Mr. Robert C. Metcalf, Director
Department of Medical Assistance Services
600 East Broad Street
Richmond, VA 23219

Dear Mr. Metcalf:

This letter acknowledges receipt of VR 460-04-8.6, Spousal Impoverishment, from the Department of Medical Assistance Services.

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

Sincerely,

E. M. Miller, Jr./jc

E. M. Miller, Jr.
Acting Registrar of Regulations

BOARD OF VETERINARY MEDICINE

Title of Regulation: ~~VR 645-01-1, 18 VAC 150-20-10 et seq.~~
Regulations Governing the Practice of Veterinary Medicine.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Effective Date: February 21, 1996.

Summary:

The Board of Veterinary Medicine has amended its regulations to reduce fees for initial licensure and renewal for the fiscal years of 1996 and 1997. In addition, the board has permanently reduced the fee to take the state board jurisprudence examination and for licensure reinstatement. Public participation guidelines are now contained in a separate set of regulations.

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 Pamela Twombly, Acting Executive Director, Board of Veterinary Medicine, 6606 West Broad Street, Richmond, VA 23230, telephone (804) 662-9915.

18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.

CHAPTER 20.
 REGULATIONS GOVERNING THE PRACTICE OF
 VETERINARY MEDICINE.

PART I.
 GENERAL PROVISIONS.

~~§ 1.1. 18 VAC 150-20-10. Definitions.~~

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

"*Animal facility*" or "*veterinary facility*" means any fixed or mobile establishment, veterinary hospital, animal hospital or premises wherein or whereon or out of which veterinary medicine is practiced.

"*Automatic emergency lighting*" is lighting which is powered by battery, generator, or alternate power source other than electrical power, is activated automatically by electrical power failure, and provides sufficient light to complete surgery or to stabilize the animal until surgery can be continued or the animal moved to another facility.

"*Board*" means the Virginia Board of Veterinary Medicine.

"*Controlled substance*" means a drug, substance, or immediate precursor in Schedules I through VI of Article 5, (§ 54.1-3443 et seq.) of Chapter 34, of Title 54.1 of the Code of Virginia, which includes legend drugs that bear the warning "Caution, Federal Law restricts this drug to use by or on the order of a licensed veterinarian."

"*Full service facility*" means a stationary facility which shall provide surgery and encompass all aspects of health care for small or large animals or both.

"*Inactive practitioner*" means a veterinarian currently licensed by the board but not engaged in the practice of veterinary medicine in the Commonwealth.

"*Large animal ambulatory facility*" means a mobile practice in which health care of large animals, including surgery, is performed at the location of the animal.

"*Practitioner*" means a veterinarian currently licensed by the board.

"*Preceptorship*" or "*clerkship*" means a formal arrangement between a college of veterinary medicine approved by the board and a veterinarian licensed by the board, in which a veterinary medical student in his final year, enrolled in such college, obtains practical training in the practice of veterinary medicine under the immediate and direct on-premises supervision of the veterinarian.

"*Professional judgment*" includes any decision or conduct in the practice of veterinary medicine, as defined by § 54.1-3800 of the Code of Virginia.

"*Schools or colleges accredited by the AVMA*" means schools accredited by the American Veterinary Medical Association.

"*Small animal house call facility*" means a mobile practice in which health care of small animals is performed at the residence of the owner of the small animal.

"*Small animal outpatient facility*" means a stationary facility where health care of small animals is performed and may include surgery under certain conditions. Overnight hospitalization shall not be required.

"*Surgery*" means any invasive or manipulative procedure that requires anesthesia, sedation, or other restraint.

"*Surgical lighting*" is lighting which is designed to give off a concentrated light source, not give off harmful heat, is movable over the entire surface of the surgical table, and is shielded to prevent glass shatter.

"*Veterinarian in charge*" means the licensed veterinarian at each registered animal facility who is responsible for maintaining the facility within the standards for facilities set by the regulations, for complying with federal and state drug laws, and for notifying the board of the facility's closure.

"*Veterinary technician*" means a licensed animal technician as defined in § 54.1-3806 of the Code of Virginia.

~~§ 1.2. Public participation guidelines. 18 VAC 150-20-20. [Repealed.]~~

~~A. Mailing list. The executive director of the board shall maintain a list of persons and organizations who will be mailed the following documents as they become available:~~

- ~~1. "Notice of intent" to promulgate regulations.~~
- ~~2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulations.~~
- ~~3. Final regulations adopted.~~

~~B. Being placed on or deleted from list. Any person wishing to be placed on the mailing list may do so by writing~~

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~~the board. In addition, the board at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formulation or promulgation of regulations. Those on the list may be provided all information stated in subsection A of this section.~~

~~Those on the list may be periodically requested to indicate their desires to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.~~

~~C. Notice of intent. At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.~~

~~D. Informational proceedings or public hearings for existing rules. At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately or in conjunction with other informational proceedings.~~

~~E. Petition for rulemaking. Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.~~

~~F. Notice of formulation and adoption. Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.~~

~~G. Advisory committees. The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formulation, promulgation, adoption and review of regulations.~~

~~§ 1.3. 18 VAC 150-20-30. Register of practitioners, veterinary technicians and animal facilities.~~

~~A. Register of practitioners and veterinary technicians. The executive director as directed by the board shall record in a book to be kept for such purposes, the names of all practitioners of veterinary medicine and holders of certificates as veterinary technicians to whom licenses or certificates are issued as provided by law. The book shall be styled and recognized as the register of practitioners of veterinary medicine and holders of licenses as veterinary technicians in Virginia and it shall be admissible in evidence as a regularly~~

~~kept record of the board. Such register shall be available for inspection during business hours in the board office. The board shall insert in the register any alteration in the name of any licensed person as it receives proof satisfactory to the board. A separate record shall be maintained of all addresses.~~

~~B. Register of animal facilities. The executive director of the board shall record in a book to be kept for such purposes the names of all animal facilities. Such book shall list the name and permit number of the animal facility and shall be admissible in evidence as a regularly kept record of the board.~~

~~C. Accuracy of address. It shall be the duty and responsibility of each licensee and holder of a registration permit to operate an animal facility to keep the board apprised at all times of his current address. All notices required by law or by these regulations *this chapter* to be mailed to any veterinarian, veterinary technician, or holder of a permit to operate an animal facility, shall be validly given when mailed to the address furnished to the board pursuant to this regulation. All address changes shall be furnished to the board within 30 days of such change.~~

~~§ 1.4. 18 VAC 150-20-40. Filing date.~~

~~Completed applications for certification and licensure shall be filed with the board office at least 45 days prior to the announced date of the examination.~~

~~§ 1.5. 18 VAC 150-20-50. Records.~~

~~All completed applications and supporting papers submitted to the board with the application become a part of the applicant's examination records and become the property of the board.~~

~~§ 1.6. 18 VAC 150-20-60. Issuance of licenses.~~

~~The board shall issue to each applicant who fulfills the requirements for licensure as a veterinarian or a veterinary technician a license as appropriate. Each license shall be subscribed by the president and secretary of the board and shall have affixed to it the seal of the board.~~

~~§ 1.7. 18 VAC 150-20-70. Renewal requirements.~~

~~A. Every person authorized by the board to practice veterinary medicine shall, before March 1 of every year, pay to the board a renewal fee as prescribed in § 1.10 of these regulations 18 VAC 150-20-100 and every holder of a license of veterinary technology shall, in a like manner, pay a renewal fee as prescribed in § 1.10 18 VAC 150-20-100.~~

~~1. The board shall mail to each licensed person a notice to renew his license prior to the expiration of the license.~~

~~2. It shall be the responsibility of each person so licensed to return the renewal application with the prescribed fee so that it will be received by the board prior to the expiration date of his license. Failure to renew shall cause the license to lapse and become invalid.~~

~~3. A veterinarian's or veterinary technician's license may be renewed up to one year after the expiration date, provided a late fee as prescribed in § 1.10 18 VAC 150-~~

20-100 is paid in addition to the required renewal fee and further provided that the veterinarian or veterinary technician has not intentionally engaged in practice in Virginia after the expiration date of the license.

4. Reinstatement of licenses expired for one year or more shall be at the discretion of the board. The board shall require documentation of clinical competency and professional activities, and may require examination in addition to the prescribed reinstatement fee and the current renewal fee as conditions for reinstatement of a license.

B. A new facility shall apply for registration with the board at least 60 days prior to opening for practice and pay to the board a registration fee as prescribed in ~~§ 4.10~~ 18 VAC 150-20-100 at the time of application.

1. Every such animal facility so registered shall be required to renew the registration permit annually and pay to the board a registration fee as prescribed in ~~§ 4.10~~ of these regulations 18 VAC 150-20-100.

2. Failure to renew the facility permit by March 1 of each year shall cause the permit to expire and become invalid. The permit may be reinstated without reinspection, within 60 days of expiration, provided the board receives a properly executed renewal application and a late fee as prescribed in ~~§ 4.10~~ 18 VAC 150-20-100 in addition to the required renewal fee. Reinstatement of an expired permit after 60 days shall be at the discretion of the board and contingent upon a reinspection and payment of the late fee, the reinspection fee, the renewal fee and the facility reinstatement fee.

3. Every new animal facility or an animal facility which changes location shall be inspected, approved and registered by the board prior to opening for the practice of veterinary medicine. Applications are to be made at least 60 days prior to the proposed opening date of the animal facility. If more than one inspection is required for approval, the reinspection fee shall be imposed for each additional inspection.

~~§ 4.8.~~ 18 VAC 150-20-80. Licenses and registrations to be displayed.

A. Veterinarians.

1. Each licensed veterinarian shall publicly post his current Virginia license to practice veterinary medicine in the facility where he practices.

2. Each licensed veterinarian administering, prescribing or dispensing Schedule II-V drugs shall obtain and maintain on the premises a controlled substances registration certificate from the Virginia Board of Pharmacy as required by § 54.1-3422 of the Code of Virginia.

B. Veterinary technicians. Each licensed veterinary technician shall publicly post his current Virginia license as a veterinary technician at the facility of the employing veterinarian.

C. Animal facilities. Each animal facility shall publicly post the current Virginia registration permit to operate such a facility.

~~§ 4.9.~~ 18 VAC 150-20-90. Reinstatement.

Any person who has had his license or permit suspended or revoked as herein provided may, at any time, apply to the board for relicensure or reregistration. Accordingly, such person may petition the board for a hearing, and the provisions of the Administrative Process Act shall apply.

~~§ 4.10.~~ 18 VAC 150-20-100. Fees.

<i>Fiscal Year:</i>	1995	1996	1997	<i>Thereafter</i>
Veterinary state board examination fee	\$125	25	25	25
Veterinary initial license or renewal fee (active)	125	25	60	125
Initial veterinary license fee for October exam (active)	65	25	25	65
Veterinary license renewal fee (inactive)	50	10	20	50
Veterinary license renewal late fee	25	25	25	25
Veterinarian reinstatement fee	250	200	200	200
Veterinary technician national board examination fee	75	75	75	75
Veterinary technician state board examination fee	25	25	25	25
Veterinary technician initial license or renewal fee	25	5	10	25
Veterinary technician license renewal late fee	25	25	25	25
Veterinary technician reinstatement fee	50	50	50	50
Initial animal facility permit registration fee	100	100	100	100
Animal facility renewal fee	50	25	35	50
Animal facility renewal late fee	25	25	25	25
Animal facility reinstatement fee	100	100	100	100
Animal facility reinspection fee	100	100	100	100
Animal facility--change of location fee	100	100	100	100
Animal facility--change of veterinarian-in-charge fee	20	20	20	20
Duplicate certificate fee	20	20	20	20

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PART II. VETERINARIANS.

~~§-2.4.~~ 18 VAC 150-20-110. Requirements for licensure as a veterinarian.

A. The applicant, in order to be licensed by the board to practice veterinary medicine, shall:

1. Have received a degree in veterinary medicine from a college or school of veterinary medicine approved by the board; or have fulfilled the requirements of the Educational Commission of Foreign Veterinary Graduates (E.C.F.V.G.) of the American Veterinary Medical Association;
2. File the following documents with the board at least 45 days prior to the announced date of examination:
 - a. A complete and notarized application on a form obtained from the board;
 - b. An official copy, indicating veterinary degree, of the applicant's college or school transcript;
 - c. One passport photograph of reasonable likeness of the applicant taken within six months of the date of the application;
 - d. Certified check, cashier's check, or money order, payable to the Treasurer of Virginia, as prescribed in ~~§ 4.40~~ 18 VAC 150-20-100 for the examination fee and the applicable licensing fee; and
 - e. Certification of good standing by each board from which the applicant holds a license to practice veterinary medicine.
3. Pass the following examinations with a score on each determined acceptable by the board:
 - a. The national board examination;
 - b. The national clinical competency test; and
 - c. A written examination administered by the board which shall embrace such subjects as the board shall from time to time prescribe.
4. Have committed no acts which would constitute a violation of § 54.1-3807 of the Code of Virginia.

B. Reexamination.

1. The national board examination, national clinical competency test scores, and the transcripts required pursuant to this regulation chapter shall be acceptable as part of the application for reexamination for a period of two years following the date of the original examination. The board-administered written examination scores shall be acceptable for a period of one year.
2. All requests for reexamination shall be filed with the board at least 45 days prior to the date of examination which the applicant wishes to take. Such requests shall be accompanied by an updated application, one passport photograph of the applicant taken within six months of the date of the application, and a fee in the amount prescribed in ~~§ 4.40~~ 18 VAC 150-20-100.

~~§-2.2.~~ 18 VAC 150-20-120. Requirements for licensure by endorsement.

A. The board may, in its discretion, grant a license by endorsement to an applicant who is licensed to practice veterinary medicine in another state, the District of Columbia or possessions or territories of the United States, and who has been continuously engaged in clinical practice for five years or more prior to the date of application provided that:

1. The applicant passes the written examination administered by the board;
2. The applicant has met all of the other requirements of ~~§-2.4~~ 18 VAC 150-20-110, provided however that the board may, in its discretion, waive the requirement that the applicant pass the national board exam or the clinical competency test, or both, if the applicant has been continuously engaged in clinical practice during the immediately preceding five years.

~~§-2.3.~~ 18 VAC 150-20-130. Requirements for practical training in a preceptorship.

The practical training and employment of qualified students of veterinary medicine by licensed veterinarians shall be governed and controlled as follows:

1. No student shall be qualified to receive practical training by a licensed veterinarian nor shall a licensed veterinarian give practical training to any student unless such student shall be duly enrolled and in good standing in a veterinary college or school, and shall be engaged in a preceptorship as defined by the board and authorized by his college or school.
2. No student receiving practical training from a licensed veterinarian shall at any time discharge or perform any function or act pertaining to the practice of veterinary medicine, except under the immediate and direct on-premises supervision of a veterinarian licensed by the board.

~~§-2.4.~~ 18 VAC 150-20-140. Unprofessional conduct.

Unprofessional conduct as referenced in § 54.1-3807(5) of the Code of Virginia, shall include the following:

1. Representing conflicting interests except by express consent of all concerned given after a full disclosure of the facts. Acceptance of a fee from both the buyer and the seller is prima facie evidence of a conflict of interest.
2. Practicing veterinary medicine where an unlicensed person has the authority to control the professional judgment of the licensed veterinarian.
3. Issuing a certificate of health unless he shall know of his own knowledge by actual inspection and appropriate tests of the animals that the animals meet the requirements for the issuance of such certificate on the day issued.
4. Violating the confidential relationship between himself and his clients.

5. Advertising in a manner which is false, deceptive, or misleading or which makes subjective claims of superiority.
6. Failing to maintain an animal facility as set forth by ~~these regulations~~ *this chapter*.
7. Practicing veterinary medicine in an animal facility that is not currently registered. This shall not apply to emergency situations.
8. Violating any state law, federal law, or board regulation pertaining to the dispensing or recordkeeping requirement, or both, for controlled substances or pertaining to the practice of veterinary medicine.
9. Dispensing or prescribing controlled substances not in the course of professional practice or when a bonafide veterinarian/client/patient relationship has not been established.
10. Permitting a person other than a licensed veterinarian, licensed veterinary technician, or person otherwise duly certified in x-ray technology to operate diagnostic radiographic equipment.
11. Permitting a person other than a licensed veterinarian or a licensed veterinary technician to induce anesthesia.
12. Practicing veterinary medicine in such a manner as to endanger the health and welfare of his patients or the public; or being unable to practice veterinary medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition.
13. Performing surgery on small animals in an unlicensed facility or a facility not equipped with a surgery suite and adequate recovery area or performing surgery on large animals not in accordance with accepted standards of practice.
14. Failing to pay any required fees.
15. Failing to pay board-imposed fines.
16. Refusing the board or its agent the right to inspect a facility at reasonable hours.
17. Prescribing or dispensing, or both, controlled substances, including anabolic steroids for human use.
18. Allowing a preceptee to diagnose, prescribe, or perform surgery unless under the direct, on-premises supervision of a licensed veterinarian.
19. Practicing veterinary medicine in the Commonwealth while license is on inactive status.

PART III.

LICENSED VETERINARY TECHNICIANS.

~~§ 3.4.~~ 18 VAC 150-20-150. Requirements for licensure as veterinary technician.

A. The applicant, in order to be licensed by the board as a veterinary technician, shall:

1. Have received a degree in veterinary technology from a college or school approved by the American Veterinary Medical Association;
 2. File the following documents with the board at least 45 days prior to the announced date of examination:
 - a. A complete and notarized application on a form obtained from the board;
 - b. An official copy, indicating a veterinary technology degree, of the applicant's college or school transcript;
 - c. One passport photograph of reasonable likeness of the applicant taken within six months of the date of the application;
 - d. Certified check, cashier's check, or money order, payable to the Treasurer of Virginia, as prescribed in ~~§ 4.40~~ 18 VAC 150-20-100, for the examination fee and the applicable licensure fee; and
 - e. Certification that the applicant is in good standing by each board from which the applicant holds a license/certificate/registration to practice animal technology.
 3. Pass the following examinations with a score on each determined acceptable by the board:
 - a. The national board examination for veterinary technicians; and
 - b. A written examination administered by the board. The board shall administer this examination at least once annually. The board shall determine the subject matters included on this examination.
- B. Reexamination.
1. The national board scores and transcript required pursuant to this regulation shall be acceptable as part of the application for reexamination for a period of two years following the date of the original examination. The board-administered written examination shall be acceptable for a period of one year.
 2. Any veterinary technician applicant failing to pass either part of the examination shall be reexamined at his request, at the next scheduled examination administered by the board, on the part of the examination failed. If the applicant fails to pass this reexamination, he will be required to pass a subsequent examination in its entirety.
 3. All requests for reexamination shall be filed with the board at least 45 days prior to the date of examination which the applicant wishes to take. Such requests shall be accompanied by an updated application, one passport photograph of the applicant taken within six months of the date of this application, and a fee in the amount prescribed in ~~§ 4.40~~ 18 VAC 150-20-100.

~~§ 3.2.~~ 18 VAC 150-20-160. Requirements for licensure by endorsement.

A. The board, at its discretion, may also grant a license by endorsement to a technician licensed, certified or registered in another state, the District of Columbia or possessions or territories of the United States based on a written

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examination administered by the board to an applicant who has not taken the national board examination, provided that:

1. The applicant has met all of the other requirements of § 3.1 18 VAC 150-20-150; and
2. The applicant has been issued a license as a veterinary technician in another state whose requirements are at least equal to those of Virginia.

§ 3.3. 18 VAC 150-20-170. Unprofessional conduct.

Unprofessional conduct as referenced in § 54.1-3807(5) of the Code of Virginia, shall include the following:

1. Compromising the confidentiality of the doctor/client relationship.
2. Practicing veterinary technology in an animal facility that is not currently registered. This shall not apply to emergency situations.
3. Violating any state law, federal law, or board regulation pertaining to the use of controlled substances or any provisions pertaining to the practice of veterinary medicine.
4. Diagnosing, performing surgery, or prescribing drugs.

PART IV. ANIMAL FACILITIES.

§ 4.1. 18 VAC 150-20-180. Requirements to be registered as an animal facility.

A. Every animal facility must possess an appropriate permit to operate. Veterinary medicine may only be practiced out of a registered facility. Applications must be made to the board 60 days in advance of opening or changing the location or designating a veterinarian in charge of the facility.

B. An animal facility will be registered by the board when:

1. It is inspected by the board and is found to meet the standards set forth by ~~§§ 4.2 and 4.3 of these regulations~~ 18 VAC 150-20-190 and 18 VAC 150-20-200 where applicable. If, during a new or routine facility inspection, violations or deficiencies are found necessitating a reinspection, the prescribed reinspection fee will be levied. Failure to pay the fee shall be deemed unprofessional conduct and, until paid, the facility shall be deemed to be unregistered.
2. A veterinarian currently licensed by and in good standing with the board is registered with the board in writing as veterinarian-in-charge and has paid the facility registration fee.

a. The veterinarian-in-charge is responsible for:

- (1) Maintaining the facility within the standards set forth by ~~§§ 4.2 and 4.3 of these regulations~~ 18 VAC 150-20-190 and 18 VAC 150-20-200;
- (2) Performing the biennial controlled substance inventory and ensuring compliance at the facility with any federal or state law relating to controlled substances as defined in § 54.1-3404 of the Code of Virginia;

(3) Notifying the board in writing of the closure of the permitted facility 10 days prior to closure.

b. Upon any change in veterinarian-in-charge, these procedures shall be followed:

(1) An application for a new permit, naming the new veterinarian-in-charge, shall be made 10 days prior to the change of the veterinarian-in-charge. This application shall be accompanied by a certified check, cashier's check or money order, payable to the Treasurer of Virginia, as prescribed by § 4.10 18 VAC 150-20-100.

(2) The previous facility permit is void on the date of the change of veterinarian-in-charge and shall be returned by the former veterinarian-in-charge to the board 10 days following the date of change.

(3) Prior to the opening of the business, on the date of the change of veterinarian-in-charge, the new veterinarian-in-charge shall take a complete inventory of all Schedule II-V drugs on hand. He shall date and sign the inventory and maintain it on-premises for two years. Unless the change of the veterinarian-in-charge is in conjunction with a change of ownership, this would not change the official biennial controlled substance inventory date.

§ 4.2. 18 VAC 150-20-190. Requirements for drug storage, dispensing, destruction, and records for all facilities, full service and restricted.

A. All drugs shall be maintained, administered, dispensed, prescribed and destroyed in compliance with state and federal laws.

B. All repackaged tablets and capsules dispensed for companion animals shall be in approved safety closure containers, except safety caps shall not be required when any person who requests that the medication not have a safety cap, or in such cases in which the medication is of such form or size that it cannot be reasonably dispensed in such containers (e.g., topical medications, ophthalmic, or otic).

C. All drugs dispensed for companion animals shall be labeled with the following:

1. Name and address of the facility;
2. Name of client;
3. Animal identification;
4. Date dispensed;
5. Directions for use;
6. Name, strength (if more than one dosage form exists), and quantity of the drug; and
7. Name of the prescribing veterinarian.

D. All drugs shall be maintained in a secured manner with precaution taken to prevent diversion.

1. All Schedule II drugs shall be maintained under lock at all times, with access to the veterinarian only, provided, however, that a working stock of Schedule II

drugs under separate lock may be accessible to the licensed veterinary technician.

2. Whenever a veterinarian discovers a theft or any unusual loss of Schedule II, III, IV, or V drugs, he shall immediately report such theft or loss to the Board of Veterinary Medicine, to the Virginia Board of Pharmacy and to the U.S. Drug Enforcement Administration.

E. Schedule II, III, IV and V drugs may be destroyed by an investigator of the Virginia Department of Health Professions, the U.S. Drug Enforcement Administration or, if a veterinarian-in-charge wishes to destroy unwanted Schedule II through V drugs kept for dispensing in lieu of any disposal method provided by regulations promulgated by the U.S. Drug Enforcement Administration, he shall use the following procedures:

1. At least 14 days prior to the destruction date, the veterinarian-in-charge shall provide a written notice to the Board of Veterinary Medicine. The notice shall state the following:

- a. Date, time, manner and place of destruction;
- b. The names of the veterinarians who will witness the destruction process.

2. If the destruction date is changed or the destruction does not occur, a new notice shall be provided to the board as set forth in ~~§ 4.2 E 1~~ *above subdivision 1 of this subsection*;

3. Drug Destruction Form No. 41 from the U.S. Drug Enforcement Administration shall be used to record all drugs destroyed;

4. The drugs shall be destroyed by burning in an incinerator or flushing if permitted by the municipality; and

5. The actual destruction shall be witnessed by the veterinarian-in-charge and by another veterinarian neither associated with nor employed by the veterinarian-in-charge.

6. Each destruction form shall show the following information:

- a. Legible signatures of the veterinarian-in-charge and the other veterinarian witnessing the destruction;
- b. The Board of Veterinary Medicine license numbers of the veterinarian-in-charge and the other witnessing veterinarian;
- c. The date of the destruction;
- d. Name and quantity of the drugs destroyed; and
- e. Manner of destruction.

7. At the conclusion of the destruction of the drug stock, copies of the completed Drug Destruction Form No. 41 shall be distributed as follows:

- a. The original and one copy shall be sent to the U.S. Drug Enforcement Administration at one of the following addresses:

(1) Facilities with zip codes beginning with the numbers 230 through 249 inclusive should mail their forms to the U.S. Drug Enforcement Administration, 8600 Staples Mill Road, Suite B, Richmond, Virginia 23228;

(2) Facilities with zip codes beginning with any numbers other than those listed above should mail their forms to the U.S. Drug Enforcement Administration, Washington Field Division, 400 Sixth Street SW, Room 2558, Washington, DC 20024.

b. One copy shall be sent to the Board of Veterinary Medicine; and

c. One copy shall be retained with the animal facility's records of Schedule II-V drugs.

F. The drug storage area shall have appropriate provision for temperature control for all drugs and biologics. The stock of drugs shall be reviewed frequently and removed from the working stock of drugs at the expiration date.

G. A distribution record shall be maintained in addition to the patient's record, in chronological order, for the administration and dispensing of all Schedule II-V drugs.

This record is to be maintained for a period of two years from the date of transaction. This record shall include the following:

1. Date of transaction;
2. Drug name, strength, and the amount dispensed, administered and wasted;
3. Client and animal identification; and
4. Identification of the veterinarian authorizing the administration or dispensing of the drug.

H. Invoices for all Schedule II, III, IV and V drugs received shall be maintained in chronological order on the premises where the stock of drugs is held. Invoices for Schedule II drugs shall be maintained separately from other records. All drug records shall be maintained for a period of two years from the date of transaction.

I. A complete and accurate inventory of all Schedule II, III, IV and V drugs shall be taken, dated, and signed on the same day every two years. Drug strength must be specified. This inventory shall indicate if it was made at the opening or closing of business and shall be maintained on the premises where the drugs are held for two years from the date of taking the inventory.

~~§ 4.3. 18 VAC 150-20-200.~~ Standards for facilities.

A. Full-service facilities. A full-service facility is a stationary facility which shall provide surgery and encompass all aspects of health care for small or large animals or both. All full-service facilities shall meet the requirements set forth below:

1. Buildings and grounds must be maintained to provide sanitary facilities for the care and medical well being of patients.

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- a. Temperature. The facility shall be equipped so as to maintain temperatures between 59°F and 86°F consistent with the medical well-being of the patients.
 - b. Ventilation. The facility shall be equipped with the capacity to ventilate consistent with the medical well-being of the animals.
 - c. Lighting. The facility shall be equipped with lighting commensurate with the procedures performed.
 - d. Water and waste. There shall be on-premises:
 - (1) Hot and cold running water of drinking quality, as defined by the Virginia Department of Health;
 - (2) Sanitary toilet and lavatory for the personnel and for the clients;
 - (3) An acceptable method of disposal of deceased animals; and
 - (4) Refrigeration exclusively for carcasses of companion animals that require storage for 24 hours or more.
2. Areas within building. The areas within the facility shall include the following:
- a. A reception area separate from other designated rooms;
 - b. Examination room(s);
 - c. Surgery. Surgery shall be performed in a room which is reserved only for surgery and used for no other purpose. Surgery shall not serve as a corridor. In order that surgery can be performed in a manner compatible with current veterinary medical practice with regard to anesthesia, asepsis, life support, and monitoring procedures, the surgery room shall:
 - (1) Be of a size adequate to accommodate a surgical table, anesthesia support equipment, surgical supplies, the veterinarian, an assistant, and the patient; and
 - (2) Be kept so that storage in the surgery room shall be limited to items and equipment normally related to surgery and surgical procedures.
 - d. Laboratory. The animal facility shall have, as a minimum, proof of use of either in-house laboratory service or consultant laboratory services for performing the following lab tests, consistent with appropriate professional care for the species treated:
 - (1) Urinalysis, including microscopic examination of sediment;
 - (2) Complete blood count, including differential;
 - (3) Flotation test for ova of internal parasites;
 - (4) Skin scrapings for diagnosing external parasites;
 - (5) Examinations for circulating blood microfilaria;
 - (6) Blood chemistries;
 - (7) Cultures and sensitivities;
 - (8) Biopsy;
 - (9) Complete necropses, including histopathology; and
 - (10) Serology.
- e. Animal housing areas. These shall be provided with:
- (1) Separate compartments constructed in such a way as to prevent residential contamination;
 - (2) Accommodations allowing for the effective separation of contagious and noncontagious patients; and
 - (3) Exercise runs which provide and allow effective separation of animals or walking the animals at medically appropriate intervals.
3. Radiology. An animal facility shall:
- a. Have proof of use of either in-house or consultant services for obtaining diagnostic-quality radiographs.
 - b. If radiology is in-house:
 - (1) Each radiograph shall be permanently imprinted with the identity of the facility or veterinarian, patient and the date of exposure. Each radiograph shall also distinguish left from right, when appropriate by permanent imprinting.
 - (2) Document that radiographic equipment complies with all requirements of ~~§ 7-10~~ 12 VAC 5-480-8520, Veterinary Medicine Radiographic Installations, of the Virginia Department of Health document, "Ionizing Radiation Rules and Regulations" (1988), which requirements are adopted by this board and incorporated herewith by reference in these regulations *this chapter*.
 - c. Maintain radiographs with and as a part of the patient's record. If a radiograph is transferred to another facility, a record of this transfer must be maintained on or with the patient's records.
4. Equipment; minimum requirements.
- a. Examination room.
 - (1) Table with nonporous surface;
 - (2) Waste receptacle; and
 - (3) Sanitizing solution.
 - b. Surgery suite.
 - (1) Surgical table with nonporous surface;
 - (2) Surgical supplies, instruments and equipment commensurate with the kind of surgical services provided;
 - (3) All new small animal facilities that perform surgeries and all existing facilities that change their veterinarian-in-charge will be required to have a circle gas anesthesia machine.
 - (4) Automatic emergency lighting;

- (5) Surgical lighting;
- (6) Instrument table, stand, or tray; and
- (7) Waste receptacle.

c. Radiology (if in-house).

- (1) Lead aprons;
- (2) Lead gloves;
- (3) Radiation exposure badges;
- (4) X-ray machine.

d. Drug storage area.

- (1) Refrigerator, with interior thermometer maintained between 36°F and 46°F;
- (2) Locked storage for Schedule II drugs;
- (3) Drugs stored at room temperature shall be maintained between 59°F and 86°F.

e. General equipment.

- (1) Steam pressure sterilizer;
- (2) Internal and external sterilization monitors;
- (3) Stethoscope;
- (4) Thermometer;
- (5) Ophthalmoscope;
- (6) Otoscope;
- (7) Equipment for delivery of assisted ventilation, including but not necessarily limited to:
 - (a) A resuscitation bag; and
 - (b) Endotracheal tubes.
- (8) Scales; and
- (9) Storage for records.

5. Recordkeeping. Every veterinarian shall keep a written daily record of the animals he treats. This record shall include pertinent medical data such as drugs administered, dispensed or prescribed, and all relevant medical and surgical procedures performed.

- a. Client records shall be kept for a period of three years following the last office visit or discharge of such animal from a veterinary facility.
- b. Individual records shall be maintained on each patient, except that records for economic animals may be maintained on a per client basis.
- c. An animal identification system must be used by the facility.

6. Disclosure of staffing hours. Every animal facility shall conspicuously post a sign which indicates the hours that the facility is staffed.

B. Restricted facilities. When the scope of practice is less than full service, a specifically restricted facility permit shall be required. Upon satisfactory inspection and payment of the

permit fee, a restricted facility permit will be issued. Such restricted facilities shall have posted in a conspicuous manner the specific limitations on the scope of practice on a form acceptable to the board.

1. Large animal facility, ambulatory practice. A large animal ambulatory facility is a mobile practice in which health care of large animals is performed at the location of the animal. Surgery on large animals may be performed as part of a large animal ambulatory practice. All large animal ambulatory facilities shall meet the requirements set forth below:

a. Laboratory. At a minimum, proof of use of either in-house laboratory service or consultant laboratory services for performing the following lab tests, consistent with appropriate professional care for the species treated:

- (1) Urinalysis, including microscopic examination of sediment;
- (2) Complete blood count, including differential;
- (3) Flotation test for ova of internal parasites;
- (4) Skin scrapings for diagnosing external parasites;
- (5) Blood chemistries;
- (6) Cultures and sensitivities;
- (7) Biopsy;
- (8) Complete necropses, including histopathology; and
- (9) Serology.

b. Radiology. A large animal ambulatory facility shall have the following:

- (1) Proof of use of either in-house or consultant services for obtaining diagnostic-quality radiographs.
- (2) If radiology is in-house.

(a) Each radiograph shall be permanently imprinted with the identity of the facility or veterinarian, the patient and the date of exposure. Each radiograph shall also distinguish left from right, when appropriate, by permanent imprinting.

(b) Document that radiographic equipment complies with all requirements of § 7-10 12 VAC 5-480-8520, Veterinary Medicine Radiographic Installations of the Virginia Department of Health document, "Ionizing Radiation Rules and Regulations" (1988), which requirements are adopted by this board and incorporated herewith by reference in these regulations *this chapter*.

(3) Maintain radiographs with and as a part of the patient's record. If the radiograph is transferred to another facility, documentation of this transfer shall be maintained on or with the client's record.

c. Equipment; minimum requirements.

Animal Regulations

(1) Surgical supplies, instruments and equipment commensurate with the kind of surgical services provided;

(2) Radiology (if in-house):

- (a) Lead aprons;
- (b) Lead gloves;
- (c) Radiation exposure badges;
- (d) X-ray machine.

(3) Drug storage area.

- (a) Refrigerator, with interior thermometer maintained between 36°F and 46°F;
- (b) Locked storage for Schedule II drugs;
- (c) Drugs stored at room temperature should be maintained between 59°F and 86°F.

(4) General equipment.

- (a) Steam pressure sterilizer;
- (b) Internal and external sterilization monitors;
- (c) Stethoscope;
- (d) Ophthalmoscope;
- (e) Thermometer;
- (f) Storage for records.

d. Recordkeeping. The veterinarian shall keep a written record of treatment to include pertinent medical data.

(1) Individual records shall be maintained on each patient except that records for economic animals and equine may be maintained on a per client basis; and

(2) Client records shall be kept for a period of three years from the date of the last visit.

2. Small animal facility house call practice. A small animal house call facility is a mobile practice in which health care of small animals is performed at the residence of the owner of the small animal. Surgery may be performed only in a permitted, surgical facility. Small animal house call facilities shall meet the requirements set forth below:

a. Laboratory. At a minimum, proof of use of either in-house laboratory service or consultant laboratory services for performing the following lab tests, consistent with appropriate professional care for the species treated:

- (1) Urinalysis, including microscopic examination of sediment;
- (2) Complete blood count, including differential;
- (3) Flotation test for ova of internal parasites;
- (4) Skin scrapings for diagnosing external parasites;
- (5) Examinations for circulating blood microfilaria;

(6) Blood chemistries;

(7) Cultures and sensitivities;

(8) Biopsy;

(9) Complete necropses, including histopathology; and

(10) Serology.

b. Radiology. A small animal house call facility shall:

(1) Have proof of services for obtaining diagnostic-quality radiographs.

(2) Maintain radiographs with and as a part of the patient's record. If a radiograph is transferred to another facility, documentation of the transfer must be maintained on or with the patient's record.

c. Equipment, minimum requirements.

(1) Drug storage area.

(a) Refrigerator, with interior thermometer maintained between 36°F and 46°F;

(b) Locked storage for Schedule II drugs;

(c) Drugs stored at room temperature should be maintained between 59°F and 86°F.

(2) General equipment.

(a) Stethoscope;

(b) Thermometer;

(c) Ophthalmoscope;

(d) Otoscope;

(e) Resuscitation bag and endotracheal tubes;

(f) Storage for records.

d. Recordkeeping. Every veterinarian shall keep a written daily record of the animals he treats. This record shall include pertinent medical data such as drugs administered, dispensed or prescribed, and all relevant medical and surgical procedures performed.

(1) Client records shall be kept for a period of three years following the last visit.

(2) Individual records shall be maintained on each patient, except that records for economic animals may be maintained on a per-client basis.

3. Small animal facility, outpatient practice. A small animal outpatient facility is a stationary facility where health care of small animals is performed. This practice may include surgery, provided the facility is equipped with a surgery suite as required by subdivision A 2 b of this section and an adequate recovery area as required by ~~§ 4.3 A 2 e~~ subdivision A 2 c of this section. Overnight hospitalization shall not be required.

a. Buildings and grounds must be maintained to provide sanitary facilities for the care and medical well-being of patients.

- (1) Temperature. The facility shall be equipped so as to maintain temperatures between 59°F and 86°F consistent with the medical well-being of the patients.
 - (2) Ventilation. The facility shall be equipped with the capacity to ventilate consistent with the medical well-being of the animals.
 - (3) Lighting. The facility shall be equipped with lighting commensurate with the procedures performed.
 - (4) Water and waste. There shall be on-premises:
 - (a) Hot and cold running water of drinking quality, as defined by the Virginia Department of Health;
 - (b) Sanitary toilet and lavatory for the personnel and for the clients;
 - (c) An acceptable method of disposal of deceased animals; and
 - (d) Refrigeration exclusively for carcasses of companion animals that require storage for 24 hours or more.
- b. Areas within building. The areas within the facility shall include the following:
- (1) A reception area separate from other designated rooms;
 - (2) Examination room(s).
- c. Laboratory. At a minimum, proof of use of either in-house laboratory service or consultant laboratory services for performing the following lab tests, consistent with appropriate professional care for the species treated:
- (1) Urinalysis, including microscopic examination of sediment;
 - (2) Complete blood count, including differential;
 - (3) Flotation test for ova of internal parasites;
 - (4) Skin scrapings for diagnosing external parasites;
 - (5) Examinations for circulating blood microfilaria;
 - (6) Blood chemistries;
 - (7) Cultures and sensitivities;
 - (8) Biopsy;
 - (9) Complete necropses, including histopathology; and
 - (10) Serology.
- d. Radiology. A small animal outpatient facility shall have the following:
- (1) Proof of use of either in-house or consultant services for obtaining diagnostic-quality radiographs.
 - (2) If radiology is in-house:
 - (a) Each radiograph shall be permanently imprinted with the identity of the facility or veterinarian, the patient and the date of exposure. Each radiograph shall also distinguish left from right, when appropriate, by permanent imprinting.
 - (b) Document that radiographic equipment complies with all requirements of § 7-40 12 VAC 5-480-8520, Veterinary Medicine Radiographic Installations of the Virginia Department of Health document, "Ionizing Radiation Rules and Regulations" (1988), which requirements are adopted by this board and incorporated herewith by reference in these regulations *this chapter*.
 - (c) Maintain radiographs with and as a part of the patient's record. If a radiograph is transferred to another facility, documentation of the transfer must be maintained on or with the patient's record.
- e. Equipment, minimum requirements.
- (1) Examination room.
 - (a) Table with nonporous surface;
 - (b) Waste receptacle; and
 - (c) Sanitizing solution.
 - (2) Radiology (if in-house).
 - (a) Lead aprons;
 - (b) Lead gloves;
 - (c) Radiation exposure badges;
 - (d) X-ray machine.
 - (3) Drug storage area.
 - (a) Refrigerator, with interior thermometer maintained between 36°F and 46°F;
 - (b) Locked storage for Schedule II drugs; and
 - (c) Drugs stored at room temperature should be maintained between 59°F and 86°F.
 - (4) General equipment.
 - (a) Steam pressure sterilizer;
 - (b) Internal and external sterilization monitors;
 - (c) Stethoscope;
 - (d) Thermometer;
 - (e) Ophthalmoscope;
 - (f) Otoscope;
 - (g) Resuscitation bag and endotracheal tubes;
 - (h) Scales;
 - (i) Storage for records.
- f. Recordkeeping. Every veterinarian shall keep a written daily record of the animals he treats. This record shall include pertinent medical data such as

Final Regulations

drugs administered, dispensed or prescribed, and all relevant medical and surgical procedures performed.

(1) Client records shall be kept for a period of three years following the last office visit or discharge of such animal from a veterinary facility.

(2) Individual records shall be maintained on each patient, except that records for economic animals may be maintained on a per client basis.

(3) An animal identification system must be used by the facility if animals are kept for the day.

4. Special-use permit. If a practice does not conform to one of the above-listed types of facilities, a veterinarian may apply for a special-use permit. A protocol, detailing the type of practice, must be submitted to the board with the application. The board will review the protocol and approve or deny the application on a case-by-case basis. If the board approves the application, limitations of practice and standards specific for the approved practice will be set.

5. Disclosure of staffing hours. Every animal facility shall conspicuously post a sign which indicates the hours that the facility is staffed.

The protocol must be resubmitted annually with the renewal application for board review and approval.

C. Combination practices. A combination practice may exist under a single facility permit. The practice may encompass two or more types of facilities as defined in subsections A and B of § 4.3 *this section*. The application for the permit must specify the types of facilities to be included within the combination practice. The types of facilities included must also be posted with the facility permit.

All standards listed under each type of facility included in the combination practice must be met.

~~§ 4.4. 18 VAC 150-20-210.~~ Revocation or suspension of registration certificate.

A. The board may revoke or suspend the registration permit of an animal facility or may declare it as not meeting the standards set forth in ~~§§ 4.2 and 4.3 of these regulations 18 VAC 150-20-190 and 18 VAC 150-20-200~~ if:

1. The board finds the facility to be in violation of § 4.7 "Renewal requirements" 18 VAC 150-20-70;

2. The board finds the facility to be in violation of ~~§§ 4.2 or 4.3 of these regulations 18 VAC 150-20-190 or 18 VAC 150-20-200~~;

3. The board or its agents are denied access to the facility to conduct an inspection;

4. The licensee does not pay any and all prescribed fees;

5. Performing procedures beyond the scope of a restricted facility permit; or

6. The facility has no veterinarian-in-charge registered at the facility.

B. The Administrative Process Act, Chapter 1.1:1 (9-6.14:1 et seq.) of Title 9 of the Code of Virginia, shall apply to any determination under ~~§ 4.4 this section~~.

VA.R. Doc. No. R96-173; Filed January 3, 1996, 11:54 a.m.

Department of Health Professions
COMMONWEALTH OF VIRGINIA

RENEWAL NOTICE AND APPLICATION

Board of _____	CURRENT EXPIRATION _____	RENEWAL PERIOD FROM _____ TO _____
Telephone _____	CURRENT AMOUNT DUE \$ _____	LATE PAYMENT PAY _____, IF AFTER _____
TYPE OF RENEWAL _____		

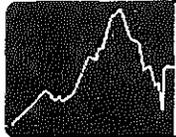
INSTRUCTIONS

1. Complete item 1 below if you do not wish to renew.
2. Make any address changes on this application when renewing.
3. Make any name changes on this application and enclose a copy of your marriage license or court order.
4. Note name and license number on all enclosures.
5. Return this application in the enclosed envelope.

1. Check here if you do not wish to renew, and sign below.

_____ Signature

NUMBER: _____
MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"



COMMONWEALTH OF VIRGINIA
Board of Veterinary Medicine

Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717 (804) 662 9915

Instructions to Applicants

Fill in your name, name of licensing board and send one copy of this form to each board by which you are, or have been, licensed to practice veterinary medicine.

TO: _____
State and Name of Board

FROM: VIRGINIA BOARD OF VETERINARY MEDICINE

_____ has applied for licensure or the reinstatement of their veterinary license in Virginia. We would appreciate it if you would complete the following information regarding this applicant:

1. License number _____ Date Issued: _____
2. Basis for Licensure: _____ National Board Examination
_____ State Board Examination
_____ Clinical Competency Test
_____ Other
3. Has this license or certificate ever been suspended, revoked, or disciplined in any way? Yes _____ No _____ if yes, please provide details.
4. Do you have any derogatory information concerning this applicant? Yes _____ No _____
5. Is this applicant currently licensed by your board? Yes _____ No _____
6. Would your board recommend this applicant for licensure in Virginia? Yes _____ No _____



Signature of Authorized Person

Title

Date



COMMONWEALTH OF VIRGINIA
Board of Veterinary Medicine
 Department of Health Professions
 6606 West Broad Street, 4th Floor
 Richmond, Virginia 23230-1717 (604) 662-9915

SECURELY ATTACH A
 PASSPORT-TYPE
 PHOTOGRAPH IN
 THIS SPACE

 PHOTOGRAPH CANNOT
 BE ANY LARGER THAN
 THE SPACE PROVIDED

**APPLICATION FOR A LICENSE TO PRACTICE
 VETERINARY MEDICINE**

IMPORTANT: THIS SECTION MUST BE COMPLETED.

CLINICAL COMPETENCY TEST	NATIONAL BOARD EXAMINATION
Jurisdiction _____	Jurisdiction _____
Date Taken _____	Date Taken _____
Please request that the Interstate Reporting Service send your scores directly to the Virginia Board Office.	
	Request Waiver of NBE <input type="checkbox"/>
	Request Waiver of CCT <input type="checkbox"/>
<small>*Must meet requirements of §2.2 of the regulations</small>	

Answer each question fully, truthfully, and accurately. If the space for any answer is insufficient, complete your answer on a separate sheet, specify the question number to which it relates, sign, and enclose with this application. Do not staple enclosures to this application blank. (See Instruction Sheet.)

I hereby make application for a license to practice veterinary medicine in the Commonwealth of Virginia in accordance with and subject to the regulations of the Board of Veterinary Medicine and the laws governing the practice of veterinary medicine in Virginia.

1. NAME IN FULL (Print or Type)

Last	First	Middle/Maiden
Address (Present) - Street		
City	State	Zip Code
Address (Permanent) - Street		
City	State	Zip Code
Date of Birth	Social Security Number	Area Code and Telephone Number
Mo. Div. Yr.		
Graduation Date	Professional School Degree	School, City, State
Mo. Div. Yr.		

APPLICANTS DO NOT USE THESE SPACES - FOR OFFICE USE ONLY.

CLASS	TESTING NUMBER	FEE
NATIONAL BOARDS	CCT	STATE BOARDS

Have you ever been known by any other name? Yes No. If so, state in full every other name by which you have been known.

If change was made by court order, enclose a copy of order _____

If a married woman, give maiden name: _____

Present telephone number () _____ Permanent telephone number () _____

2. Name of two persons who will always know your address:

(Name) _____ (Name) _____

(Street) _____ (Street) _____

(City, State, Zip) _____ (City, State, Zip) _____

3. Professional Experience. (Provide information about your entire veterinary career. List your most recent experience first.)

Inclusive Dates		Name and Address of Business	Type of Activity	Status of Applicant (Employee, Partner, Owner)
Began (M/Y)	Ended (M/Y)			

4. (Response to this question is optional) - Membership in societies or associations: (Professional, Scientific or Technical)

PRE-VETERINARY COLLEGE ATTENDED

5. Name and location of institutions attended: Period of Attendance
(From: Month Year to Month Year)

(Name) _____ (City, State) _____

(Name) _____ (City, State) _____

(Name) _____ (City, State) _____

Received the degree of _____ from _____
 (College or University)

on the _____ day of _____, 19 _____

14. In addition to the foregoing, I add the following:

- (a) I have read the Virginia Board of Veterinary Medicine statutes and regulations and am aware that if granted a license to practice veterinary medicine in Virginia, I am required to comply with any laws and regulations governing the practice of veterinary medicine and the use of controlled substances in Virginia.
- (b) I hereby give permission to the Virginia Board of Veterinary Medicine to obtain additional information relating to any statement in this application from any person or any source as the Board may desire.
- (c) I shall present any credentials required or requested by the Board.
- (d) I have attached a money order or check in the amount of \$ _____, made payable to the Treasurer of Virginia.
- (e) I hereby certify that in applying to the Virginia Board of Veterinary Medicine for a license to practice veterinary medicine in Virginia, I have made no fraudulent or deceitful statements, no omissions, nor have I misrepresented any material fact.

I have carefully read the statements and questions in the foregoing application and have answered them completely without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my license to practice veterinary medicine and surgery in the Commonwealth of Virginia.

Applicant's Signature _____

 The City/County of _____ State of _____

Before me, the undersigned authority, on this day personally appeared _____, who after being duly sworn by me on his or her oath that all facts, statements, and answers contained in this application are true and correct in every respect, and that the attached photograph is a true likeness of the applicant.

Applicant's Signature - Signed in presence of Notary _____

 Sworn and subscribed to before me this _____ day of _____, 19____, to certify which witness my hand and official seal of office.

My Commission expires: _____

 Notary

(SEAL)

VETERINARY EDUCATION

6. List in chronological order the veterinary school you attended.

Period of Attendance (From: Month/Year to Month/Year)	Degree
Name of Veterinary School _____	

Please have your veterinary school send an official transcript to the Board office. In the event you have not graduated, your school must send a current transcript and arrangements must be made for a final transcript to be sent to the Board of Veterinary Medicine when you graduate.

7. I am or have been licensed to practice veterinary medicine in the following jurisdictions:

Jurisdictions	How Licensed	License Number	Date of Issuance	Years of Practice

Please have each of the above jurisdictions send directly to the Virginia Board a certification that your license is or was in good standing. You will not be licensed until these are received.

8. Have you ever been denied the privilege of taking, or ever failed, the veterinary examination given by another board? If yes, please explain: _____
 Yes No

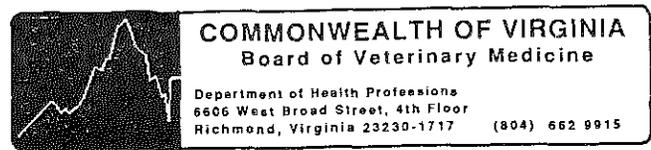
9. Have any charges or complaints relating to the practice of veterinary medicine, formal or informal, ever been made or filed against you, or have any proceedings been instituted against you? If the answer is yes, for each occurrence furnish a written statement giving the dates, the nature of the charge, the disposition of the matter, and the name and address of the authority in possession of the records thereof.
 Yes No

10. Have you, within the last two years, been treated by, consulted with or been under the care of a professional for substance abuse?
 Yes No

11. Have you ever been reprimanded, had your license suspended, cancelled or revoked by any board?
 Yes No

12. Do you have a mental or physical condition which could affect your performance of professional duties? If yes, please provide a detailed explanation and a letter from the treating professional.
 Yes No

13. Have you ever been convicted of, or pled Nolo Contendere, to any federal, state or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor, (excluding traffic violations except convictions for driving under the influence)?
 Yes No



**APPLICATION FOR
NATIONAL BOARD EXAMINATION
IN VETERINARY TECHNOLOGY**

SECURELY ATTACH A PASSPORT-TYPE PHOTOGRAPH IN THIS SPACE

PHOTOGRAPH CANNOT BE ANY LARGER THAN THE SPACE PROVIDED

NATIONAL BOARD EXAMINATION FEE: _____

APPLICATION DEADLINE: _____

I hereby make application for the National Board Examination in Veterinary Technology to be administered by the Virginia Board of Veterinary Medicine.

1. NAME IN FULL (Please Print or Type)

Last		First	Middle/Maiden
Address (Present) - Street			
City		State	Zip Code
Address (Permanent) - Street			
City		State	Zip Code
Date of Birth	Social Security Number	Area Code and Telephone Number	
Mo Day Yr			
Graduation Date	Professional School Degree	School, City, State	
Mo Day Yr			

APPLICANTS DO NOT USE THESE SPACES - FOR OFFICE USE ONLY.

CLASS	TESTING NUMBER	FEE
SCHOOL CODE	NATIONAL BOARDS	STATE BOARD

Instructions to Applicants

Fill in your name, name of licensing board and send one copy of this form to each board by which you are, or have been, licensed or certified to practice as a veterinary technician.

TO: _____
State and Name of Board

FROM: VIRGINIA BOARD OF VETERINARY MEDICINE

_____ has applied for licensure or the reinstatement of their Veterinary Technician license in Virginia. We would appreciate it if you would complete the following information regarding this applicant:

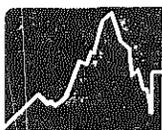
- License or certification number _____ Date: _____
- Basic for Licensure _____ National Board Examination
Or Certification: _____ State Board Examination
Other _____
- Has this license or certificate ever been suspended, revoked, or disciplined in any way? Yes _____ No _____ If yes, please provide details.
- Do you have any derogatory information concerning this applicant? Yes _____ No _____ If yes, please provide details.
- Is this applicant currently licensed or certified by your board? Yes _____ No _____ If no, when did license expire? Date _____
- Would your board recommend this applicant for licensure in Virginia? Yes _____ No _____



Signature of Authorized Person _____

Title _____

Date _____



**COMMONWEALTH OF VIRGINIA
Board of Veterinary Medicine**

Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717

(804) 662-9915

**APPLICATION FOR A LICENSE TO PRACTICE
VETERINARY TECHNOLOGY**

SECURELY ATTACH A
PASSPORT-TYPE
PHOTOGRAPH IN
THIS SPACE

PHOTOGRAPH CANNOT
BE ANY LARGER THAN
THE SPACE PROVIDED

IMPORTANT: THIS SECTION MUST BE COMPLETED.

NATIONAL BOARD EXAMINATION (If already taken)

Please request that the Interstate Reporting
Service send your scores directly to the
Virginia Board office.

Jurisdiction _____

Date Taken _____

Request Waiver of NBE*

*Must meet requirements of §12.2 of the regulations.

Answer each question fully, truthfully, and accurately. If the space for any answer is insufficient, complete your answer on a separate sheet, specify the question number to which it relates, sign, and enclose with this application. Do not staple enclosures to this application blank.

I hereby make application for a license to practice veterinary technology in the Commonwealth of Virginia in accordance with and subject to the regulations of the Board of Veterinary Medicine and the laws governing the practice of veterinary technology in Virginia.

1. NAME IN FULL (Print or Type)

Last		First	Middle/Maiden
Address (Present) - Street			
City		State	Zip Code
Address (Permanent) - Street			
City		State	Zip Code
Date of Birth	Social Security Number	Area Code and Telephone Number	
Mo Day Yr			
Graduation Date	Professional School Degree	School, City, State	
Mo Day Yr			

APPLICANTS DO NOT USE THESE SPACES - FOR OFFICE USE ONLY.

CLASS	TESTING NUMBER	FEE
NATIONAL BOARDS	STATE BOARDS	

Have you ever been known by any other name? Yes No. If so, state in full every other name by which you have been known.

the reason therefore, and inclusive dates so shown. If change was made by court order, enclose a copy of such order. _____

If a married woman, give maiden name: _____

Present telephone number () _____ Permanent telephone number () _____

2. Name of two persons who will always know your address:

(Name) _____ (Name) _____

(Street) _____ (Street) _____

(City, State, Zip) _____ (City, State, Zip) _____

3. Professional Experience. Please provide information about your veterinary work experience beginning with the most recent.

Inclusive Dates		Place of Employment	Description of Activities
Began (Month/Year)	Ended (Month/Year)		

4. (Optional) - Membership in societies or associations: (Professional, Scientific or Technical)

HIGH SCHOOL AND COLLEGE

5. Name and location of institutions attended:

Period of Attendance
(From: Month/Year to Month/Year)

(Name) _____ (City, State) _____

(Name) _____ (City, State) _____

(Name) _____ (City, State) _____

Received the degree of _____ from _____

(College or University)

on the _____ day of _____, 19 _____

Final Regulations

Please have your veterinary technology school send an official transcript to the Board office. In the event you have not graduated, your school must send a current transcript and arrangements must be made for a final transcript to be sent to the Board of Veterinary Medicine when you graduate.

List all jurisdictions in which you are or have been licensed/certified to practice veterinary technology.

Jurisdictions	How Licensed/Certified	License Number	Date of Issuance	Years of Practice

Please have each of the above jurisdictions send directly to the Virginia Board certification that your license/certificate is/was in good standing.

7. Have you ever been denied the privilege of taking, or ever failed, the veterinary technician examination given by another board? Yes No

If yes, give dates, boards, and explanations:

8. Have any charges or complaints relating to the practice of veterinary technology been made or filed against you, or have any proceedings been instituted against you? If the answer is yes, for each occurrence furnish a written statement giving the dates, the nature of the charge, the disposition of the matter, and the name and address of the authority in possession of the records thereof.

9. Have you, within the last two years, been treated by, consulted with or been under the care of a professional for substance abuse?

10. Do you have a mental or physical condition which could affect your performance of professional duties? If yes, please provide a detailed explanation and a letter from the treating professional.

11. Have you ever been reprimanded, had your license/certificate suspended, cancelled, or revoked by any board? If yes, give jurisdictions, reasons and dates.

12. In addition to the foregoing, I add the following:

(a) I have read the Virginia Board of Veterinary Medicine statutes and regulations and am aware that, if granted a license to practice veterinary technology in Virginia, I am required to comply with any laws and regulations governing the practice of veterinary technology and the use of controlled substances in Virginia.

(b) I hereby give permission to the Virginia Board of Veterinary Medicine to obtain additional information relating to any statement in this application from any person or any source as the Board may desire.

(c) I shall present any credentials required or requested by the Board.

(d) I have attached a money order or check in the amount of \$ _____ made payable to the Treasurer of Virginia.

(e) I hereby certify that in applying to the Virginia Board of Veterinary Medicine for a license to practice veterinary technology in Virginia, I have made no fraudulent or deceitful statements, no omissions, nor have I misrepresented any material fact.

(f) I hereby expressly waive all provisions of law forbidding any physician or other person who has attended or examined me from disclosing any knowledge or information which he has thereby acquired, and I hereby consent that he may disclose such knowledge or information to the Virginia Board of Veterinary Medicine.

I have carefully read the statements and questions in the foregoing application and have answered them completely without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my license to practice veterinary technology in the Commonwealth of Virginia.

The City/County of _____ State of _____

Applicant's Signature

Before me, the undersigned authority, on this day personally appeared _____ who after being duly sworn by me on his or her oath that all facts, statements, and answers contained in this application are true and correct in every respect, and that the attached photograph is a true likeness of the applicant.

Applicant's Signature - Signed in presence of Notary

Sworn and subscribed to before me this _____ day of _____, 19____, to certify which witness my hand and official seal of office.

My Commission expires: _____

Notary

(SEAL)



COMMONWEALTH of VIRGINIA

Virginia Board of Veterinary Medicine
 6606 WEST BROAD STREET
 4TH FLOOR
 RICHMOND VA 23230-1717

Date on which facility will be ready for inspection

APPLICATION FOR AN ANIMAL FACILITY PERMIT

(Applications must be made to the Board 60 days in advance of opening.)

NAME OF FACILITY (Type or Print)		TELEPHONE NO.	
STREET ADDRESS	CITY	STATE	ZIP CODE
		<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

A FEE MUST BE ENCLOSED WITH THE APPLICATION WHERE INDICATED.

APPLICATION IS HEREBY MADE FOR THE FOLLOWING:

- 1) New, FULL-SERVICE, Animal Facility Permit (Inspection Required) \$100 Fee
- New, RESTRICTED, Animal Facility Permit (Inspection Required) \$100 Fee
- Change to RESTRICTED Animal Facility No Charge
- Change to FULL-SERVICE Animal Facility (Inspection Required) \$100 Fee
- Change of Location of Animal Facility (Inspection Required) \$100 Fee
- Change of Name of Animal Facility No Charge
- Change of Veterinarian-in-Charge \$20 Fee

- | TYPE | MODE | SPECIALITY |
|---|--------------------------------------|--------------------------------------|
| 2) <input type="checkbox"/> Small Animal Only | <input type="checkbox"/> Hospital | <input type="checkbox"/> Bovine |
| <input type="checkbox"/> Large Animal Only | <input type="checkbox"/> Mobile | <input type="checkbox"/> Equine |
| <input type="checkbox"/> Mixed | <input type="checkbox"/> Other _____ | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Other _____ | | |

3) A veterinarian-in-charge must be named. Please complete the Application for Veterinarian-in-Charge on the back of this sheet.

STAFF VETERINARIANS

4) _____

Does this facility replace a facility currently licensed by the Board? Yes No
 If yes, what is the name and permit number.

Animal Facility Name

Permit No.

Restricted Facility Applicants:

(a) What services will not be provided:

(b) Is this information posted conspicuously in the facility? Yes No

APPLICATION FOR VETERINARIAN-IN-CHARGE
 AT FACILITY NAMED ON REVERSE SIDE

Name of Veterinarian-in-Charge (Type or Print)

I agree to serve as the veterinarian-in-charge at the _____
 Name of Animal Facility

located at _____
 City, State, ZIP Code

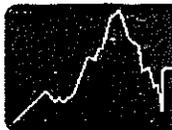
I will assume the duties and responsibilities incumbent to the role as specified in §4.1(B) of the Regulations of the Virginia Board of Veterinary Medicine. By signing my name below, I acknowledge that I have read and understand the responsibilities of the veterinarian-in-charge, and agree to perform those duties at the above named animal facility.

Date

Signature of Veterinarian-in-Charge

DO NOT USE THESE SPACES -- FOR OFFICE USE ONLY

(CLASS)	(FILE NO.)	(SUFFIX)	(LICENSE PRINT)	(FEE)
(PERMIT NO.)	(EXPIRATION DATE)	(INSPECTION DATE)	(DATE ISSUED)	



COMMONWEALTH OF VIRGINIA
Board of Veterinary Medicine

Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717

(804) 662 - 9915

PROCEDURE FOR APPLYING FOR THE NATIONAL BOARD EXAMINATION AND CLINICAL COMPETENCY TEST IN VETERINARY MEDICINE

1. Applicant must be at least in the final semester of their junior year in an AVMA approved school of veterinary medicine.
2. Applicant must file a completed application, which must be postmarked at least forty-five (45) days prior to the examination date*, in addition to the following:
 - a. Three passport type photographs of the applicant, taken within six months of the application date. One photograph must be securely attached to the application in the space provided. The other two photographs must be signed on the back in indelible black or blue ink and included with, but not attached to, the application. The photographs must be frontal face shots; profile or full-body images are not acceptable. (Minimum size 1" x 2", Maximum 2.25") Commercial passport photos are the most preferred.
 - b. A CERTIFIED CHECK, CASHIER'S CHECK, OR MONEY ORDER made payable to the TREASURER OF VIRGINIA must be submitted with the application.

Due to an increase in the examination fees charged by Professional Examination Service, Inc., the Board has been forced to increase the fees charged to examination applicants. Please note the following fees:

NATIONAL BOARD EXAMINATION - \$215 CLINICAL COMPETENCY TEST - \$165
PERSONAL CHECKS WILL NOT BE ACCEPTED

- c. The school from which the applicant received or expects to receive a degree in veterinary medicine must send a certified transcript of grades. (A notarized copy of the original may be substituted.) Transcripts in a foreign language must be accompanied by an English translation. (The transcript does not have to accompany the application, but must be received prior to the examination.)
- d. If you wish to receive verification that the Board office has received your application prior to confirmation letters being sent out, please send the application by certified mail with a return receipt request. A confirmation letter will be sent after the deadline date passes which will advise you of the time and location of the examinations. **PLEASE DO NOT CALL THE BOARD OFFICE FOR VERIFICATION PRIOR TO THE DEADLINE.**

Please forward your application and fee to: VIRGINIA BOARD OF VETERINARY MEDICINE
6606 W. BROAD ST., 4TH FL.
RICHMOND, VA 23230-1717

NBE DATE: APRIL 9, 1996 CCT DATE: APRIL 10, 1996

APPLICATION DEADLINE: FEBRUARY 26, 1996

*This deadline is specified by Regulation §2.1(a). EXTENSIONS WILL NOT BE GRANTED.

APPLICATION FOR NATIONAL BOARD EXAMINATION & CLINICAL COMPETENCY TEST IN VETERINARY MEDICINE

Securely attach a passport-type photograph in this space. Photograph CANNOT be any larger than the space provided.

CHECK APPROPRIATE BLOCK(S)		Application Deadline: <u>FEBRUARY 26, 1996</u>
NATIONAL BOARD EXAMINATION (\$215 Fee) <input type="checkbox"/>	CLINICAL COMPETENCY TEST (\$165 Fee) <input type="checkbox"/>	

I hereby make application for the national board examination and/or the clinical competency test to be administered by the Virginia Board of Veterinary Medicine. Do not staple enclosures to this application blank.

1. NAME IN FULL (PLEASE PRINT OR TYPE)

Last		First	Middle/Maiden
Address(Present)-Street			
City		State	Zip Code
Address(Permanent) -Street			
City		State	Zip Code
Date of Birth	Social Security Number	Area Code & Telephone Number	
MO DAY YR			
Graduation Date	Professional School Degree	School, City, State	
MO DAY YR			

APPLICANTS DO NOT USE THESE SPACES - FOR OFFICE USE ONLY

Class	Testing Number	Fee
School Code	National Boards	C.C.T.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: State Plan for Medical Assistance Relating to Mandatory HMO Enrollment.

12 VAC 30-10-60. Application, Determination of Eligibility and Furnishing Medicaid.

12 VAC 30-10-530. Utilization and Quality Control.

12 VAC 30-120-360 et seq. Part VI: MEDALLION II.

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

Effective Dates: January 1, 1996, through December 31, 1996.

SUMMARY

1. **REQUEST:** The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled MEDALLION II. This regulation will initiate mandatory HMO enrollment in accordance with the 1995 Appropriations Act.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding MEDALLION II. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Joseph Teefey for
Robert C. Metcalf, Director
Date: December 20, 1995

/s/ Robert W. Lauterberg, Director
Department of Planning and Budget
Date: December 21, 1995

/s/ Kay C. James
Secretary of Health and Human Services
Date: December 21, 1995

/s/ George Allen
Governor
Date: December 28, 1995

Filed with: Jane D. Chaffin for
E. M. Miller, Jr., Acting Registrar of Regulations
Date: December 28, 1995

DISCUSSION

6. **BACKGROUND:** The regulations affected by this action are MEDALLION II at 12 VAC 30-120-360 et seq. (Part VI) [VR 460-04-8.18].

The Department of Medical Assistance Services (DMAS) plans to implement MEDALLION II in Tidewater on January 1, 1996, as required by the 1995 Appropriations Act. Medicaid clients in Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, and Virginia Beach will be required to select a Health Maintenance Organization (HMO) to provide nearly all of their health care. Excluded from this proposed requirement are nursing home patients, foster care children, and recipients who qualify for federal waiver programs designed to restrain the costs of special-needs, high-intensity health care users (for example, ventilator-dependent persons).

The proposed MEDALLION II initiative is designed to improve health outcomes, build on the success of current programs, and restrain Medicaid costs. HMOs will be paid a fee per MEDALLION II client each month and will be responsible for providing the client's health care, regardless of how much care is needed. HMOs will have an incentive to provide preventive care and patient education to improve health status and avoid the need for expensive inpatient and emergency care. Although the majority of MEDALLION II clients' services will be provided by the HMO, some services will be provided outside the network: school-based services and community mental health services (rehabilitative, case management and waiver). Clients will have the option of seeking emergency and family planning services inside or outside the HMOs' network. The HMOs will be responsible for paying for emergency services and family planning services whether they are to be provided in or out of the network.

Immunizations will not be included in the fee that DMAS pays the HMOs. The HMOs' primary care physicians may choose to offer this service or may refer the patient to a local health department. The HMOs and the local health departments must bill DMAS directly for this service.

DMAS has sought input for program specifics from client and provider groups. The major health care associations in the Commonwealth have been supportive of this effort. DMAS has planned and implemented numerous information programs for providers and clients on program details to smooth the transition to MEDALLION II. HMOs will be selected as MEDALLION II providers based on quality, access, and cost. DMAS will be rigorously monitoring the quality of care provided by the HMOs. Additionally, the Williamson Institute of the Medical College of Virginia and an external quality review organization will perform focused studies on the quality of care. Quality report cards on the HMOs are planned.

Clients will receive letters indicating that they may select the contracted HMOs into which they will be enrolled. These letters will also indicate a "pre-assigned" HMO in which the client will be enrolled if they do not select an HMO. This "pre-assigned" HMO will be based on the choice of their currently assigned primary care provider if the client is in the MEDALLION managed care program or their current HMO if the client has voluntarily selected an HMO through the Options program. This assignment method is unique to Virginia and encourages the maintenance of existing medical relationships.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action but subject to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing of this regulation with the Registrar of Regulations, this agency intends to initiate the public notice and comment process contained in Article 2 of the APA.

Emergency Regulations

Chapter 853 Item O of the 1995 Acts of Assembly requires DMAS to implement the MEDALLION II program in the Tidewater area effective January 1, 1996. Without an emergency regulation, this new regulation cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the January 1, 1996, effective date established by the General Assembly.

8. NEED FOR EMERGENCY ACTION: The Code § 9-6.14:4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. This issue qualifies as an emergency regulation as provided for in § 9-6.14:4.1(C)(5)(ii), because the 1995 Appropriation Act requires this regulation to be effective within 280 days from the enactment of the law. As such, this regulation may be adopted without public comment with the prior approval of the Governor. Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department is initiating the Administrative Process Act Article 2 procedures contingent upon the outcome of deliberations by the U.S. Congress over the 1995 Medicaid Transformation Act ('95 MTA). Should this Act, also known as Medigrant, take effect and supersede Title XIX, DMAS will be required to respond to this initiative in this regulation within the constraints of the new title.

9. FISCAL/BUDGETARY IMPACT: The payment rate to HMOs will be based on contract negotiations. Currently, the Department saves five percent per client in the voluntary Options program. That program has over 75,000 members enrolled in five HMOs in the Tidewater, Northern Virginia, and Richmond areas.

The only localities which are initially affected by these regulations are Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Poquoson, and Virginia Beach. The Tidewater area has been used as an initial site during the phase-in of several recent managed care initiatives. Once the program is implemented and is operating as planned, it is expected that the program will be expanded.

In the long term, DMAS expects to save eight percent on medical expenditures per person in the MEDALLION II program compared to what expenditures would be under the MEDALLION I fee-for-service program. The Commonwealth does not realize this savings in the first year because of start-up costs which occur in the first few months when it is necessary to pay the prospective capitation payments as well as pay all outstanding fee-for-service claims which were incurred prior to the recipient enrolling in the HMO but has yet to be processed and paid by the claims payment system.

DMAS incurred many of the initial administrative start-up costs to HMO operations in its voluntary (non-waiver) Options program. Additionally, DMAS has been able to use the shift to managed care as a catalyst for downsizing staffing over the past two years and anticipates no net staffing increases from implementation or operation of the MEDALLION II program. Staffing increases in the areas of contract administration, managed care implementation, managed care pricing, marketing monitoring, contract compliance, HMO helpline, and quality improvement oversight will be offset by

decreases in utilization review, client/provider helpline, pending claims resolution, fee-for-service compliance, direct provider/client education, TPL recovery, and reimbursement determination.

Only HMOs that choose to contract with DMAS as MEDALLION II providers will be affected by this regulation. In Tidewater, five contracts have been negotiated with HMOs. Most of Virginia's HMOs are of the Individual Practice Association (IPA) model, in which the HMO uses the same physicians as are otherwise available to the community. Thus far, no group or staff model HMOs (with physicians that serve only the HMO population) have expressed a strong interest in contracting with DMAS as Medicaid providers.

Because the IPA model HMO uses the same physicians as are otherwise available to the community, under the MEDALLION II contracts the HMOs will be paying many of the same providers for the same services and visits provided under fee-for-service arrangements. One of the contract requirements is that all HMO primary care physicians be enrolled as Medicaid physicians. DMAS will be able to determine how provider payments are affected by comparing fee-for-service data with HMO encounter data.

The impact on recipients will be based in large part on their knowledge and experience with HMOs. Many of the recipients affected by this change are already enrolled in HMOs through the Options program and, therefore, have experience with health care services provided by HMOs. Because many of the HMOs under contract as MEDALLION II providers were also under contract as Options providers, many of the eligible population (approximately 50,000) will be able to remain enrolled with the HMO they selected previously. For those eligibles who are not currently HMO clients, DMAS has conducted over 50 public forums in the Tidewater area during August and September 1995.

10. RECOMMENDATION: Recommend approval of this request to adopt this emergency regulation to become effective January 1, 1996. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations, contingent on the '95 MTA, promulgated through the APA. Without an effective emergency regulation, DMAS would lack the authority to implement the MEDALLION II Program and reimburse HMOs for services to Medicaid clients.

11. APPROVAL SOUGHT FOR 12 VAC 30-120-Part VI.

Approval of the Governor is sought for an emergency promulgation of this Medicaid regulation in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

12 VAC 30-10-60. Application, Determination of Eligibility and Furnishing Medicaid.

SECTION 2 - COVERAGE AND ELIGIBILITY

Citation: 42 CFR 435.10 and Subpart J

2.1. Application, Determination of Eligibility and Furnishing Medicaid

(a) The Medicaid agency meets all requirements of 42 CFR Part 435, Subpart J for processing applications, determining eligibility and furnishing Medicaid.

Citation: 42 CFR 435.914, 1902(a)(34) of the Act

(b) (1) Except as provided in items 2.1(b)(2) and (3) below, individuals are entitled to Medicaid services under the plan during the three months preceding the month of application, if they were, or on application would have been, eligible. The effective date of prospective and retroactive eligibility is specified in Attachment 2.6-A.

Citation: 1902(e)(8) and 1905(a) of the Act

(2) For individuals who are eligible for Medicaid cost-sharing expenses as qualified Medicare beneficiaries under § 1902(a)(10)(E)(i) of the Act, coverage is available for services furnished after the end of the month in which the individual is first determined to be a qualified Medicare beneficiary. Attachment 2.6-A specifies the requirements for determination of eligibility for this group.

Citation: 1902(a)(47) and 1920 of the Act

(3) Pregnant women are entitled to ambulatory prenatal care under the plan during a presumptive eligibility period in accordance with § 1920 of the Act. Attachment 2.6-A specifies the requirements for determination of eligibility for this group.

Citation: 42 CFR 434.20

(c) The Medicaid agency elects to enter into a risk contract with an HMO that is:

Qualified under Title XIII of the Public Health Service Act or is provisionally qualified as an HMO pursuant to § 1903(m)(3) of the Social Security Act.

Not federally qualified, but meets the requirements of 42 CFR 434.20(c) and is defined in Attachment 2.1-A.

Not applicable.

Citation: 1902(a)(55) of the Act

(d) The Medicaid agency has procedures to take applications, assist applicants, and perform initial processing of applications from those low income pregnant women, infants, and children under age 19, described in § 1902(a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), and (a)(10)(A)(ii)(IX) at locations other than those used by the Title IV-A program including FQHCs and disproportionate share hospitals. Such application forms do not include the AFDC form except as permitted by HCFA instructions.

12 VAC 30-10-530. Utilization and Quality Control.

Citation: 42 CFR 431.60, 42 CFR 456.2, 50 FR 15312, 1902(a)(30)(C) and 1902(d) of the Act, P.L. 99-509 (§ 9431)

4.14. Utilization/Quality Control.

(a) A statewide program of surveillance and utilization control has been implemented that safeguards against unnecessary or inappropriate use of Medicaid services

available under this plan and against excess payments, and that assesses the quality of services. The requirements of 42 CFR Part 456 are met:

Directly.

By undertaking medical and utilization review requirements through a contract with a Utilization and Quality Control Peer Review Organization (PRO) designated under 42 CFR Part 462. The contract with the PRO:

(1) Meets the requirements of § 434.6(a);

(2) Includes a monitoring and evaluation plan to ensure satisfactory performance;

(3) Identifies the services and providers subject to PRO review;

(4) Ensures that PRO review activities are not inconsistent with the PRO review of Medicare services; and

(5) Includes a description of the extent to which PRO determinations are considered conclusive for payment purposes.

Quality review requirements described in § 1902(a)(30)(C) of the Act relating to services furnished by HMOs under contract are undertaken through contract with the PRO designated under 42 CFR Part 462.

Citation: 1902(a)(30)(C) and 1902 (d) of the Act, P.L. 99-509, (§ 9431)

By undertaking quality review of services furnished by HMOs under each contract with an HMO through a private accreditation body.

Citation: 42 CFR 456.2, 50 FR 15312

(b) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart C, for control of the utilization of inpatient hospital services.

Utilization and medical review are performed by a Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

Utilization review is performed in accordance with 42 CFR Part 456, Subpart H, that specifies the conditions of a waiver of the requirements of Subpart C for:

All hospitals (other than mental hospitals).

Those specified in the waiver.

No waivers have been granted.

Citation: 42 CFR 456.2, 50 FR 15312

(c) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart D, for control of utilization of inpatient services in mental hospitals.

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Utilization and medical review are performed by a Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

Utilization review is performed in accordance with 42 CFR Part 456, Subpart H, that specifies the conditions of a waiver of the requirements of Subpart D for :

All mental hospitals.

Those specified in the waiver.

No waivers have been granted.

Not applicable. Inpatient services in mental hospitals are not provided under this plan.

Citation: 42 CFR 456.2, 50 FR 15312

(d) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart E, for the control of utilization of skilled nursing facility services.

Utilization and medical review are performed by a Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

Utilization review is performed in accordance with 42 CFR Part 456, Subpart H, that specifies the conditions of a waiver of the requirements of Subpart E for:

All skilled nursing facilities.

Those specified in the waiver.

No waivers have been granted.

NOTE: The Program will allow a maximum of ten (10) administrative days for placement and transfer for SNF to ICF in order to make an orderly transfer or placement possible without potential harm or trauma to the patient in accordance with 42 CFR 456.4.

(e) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart F, for control of the utilization of intermediate care facility services is provided through:

Facility-based review.

Direct review by personnel of the medical assistance unit of the State agency.

Personnel under contract to the medical assistance unit of the State agency.

Utilization and Quality Control Peer Review Organizations.

Another method as described in ATTACHMENT 4.14-A.

Two or more of the above methods. ATTACHMENT 4.14-B describes the circumstances under which each method is used.

Not Applicable. Intermediate care facility services are not provided under this plan.

Note: The program will allow a maximum of ten (10) administrative days for placement and transfer from ICF to community in order to make an orderly transfer or placement possible without potential harm or trauma to the patient in accordance with 42 CFR 456.4.

Note: One of the semiannual utilization reviews required by 42 CFR 456.434(b)(1) for intermediate care recipients will be conducted by the Virginia Department of Health as part of the inspection of care visit. The second utilization review will be conducted by personnel of the Medical Assistance unit of the State agency.

Citation: 1902(a)(30) and 1902(d) of the Act, P.L. 99-509 (Section 9431), P.L. 99-203 (Section 4113)

(f) The Medicaid agency meets the requirements of §1902(a)(30) of the Act for control of the assurance of quality furnished by each health maintenance organization under contract with the Medicaid agency. Independent, external quality reviews are performed annually by:

A Utilization and Quality Control Peer Review Organization designated under 42 CFR Part 462 that has a contract with the agency to perform those reviews.

A private accreditation body.

An entity that meets the requirements of the Act, as determined by the Secretary.

The Medicaid agency certifies that the entity in the preceding subcategory under 4.14(f) is not an agency of the State.

12 VAC 30-120-360 et seq. Part VI: MEDALLION II.

PART VI.

12 VAC 30-120-360. Definitions.

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

"ABD" means aged, blind and disabled recipients as defined in 12 VAC 30-30-10.

"AFDC" means Aid to Families with Dependent Children which is a public assistance program, administered by the Department of Social Services, providing financial assistance to needy citizens.

"AFDC-related" means those clients who are eligible for medical assistance under rules related to the AFDC program, such as pregnant women and indigent children under specific ages. It shall not include foster care, subsidized adoption, or spend-down medically needy clients.

"Area of record" means the recipient's address in the Medicaid eligibility file.

"Capitation payment" means the payment issued to an HMO contractor by DMAS on behalf of a client, in return for

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which the HMO accepts responsibility for the services to be provided under a contract.

"Client, clients or enrollee" means an individual or individuals having current Medicaid eligibility who shall be authorized by DMAS to be a member or members of MEDALLION II.

"Covered services" means Medicaid services as defined in the State Plan for Medical Assistance.

"DMAS" means the Department of Medical Assistance Services.

"Eligible person" means any person determined by DMAS as eligible to receive services and benefits under the State Plan for Medical Assistance in the categories of AFDC, AFDC-related, and ABD.

"Emergency services" means services provided in a hospital, clinic, office, or other facility that is equipped to furnish the required care, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in:

- a. Placing the client's health in serious jeopardy; or
- b. Serious impairment to bodily functions; or
- c. Serious dysfunction of any bodily organ or part.

"Foster care" means a child who received either Foster Care assistance under Title IV-E of the Social Security Act or State and Local Foster Care Assistance.

"Health care plan" means any arrangement in which any health maintenance organization undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services.

"HMO" means a health maintenance organization, as licensed by the Bureau of Insurance, which undertakes to provide or arrange for one or more health care plans.

"Network" means doctors, hospitals or other health care providers who participate or contract with an HMO and as a result, agree to accept a mutually-agreed upon sum or fee schedule as payment in full for covered services.

"Spend-down" means the process of reducing countable income by deducting incurred medical expenses for medically needy individuals, as determined in the State Plan for Medical Assistance.

"Subsidized adoption" means any child for whom an adoption assistance agreement is in effect.

12 VAC 30-120-370. MEDALLION II Enrollees.

DMAS shall determine enrollment in MEDALLION II. Enrollment in MEDALLION II is not a guarantee of continuing eligibility for services and benefits under the Virginia Medical Assistance Program.

A. Exclusions. The following individuals shall be excluded from participating in MEDALLION II. Individuals not meeting

the exclusion criteria must participate in the MEDALLION II program.

1. Individuals who are inpatients in state mental hospitals;
2. Individuals who are approved by DMAS as inpatients in long-stay hospitals, nursing facilities, or intermediate care facilities for the mentally retarded;
3. Individuals who are placed on spend-down;
4. Individuals who are eligible for federal waiver programs for home and community-based Medicaid coverage.
5. Individuals who are participating in foster care or subsidized adoption programs.
6. Individuals who are in the third trimester of pregnancy upon initial assignment to MEDALLION II and who request exemption.
7. Individuals who reside in health, mental health, or social rehabilitation programs not funded by their HMO that are outside of their area of record for greater than 60 days.

B. Client enrollment process.

1. All Medicaid eligible individuals, except those meeting one of the exclusions of § A above, shall be enrolled in MEDALLION II.
2. Newly eligible individuals and individuals who lose then regain eligibility under the Virginia Medical Assistance Program shall not participate in MEDALLION II until completion of the MEDALLION II enrollment process.
3. Clients shall receive an interim Medicaid card from DMAS, and shall be provided authorized medical care in accordance with DMAS' procedures, after eligibility requirements are met.
4. Once individuals are enrolled in Medicaid, they will receive a letter indicating that they may select one of the contracted HMOs. These letters shall indicate a pre-assigned HMO, determined as provided below, in which the client will be enrolled if they do not make a selection.

C. Pre-Assignment of HMO. Assignments shall be made for those clients not selecting an HMO as described in 2.B.4 above. The assignment process shall be as follows:

1. MEDALLION primary care physicians will be asked to select the HMO in which their MEDALLION clients will be enrolled.
2. Clients currently enrolled in Options shall be assigned to the HMO in which they participate under Options if that HMO contracts with DMAS for MEDALLION II.
3. Clients already receiving other insurance through a MEDALLION II HMO shall also be assigned to that same HMO for Medicaid purposes. This will override any default assignment of (1) or (2).

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4. Clients not assigned through (1), (2), or (3) shall be assigned to the HMO of a family case number, if applicable.

5. All other clients shall be assigned to an HMO.

6. If difficulties arise in HMO assignment, DMAS may assign clients to an HMO in any manner necessary to ensure that the goals and objectives of the MEDALLION II Program are satisfied.

D. **Changing HMOs.** HMO enrolled recipients shall be permitted to change HMOs, upon request to their new HMO, within 60 days of the request. Clients in State Plan defined HMOs which are also competitive medical plans with current Medicare contracts or are federally qualified HMOs will be permitted to change HMOs upon request to their new HMO only:

1. During DMAS specified open enrollment periods; or
2. During the first month of the six-month enrollment period without cause; or
3. During the remainder of the six-month enrollment period if the current HMO permits it and the change is permitted by the current HMO's MEDALLION II contract; or
4. During the remainder of the six-month enrollment period, if determined to be advantageous to the current HMO, the requested HMO, and DMAS; or
5. If all of the following requirements are met:
 - a. the enrollee requests in writing to DMAS and to the current HMO for good cause;
 - b. the request cites the reasons for the disenrollment; and
 - c. DMAS determines that good cause for disenrollment exists.

E. **Open Enrollment Periods.** DMAS will inform the HMOs which are competitive medical plans with current Medicare contracts or are federally qualified HMOs of open enrollment periods. Open enrollment periods will occur at a minimum of twice per calendar year and will be held no more than six months apart.

F. **Good Cause.**

1. Good cause for disenrollment shall include the following:
 - a. A recipient's desire to seek services from a federally qualified health center not under contract to the HMO that is under contract to another HMO available to the recipient; or
 - b. An unusual combination of factors which causes the recipient's access to needed services to be prevented by continued enrollment in the HMO. Nothing in this subparagraph shall excuse the HMO from having an adequate network to provide (or from providing through out-of-network arrangements) all services required by this regulation.

2. Good cause for disenrollment shall be determined at the sole discretion of DMAS and shall be determined in sufficient time to ensure that, if approved, recipients are permitted to change HMOs within 60 days of the request.

3. The current HMO shall provide, within two working days of the request, information requested by DMAS necessary to determine good cause.

G. **Notification of Open Enrollment.** Competitive medical plans with current Medicare contracts and federally qualified HMOs will notify their enrolled recipients of open enrollment periods no less than thirty (30) days before the start of each new period of enrollment and at least twice each year.

12 VAC 30-120-380. MEDALLION II Provider Responsibilities.

A. The HMOs shall be responsible for the provision and management of each client's health care, regardless of how much care is needed or the cost of such care.

B. Services that shall be provided outside the HMO network are school-based services and community mental health services (rehabilitative, targeted case management and waiver services). Clients may also seek emergency and family planning services from a provider outside the HMO. The HMOs shall pay for emergency services and family planning services whether they are to be provided inside or outside the HMO network.

The HMOs shall pay for services furnished in another state to the same extent they would pay for services within their networks if services are needed because of a medical emergency; medical services are needed and the recipient's health would be endangered if he were required to travel to his place of residence; or the needed medical services or necessary supplementary resources are more readily available in another state.

C. Immunizations shall not be included in the fee that DMAS pays the HMOs. The HMO may choose to offer immunizations under the regular Medicaid immunization reimbursement methodology or may refer the patient to a local health department.

D. The HMOs shall report encounter data to DMAS under the contract requirements, which may include data reports based on the Health Plan Employer Data and Information Set (HEDIS), report cards for clients, and ad hoc quality studies performed by third parties.

E. The HMO shall maintain such records as may be required by federal and state law and regulation and by DMAS policy. The HMO shall furnish such required information to DMAS, the Attorney General of Virginia or his or her authorized representatives, or the State Medicaid Fraud Control Unit on request and in the form requested.

F. The HMO shall ensure that the health care provided to its clients meets all applicable federal and state mandates, community standards for quality, and standards developed pursuant to the DMAS managed care quality program.

Emergency Regulations

12 VAC 30-120-390. *Payment Rate for MEDALLION II HMOs.*

The payment rate to HMOs shall be based on contract negotiations.

12 VAC 30-120-400. *Quality Control and Utilization Review (UR).*

A. *Quality.* DMAS shall rigorously monitor the quality of care provided by the HMOs. DMAS may contract with an external quality review organization to perform focused studies on the quality of care provided by the HMOs.

B. *Utilization review.* DMAS shall review, which may include on-site reviews, encounter data submitted by the HMOs as defined in the contracts. This review shall include, but not be limited to:

1. Excessive or inappropriate services,
2. Unauthorized or excluded services, and
3. Analysis of possible trends in increases or reductions of services.

12 VAC 30-120-410. *Sanctions.*

If DMAS determines that an HMO is not in compliance with state or federal laws, regulations, or their MEDALLION II contract, DMAS may impose sanctions on the HMO. The sanctions may include but are not limited to:

- A. Limiting enrollments in the HMO by freezing voluntary recipient enrollments,
- B. Freezing DMAS assignment of recipients to the HMO,
- C. Limit HMO enrollment to specific areas,
- D. Denying, withholding, or retracting payments to the HMO, and
- E. Terminating the HMO's MEDALLION II contract.
- F. Drafting procedures with which the HMO must comply to eliminate specific sanctions.

G. *HMO appeals.* HMOs shall have the right to appeal any adverse action taken by DMAS under these regulations pursuant to the provisions of the Code of Virginia § 9-6.14:1 et seq. (the Administrative Process Act) and any applicable regulations. In the event DMAS determines that the HMO under contract poses a threat to the life or safety of a recipient, that MEDALLION II provider contract may be terminated by DMAS without prior notice.

12 VAC 30-120-420. *Client grievances.*

A. Disputes between the HMO and the client concerning medical necessity shall be resolved through a grievance process operated by the HMO.

B. The HMO shall develop written materials describing the informal and formal grievance system and its procedures and operation.

C. The HMO shall designate a person or persons to be responsible for the receipt and timely processing of client grievances.

D. At the time of enrollment, the HMO shall notify the client, in writing, that:

1. Medical necessity issues may be resolved through a system of informal and formal grievances, and that the client is entitled to appeal the HMO's action directly to DMAS, and,
2. Clients have the right to appeal directly to DMAS, if they believe that the HMO is interfering with their right to freedom of choice for a family services provider.

E. *HMO grievance actions.*

1. The HMO shall issue informal grievance decisions within seven days from the date of initial receipt of the grievance. The informal decision is not required to be in writing.
2. The HMO must maintain a grievance log summarizing each grievance. The grievance log shall capture the dates of receipt and decision and the nature of the decision. The log shall distinguish between Medicaid clients and commercial clients unless the HMO maintains a separate system for Medicaid clients.

F. The HMO shall issue formal grievance decisions within 14 days from the date of initial receipt. The formal decision shall be required to be in writing.

G. Any formal appeal decision by the HMO may be appealed by the client to DMAS in accordance with the Department's Client Appeals regulations. DMAS shall conduct an evidentiary hearing and reserves the right to affirm, modify, or reject any formal appeal decision of the HMO. The HMO shall be responsible for actions required by a DMAS appeal decision. The DMAS decision in these matters shall be final and shall not be subject to appeal by the HMO.

H. A client may, in lieu of utilizing the HMO's appeal process, appeal directly to DMAS in accordance with the Department's appeal process. DMAS shall conduct an evidentiary hearing and reserves the right to affirm, modify, or reject any decision of the HMO. The HMO shall be responsible for actions required by a DMAS appeal decision. The DMAS decision in these matters shall be final and shall not be subject to appeal by the HMO.

12 VAC 30-120-430. *MEDALLION II Phase-in.*

The MEDALLION II Program will be implemented in phases. DMAS will, in the first phase, implement the program for all clients in a specific area of the Commonwealth except those receiving Medicare insurance coverage. DMAS will notify those Medicare clients and clients in other areas of the state prior to the implementation dates for subsequent phases. Providers will also be given advance notification of implementation for subsequent phases. DMAS has the U.S. Health Care Financing Administration's (HCFA) approval for implementing MEDALLION II in phases. The first phase will be implemented January 1, 1996.

VA.R. Doc. No. R96-168; Filed December 28, 1995, 3:31 p.m.

MARINE RESOURCES COMMISSION

FINAL REGULATION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14.4.1 of the Code of Virginia); however, it is required by § 9-6.14.22 B to publish all final regulations.

Title of Regulation: VR-450-01-0078 4 VAC 20-600-10 et seq. Pertaining to Pound Net License Sales.

Statutory Authority: §§ 28.2-201 and 28.2-204.1 of the Code of Virginia.

Effective Date: January 1, 1996.

Preamble:

This regulation limits the sale of pound net licenses to the number of pound nets licensed during calendar year 1994 which were sold on or before August 5, 1994.

This regulation is promulgated pursuant to authority contained §§ 28.2-201 and 28.2-204.1 of the Code of Virginia. This regulation amends and readopts previous VR 450-01-0078 that was adopted on March 28, 1995, and made effective on April 7, 1995. The effective date of this regulation is January 1, 1996.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (804) 247-2248.

4 VAC 20-600-10 et seq. Pertaining to Pound Net License Sales.

CHAPTER 600.

PERTAINING TO POUND NET LICENSE SALES.

§-4. 4 VAC 20-600-10. Purpose.

The purpose of this chapter is to limit the number of pound net licenses to the number of pound net licenses sold on or after January 1, 1994, and through August 5, 1994. This regulation is part of recent restrictions adopted by the Marine Resources Commission in order to reduce the weakfish fishing mortality rate and to be consistent with federal and interstate management measures.

§-2. 4 VAC 20-600-20. Definitions.

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

"Pound net" means a stationary or fixed fishing device consisting of several stakes or poles which have been pushed or pumped into the bottom and attached to netting which forms a straight wall or leader which serves to guide fish through a funnel and heart-shaped enclosure into a terminal head or pocket with a netting floor.

§-3. 4 VAC 20-600-30. Limit on sale of licenses.

A. Except as provided in § 4 of this chapter 4 VAC 20-600-40, the total number of pound net licenses issued for 1995 1996 shall be limited to the number of pound net licenses sold on or before August 5, 1994, for calendar year 1994. No

additional pound net licenses shall be sold for calendar year 1995 1996.

B. All eligible license renewals by those licensees who meet the requirements of subsection A of this section, applications for vacant locations, if available, and requests for transfer of license shall be made in accordance with VR 450-01-0004 4 VAC 20-20-10 et seq.

§-4. 4 VAC 20-600-40. Exceptions to limit on pound net licenses.

Licenses issued for pound nets to be set in the following areas shall not be limited in number:

1. In the James River, upstream of a line connecting Scotland Wharf with Jamestown Wharf.
2. In the Mattaponi and Pamunkey Rivers, upstream of the Route 33 bridges at West Point.
3. In the Rappahannock River, upstream of the Route 360 bridge at Tappahannock.
4. In the Virginia Potomac River tributaries, upstream of the Route 301 bridge.

§-5. 4 VAC 20-600-50. Penalty.

As provided in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R96-165; Filed December 27, 1995; 2:17 p.m.

EMERGENCY REGULATION

Title of Regulation: VR 450-01-0081. Pertaining to Summer Flounder.

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: January 1, 1996, to January 31, 1996.

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 possession and season limit.

This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-210 of the Code of Virginia and amends VR 450-01-0081, which was promulgated by the Marine Resources Commission and

made effective October 1, 1995. The effective dates of this regulation are January 1, 1996, to January 31, 1996.

VR 450-01-0081. Pertaining to Summer Flounder.

§ 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.

§ 2. Definitions.

The following words and terms, when used in this regulation, shall have the following meaning unless the context indicates otherwise:

"Trip" means that period during which a vessel shall have left a dockside landing place, relocated to waters where trawling is legally permitted, and returned to a dockside landing place.

§ 3. Commercial harvest quotas.

A. 1. During each calendar year, commercial landings of Summer Flounder shall be limited to the total pounds calculated pursuant to the joint Mid-Atlantic Council/Atlantic States Marine Fisheries Commission Summer Flounder Fishery Management Plan, as approved by the National Marine Fisheries Service on August 6, 1992; and shall be distributed as described in subdivisions 2 through 8 of this subsection.

2. The commercial harvest of Summer Flounder from Virginia tidal waters for each calendar year shall be limited to 300,000 pounds.

3. During the period of January 1 through March 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 64.3% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

4. During the period of April 1 through June 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

5. During the period of July 1 through September 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection.

6. During the period of October 1 through December 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 22.9% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection and as may be further modified by subdivision 7 of this subsection.

7. a. During the periods set forth in subdivisions 3, 4, and 5 of this subsection, should landings exceed or fall short of the quota specified for that period any such excess shall be deducted from, and any such shortage shall be added to, the quota for the period set forth in subdivision 6 of this subsection.

b. During the period specified in subdivision 2 of this subsection, should landings be projected to fall short of the quota specified for that period, any such shortage shall be added to the quota for the period set forth in subdivision 6 of this subsection. A projection of harvest under this subdivision b will be made on or about November 1.

8. For each of the time periods and quotas set forth in subdivisions 3, 4, 5, 6 and 7 of this subsection, the Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments thereto.

B. It shall be unlawful for any person to harvest for commercial purposes or to land Summer Flounder for sale after any commercial harvest or landing quota as described in this section has been attained and announced as such.

§ 4. Commercial trip limitation.

A. During the period of January 1 through March 31 of each calendar year, 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 after it is projected and announced that 85% of the quarterly quota has been taken~~ 9,000 pounds per vessel per trip; except that when it is projected and announced that 80% of the quota for this period 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 5,000 pounds per vessel per trip.

Pursuant to § 28.2-210 of the Code of Virginia the provisions of this subsection were approved by the Marine Resources Commission as an emergency regulation on December 19, 1995, and are effective January 1, 1996, for a period of 30 days.

B. During the period of April 1 through September 30 of each calendar year, 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 trip.

C. During the period October 1 through December 31 of each calendar year, 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 5,000 pounds per vessel per trip, except that when it is projected and announced that 85% of the quota for this period 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.

D. For each of the time periods and trip limits set forth in subsections A and C of this section, the Marine Resources

Marine Resources Commission

Commission will give timely notice of any changes in trip limits.

§ 5. Minimum size limits.

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 13 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to, hook-and-line, rod-and-reel, spear and gig, shall be 14 inches, total length.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to catch and retain possession of any Summer Flounder smaller than the designated minimum size limit.

§ 6. Possession limit.

It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, spear, gig or other recreational gear, or with commercial hook-and-line, to possess more than eight Summer Flounder. When fishing is from a boat, or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by eight. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.

§ 7. Recreational fishing season.

The recreational fishing season shall be year-round and there is no closed season.

§ 8. 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, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R96-166; Filed December 27, 1995, 2:16 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER FIFTY-FIVE (95)

GOVERNOR'S INITIATIVE AGAINST NARCOTICS TRAFFICKING (G.I.A.N.T.)

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and Chapter 5 of Title 2.1 of the Code of Virginia, and subject to my continuing authority and responsibility to act in such matters, I hereby create the Governor's Initiative Against Narcotics Trafficking (G.I.A.N.T.).

There exists within the Commonwealth of Virginia, as in every other state, a continuing traffic in illicit drugs. While valiant efforts have been made, and continue to be made, by federal, state, and local law enforcement agencies to overcome this pernicious trade and usage, the effort has not been fully coordinated, and breakdowns in communications and duplication of efforts continue to hamper progress. By creating G.I.A.N.T., I intend not only to remedy these problems, but also to put in place a leadership team that will make the Commonwealth's efforts against illicit drugs second to none.

The following agencies and named individuals shall comprise the steering committee for this effort:

Department of State Police

Colonel M. Wayne Huggins, Superintendent (Chair of G.I.A.N.T.);

Department of Military Affairs

Lieutenant Colonel Andrew M. Sheridan, Jr.,
Plans, Operations, and Military Support Officer;

Department of Alcoholic Beverage Control

Mr. Garth L. Wheeler, Director,
Bureau of Law Enforcement Operations;

Department of Aviation

Mr. Kenneth F. Wiegand, Director;

Marine Resources Commission

Commissioner William A. Pruitt; and

Virginia Port Authority

Chief Don Boyd.

In order to carry out this mission, five full-time special agents from the Department of State Police shall be assigned to G.I.A.N.T. All other listed agencies shall participate on a part-time basis, making both personnel and equipment available. The steering committee of G.I.A.N.T. shall establish procedures to facilitate and assure coordination and cooperation among the various agencies. Such procedures shall be directed toward:

1. The development of intelligence pertaining to domestically grown marijuana, both indoor and outdoor, with the eradication of this marijuana and successful prosecution of the growers as a primary goal of G.I.A.N.T.;
2. The development of intelligence concerning air smuggling into Virginia by the use of contacts to monitor suspicious activities at all known airports in the

Commonwealth, and by locating clandestine airstrips and identifying users;

3. Reduction of the supply of illegal drugs entering and being transported within the Commonwealth by interdicting drug shipments via land, air, and waterway;

4. Development of procedures that eliminate duplication of activities and breakdowns in communication among the various state agencies and law enforcement authorities; and

5. Utilization of the resources of county and city law enforcement agencies to the maximum extent possible.

The G.I.A.N.T. steering committee shall meet at the call of the Chair. Regular meetings will be established for the purpose of ensuring that any operational difficulties may be remedied on an ongoing basis.

All other agencies of the Commonwealth not specifically named herein shall cooperate with and provide assistance to G.I.A.N.T. to the fullest extent allowed by law and consistent with the mission of the various agencies.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 31st day of August, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R96-156; Filed December 28, 1995, 12:49 p.m.

EXECUTIVE ORDER NUMBER FIFTY-SIX (95)

DELEGATION OF AUTHORITY TO THE SECRETARY OF THE COMMONWEALTH TO APPROVE COMMERCIAL USE OF THE SEAL OF THE COMMONWEALTH

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 Sections 2.1-39.1 and 2.1-51.6:4 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby affirm and delegate authority to the Secretary of the Commonwealth of Virginia, Keeper of the Seals of the Commonwealth as provided in Section 2.1-68 of the Code of Virginia, to approve the use of the seals of the Commonwealth for commercial purposes in accordance with the provisions of Section 2.1-51.6:4 of the Code of Virginia.

This Executive Order shall be effective 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 19th day of October, 1995.

/s/ George F. Allen
Governor

VA.R. Doc. No. R96-161; Filed December 28, 1995, 12:49 p.m.

Governor

EXECUTIVE ORDER NUMBER FIFTY-SEVEN (95)

CONTINUING CERTAIN GUBERNATORIAL COMMISSIONS

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 Sections 2.1-51.36 and 2.1-51.37 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the executive orders and the gubernatorial commissions as specified below.

Each continued commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia. Each commission shall have the same duties, responsibilities, and sources of staff and financial support, or applicable portions thereof, as set forth in its creating executive order. Each commission shall be continued retroactively or prospectively from the termination date in its creating executive order to the revised termination date set forth below.

1. Executive Order Number One (94), which created the Governor's Commission on Government Reform, is continued until January 15, 1996.
2. Executive Order Number Ten (94), which created the Governor's Commission on Development of the Virginia Travel and Tourism Industry, is continued until January 15, 1996.
3. Executive Order Number Sixteen (94), which created the Governor's Advisory Board for Opportunity Virginia, is continued until April 30, 1996.
4. Executive Order Number Thirty (94), which created the Governor's Commission on Conversion of State-Owned Property, is continued until September 1, 1996.
5. Executive Order Number Thirty-six (94), which created the Virginia-Israel Partnership, is continued until October 31, 1996.
6. Executive Order Number Thirty-seven (94), which created the Governor's Advisory Council on Self-Determination and Federalism, is continued until November 1, 1996.

These commissions shall continue to fulfill such duties and responsibilities outlined in their creating executive orders as remain applicable, subject to such additional guidance and revised deadlines as the Governor or responsible Governor's Secretary may from time to time provide and establish.

This Executive Order shall be retroactively effective to January 15, 1995, upon its signing and shall remain in full force and effect until November 1, 1996, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 3rd day of November, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R96-162; Filed December 28, 1995, 12:49 p.m.

EXECUTIVE ORDER NUMBER FIFTY-EIGHT (95)

DECLARATION OF A STATE OF EMERGENCY THROUGHOUT THE COMMONWEALTH OF VIRGINIA ARISING FROM SEVERE DROUGHT CONDITIONS

On September 14, 1995, I verbally declared a State of Emergency due to drought conditions throughout portions of the Commonwealth of Virginia that had resulted in severe water shortages, the potential for widespread forest fires due to extreme dry conditions, and devastating effects to public health and safety. In addition, drought-related conditions had caused economic losses to agricultural crops and livestock.

The health and general welfare of the citizens of the affected jurisdictions required that state action be taken to help alleviate conditions that were or could be caused by the drought or drought-related conditions. Potential emergencies included inadequate potable water supplies and damage to and loss of state crops and livestock. I found that these conditions and consequences constituted a disaster wherein human life was imperiled or threatened and that there was potential for significant damage to public and private property as contemplated by Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby confirm, ratify and memorialize in writing my verbal orders issued September 14, 1995, wherein I proclaimed that a state of emergency existed in the affected areas of the Commonwealth and directed that appropriate and practical assistance be rendered by agencies of the state government under currently available programs to alleviate conditions arising from this drought. Pursuant to Section 44.75.1(4) of the Code of Virginia, I also directed that the Virginia National Guard be called forth to assist in providing such aid as necessary.

The following conditions did and do apply to said deployment of the Virginia National Guard:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, and with the approval of the Secretary of Public Safety, shall make available on state active duty such units and members of the Virginia National Guard and such equipment as may be desirable to assist in alleviating human suffering and damage to property as a result of the drought.
2. In all instances, members of the Virginia National Guard shall remain subject to military command as prescribed by Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of the state or local governments.

3. 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 subject to 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.

4. The cost incurred by the Department of Military Affairs in performing this mission shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 593 of Chapter 966 of the 1994 Acts of Assembly.

This executive order shall be retroactively effective to September 14, 1995, upon its signing and shall remain in full force and effect until June 30, 1996, 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 5th day of December, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R96-163; Filed December 28, 1995, 12:49 p.m.

EXECUTIVE ORDER NUMBER FIFTY-NINE (95)

AMENDING AUTHORITY AND RESPONSIBILITY OF GOVERNOR'S SECRETARIES

By virtue of the authority vested in me by Sections 2.1-39.1, 2.1-51.39, 2.1-51.40, 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.

Part 1: Supervision of Agencies by the Governor's Secretaries and Related Duties

A. Agencies are assigned to the Secretaries listed below as follows:

1. 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. Innovative Technology Authority
 - f. Department of Labor and Industry
 - g. Department of Mines, Minerals and Energy
 - h. Department of Minority Business Enterprise
 - i. Department of Professional and Occupational Regulation
 - j. Milk Commission
 - k. Virginia Agricultural Council
 - l. Virginia Employment Commission
 - m. Virginia Racing Commission
2. 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
 - e. Virginia Port Authority
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. James Madison University

Governor

- i. Jamestown-Yorktown Foundation
- j. Longwood College
- k. Mary Washington College
- l. Norfolk State University
- m. Old Dominion University
- n. Radford University
- o. Southeastern Universities Research Association, Incorporated
- p. Southwest Virginia Higher Education Center
- q. State Council of Higher Education for Virginia
- r. The Science Museum of Virginia
- s. University of Virginia
- t. Virginia College Building Authority
- u. Virginia Commonwealth University
- v. Virginia Community College System
- w. Virginia Military Institute
- x. Virginia Museum of Fine Arts
- y. Virginia Polytechnic Institute and State University
- z. The Library of Virginia
- za. Virginia State University

This Executive Order shall be effective December 15, 1995, 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 15th day of December, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R96-164; Filed December 28, 1995, 12:49 p.m.

Part 2: Delegation of Authority

The Secretary of Transportation is hereby delegated by authority under Section 62.1-132.14 of the Code of Virginia to approve contracts known as "agreements of local cooperation" between the Virginia Port Authority, or other agencies designated by me, and the U.S. Army Corps of Engineers.

Part 3: Coordination of Port Marketing Activities Between Secretaries

It is my intent that the Secretary of Commerce and Trade and the Secretary of Transportation continue to work together to promote Virginia's ports. The Secretary of Commerce and Trade shall consult with the Secretary of Transportation regarding economic development opportunities affecting Virginia's ports, and the Secretaries shall ensure that the Virginia Port Authority is provided opportunities to cooperate regularly with the Virginia Economic Development Partnership, the Department of Economic Development, the Department of Agriculture and Consumer Services, and such other agencies within the Commerce and Trade secretariat as may be appropriate, to foster Virginia's economic prosperity.

Part 1 of this Executive Order amends Parts 1.A.2, 1.A.3, and 1.A.8 of Executive Order Number Thirty-one (94), issued by me on October 25, 1994. Part 2 of this Executive Order amends Parts 3 and 8 of Executive Order Number Thirty-one (94), issued by me on October 25, 1994.

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HJR 615: Subcommittee Studying Procedures to Identify and Fund State Mandates on Local Governments

December 1, 1995, Richmond

The subcommittee concluded its study on local mandates by reviewing and adopting the following three legislative proposals for introduction at the 1996 Session:

1. *Waiver of the first-day-introduction requirement for local fiscal impact and prison impact bills.* The subcommittee's first proposal provides an umbrella of protection for local fiscal and prison impact bills passed by the General Assembly that were not filed in a timely manner in accordance with statutory provisions that will be applicable for the first time at the 1996 Session. The subcommittee found that reasonable minds often disagree on whether a bill creates a local fiscal impact, particularly at the time the bill is offered for introduction. Concerned that some local fiscal or prison impact bills not identified initially may be subject to validity challenges if passed, the subcommittee recommended a change in the law to provide that any local fiscal or prison bill passed by the General Assembly would be deemed conclusive proof that the legislature had waived the first-day-introduction requirements for these bills. To cover bills considered at the 1996 Session, the subcommittee recommended that the curative provision be introduced as an emergency bill with a retroactive effective date from the first day of session (January 10, 1996).

2. *Enhancements to the local fiscal analysis process.* The need to increase the timely flow of information to legislators voting on mandate legislation persuaded the subcommittee to recommend moving up the filing deadline for local impact bills from the first day of session to December 20 and providing for a drafting request deadline of December 15. Acknowledging that local impacts are sometimes hard to assess, the subcommittee recommended expanding the circum-

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- 12 HJR 601: Joint Subcommittee Studying Automobile Insurance Coverages
- 13 SJR 313: Joint Subcommittee Studying Informed Consent to Medical Procedures and Treatment
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- 14 HJR 283: Blue Ridge Economic Development Commission
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stances in which a bill may be introduced after the deadline to include the simultaneously filing by the member of a statement declaring that to the best of his knowledge the bill does not create a local fiscal impact. Finally, the proposal requires fiscal impact analysis of any carry-over measure that creates a local fiscal impact. Amended bills that potentially create a local fiscal impact but escape fiscal analysis due to the time constraints of the session may be carried over from an even-year session to the odd-year session so that a fiscal analysis can be prepared.

3. Post review of mandate assessments and local fiscal impacts. The third proposal creates a forum for localities to dispute the cost of mandates by authorizing the Virginia Advisory Commission on Intergovernmental Relations (ACIR) to critically review local mandate assessments prepared by state agencies and local fiscal impact statements prepared by the Commission on Local Government that are brought to the commission's attention by the Virginia Association of Counties, the Virginia Municipal League, or any local governing body. The commission is required to report annually its findings, if any, to the Governor and the General Assembly by the first calendar day of the regular session. The proposal is intended to give the ACIR the ability not only to analyze the accuracy of individual assessments or impact statements but also to look at the process by which those fiscal statements or assessments were prepared and to make appropriate recommendations.



The Honorable W. Roscoe Reynolds, *Chairman*
Legislative Services contact: Ginny Edwards

HJR 560: Joint Subcommittee Studying Access to Obstetrical and Gynecological Services

*November 13, December 12, 1995,
Richmond*

The joint subcommittee held its second meeting and a public hearing on November 13, and on December 12, convened its final meeting to review draft legislation and to discuss its report to the Governor and the 1996 Session of the General Assembly.

Public Hearing

Speakers at the November 13 public hearing focused on the issue of limited versus unlimited access to obstetricians and gynecologists (Ob/Gyn) in managed care plans and on the designation of Ob/Gyns as primary care physicians (PCP) in such plans. A Virginia League for Planned Parenthood representative advocated unrestricted access as a means of providing optimum gynecological care, particularly in the area of sexually transmitted diseases and pregnancy prevention. Representatives of certified nurse midwives (CNM) and Ob/Gyn nurse practitioners

also expressed strong support for unrestricted access. CNMs, who under Virginia law must practice collaboratively with physicians, advocated adoption of the North Carolina legislative model, which includes CNMs in its direct access scheme.

An Ob/Gyn nurse practitioner testified that PCP provider agreements often contain financial disincentives to Ob/Gyn and other specialist referrals. For example, the cost of a PCP's referral, she testified, may be deducted from his annual capitated fee for that patient. A physician may also risk losing his PCP status if his referrals reach a volume or cost level that a managed care plan deems excessive. An Ob/Gyn from Lynchburg testified that PCP-coordinated restrictions on OB/GYN access may have significant health consequences. In her comments to the subcommittee and in a memorandum submitted subsequently, she described cases in which gynecological or obstetrical conditions were undiagnosed, misdiagnosed, or exacerbated due to delays in Ob/Gyn examination and treatment. These delays, she testified, resulted from managed care access restrictions.

Representatives of major managed care organizations, including Blue Cross/Blue Shield of Virginia, Kaiser Permanente, and Humana, together with representatives of the Virginia HMO Association, maintained that Virginia's market-driven approach to the Ob/Gyn access issue is appropriate and desirable. Some observed that the annual self-referred office visit to an Ob/Gyn for recommended screening and preventive services (and necessary follow-up), currently provided by many managed care plans, demonstrates that the market is responding to the issues addressed in this study. Moreover, PCP coordination of Ob/Gyn utilization and care was described as providing quality medical care while concurrently moderating the cost of health care coverage.

Representatives of Virginia's business community, led by the Virginia Chamber of Commerce, expressed their firm opposition to any statutory authorization for unlimited direct access or any requirement that managed care plans be required to designate Ob/Gyns as PCPs. The Chamber and the Commonwealth Coalition on Health emphasized that employers have chosen managed care because it delivers value in price and quality. Moreover, a Chamber representative emphasized, the Virginia HMO Association's survey of its members (presented at the subcommittee's first meeting) showed that many HMOs are currently authorizing limited Ob/Gyn direct access via self-referred wellness examinations.

Finally, family practitioners, represented by Virginia Academy of Family Practitioners, emphasized their specialty's capabilities in their expanding role as PCPs in managed care plans. Academy representatives appeared at both meetings to brief the joint subcommittee on family practitioners' residence training and board certification process, which includes training in gynecology, conception control, pregnancy, and related surgery. Family practitioners urged joint subcommittee support for the PCP-coordinated Ob/Gyn access mechanism present in most of Virginia's managed care plans.

Subcommittee Work Sessions and Recommendations

During joint subcommittee work sessions at both meetings, Ob/Gyn access legislation from other states, including Connecticut, New York, North Carolina, and Maryland, was discussed. At the December 13 meeting, joint subcommittee members concluded that legislative study of Ob/Gyn access in managed care plans should continue in 1996. Members present at the meeting further agreed that in conjunction with reviewing the draft of its final report, joint subcommittee members would examine three legislative drafts separately incorporating: (i) the North Carolina legislative model permitting unrestricted access, (ii) the Maryland model permitting one self-referred Ob/Gyn visit or Ob/Gyn PCP designation, and (iii) a proposal permitting unrestricted access under the Maryland model if an individual's PCP is not a family practitioner.



The Honorable Gladys B. Keating, *Chairman*
Legislative Services contact: Arlen K. Bolstad

HJR 551/SJR 334: Joint Subcommittee Studying Charter Schools

December 20, 1995, Richmond

The joint subcommittee reviewed draft legislation authorizing charter schools in Virginia during a work session. The subcommittee agreed on the following parameters for charter schools legislation:

Charter school as public school. Charter schools may be created as new public schools or through the conversion of an existing public school; no private schools or nonpublic home-based educational program could become a charter school. Further, as a public school, a Virginia charter school would be "free"—no tuition could be charged, except as is currently permitted for nonresident students pursuant to § 22.1-5. These schools are subject to the Standards of Quality (SOQ), state and federal anti-discrimination laws, and court-ordered desegregation plans. They are deemed part of the school division and are accountable to the local school board. Enrollment should be open to any child residing in the school division.

Local option. To preserve local option and to prevent administrative and fiscal problems prompted by unsolicited applications, local school boards would have to affirmatively act to announce their intention to receive, review, and approve charter school applications. Further, a school board may craft its own schedule for review, public input, and approvals.

Role of State Board of Education. Because the Virginia Constitution vests the "general supervision" of the public schools in the Board of Education and makes the board primarily responsible for "effectuating the educational policy," the operation of any charter schools in Virginia must necessarily be consistent with this state education policy.

Educational standards. As a public school, any charter school established in the Commonwealth would be subject to those SOQ mandated by the Constitution and established in the Code of Virginia; compliance with these minimum educational standards could not be waived by a charter agreement.

Funding. Responsibility for funding a charter school should be shared by the Commonwealth and the locality, just as responsibility for funding the SOQ is now apportioned between the state and localities pursuant to the Virginia Constitution. The draft legislation incorporates a funding mechanism similar to that used for funding some Governor's Schools and some alternative education programs. The objectives of this provision are to: (i) avoid the creation of a financial incentive or disincentive for charter schools; (ii) to ensure that SOQ costs calculated in the fall are not affected by special programs, such as a charter school, that might enroll few students but might still drive up costs through required instructional positions (these charter school students are funded later, however, through the average daily membership); and (iii) to create consistency in funding calculations among school divisions deciding to establish charter schools. The proportionate share of state and federal money for disabled pupils and special education personnel as well as state and federal categorical aid must also go to the charter school. Finally, while the details of particular funding arrangements should be negotiated in the charter agreement to accurately reflect actual support services and expenses, legislation must nonetheless be carefully crafted to ensure that no additional state or local appropriations would be required to support charter schools.

Charter application. Any person, group, or organization may apply to operate a charter school. Each charter application must include a school mission statement; goals and performance standards; evidence of parental, teacher, and pupil support; a statement of need; a description of standards, which must meet or exceed the SOQ; a proposed budget; a plan for displaced pupils and teachers; and a description of governance, employment conditions, and other related matters.

Approval authority and appeals. Ultimate authority for the approval of charter schools should rest exclusively with local school boards; decisions of the local school board to grant, deny, revoke, or to fail to renew a charter should be final and not subject to appeal. Local boards may revoke a charter for failure to make progress toward performance standards, violations of law or charter conditions and standards, upon a determination that the charter is "not in the public interest," or for fiscal mismanagement. The school board has no obligation to renew a charter contract.

Local school board authority. Consistent with the supervisory authority of local school boards articulated in Article VIII, §7 of the Virginia Constitution, charter schools legislation should provide for the negotiation of operations issues, but preserve the local board's authority over matters that are seen as "essential and indispensable" to this supervisory power.

Flexibility and waivers. Waivers from state and local regulations should be specifically negotiated in the charter agreement, rather than through a "superwaiver" provision in any charter schools legislation. Because the state board, and not the local school board, retains authority over state education regulations, any legislation should include some provision for waivers granted on a case-by-case basis pursuant to each charter agreement. Special care must be taken to ensure compliance with regulations governing health and safety, federal law and regulation, and the SOQ and Standards of Learning (SOL).

Admissions policies. Charter schools should be given the flexibility to address particular curricula or pupil populations, such as the at-risk or gifted, but in no event should admissions policies be allowed to violate state and federal antidiscrimination laws or any court-ordered desegregation plans.

Teacher licensure. Charter school legislation should specify that instructional personnel employed by a charter school be licensed by the Board of Education; licensure regulations already afford sufficient flexibility by including alternative routes to licensure and Technical Professional Licenses for persons with high school diplomas or GEDs. Further, although instructional personnel should be able to volunteer for assignment to a charter school, school boards should retain authority to assign personnel as necessary.

Restrictions on number and term of charters. The school board may restrict the number of charters granted, and no more than two charters may be granted per division before July 1, 1998. The term of any charter—whether initial or renewed—may not exceed three years. At least half of a division's charters must be reserved for applications designed to increase opportunities for at-risk students and priority given to these applications.

Evaluation. To ensure accountability, an annual evaluation of charter schools should be incorporated in charter schools legislation. In addition, the state board should report annually to the Governor and the General Assembly regarding the operations of these special schools.

Technical assistance. The Department of Education should provide technical assistance to those school boards electing to permit the establishment of charter schools.

Staff was directed to revise and circulate to committee members proposed legislation and a draft committee report, which will be approved by mail.



The Honorable J. Paul Council, Jr., *Chairman*
Legislative Services contact: Kathleen G. Harris

Virginia Small Business Commission

December 14, 1995, Norfolk and Herndon

The commission convened meetings and public hearings in Norfolk's City Council chambers and at the Center for Innovative Technology in Herndon. At both meetings, the importance of small business to Virginia's economy and the mission of the commission were emphasized. Small business representatives briefed the commission on general concerns involving taxes, health care cost, and other related issues. The commission also received budget recommendations concerning the Small Business Development Centers and the Small Business Financing Authority.

BPOL Taxes

Many speakers expressed opposition to the Business, Professional and Occupational License (BPOL) tax. That the BPOL tax is based on gross receipts, without regard to profit or a business's ability to pay, is the principal source of small business discontent. BPOL, according to many, places a disproportionate burden on start-up businesses, on businesses operating at a loss, and on businesses competing in highly competitive markets where profit margins are slim. An additional concern is localities' broad latitude in determining business tax category. For example, a business in one city may be classified as a "business service," subject to a maximum rate of \$0.36 per \$100 in gross receipts, while in another city, the same business might be classified as a "professional service," subject to a maximum rate of \$0.58 per \$100.

Some speakers, while expressing support for BPOL reform, urged caution in view of localities' dependence on BPOL revenue. Moreover, some suggested that localities deprived of BPOL revenues might shift tax burdens to narrower bands of business categories, such as the hospitality industry (e.g., hotels and restaurants).

Several speakers commented on BPOL reform proposals currently under consideration by General Assembly study panels. One proposal would exempt business with less than \$100,000 of gross receipts from BPOL taxation. However, one speaker suggested that exempting \$100,000 of gross receipts for all businesses would be a more equitable policy.

Small Business Development Centers

Virginia's Small Business Development Centers are funded by federal grant money by the federal Small Business Administration, with additional funding from the Commonwealth's general fund. There are 21 SBDC locations throughout Virginia providing free business counseling and training seminars to current and prospective small business owners.

The executive director of the SBDC of Hampton Roads asked the commission to support two budget requests. First, the center requested that the General Assembly appropriate \$500,000 for the Virginia Small Business Financing Authority's Capital Access Program. Second, the center requested an additional appropriation of \$750,000 to the SBDC network for manufacturing, technical, and international services. The Administration's proposed budget, released on December 18, 1995, contains no appropriations for either program.

Health Care and Other Issues

Several speakers noted the impact of managed care on small business costs. One speaker urged the commission to support managed care programs as a means of continuing health care reform efforts that have moderated premium costs to small businesses and their employees. "Any willing provider" statutes were cited as examples of governmental erosion of managed care. However, one small business owner criticized the quality of care he and his family had received through a managed care plan.

Another speaker expressed concerns about governmental competition with businesses in the private sector, citing the Virginia Department of Transportation's competition with private aerial mapping firms in the area of "center line" roadway mapping. Additionally, preferences given Virginia prison industries in public procurement were raised as examples of competition with the private sector. According to one speaker, prisons captured 34 percent of the market for furniture in state procurement using this statutory preference.

The commission took all recommendations received under advisement and will include them in its final report to the Governor and the 1996 Session of the General Assembly.



The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Arlen K. Bolstad

Chesapeake Bay Restoration Fund Advisory Committee

November 29, 1995, Richmond

The Chesapeake Bay Restoration Fund Advisory Committee met to review proposals for financial support grants. During the 1995 fiscal year, sales of the special Chesapeake Bay license plates resulted in the Restoration Fund's receiving \$306,945. The advisory committee received 131 proposals from nonprofit community organizations, educational institutions, state and local government agencies, and soil and water conservation districts. The requests totaled in excess of \$1.8 million.

The advisory committee reviewed each proposal and voted to recommend the funding of 33 projects in the amount of

\$305,917.03. As required by the authorizing legislation, the advisory committee reported its recommendations to the General Assembly, specifically the Chairmen of the Senate Finance and House Appropriations Committees, and to the Governor. It also recommended that the funds allocated via the grants be passed through the Department of Conservation and Recreation so the moneys could be further leveraged by serving as the required state match for receiving federal nonpoint source pollution funds.

It is expected that the advisory committee's recommendations will be included as 1996 amendments to the 1994-96 Appropriations Act, which will make the grant money available during the spring of 1996. A list of the recommended projects is available at the Division of Legislative Services.



The Honorable Frederick M. Quayle, *Chairman*
Legislative Services contact: Martin G. Farber

SJR 370/HJR 591: Joint Subcommittee Studying Capital Access and Business Financing

December 11, 1995, Richmond

At its third and final meeting of the interim, the joint subcommittee considered legislative and other recommendations proposed by the Secretary of Commerce and Trade and his staff as a result of the subcommittee's deliberations. The legislative recommendations and the joint subcommittee's actions thereon are summarized below.

Remove the BPOL tax on seed and venture capital firms. Referred to the Commission on State and Local Government Responsibility and Taxing Authority (HJR 487, 1995) for further study and review.

Establish and fund a Virginia Capital Access Program to be administered by the Virginia Small Business Financing Authority (VSBFA). Due to the joint subcommittee's concern that this program would likely lead to a phase-out of VSBFA's popular Working Capital Guarantee Program, no action was taken.

Provide tax credits to lenders for all loans made in designated enterprise zones. Endorsed, but no legislative action recommended at this time due to the extensive recent legislative changes in the enterprise zone program.

Establish (i) funds for seed and early stage debt and equity for technology-based companies and (ii) a loan guarantee program for emerging growth companies; authorize VSBFA to take equity kickers (shares of ownership) in high technology

companies. Referred to the Secretary of Commerce and Trade for further study.

Allow the maximum level of capital to be raised through federal securities regulations which provide for small securities offerings with limited documentation. Endorsed; legislative action is likely unnecessary since the State Corporation Commission may already have the ability to accomplish this through existing statutory authority or its rules or regulations.

Re-capitalize the VSBFA Revolving Loan Fund. Endorsed; statutory authority already exists to accomplish this, and \$5 to \$10 million will be raised through the sale of VSBFA bonds.

The joint subcommittee also endorsed a proposal to resist statutory "mandates" on the Virginia Retirement System (VRS) to invest in Virginia companies. However, the subcommittee agreed that VRS "should be encouraged to play a role in establishing the venture capital roundtable and to support Commonwealth-specific venture capital summits that showcase Virginia technology and Virginia companies. Also, the VRS should assist in establishing a streamlined process for Virginia companies to get direct access to Brinson Partners, their major fund investor."

Finally, the joint subcommittee voted to extend its study for an additional year.



The Honorable Robert L. Calhoun, *Chairman*
Agency contact: Christopher D. Lloyd,
Office of the Secretary of Commerce and Trade

HJR 656: Funding for Public Transportation in Hampton Roads

November 27, 1995, Hampton

In its fourth meeting the joint subcommittee reviewed techniques employed in other jurisdictions for financing public transportation. Representatives of the two Northern Virginia transportation districts where a sales tax on motor fuel is levied relayed their experiences to the joint subcommittee.

Funding Options

According to the American Association of State Highway and Transportation Officials' 1993 report entitled "Survey of State Involvement in Public Transportation," the most widely adopted method of direct or indirect state financial assistance for public transportation is the fuel tax, which is levied in 12 states. Other techniques, in descending frequency of implementation, include the sales tax, allocation of oil overcharge moneys, use of lottery proceeds, vehicle registration fees, and vehicle use or excise taxes. Other funding mechanisms used in other states

include dedication of interest on the transportation trust fund, revenue from casinos, a cigarette tax, a payroll tax, and recording taxes.

The joint subcommittee reviewed several financing techniques applicable to public transportation, including (i) taxes, (ii) special assessments, (iii) impact fees, (iv) negotiated investments or proffers, (v) private donations and initiatives, (vi) sale or lease of a transit agency's property and property rights, (vii) contracting for private provision of facilities and services, and (viii) public-private partnerships. Taxes imposed in other jurisdictions for transportation financing include the state sales tax, local option sales tax, motor fuel tax, motor vehicle excise tax, state beer tax, payroll tax, tax increment financing, and the use of lottery proceeds.

Regional Sales Tax on Motor Fuel

In 1980, the General Assembly passed legislation imposing a sales tax of two percent on all motor fuel sold in the Northern Virginia Transportation District. The imposition of the sales tax on fuel was prompted by the need to finance costs associated with the Metro project. In 1986 the law was amended to levy a two-percent motor fuel sales tax in the Potomac-Rappahannock Transportation District, prompted by the development of the Virginia Railway Express system.

Tax revenues distributed to the Northern Virginia Transportation District Commission are applied to the operating deficit, capital, and debt service of the Metro system, while tax revenues distributed to the Potomac-Rappahannock Transportation District may be expended for any transportation purpose. The local motor fuel sales tax in Northern Virginia generated \$18.6 million in fiscal year 1995.

The director of the Potomac-Rappahannock Transportation District Commission debunked several myths regarding the sales tax on gasoline. First, contrary to expectations, revenue from the gas tax has not increased or decreased in tandem with changes in the price of fuel; revenue from the gas tax has remained relatively stable. Second, the imposition of the two-percent gas tax has not uniformly caused the pump price of gasoline to increase by the same percentage. Finally, while revenues from the sales tax on fuel have been instrumental in the development of the Virginia Railway Express, the revenues are not sufficient to fund all of the necessary transportation improvements in the district.

A representative of the Washington Metropolitan Area Transportation Authority recounted the colorful history of the implementation of the regional sales tax on motor fuel in Northern Virginia. The federal legislation authorizing the Metro system required Virginia, Maryland, and the District of Columbia to provide stable and reliable dedicated funding for their portion of operating and debt service expenses. Virginia risked losing \$1.7 billion in federal money if a dedicated funding source for Metro, such as the sales tax on fuel in Northern Virginia, was not implemented.

Both representatives of these transportation districts advised the joint subcommittee that garnering support for a regional public transportation funding program will be easier if its advocates have identified specific projects, results, or goals to be financed by the program.

Next Meeting

The next meeting of the joint subcommittee was held on December 19 at the PENTRAN Building in Hampton. At that time, members discussed the revenue potential of a regional sales tax on motor fuel.



The Honorable Flora D. Crittenden, *Chair*
Legislative Services contact: Franklin D. Munyan

HJR 640: Joint Subcommittee Studying the Virginia Geographic Information Network (VGIN)

December 13, 1995, Richmond

The joint subcommittee heard several proposals for the structure of the proposed VGIN organization, four from the subcommittee's consultant and two from the technical advisory committee.

Consultant's Options

Mark Crain, consultant to the joint subcommittee, presented four possible organizational structures for VGIN:

1. A public-private partnership, with responsibility for representing the state's interest residing with the Council on Information Management (CIM). CIM's Advisory Committee on Mapping, Surveying and Land Information Systems and Local Government Advisory Committee would be heavily involved in developing and coordinating the project.
2. The Virginia Center for Geographic Information, with the option of three to five regional bases. Similar to Option 1, in that CIM would retain primary responsibility for developing requests for proposals and contract administration, this option would also establish a private, nonprofit entity and permit decentralization to three to five regional centers, probably located at state universities.
3. The Virginia Center for Geographic Information (CGI), placed under the existing Innovative Technology Authority, which is the governing body of the Center for Innovative Technology (CIT). CIM would remain the primary coordinator between CGI and state agencies. CGI could be created as part of the current CIT, or the statute creating the Innovative Technology Authority could be amended to allow the Governor to create another, CIT-like non-stock corporation for CGI.

4. Geographic Information Authority, modeled after the Innovative Technology Authority, with CGI similarly modeled after CIT.

Dr. Crain made clear, following subcommittee discussion of his four options, that he favored option 3, with the caveat that the president of CIT, given that organization's recent orientation toward job creation, has expressed his reservations.

Technical Advisory Committee

Delegate John Watkins, joint subcommittee liaison to its technical advisory committee, reported on the advisory committee's recommendations, reached at its meeting of December 7, 1995. The creation of a "partnership" authority, similar to Option 4 presented by Dr. Crain, was endorsed by the advisory panel. Whether that authority would be free-standing, in the manner of the Innovative Technology Authority, or placed within CIM (or CIM placed within the authority) remained undecided.

The authority, dubbed the Geographic Information Network Authority, or GINA, would operate in a manner similar to that of the Innovative Technology Authority. Opportunity for greater private-sector participation, however, would be emphasized, including private-sector representation on the GINA board and on the board of any non-stock corporation (such as CGI) that might be created by the enabling legislation or by GINA.

Subcommittee Discussion and Recommendations

Joint subcommittee members quickly boiled the six options down to two: (i) the consultant's option to place the organization within CIM and (ii) the technical advisory committee's recommendation to create GINA. Several members expressed a reluctance to create still another government entity, another bureaucracy, when an existing organization (CIM) would seem well-equipped to assume the responsibility of creating and operating VGIN.

This argument was countered, however, by those who felt that the partial independence that would accrue to an authority, relatively immune to changes in administrations, would be beneficial to the organization's long-term health. That such an authority could one day be merged into an existing executive agency, such as CIM, was noted, but the proponents of the authority model argued the need to "get this project off the ground," recalling years of failed efforts to do so, and suggested that creating an authority was the best and quickest way to create a VGIN organization.

The joint subcommittee adopted the recommendation of the technical advisory committee, discussed various aspects of the necessary enabling legislation, and agreed to meet on January 8, 1996, to review the draft legislation.



The Honorable W. Tayloe Murphy, Jr., *Chairman*
Legislative Services contact: Ken Patterson

Commission on Early Childhood and Child Day Care Programs

November 16, 1995, Fairfax

As part of its continuing interest in child care and welfare reform, the commission toured two sites in Fairfax County and heard about Northern Virginia's preparation for welfare reform.

Tours

The commission toured the training center of the Fairfax County Office for Children and observed a training class for family day care providers. Although the county pays for the training, providers must pay a materials fee. Approximately 300 people a year take the introductory family day care class. The center also offers technical assistance to providers and workshops and classes for center personnel.

The commission also toured the Main Street Child Development Center, a licensed, not-for-profit child care center serving low- to moderate-income working families in Fairfax Baptist Church. Tuition is based on a sliding scale according to the subsidy fee system of the Fairfax County Office for Children. The center is licensed for 72 children ages 2-5. The commission learned that there are benefits and drawbacks to operating in a church building.

Welfare Reform Impact

The mandatory work component of the Virginia Independence Program will become effective in Northern Virginia on April 1, 1996. AFDC recipients will be required to have a job within 90 days of qualifying for AFDC. The commission heard from the director of the Fairfax County Department of Human Development and the supervisor of the Arlington Department of Human Services' child care office. Northern Virginia faces some unique difficulties in preparing for the child care needs that welfare reform will require because of the large number of additional slots that will be needed (1,400 in Fairfax County alone) and because a number of jurisdictions in Northern Virginia have ordinances that require family day care to be approved or permitted. Child care is crucial to welfare reform: a major reason that mothers leave jobs is because of problems with child care. Under JOBS, mothers with children under three years of age were exempt from work and training requirements, but Virginia law exempts participation only until the child is 18 months old.

Fairfax County expects to have a caseload of 2,400 families on April 1 and to add 90 new cases a month. Employees are being retrained to focus on helping clients become self-sufficient. Fairfax is working with nonprofit organizations and the faith community, hoping that each of the 1,000 churches will adopt three AFDC families.

In Arlington County 422 new families are expected to enter the system with 681 children needing child care. About 140 new providers will be needed to supply Arlington's demand. Arlington has requested additional staff to recruit family day care providers and to train, monitor, and provide technical assistance to clients who will become providers. Additional staff time will also be needed for child care eligibility and subsidy determinations. Existing programs are being encouraged to extend their hours to accommodate parents who must work evenings and week-ends. Additional school age child care will be needed.

The commission was told that the state has appropriated funds for each region to implement welfare reform, but the funds have not been distributed. Localities would like to have the funds distributed so that they can be used for advance planning for welfare reform. Some commission members expressed concern as to whether child care subsidies currently available to the working poor would still be available after welfare reform.



The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Jessica F. Bolecek

Joint Commission on Health Care

November 20, 1995, Richmond

SJR 332: Insurance Market Reforms

The Commissioner of Insurance presented an overview of the study the Bureau of Insurance completed on individual insurance reforms. He recommended implementing many of the same insurance reforms in the individual market that have been enacted in the small group market. The bureau's recommendations included the following actions:

- Insurers in the individual market should be required to offer the essential and standard health plans, developed by the Essential Health Services Panel, to all applicants;
- Contracts sold in the individual market, including conversion policies, should be offered on a guaranteed renewal basis; and
- Essential and standard plan contracts issued in the individual market should be subject to a modified community rating similar to the requirements for primary small employers, and riders that reduce or eliminate coverage for specified conditions should be prohibited for the essential and standard contracts.

Joint commission staff are working with the Bureau of Insurance to prepare a draft bill to enact the reforms recommended by the bureau. The joint commission will seek public comment on the draft bill prior to its being introduced during the 1996 General Assembly Session.

The commissioner presented three other insurance-related legislative proposals. The first would add Medicare, Medicaid, and other publicly sponsored programs to the types of coverage for which small group employees can receive credit for any waiting periods served due to a pre-existing condition. The second would require insurers offering Medicare supplemental policies to offer the same coverages for persons eligible for Medicare due to disability as those offered to recipients who are eligible due to age. This proposal also would require that the same premium be charged to all recipients (i.e., eligible by reason of disability or age). The third proposal would require that evidences of coverage issued to Virginia residents by a Health Maintenance Organization (HMO), including HMOs located outside Virginia, meet statutory and regulatory requirements of the Code of Virginia and the State Corporation Commission.

Based on public comments received in response to these proposals, the joint commission is drafting a bill to implement the first proposal, regarding waiting periods for pre-existing conditions, and will seek public comment on the draft bill prior to introduction during the 1996 General Assembly Session. Legislation will not be introduced by the joint commission on the other two proposals.

SJR 353: Triage of Trauma Patients

SJR 353 directed the Joint Commission on Health Care to study the need for and efficacy of establishing a pre-hospital and inter-hospital triage and transport plan for trauma patients.

Nationally, and in Virginia, trauma is the leading cause of death for persons under age 45. In Virginia, trauma is the fifth leading cause of death for all ages. The average charge per hospital admission for trauma injuries is three times higher than other acute care admissions. Trauma includes blunt trauma (e.g., automobile crashes and falls) and penetrating trauma (e.g., gunshot and knife wounds) injuries.

Many states, including Virginia, have established trauma systems to improve the medical treatment of trauma victims. Trauma centers are specialized hospital units with surgical and medical specialists, laboratory services, and operating and critical care facilities available to treat severe injuries 24 hours a day. Trauma centers form the heart of a trauma system. The American College of Surgeons has developed an extensive list of criteria that hospitals must meet to be designated as a trauma center.

Research has shown that between 20 and 30 percent of trauma deaths are preventable and that trauma centers lower the mortality and morbidity of trauma patients, primarily because of the surgical staffing and early surgical care available at trauma centers. However, the value of trauma centers is not fully realized unless severely injured patients are "triaged" to these facilities for care. The triage of trauma patients simply means that the right patient gets to the right facility at the right time.

For a trauma system to be optimally effective, it is critical to utilize a triage system that appropriately differentiates the most critically injured patient, who needs the specialized services and resources of a trauma center, from those who can be treated appropriately in other acute care facilities. A number of triage guidelines or protocols have been developed by various medical experts as a means of determining which patients are in need of the specialized services available at trauma centers.

In Virginia, the Office of Emergency Medical Services (EMS) within the Department of Health administers the Commonwealth's trauma system. The Office of EMS, the EMS Advisory Board, and the Critical Care Committee administer a Trauma Center Designation Program. Eleven hospitals across the state have been designated as Level I, Level II, or Level III trauma centers. Another component of the Commonwealth's trauma system is the trauma registry. All hospitals with 24-hour emergency departments must submit information on all trauma admissions to the registry.

While Virginia has established a trauma system and a trauma registry and has designated trauma centers, there are no statewide trauma triage protocols in place to ensure that trauma patients are transported to the most appropriate facility.

To determine whether statewide triage protocols are needed in Virginia, an analysis of 1994 trauma registry data was conducted. In 1994, a total of 25,817 trauma admissions were reported to the registry. On a statewide basis, approximately 51 percent of the less seriously injured trauma patients were admitted to non-designated hospitals, while the remaining 49 percent were admitted to trauma centers. Approximately 24 percent of the more seriously injured trauma patients were not admitted to a trauma center. Of these patients, only 11 percent eventually were transferred to a trauma center. The vast majority (93 percent) of the most critically injured trauma patients were admitted to a trauma center.

The analysis of data also indicated that triage practices vary by EMS regions across the state. For instance, the number of more seriously injured patients not transported to a trauma center ranged from 11 percent in the Tidewater region to 32 percent in the Federation region and 31 percent in the Northern and Southwest regions.

In view of the research that indicates trauma centers have better survival rates and outcomes than non-designated hospitals, the more seriously injured patients in Virginia who are not being admitted to trauma centers may be experiencing less than optimal outcomes. Consequently, statewide triage protocols for trauma patients may enhance the effectiveness of Virginia's trauma system.

Four policy options were presented in the draft issue brief for consideration by the joint commission:

1. Maintain the status quo.

2. Introduce a study resolution directing the Office of EMS to study further the number of preventable trauma deaths in Virginia and ascertain whether a statewide triage plan would reduce these preventable deaths.
3. Introduce a resolution directing the Office of EMS to develop a draft statewide pre-hospital and inter-hospital triage plan and present the draft plan to the Governor and the Joint Commission on Health Care.
4. Introduce legislation requiring the Board of Health to establish and implement a statewide pre-hospital and inter-hospital triage plan.

The consensus of the public comments that were received in response to the draft issue brief was to pursue Option 3. A resolution directing the Office of EMS to develop a draft statewide pre-hospital and inter-hospital triage plan is being prepared by staff. The joint commission will seek public comment on the resolution prior to its being introduced during the 1996 General Assembly Session.

December 4, 1995, Richmond

1996 Health Care Issues

At the December meeting, staff presented a decision matrix to the members, which summarized the various studies and other health care policy issues that the joint commission addressed throughout the year. The purpose of the document was to consider the recommendations that the joint commission will make to the 1996 General Assembly and to consider outstanding issues and areas of focus for the joint commission during 1996 and beyond.

As a result of the meeting, staff are preparing several bills and resolutions that will be presented to the joint commission for consideration at its January 8th meeting. Staff are requesting public comments on all of the draft legislation and will present a summary of the comments at the January 8th meeting.



The Honorable Jay W. DeBoer, *Chairman*
Staff contact: Jane Norwood Kusiak

HJR 410: Clean Fuels Study Subcommittee

November 20, 1995, Richmond

Chairman Giesen reported on a meeting with the Secretary of Transportation and the Commissioner of the Virginia Department of Transportation to discuss the Virginia Alternative Fuels Revolving Fund, its achievements and importance in Virginia's over-all clean fuels program, and the importance of including a

source of revenue for the fund in the Governor's proposed budget for the 1996-98 biennium. As a result of this meeting, the question of financing the fund for the upcoming biennium will be given further consideration by the Administration.

"Smog Dog"

The marketing business manager for Hughes Aircraft's remote emissions sensor program, known as "Smog Dog," briefed the panel on the evolution of technology permitting identification of grossly polluting motor vehicles by means of roadside sensing and evaluation devices. Several examples—especially Arizona and Ontario, Canada—were cited to show how "Smog Dog" or similar technology could be used either alone or in conjunction with fixed-base testing and evaluation equipment to identify the dirtiest motor vehicles and encourage their repair and restoration to clean operation.

State Implementation Plan

A Department of Environmental Quality (DEQ) representative pointed out that remote sensing technology plays a part of Virginia's Clean Air Act state implementation plan (SIP) under consideration by the federal Environmental Protection Agency (EPA). Virginia is now in the last phases of demonstrating for the EPA that its proposed implementation plan, based on a decentralized "test-and-repair" program, will be as effective in reducing motor-vehicle-generated air pollution as the centralized "test-only" motor vehicle emissions inspection program preferred by the EPA. Legislation now under consideration in Congress is important in Virginia's efforts to overcome some of EPA's objections to its "test and repair" proposal. Drafting of implementing regulations by DEQ has begun, and start-up of the newly enhanced motor vehicle emissions inspection program in Northern Virginia is now targeted for roughly the end of 1996 or early 1997. Data from the recently ended summer smog season has allowed Virginia to petition EPA for redesignation of both the Greater Richmond and Hampton Roads areas from air quality "nonattainment" to "compliance" status. A decision by EPA on this application is hoped for prior to the beginning of the 1996 smog season.

Legislative Proposals

The subcommittee discussed two legislative proposals for possible inclusion in its report to the Governor and the 1996 General Assembly: (i) a motor vehicle emissions reduction program (intended as a replacement for the 1993 Virginia Motor Vehicle Scrappage Program) and (ii) an two-year extension (until July 1, 1999) of the period during which motor vehicles bearing "clean fuel vehicle" license plates may use high occupancy vehicle (HOV) facilities regardless of their number of occupants. Staff was requested to prepare a revised draft of the emissions reduction program legislation suggested by the Department of Motor Vehicles and DEQ to focus the program's impact on air quality nonattainment areas.

December 18, 1995, Richmond

Following a wide-ranging discussion, the subcommittee concluded its six years of operation by recommending two pieces of draft legislation for consideration by the 1996 Session of the General Assembly.

The first bill extends until July 1, 1999, authorization of use of high-occupancy vehicle facilities by vehicles displaying clean fuel vehicle license plates, regardless of the number of the vehicle's passengers. Existing legislation on this subject is scheduled to "sunset" on July 1, 1997.

The second bill (i) repeals the present Virginia Motor Vehicle Scrappage Program, intended to improve air quality by providing a \$700 "bounty" to persons who scrap 1981 model year or older motor vehicles and (ii) creates a new Virginia Motor Vehicle Emissions Reduction Program in its place. The scrappage program, although enacted in 1993, has never gone into effect because of a lack of funding. The new program, the result of a collaborative effort by the Department of Environmental Quality and the Department of Motor Vehicles, would be a more flexible response to the need to improve and safeguard air quality. It would replace the single solution of vehicle scrappage under the old program with a system of negotiated agreements between Department of Environmental Quality and any business, organization, group, or individual willing to sponsor an air pollution reduction program in return for "motor vehicle emissions reduction credit."

The subcommittee also agreed to recommend amendments to the Governor's proposed budget to provide for continued funding of the Virginia Alternative Fuels Revolving Fund at present levels (\$750,000 annually).



The Honorable Arthur R. Giesen, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

SJR 267: Joint Subcommittee Studying Ways to Reduce Emissions From Coal-Carrying Railroad Cars

December 14, 1995, Richmond

Members of the joint subcommittee received an update on a railroad and coal industries' initiative designed to reduce the amount of coal escaping from railroad cars and on their plans to monitor the performance of the program. The panel was also briefed on data collection and compliance efforts regarding the Norfolk Southern (NS) coal terminal at Lambert's Point.

Industry Initiative

At its last meeting, the joint subcommittee learned that about 25 million tons of the coal shipped annually by NS, or about 20 percent of its annual haul, were deemed to be dusty (previous findings revealed that only certain types of coal are prone to dusting). The panel also heard that the industry's dust-control program had been implemented on approximately two-thirds of that total. The program involves agreements between coal producers and NS to share the cost of shaping the coal loads and applying a crusting agent to the dusty coals.

An NS official told the joint subcommittee that since the September meeting, the amount of dusty coal targeted for treatment has increased slightly to 27 million tons. By the end of the first quarter of 1996, the program will be extended to include two additional producers, representing about 3.5 tons of coal annually. That means approximately five million tons will remain untreated. The panel learned that NS and the remaining coal producers are cooperating to implement their portion of the program by next summer.

With the industry's dust control program nearly fully implemented, an NS representative described its "performance monitoring plan," which involves the following key elements:

- source identification and control,
- performance monitoring,
- community relations,
- feedback and corrective measures, and
- reporting.

The elements of this plan, which have evolved through the course of the joint subcommittee's work, include application of new technology to measure and monitor dusting along the tracks, implementation of load profiling and crusting operations, and utilization of an 800 number for citizens and businesses to register incidents of dust emissions. With the program moving forward, NS suggested that it would welcome reporting to the entity and in the time intervals deemed appropriate by the joint subcommittee.

Lambert's Point

Although the joint subcommittee's focus since its inception has been on problems associated with fugitive coal dust from moving trains, it has also served as a forum for Tidewater residents to express concerns about coal dust coming from a coal terminal at Lambert's Point. An official from the Department of Environmental Quality's air enforcement division in Tidewater appeared before the panel at the request of the subcommittee chairman.

NS and its consultant, Simpson Weather Associates, have for some time been collecting data regarding pollutants at Lambert's Point. While much data has been gathered, the DEQ official told the subcommittee that few definitive conclusions

have been drawn and that the agency is working with the companies to make their data collection efforts more meaningful.

Subcommittee Action

Because the industry's program is not yet fully operational and because the joint subcommittee believes it remains the appropriate entity to monitor the program's performance, the panel recommended that its work be continued for another year. A joint resolution extending its existence will be offered to the 1996 Session of the General Assembly so that the joint subcommittee can monitor the implementation and performance of the industry's initiative and continue to receive feedback from citizens in Southwest Virginia and Tidewater who may be adversely affected by coal dust emissions.



The Honorable Elliot S. Schewel, *Chairman*
Legislative Services contact: Mark C. Pratt

SJR 366: Joint Subcommittee Studying Taxation of Motor Carrier Equipment

December 18, 1995, Richmond

The joint subcommittee concluded its study of the Commonwealth's system of taxing motor carrier equipment by recommending a clear definition for "motor carrier transportation property." Pursuant to Senate Bill 898 (1995), the rate of the tangible personal property tax that may be levied on this classification of property may not exceed a locality's machinery and tools tax rate. Localities had complained that the absence of a clear definition of this classification of property created administrative problems. The joint subcommittee's recommendation limits this classification of property to for-hire motor vehicles, trailers, and semitrailers with a gross vehicle weight rating of 10,000 pounds or more used by a motor carrier engaged in interstate commerce.

The joint subcommittee heard that the application of prorated personal property tax to motor carriers' vehicles creates a significant administrative burden and cost. In response, the joint subcommittee endorsed a recommendation allowing localities that prorate the personal property tax on motor vehicles to exclude motor carrier transportation property from proration.

The Virginia Trucking Association asked the members to offer permanent trailer registration for a one-time fee but did not suggest a fee amount for the permanent trailer plate. Recognizing that the permanent trailer plate fee amount will have an effect on revenues, the members agreed to support a resolution asking the Department of Motor Vehicles (DMV) to evaluate the issue

and recommend an appropriate fee. The resolution will also direct DMV to (i) evaluate and analyze the fiscal impact of an exemption or a cap on the motor vehicle sales and use tax on heavy duty vehicles and (ii) study the advisability of allowing the acceptance of a valid federal annual inspection in lieu of state inspection for commercial vehicles subject to Federal Motor Carrier Safety Regulations.

DMV will also be asked to cooperate with the Virginia Trucking Association and the Commissioners of Revenue Association in their exploration of a centrally administered system for collecting ad valorem taxes on motor carrier equipment. Such a system was used to tax several SCC-certificated motor vehicle carriers of property until federal law changes effective January 1, 1995, ended intra-state economic regulation of trucking. The joint subcommittee also endorsed technical changes to the rolling stock tax law.



The Honorable Charles L. Waddell, *Chairman*
Legislative Services contact: Franklin D. Munyan

HJR 601: Joint Subcommittee Studying Automobile Insurance Coverages

December 6, 1995, Richmond

The Joint Subcommittee Studying Motor Vehicle Liability and Property Insurance Coverage met to receive further information on "choice" legislation and to finalize recommendations to the Governor and the 1996 Session of the General Assembly.

The "Choice" Plan

A professor at the University of Virginia Law School urged the joint subcommittee to give serious consideration to a legislative model for motor vehicle insurance called "choice," under which drivers may choose between a conventional tort-based plan or a no-fault plan. Those choosing no-fault may not recover (or be liable to others for) noneconomic losses resulting from serious injuries incurred in auto accidents. It was also proposed that motorists be allowed to go uninsured, subject to disqualification from tort recovery for noneconomic losses (principally pain and suffering).

A Virginia Trial Lawyers' Association representative told the subcommittee that the no-fault component of choice is not a panacea. He cited the "medical payments" coverages under current Virginia motor vehicle insurance policies (covering medical expenses up to a certain level under one's own policy) as an example of litigious issues that can arise between an insured and his insurer. Moreover, "pain and suffering" damages—eliminated under no-fault—are legitimate means of compensating for automobile-related personal injuries, he said.

Monitoring of Uninsured Motorists

Department of Motor Vehicles (DMV) representatives told the joint subcommittee that DMV proposes to replace its current uninsured motorist monitoring process with a more automated method. DMV advised the joint subcommittee at its previous meeting that it monitors motor vehicle insurance coverage principally through a paper-based insurance audit process. In 1994, for example, DMV issued 231,000 randomly generated insurance audit notices. The department proposes to replace this system with one linked to insurance cancellation notices issued by insurers, whereby any individual receiving a notice of insurance cancellation would be required to proffer evidence of continuing coverage to DMV.

Subcommittee Action

The joint subcommittee concluded that the choice legislative model merited further consideration and recommended a 1996 legislative study devoted exclusively to that issue. A proposal to make optional uninsured motorist property damage coverage (discussed at the previous meeting) did not receive the subcommittee's support. Finally, the subcommittee expressed opposition to DMV's proposal to discontinue its random audit process of monitoring motor vehicle coverage.



The Honorable Gladys B. Keating, *Chair*
Legislative Services contact: Arlen K. Bolstad

SJR 313: Joint Subcommittee Studying Informed Consent to Medical Procedures and Treatment

November 28, 1995, Richmond

The subcommittee's final meeting generated considerable discussion among ethics scholars, health care providers, and risk managers, who advised the subcommittee to avoid "making the informed consent process too legalistic, formalistic, rationalistic or individualistic." In light of the pending work of a national study on informed consent, the subcommittee decided that any legislative proposal would be premature at this time.

National Project on Informed Consent

In July 1995, the Center for Bioethics of the University of Pennsylvania initiated a two-year comprehensive program to examine issues on informed consent in the clinical and research settings. On November 10, 1995, the program held its first seminar to examine how certain dynamic forces in medicine and society — increasing patient autonomy, expanding managed care emphasis on cost containment and quality outcomes mea-

asures, and advancing sophistication of medical research — interplay with the informed consent process. The seminar focused on what economic, legal, institutional, cultural, religious and interpersonal factors and variables influence what a patient needs and wants to know concerning his treatment and prognosis. Since recommendations from the program were not expected until late 1996, the subcommittee elected not to endorse any legislative proposals but suggested that the appropriate standing committees in each house could revisit the issue at a later time, if necessary.

Also, the subcommittee determined that a uniform approach to informed consent was not feasible for the following reasons:

- Informed consent is a continuous process, involving many encounters and discussions between the patient and the health care provider.
- Reasonable minds disagree on whether a particular medical procedure meets either an invasiveness test or creates a risk requiring explicit written consent.
- Formal medical education and training on informed consent varies among the medical schools and involves mostly hands-on experience enriched by specific caseloads.
- Medical risks and prognoses are difficult to quantify and vary considerably among patients, requiring health care providers to be flexible in their explanations and recommendations of the same procedure or treatment.
- Changes in the health care field occur faster than standardized consent forms can be developed to accurately reflect present risks and alternatives.
- Cultural differences often influence the amount and detail each patient wants to know prior to making a health care decision.

Subcommittee Recommendation

Concerned that health care providers in Virginia may not be fully aware of all the implications involved with obtaining informed consent, the subcommittee recommended requesting the Board of Medicine to initiate discussions on the changing role of informed consent in clinical and research settings. The subcommittee expressed the hope that the board would work with health care providers to improve the health care decision process by emphasizing communication and patient understanding.



The Honorable Jane H. Woods, *Chairman*
Legislative Services contact: Ginny Edwards

**Energy Preparedness
Subcommittee of the Virginia
Coal and Energy Commission**

December 18, 1995, Richmond

The subcommittee met to review and act on two issues: (i) allocating a portion of federal block-grant funding for the Low Income Home Energy Assistance Program (LIHEAP) to the Weatherization Assistance Program (WAP), and (ii) proposed legislative review of any Virginia participation in interstate agreements covering ozone transport.

LIHEAP

Current federal law permits LIHEAP state administrators to transfer up to 15 percent of the LIHEAP block grant to weatherization programs. An additional 10 percent may be approved upon application to the program's federal administrators. The Virginia Coal and Energy Commission supports coordination between the LIHEAP and WAP programs and has charged the subcommittee with the role of monitoring progress in that regard. In July, the Department of Social Services (DSS) Board approved the allocation of approximately eight percent of LIHEAP's expected federal grant of \$18 million to WAP. However, the allocation was never completed because of DSS's conclusion that an amendment to the LIHEAP regulations through the Administrative Process Act must precede any such allocation. At the direction of the full commission, on September 20 the subcommittee's chairman requested an opinion of the Attorney General concerning this issue. The opinion had not yet been received at the time of this meeting. Moreover, the subcommittee learned that the DSS Board's action may have been premature. Federal LIHEAP law apparently requires public notice and a hearing before allocations from fuel assistance funding to weatherization may take place.

The subcommittee determined that legislation was needed to address this issue appropriately for the 1996-97 heating season. Accordingly, the subcommittee endorsed legislation requiring DSS to allocate 7.5 percent of the LIHEAP federal block grant to WAP. This unanimous subcommittee recommendation will be presented to the commission at its January 9, 1996, meeting.

OTAG

At its last meeting, the subcommittee reviewed proposed legislation conditioning Virginia's participation in any interstate ozone agreement on General Assembly review and approval. The legislation was proposed by the Virginia Center for Energy and Economic Development (CEED). This proposal responds, in large part, to the activities of a multi-state coordinating organization known as the Ozone Transport Assessment

Group (OTAG), formed to assist states currently unable to demonstrate ozone reduction attainment by regulating the emission and interstate transport of ozone.

An OTAG official appeared before the subcommittee at that meeting to describe the OTAG process, which includes compiling emissions inventories and using the emissions data in computer modeling projecting the likely effects that various emissions controls might have on ambient ozone concentration. CEED believes that a legislative study of the economic impacts of any OTAG-coordinated interstate ozone agreement should precede Virginia's endorsement of any such agreement.

The subcommittee reviewed a legislative draft incorporating components of the CEED proposal. The draft requires the Departments of Economic Development and Environmental Quality to study the impact of any proposed interstate ozone transfer agreement on the Commonwealth's economy, including impacts on economic development and industrial competitiveness. Such a study would be conducted in conjunction with the General Assembly's review of any proposed interstate ozone transport agreement. The draft was approved by the subcommittee and will be recommended to the full commission on January 9.



The Honorable James F. Almand, *Chairman*
Legislative Services contact: Arlen K. Bolstad

**HJR 283: Blue Ridge Economic
Development Commission**

November 30, 1995, Roanoke

The commission, completing its fifth and final year of study, began its second meeting of the interim with a presentation by the Virginia Department of Transportation (VDOT). VDOT representatives reviewed transportation issues of interest in the Blue Ridge region such as Route 58, the industrial revenue bond program, Interstates 81, 73, and 74 (the national highway system signed into law by President Clinton in November), and the "smart highway" in Montgomery County.

Earlier in the interim, the commission had agreed to focus its attention on just a few issues through the use of three small subcommittees comprised of commission members and other interested parties. The commission heard and accepted reports from each of the subcommittees, the major proposals of which are summarized below.

Economic Development Incentives

- Establish and fund an export loan guarantee fund to be administered by the Virginia Small Business Financing Authority (VSBFA).
- Create a single statutory Governor's Opportunity Fund.

Technology

- Establish the Commission on Information Technology for the Blue Ridge Region to provide computer training for public school teachers, public and private sector personnel, and community residents.
- Provide grants to telecommunications companies, communities, community organizations, and planning district commissions to purchase and install electronic communications infrastructure.

Inland Port Study

- Continue to monitor the developments between Norfolk-Southern Railroad and Westvaco to establish an intermodal transportation facility in Roanoke.

Other Reports

The commission also received reports from three of the four permanent statutory entities it has helped to create. The World Trade Alliance of the Blue Ridge Region requested that the commission support \$150,000 to fund the Roanoke office of the Department of Economic Development in each fiscal year of the 1996-98 biennium. The alliance hopes to facilitate foreign trade missions and advance training in export and trade.

The Blue Ridge Regional Education and Training Council requested that its work be supported with a doubling of its current appropriation from \$50,000 to \$100,000 per year in the upcoming biennium. The council promotes partnerships between business and education to enhance worker preparedness and the economic viability of the region.

The Blue Ridge Regional Tourism Council requested that the commission support development of communication and technology infrastructure and funding for the industrial advertising and tourism grants matching programs administered by the Department of Economic Development.

Finally, the New Century Council, founded in 1992 by business and community leaders from the New River and Roanoke Valleys, discussed its final report with the commission. The report, published in July of this year, contains over 150 strategies that create and implement the 21st century vision devised by over 1,000 citizens coming together to share their ideas about the region.



The Honorable R. Creigh Deeds, *Chairman*
Legislative Services contact: Diane E. Horvath

HJR 445: Dulles Airport Regional Economic Study Commission

December 4, 1995, Herndon

The commission discussed the report of its technical subcommittee, which pointed to several developments and trends in air transportation that, cumulatively, are making the air transportation industry increasingly dynamic and competitive. In order for Dulles Airport, the surrounding region, and Virginia as a whole to derive maximum benefit from these changes in the industry, the subcommittee recommended that several initiatives be undertaken in land use planning, business tax policy, and economic promotion by state and local governments.

The commission was sufficiently impressed with the wealth of information and analysis contained in the subcommittee's report that the membership agreed to incorporate the bulk of the report in its own report to the Governor and General Assembly. The commission instructed staff to prepare for inclusion in the report draft legislation, for consideration by the General Assembly, calling on Fairfax and Loudoun Counties speedily to consider and expeditiously to implement as many of the recommendations of the subcommittee as could be carried out under present law.

A complete draft report, including the proposed legislation, will be prepared by staff and circulated for the members' information and comment prior to its printing and general distribution, but no further meetings of the commission are planned.



The Honorable Vincent F. Callahan, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

New Filing Deadlines

By action of the 1995 General Assembly, two new categories of bills now must be filed by the first day of the General Assembly Session.

Local Fiscal Impact (§ 30-19.03:1; Chapter 743, 1995 Acts of Assembly)

Any bill that mandates an additional expenditure by any county, city, or town must be filed on or before the first day of the session. A mandate has the effect of (i) requiring the performance of a new or expanded service or maintaining an existing service at a specific level, (ii) assuming administrative costs in support of state-related programs, or (iii) furnishing capital facilities for state-related activities. There is an exemption for bills requested by the Governor or "filed in accordance with the rules of the General Assembly."

Prison Impact (§ 30-19.1:6; Chapter 462, 1995 Acts of Assembly)

All bills requiring a statement of fiscal impact on the operating costs of state correctional facilities must be filed on or before the first day of the session. A fiscal impact statement is required for any bill that would result in a net increase in periods of imprisonment in state correctional facilities, including those bills that (i) add new crimes for which imprisonment is authorized, (ii) increase the periods of imprisonment for existing crimes, (iii) impose minimum or mandatory terms of imprisonment, or (iv) modify the law governing the release of prisoners in such a way that the time served in prison will increase.

The Legislative Record summarizes the activities of Virginia legislative study commissions and joint subcommittees. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.



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GENERAL NOTICES/ERRATA

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

On December 11, 1995, the Safety and Health Codes Board approved a request for registration by CONOCO, Inc., Materials and Mechanical Integrity (M&MI), to become an Owner-User Inspection Agency (OUIA) for the pressure vessels it owns and operates in Virginia. This action was taken in compliance with § 2.11 of the Boiler and Pressure Vessel Regulations, VR 425-01-75 [16 VAC 25-50-120]. CONOCO, Inc., is a wholly owned subsidiary of E.I. du Pont de Nemours and Company (DuPont) and operates pressure vessels at multiple sites which are part of its Keene Mountain/Buchanan facility in Southwest Virginia.

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: (804) 692-0625.

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 OBJECTIONS -
RR08

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

January 22, 1996 - 10 a.m. -- Open Meeting

January 23, 1996 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿

(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Aquaculture Advisory Board

† **February 12, 1996 - 10 a.m.** -- Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia.♿

The board will meet in regular session to discuss issues related to the Virginia Aquaculture Industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact T. Robins Buck at least five days before the meeting date so that suitable arrangements can be made.

Contact: T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, P.O. Box 1163, Suite 1003, Richmond, VA 23209, telephone (804) 371-6094.

Virginia Corn Board

February 14, 1996 - 8:30 a.m. -- Open Meeting

Marriott Hotel, 50 Kingsmill Road, Conference Center, Williamsburg, Virginia.♿

The board will meet in regular session to discuss issues related to the corn industry and to hear project reports and proposals. 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 accommodations in order to participate at the meeting should contact David Robishaw at least five days before the meeting date so that suitable arrangements can be made.

Contact: David Robishaw, Program Director, Virginia Corn Board, 116 Reservoir St., Harrisonburg, VA 22801, telephone (540) 434-2699.

Virginia Farmers' Market Board

January 25, 1996 - 10 a.m. -- Open Meeting

January 25, 1996 - 1:30 p.m. -- Open Meeting

Department of Agriculture and Consumer Services, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿

The board will convene at 10 a.m. for an annual planning session. At 1:30 p.m., the board will convene to receive reports on operation and management of network wholesale farmers' markets and process routine business. 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 accommodations in order to participate at the meeting should contact Susan Simpson at least five days before the meeting date so that suitable arrangements can be made.

Contact: Susan Simpson, Program Director, Virginia Farmers' Market Board, 1100 Bank St., Suite 1002, Richmond, VA 23219, telephone (804) 786-2112.

Virginia Irish Potato Board

January 24, 1996 - Noon -- Open Meeting
Captain's Deck Restaurant, 2120 Lankford Highway,
Nassawadox, Virginia. ☎

A meeting to discuss programs including promotion, research and education, and the annual budget and other business that may come before the board. 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 accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

Virginia Plant Pollination Advisory Board

February 9, 1996 - 10 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 4th Floor
Conference Room, Richmond, Virginia. ☎

A meeting to receive reports from members on the status of honey bee populations and on the past year's production of honey, fruits and vegetables. The board will also consider matters relating to beekeeping education and pollination effectiveness. 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 accommodations in order to participate at the meeting should contact Frank M. Fulgham at least five days before the meeting date so that suitable arrangements can be made.

Contact: Frank M. Fulgham, State Apiarist, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or (804) 371-6344/TDD ☎

ALCOHOLIC BEVERAGE CONTROL BOARD

January 22, 1996 - 9:30 a.m. -- Open Meeting
February 5, 1996 - 9:30 a.m. -- Open Meeting
February 21, 1996 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage
Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities from staff members. Other matters have not yet been determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

February 15, 1996 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎

A general board meeting to discuss board business. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Legislative Committee

February 14, 1996 - 3 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ☎

A regular meeting. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VIRGINIA AVIATION BOARD

† **January 30, 1996 - 7:30 p.m.** -- Public Hearing
Omni Hotel, Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

† **February 21, 1996 - 10 a.m.** -- Public Hearing
Department of Motor Vehicles, 2300 West Broad Street,
Conference Room, 7th Floor, Richmond, Virginia.

† **April 1, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Aviation Board intends to amend regulations entitled: **VR 165-01-02:1 [24 VAC 5-20-10 et seq.] Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia.** The purpose of the proposed action is to amend the Virginia Aviation Regulations to (i) comply with statutory changes; and (ii) enact provisions identified per the comprehensive review of regulations (Executive Order 15(94)).

Statutory Authority: §§ 5.1-2.2 and 5.1-2.15 of the Code of Virginia.

Contact: Michael A. Waters, Policy Analyst Senior, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150-2502, telephone (804) 236-3631, FAX (804) 236-3625, toll-free 1-800-292-1034 or (804) 236-3624/TDD ☎

Calendar of Events

† **February 20, 1996 - 3 p.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Richmond, Virginia.☎ (Interpreter for the deaf provided upon
request)

A workshop for the 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, Department of Aviation, 5702
Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-
3630, FAX (804) 236-3635, toll free 1-800-292-1034 or (804)
236-3624/TDD ☎

† **February 21, 1996 - 9 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Richmond, Virginia.☎ (Interpreter for the deaf provided upon
request)

A regular bi-monthly 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, Department of Aviation, 5702
Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-
3630, FAX (804) 236-3635, toll free 1-800-292-1034 or (804)
236-3624/TDD ☎

BOARD FOR BRANCH PILOTS

† **January 31, 1996 - 9:30 a.m.** -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk,
Virginia.☎

A meeting to conduct board examinations. Persons
desiring to participate in the meeting and requiring
special accommodations or interpreter services should
contact the board at least 10 days prior to the meeting so
that suitable arrangements can be made. The
department fully complies with the Americans with
Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department
of Professional and Occupational Regulation, 3600 W. Broad
St., Richmond, VA 23230-4917, telephone (804) 367-8514 or
(804) 367-9753/TDD ☎

† **February 1, 1996 - 9:30 a.m.** -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk,
Virginia.☎

A meeting to conduct board business. Persons desiring
to participate in the meeting and requiring special
accommodations or interpreter services should contact
the board at least 10 days prior to the meeting so that
suitable arrangements can be made. The department
fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department
of Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230-4917, telephone (804) 367-8514 or
(804) 367-9753/TDD ☎

STATE BOARD FOR COMMUNITY COLLEGES

March 13, 1996 - 2:30 p.m. -- Open Meeting
Monroe Building, 101 North 14th Street, 15th Floor,
Richmond, Virginia.

State board committee meetings.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public
Affairs, State Board for Community Colleges, Monroe Bldg.,
101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone
(804) 225-2126 or (804) 371-8504/TDD ☎

March 14, 1996 - 8:30 a.m. -- Open Meeting
Monroe Building, 101 North 14th Street, 15th Floor,
Richmond, Virginia.

A regularly scheduled board meeting.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public
Affairs, State Board for Community Colleges, Monroe Bldg.,
101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone
(804) 225-2126 or (804) 371-8504/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

January 25, 1996 - 7 p.m. -- Open Meeting
Revercomb Administration Building, 10459 Courthouse Drive,
Robert Combs Board Room, King George, Virginia.☎
(Interpreter for the deaf provided upon request)

A meeting to gather citizen input on their ideas about the
future of Caledon Natural Area. Please give one weeks
notice for interpreter services.

Contact: Theresa Duffey, Planning and Training Director,
Department of Conservation and Recreation, Division of
State Parks, 203 Governor St., Suite 306, Richmond, VA
23219, telephone (804) 786-9025, FAX (804) 786-9294 or
(804) 786-2121/TDD ☎

Falls of the James Scenic River Advisory Board

February 1, 1996 - Noon -- Open Meeting
City Hall, Planning Commission Conference Room, 5th Floor,
Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program
Manager, Department of Conservation and Recreation,
Division of Planning and Recreation Resources, 203
Governor St., Richmond, VA 23219, telephone (804) 786-
4132, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

BOARD OF CORRECTIONS

† **February 14, 1996 - 10 a.m.** -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia.☎

Calendar of Events

A meeting to discuss matters which may be presented to the board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Administrative Committee

† **February 14, 1996 - 8:30 a.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: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Correctional Services Committee

† **February 13, 1996 - 10 a.m.** -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss correctional services matters which may be presented to the full board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

BOARD FOR COSMETOLOGY

January 22, 1995 - 10 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 at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

† **February 7, 1996 - 10 a.m.** -- Open Meeting
Department for the Deaf and Hard-of-Hearing, Washington Building, 1100 Bank Street, 11th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly business meeting of the advisory board. Public comment will be received with advance notice.

Contact: Gloria Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, Washington Bldg., 1100 Bank St., 11th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917 or (804) 225-2570/TDD ☎

BOARD OF EDUCATION

February 22, 1996 - 9 a.m. -- Open Meeting
Monroe Building, 101 North 14th Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: James E. Laws, Jr., Administrative Assistant to the Superintendent for Board Activities, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER COUNTY

January 24, 1996 - 6:30 p.m. -- Open Meeting
Gloucester County Administration Office, Conference Room, Gloucester, Virginia. ☎ (Interpreter for the deaf provided upon request)

The annual organizational meeting of the committee will include election of officers, adoption of rules of procedure for the year and initial discussion of the annual exercise.

Contact: Georgette N. Hurley, Assistant County Administrator, Gloucester County, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042 or (804) 693-1479/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **February 7, 1996 - 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 (540) 662-2298 or (540) 665-5645/TDD ☎

Calendar of Events

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

† **January 28, 1996 - 7:30 p.m.** -- Open Meeting

† **January 29, 1996 - 8:30 a.m.** -- Open Meeting

Virginia Employment Commission, 703 East Main Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board to receive reports from staff and to discuss matters that may be presented.

Contact: Nancy L. Munnikhuisen, Director, Employer Regulations and Customer Service, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6004 or (804) 371-8050/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **March 1, 1996 - 10 a.m.** -- Open Meeting

† **March 29, 1996 - 10 a.m.** -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting to obtain advice from interested parties to the Virginia Waste Management Board on desirable features to be incorporated into the Virginia Voluntary Remediation Program. This announcement is to provide public notice that the dates of meetings for the Voluntary Remediation Program has been changed from that which was previously advertised. The public should contact the Department of Environmental Quality prior to attendance to confirm the meeting's occurrence, location and time.

Contact: Dr. Wladimir Gulevich, Assistant Division Director, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4236, FAX (804) 698-4327, or (804) 698-4021/TDD ☎

Work Group on Detection/Quantitation Levels

February 14, 1996 - 1:30 p.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, 6th Floor Conference Room, Richmond, 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 14, March 6, March 27, April 10, May 1, May 22, June 12, July 3, and July 24; however, these dates are not firm. Persons interested in the meetings of this work group should confirm the date with the contact person below.

Contact: Alan J. Anthony, Chairman, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4114.

Technical Advisory Committee for Solid Waste Management Regulations

February 2, 1996 - 10 a.m. -- Open Meeting

February 23, 1996 - 10 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, First Floor Training Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss desirable amendments to the current Virginia Solid Waste Management Regulations (VR 672-20-10) [9 VAC 20-80-10 et seq.]

Contact: Dr. Wladimir Gulevich, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4218, FAX (804) 762-4327 or (804) 762-4021/TDD ☎

STATE EXECUTIVE COUNCIL

† **January 26, 1996 - 9 a.m.** -- Open Meeting

Department of Social Services, 730 East Broad Street, Training Room 3, Richmond, Virginia.

A meeting to provide for interagency programmatic and fiscal policies, to oversee the administration of funds appropriated under the Comprehensive Services Act, and to advise the Governor.

Contact: Alan G. Saunders, Director, State Executive Council, 730 E. Broad St., 5th Floor, Richmond, VA 23219, telephone (804) 786-5382.

GEORGE MASON UNIVERSITY

Student Affairs Committee

January 23, 1996 - 6:30 p.m. -- Open Meeting

January 24, 1996 - 9:30 a.m. -- Open Meeting

George Mason University, Mason Hall, Room D23, Fairfax, Virginia.

A regular committee meeting.

Contact: Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701 or FAX (703) 993-8707.

Board of Visitors

January 24, 1996 - 3:30 p.m. -- Open Meeting

George Mason University, Mason Hall, Room D23, Fairfax, Virginia.

A regular meeting of the board to hear reports of the standing committees of the board and to act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals and organizations who request it.

Contact: Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701 or FAX (703) 993-8707.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

January 23, 1996 - 9:30 a.m. -- Open Meeting
† **February 27, 1996 - 9:30 a.m.** -- Open Meeting
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

A monthly meeting of the council.

Contact: Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

February 6, 1996 - 9 a.m. -- Open Meeting
March 5, 1996 - 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 Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

January 22, 1996 - 3 p.m. -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia. ☎

A regular monthly business meeting of the board. Public comment will be received.

Contact: Stephen W. Calhoun, CPA, Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7015, FAX (804) 371-7092 or (804) 371-7089/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

January 23, 1996 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☎

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various

programs; (iii) review the authority's operations for the prior monthly; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

STATEWIDE INDEPENDENT LIVING COUNCIL

January 24, 1996 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, Library and Resource Center, 397 Azalea Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct regular business.

Contact: Jim Rothrock, Statewide Independent Living Council Staff, 1802 Marroit Rd., Richmond, VA 23229, telephone (804) 673-0119, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎

COUNCIL ON INFORMATION MANAGEMENT

† **January 26, 1996 - 10 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☎

A regular bi-monthly meeting.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

STATE MANAGEMENT TEAM FOR COMPREHENSIVE SERVICES FOR AT RISK YOUTH AND THEIR FAMILIES

February 1, 1996 - 10 a.m. -- Open Meeting
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia. ☎

A monthly meeting to develop and recommend to the State Executive Council policies and procedures for implementing the Comprehensive Services Act. Public comment will be received at 1 p.m. Please inform the secretary if you wish to be added to the agenda.

Contact: Pamela Fitzgerald Cooper or Gloria Jarrell, Secretary, State Management Team, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2177 or FAX (804) 371-0091.

Calendar of Events

VIRGINIA MANUFACTURED HOUSING BOARD

January 24, 1996 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD

MARINE RESOURCES COMMISSION

January 23, 1996 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. (Interpreter for the deaf provided upon request)

A meeting to hear and decide marine environmental matters; 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, and 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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

February 23, 1996 -- Public 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 Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-160, Narrative for the Amount, Duration, and Scope of Services and Standards Established and 12 VAC 30-60-10 through 12 VAC 30-60-160, Methods Used to Assure High Quality of Care (1995 Expansion of Durable Medical Equipment)**. The purpose of this proposal is to eliminate the requirement that recipients meet home bound criteria in order to receive durable medical equipment by expanding the coverage of medically necessary durable

medical equipment and supplies to the entire Medicaid population.

Statutory Authority: § 32.1-325 of the Code of Virginia and § 396 E 5 of the 1995 Appropriations Act.

Public comments may be submitted until February 23, 1996, to C. Mack Brankley, Director, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

BOARD OF MEDICINE

February 8, 1996 - 8 a.m. -- Open Meeting
February 9, 1996 - 8 a.m. -- Open Meeting
February 10, 1996 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 1, 2, 3 and 4, Richmond, Virginia.

A full board meeting will be held on February 8, 1996, to conduct general board business, receive committee and board reports, and discuss any other items which may come before the board. The board will also meet on February 8, 9, and 10, 1996; to review reports, interview licensees, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD

Credentials Committee

February 10, 1996 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia.

The Credentials Committee will meet in open and closed session to conduct general business, interview applicants 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: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD

VIRGINIA MILITARY INSTITUTE

Informal Conference Committee

January 23, 1996 - 9:30 a.m. -- Open Meeting
Department of Transportation, 86 Deacon Road, Falmouth, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Legislative Committee

January 26, 1996 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will meet to review Memorandum of Understanding with the Medical Society of Virginia, guidelines for physician/patient relationship, mandatory continuing education, telemedicine, amendments to regulations for the use of anorectic agents, and any such other information that shall come before the committee. There will be a public comment period during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

January 26, 1996 - 9 a.m. -- Open Meeting
Central State Hospital, Petersburg, Virginia.

A regular meeting of the committee to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

Contact: Theresa P. Evans, Acting State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, toll-free 1-800-451-5544 or (804) 371-8977/TDD ☎

Board of Visitors

† **February 10, 1996 - 8:30 a.m.** -- Open Meeting
Smith Hall, Virginia Military Institute, Lexington, Virginia. ☎

A regular meeting to (i) discuss committee reports; (ii) consider 1996-1997 budget; and (iii) discuss reports on visits to academic departments. No public comment will be received.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

February 14, 1996 - 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 work group 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 (540) 523-8178, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

January 24, 1996 - 1 p.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎

A regular business meeting.

Contact: Millicent N. Ford, Program Manager, Medical Advisory Board, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2052.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

January 25, 1996 - 9 a.m. -- Open Meeting
Lemaire, The Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia. ☎

Calendar of Events

The development committee will discuss fundraising issues.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

January 25, 1996 - 9 a.m. -- Open Meeting
Flemish Room, The Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia. ♿

A meeting to include reports from the development, executive, finance, legislative, marketing, outreach, personnel, planning and facilities, research and collections, nominating, and director search committees. Public comment will be received following approval of the minutes of the October meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

BOARD OF NURSING

† January 22, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Two special conference committees will conduct informal conferences in the morning. A panel of the Board of Nursing will conduct formal hearings in the afternoon. Public comments will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† January 23, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the board to discuss matters relating to education programs, discipline of licensees, licensure by examination, and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† January 24, 1996 - 9 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 formal hearings.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA

23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† January 25, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A panel of the Board of Nursing will conduct formal hearings with licensees and certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† February 5, 1996 - 9 a.m. -- Open Meeting

† February 8, 1996 - 9 a.m. -- Open Meeting

† February 14, 1996 - 9 a.m. -- Open Meeting

† February 21, 1996 - 9 a.m. -- Open Meeting

† February 22, 1996 - 9 a.m. -- Open Meeting

† February 26, 1996 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A special conference committee, comprised of two members of the Board of Nursing, will conduct informal conferences with licensees and certificate holders to determine what, if any, action should be recommended to the board of nursing. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† February 8, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ♿

A meeting to conduct informal conferences. No public comment will be received.

Contact: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

February 28, 1996 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A general board meeting to discuss board business. Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD OF OPTOMETRY

† **January 31, 1996 - 8 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf
provided upon request)

A meeting of the board to conduct review of the
Optometry Regulations pursuant to Executive Order
15(94). Public comment will be received at the
beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of
Optometry, Southern States Building, 6606 W. Broad St., 4th
Floor, Richmond, VA 23230, telephone (804) 662-9910 or
(804) 662-7197/TDD ☎

† **January 31, 1996 - 2 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf
provided upon request)

A meeting to conduct informal conferences. Public
comment will be received at the beginning of the
meeting.

Contact: Carol Stamey, Administrative Assistant, Board of
Optometry, Southern States Building, 6606 W. Broad St., 4th
Floor, Richmond, VA 23230, telephone (804) 662-9910 or
(804) 662-7197/TDD ☎

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

† **February 22, 1996 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia. ☎

A formal administrative hearing pursuant to § 9-6.14:12
of the Code of Virginia. Public comment will not be
heard.

Contact: Evelyn B. Brown, Executive Director, Board of
Professional Counselors and Marriage and Family
Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA
23230, telephone (804) 662-9967.

BOARD OF PSYCHOLOGY

January 30, 1996 - 9 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 regular meeting of the board. Public comment will be
received at 9:15 a.m.

Contact: La Donna Duncan, Administrative Assistant, Board
of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA
23230-1717, telephone (804) 662-9913, FAX (804) 662-9943
or (804) 662-7197/TDD ☎

BOARD OF REHABILITATIVE SERVICES

† **January 25, 1996 - 10 a.m.** -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms
Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided
upon request)

A meeting to conduct board business.

Contact: John R. Vaughn, Commissioner, Board 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

February 13, 1996 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board
Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of
the prior month; 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, Mutual Building,
Richmond, VA 23219, telephone (804) 644-3100 or FAX
(804) 644-3109.

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

January 25, 1996 - 4 p.m. -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor,
Classroom, Richmond, Virginia. ☎

A monthly board meeting to discuss nursing home
operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital
Authority, P.O. Box 548, Richmond, VA 23204-0548,
telephone (804) 782-1938.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

January 22, 1996 - 1 p.m. -- Public Hearing
Williamsburg Regional Library, 515 Scotland Street,
Williamsburg, Virginia.

January 31, 1996 - 1 p.m. -- Public Hearing
Stafford County Government Center, 1300 Courthouse Road,
Board of Supervisors Chambers, Stafford, Virginia.

February 24, 1996 -- Public comments may be submitted
until this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider adopting regulations entitled: **VR 615-01-57 [22 VAC 40-35-10 et seq.] The Virginia Independence Program.** The proposed regulation revises the Aid to Families with Dependent Children (AFDC) Program. It amends existing eligibility criteria related to (i) school attendance; (ii) receipt of assistance by minor parents; and (iii) cooperation in establishing and collecting support. The regulation adds (i) a rule placing a cap on additional benefits for children born to an AFDC family, and (ii) a work component, the Virginia Initiative for Employment Not Welfare (VIEW), in which able-bodied recipients must participate. The proposed regulation also includes a diversionary assistance component which offers otherwise eligible families the option to receive a single payment of up to four months assistance to meet an emergency, thereby avoiding the need for ongoing monthly AFDC benefits.

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

Public comments may be submitted until February 24, 1996, to Constance O. Hall, Program Manager, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849.

Contact: Carolyn Ellis, Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1730.

BOARD OF SOCIAL WORK

January 25, 1996 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.☎

A formal administrative hearing pursuant to § 9-6.14:12 of the Code of Virginia. Public comment will not be heard.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9967 or (804) 662-7197/TDD ☎

January 26, 1996 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia.☎

A regular meeting to consider committee reports, training curriculum, adopt the regulatory review report as presented to the Secretary of Health and Human Resources, and adopt a fee proposal. Public comment will be received at 9:15 a.m.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9967 or (804) 662-7197/TDD ☎

STATEWIDE HUMAN SERVICES INFORMATION AND REFERRAL ADVISORY COUNCIL

January 31, 1996 - 10 a.m. -- Open Meeting
United Way Services, 224 East Broad Street, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to receive public comment concerning the policies, directions and recommendations for services provided by the Statewide Human Services Information and Referral System. The council advises the Department of Social Services in the administration of free and confidential information provided to citizens of the Commonwealth. The department contracts with five regional centers to provide the free and confidential information on the vast range of private and public agencies and programs that provide services to Virginians throughout the Commonwealth.

Contact: Zandra Thompson, Human Services Program Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-2202, FAX (804) 692-2209 or toll-free 1-800-552-7096/TDD ☎

DEPARTMENT OF TAXATION

March 22, 1996 - 10 a.m. -- Public Hearing
Department of Taxation, 2220 West Broad Street, Richmond, Virginia.

March 31, 1996 -- Public 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 Taxation intends to adopt regulations entitled: **VR 630-3-439 [23 VAC 10-120-291 through 23 VAC 10-120-299]. Major Business Facility Job Tax Credit.** The regulation provides guidance for qualification, computation and recapture of the major business facility job tax credit.

Statutory Authority: § 58.1-439 of the Code of Virginia.

Contact: David M. Vistica, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0167 or FAX (804) 367-6020.

COMMONWEALTH TRANSPORTATION BOARD

† February 14, 1996 - 2 p.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

February 15, 1996 - 10 a.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

BOARD OF VETERINARY MEDICINE

January 30, 1996 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A brief board meeting and formal hearings. Brief public comment will be received at the beginning of the meeting.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD

February 14, 1996 - 8 a.m. -- Open Meeting
Hotel Roanoke Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A board meeting to consider recommendations for a report pursuant to Executive Order 15(94) requiring a comprehensive review of all regulations, and to conduct formal hearings. Brief public comment will be received at the beginning of the meeting.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD

February 15, 1996 - 9 a.m. -- Open Meeting
Hotel Roanoke Conference Center, 110 Shenandoah Avenue, Roanoke, 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

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

February 3, 1996 - 11 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

VIRGINIA VOLUNTARY FORMULARY BOARD

February 1, 1996 - 10 a.m. -- Public Hearing
Madison Building, 109 Governor Street, Main Floor, Conference Room, Richmond, Virginia.

The board will hold a public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add and delete drugs and drug products to the formulary that became effective 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, Monroe Building, 101 North 14th Street, Richmond, Virginia. Written comments sent to the above address and received prior to 5 p.m. on February 1, 1996, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

March 14, 1996 - 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 of Pharmacy Services, Virginia Voluntary Formulary, Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

Calendar of Events

STATE WATER CONTROL BOARD

† **January 24, 1996 - 1:30 p.m.** -- Open Meeting
City of Richmond, Department of Public Utilities Operations
Center, 400 Jefferson Davis Highway, Conference Room 2,
Richmond, Virginia.

The Department of Environmental Quality is scheduling a meeting of the James River Surface Water Management Area Advisory Group. The advisory group assists in determining the appropriateness of a designation, the boundary of the SWMA, and the minimum instream flow level that will activate the surface water withdrawal permits or certificates, and review any local agreements among water withdrawers in the James River in the Richmond area.

Contact: Curtis J. Linderman, Planning Manager, Department of Environmental Quality, Piedmont Regional Office, 4900 Cox Rd., P.O. Box 6030, Richmond, VA 23058, telephone (804) 527-5038 or FAX (804) 527-5106.

January 29, 1996 -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-10 [9 VAC 25-115-10 et seq.] General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.** The purpose of the proposed regulation is to establish limits for the discharge of wastewater and storm water associated with industrial activity from seafood processing facilities.

Question and answer period: A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

Accessibility to persons with disabilities: The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Michael B. Gregory at the address below. Persons needing interpreter services for the deaf should notify Mr. Gregory no later than Monday, January 8, 1996, (804) 762-4021/TDD.

Request for comments: The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit. Also, comments regarding the benefits of the stated alternative or any other alternatives are welcome. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received by January 29, 1996, will be considered by the board.

Other information: The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are

available upon request from Mr. Gregory at the address below.

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

Contact: Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4065 or (804) 762-4021/TDD.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

February 6, 1996 - 10 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

COLLEGE OF WILLIAM AND MARY

Board of Visitors

† **February 1, 1996 - 2 p.m.** -- Open Meeting
† **February 2, 1996 - 8 a.m.** -- Open Meeting
Blow Memorial Hall, Richmond Road, Williamsburg, Virginia.

A regularly scheduled meeting of the Board of Visitors to review quarterly operations of the College of William and Mary and Richard Bland College to receive reports from several committees of the board, and to act on those recommendations that are presented by the administrations of the College of William and Mary and Richard Bland College. An informational release will be available four days prior to the board meeting for those individuals and organizations who request it.

Contact: Peggy J. Shaw, Information Manager, Office of University Relations, College of William and Mary, 312 Jamestown Rd., P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2626.

BOARD OF YOUTH AND FAMILY SERVICES

† **February 14, 1996 - 9 a.m.** -- Open Meeting
 † **March 13, 1996 - 9 a.m.** -- Open Meeting
 † **April 10, 1996 - 9 a.m.** -- Open Meeting
 Department of Youth and Family Services, 700 East Main Street, Richmond, Virginia. ☎

Beginning at 9 a.m., committees will meet to review secure and non secure services; at 10 a.m. the full board will meet to act on certifications, policy matters, and other business that may come before the board.

Contact: Donald R. Carignan, Policy Analyst, Department of Youth and Family Services, 700 Centre, 700 E. Main St., P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

INDEPENDENT

LOTTERY BOARD

January 24, 1996 - 9:30 a.m. -- Open Meeting
 State Lottery Department, 900 East Main Street, 8th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

LEGISLATIVE

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempted from publication in The Virginia Register of Regulations. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

CHRONOLOGICAL LIST

OPEN MEETINGS

January 22
 Accountancy, Board for
 Alcoholic Beverage Control Board
 Housing and Community Development, Board of

† Nursing, Board of

January 23

Accountancy, Board for
 Health Services Cost Review Council, Virginia
 Housing Development Authority, Virginia
 Marine Resources Commission, Virginia
 Medicine, Board of
 † Nursing, Board of

January 24

Agriculture and Consumer Services, Department of
 - Virginia Irish Potato Board
 Emergency Planning Committee - Local, Gloucester County
 George Mason University
 - Board of Visitors
 Independent Living Council, Statewide
 Lottery Board, State
 Manufactured Housing Board
 Motor Vehicles, Department of
 - Medical Advisory Board
 † Nursing, Board of
 † Water Control Board, State

January 25

Agriculture and Consumer Services, Department of
 - Virginia Farmers' Market Board
 Conservation and Recreation, Department of
 - Caledon Natural Area Ad Hoc Committee
 Museum of Natural History, Virginia
 - Board of Trustees
 † Nursing, Board of
 † Rehabilitative Services, Board of
 Richmond Hospital Authority
 - Board of Commissioners
 Social Work, Board of

January 26

† Executive Council, State
 † Information Management, Council on
 Medicine, Board of
 - Legislative Committee
 Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - State Human Rights Committee
 Social Work, Board of

January 28

† Employment Commission, Virginia
 - State Advisory Board

January 29

† Employment Commission, Virginia
 - State Advisory Board

January 30

Psychology, Board of
 † Veterinary Medicine, Board of

January 31

† Branch Pilots, Board for
 Statewide Human Services Information and Referral Advisory Council
 † Optometry, Board of

Calendar of Events

February 1

- † Branch Pilots, Board for Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
- Management Team for Comprehensive Services for At Risk Youth and Their Families, State
- † William and Mary, College of
 - Board of Visitors

February 2

- Environmental Quality, Department of
 - Technical Advisory Committee for Solid Waste Management Regulations
- † William and Mary, College of
 - Board of Visitors

February 3

- Visually Handicapped, Department for the
 - Advisory Committee on Services

February 5

- Alcoholic Beverage Control Board
- † Nursing, Board of

February 6

- Hopewell Industrial Safety Council
- Waterworks and Wastewater Works Operators, Board for

February 7

- † Deaf and Hard-of-Hearing, Department for the
 - Advisory Board
- † Emergency Planning Committee, Local - Winchester

February 8

- Medicine, Board of
- † Nursing, Board of
- † Nursing Home Administrators, Board of

February 9

- Agriculture and Consumer Services, Department of
 - Virginia Plant Pollination Advisory Board
- Medicine, Board of

February 10

- Medicine, Board of
 - Credentials Committee
- † Military Institute, Virginia
 - Board of Visitors

February 12

- † Agriculture and Consumer Services, Department of
 - Virginia Aquaculture Advisory Board

February 13

- † Corrections, Board of
 - Correctional Services Committee
- Resources Authority, Virginia

February 14

- Agriculture and Consumer Services, Department of
 - Virginia Corn Board
- Audiology and Speech-Language Pathology, Board of
- † Corrections, Board of
 - Administrative Committee
- Environmental Quality, Department of

- Work Group on Detection/Quantitation Levels Mines, Minerals and Energy, Department of
 - Division of Mined Land Reclamation
- † Nursing, Board of
- † Transportation Board, Commonwealth
- † Veterinary Medicine, Board of
- † Youth and Family Services, Board of

February 15

- Audiology and Speech-Language Pathology, Board of
- † Transportation Board, Commonwealth
- † Veterinary Medicine, Board of

February 20

- † Aviation Board, Virginia

February 21

- Alcoholic Beverage Control Board
- † Aviation Board, Virginia
- † Nursing, Board of

February 22

- Education, Board of
- † Nursing, Board of
- † Professional Counselors and Marriage and Family Therapists, Board of

February 23

- Environmental Quality, Department of
 - Technical Advisory Committee for Solid Waste Management Regulations

February 26

- † Nursing, Board of

February 27

- † Health Services Cost Review Council, Virginia

February 28

- Nursing Home Administrators, Board of

March 1

- † Environmental Quality, Department of

March 5

- Hopewell Industrial Safety Council

March 13

- Community Colleges, State Board for
- † Youth and Family Services, Board of

March 14

- Community Colleges, State Board for
- Voluntary Formulary Board, Virginia

March 29

- † Environmental Quality, Department of

April 10

- † Youth and Family Services, Board of

PUBLIC HEARINGS

January 30

- † Aviation Board, Virginia

Calendar of Events

February 1

Voluntary Formulary Board, Virginia

February 21

† Aviation Board, Virginia

March 22

Taxation, Department of
