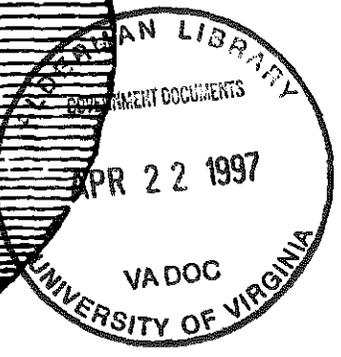
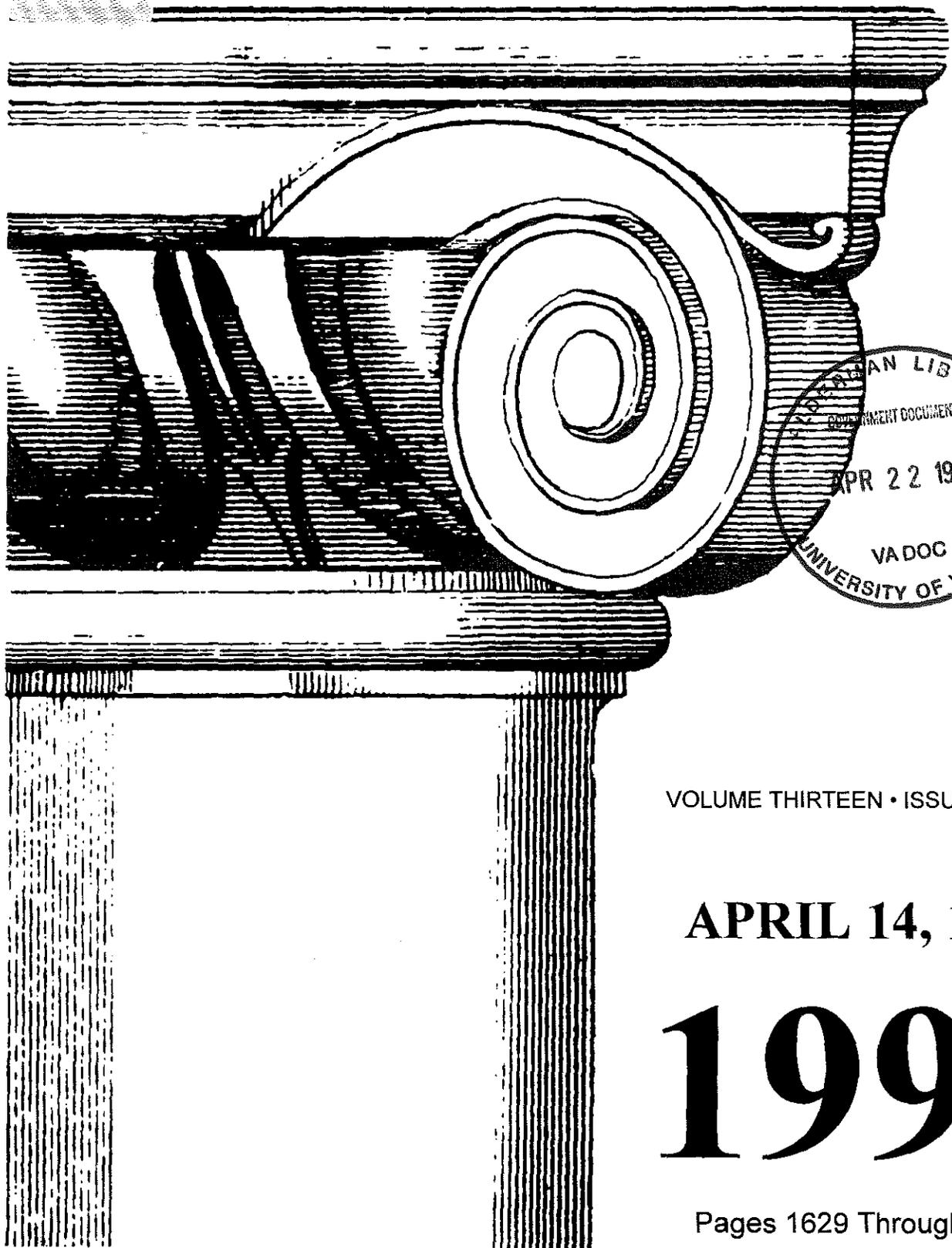


003
5/R 26/13-15 .c.2

THE VIRGINIA REGISTER

OF REGULATIONS

VA
DOC



VOLUME THIRTEEN • ISSUE FIFTEEN

APRIL 14, 1997

1997

Pages 1629 Through 1778

THE VIRGINIA REGISTER INFORMATION PAGE

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.

"THE VIRGINIA REGISTER OF REGULATIONS" (USPS-001831) is published bi-weekly, with quarterly cumulative indices published in January, April, July and October, for \$100 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Periodical Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to **THE VIRGINIA REGISTER OF REGULATIONS, 910 CAPITOL STREET, 2ND FLOOR, RICHMOND, VIRGINIA 23219.**

The *Virginia Register of Regulations* is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of the Code of Virginia. Individual copies, if available, may be purchased for \$4.00 each from the Registrar of Regulations.

Members of the Virginia Code Commission: Joseph V. Gartlan, Jr., Chairman; W. Tayloe Murphy, Jr., Vice Chairman; Robert L. Calhoun; Russell M. Carneal; Bernard S. Cohen; Jay W. DeBoer; Frank S. Ferguson; E. M. Miller, Jr.; Jackson E. Reasor, Jr.; James B. Wilkinson.

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

PUBLICATION DEADLINES AND SCHEDULES

April 1997 through March 1998

**Material Submitted
By Noon Wednesday**

Will Be Published On

Volume 13

March 26, 1997
April 9, 1997
April 23, 1997
May 7, 1997
May 21, 1997
June 4, 1997

April 14, 1997
April 28, 1997
May 12, 1997
May 26, 1997
June 9, 1997
June 23, 1997

INDEX 3 - Volume 13

July 1997

June 18, 1997
July 2, 1997
July 16, 1997
July 30, 1997
August 13, 1997
August 27, 1997

July 7, 1997
July 21, 1997
August 4, 1997
August 18, 1997
September 1, 1997
September 15, 1997

FINAL INDEX - Volume 13

October 1997

Volume 14

September 10, 1997
September 24, 1997
October 8, 1997
October 22, 1997
November 5, 1997
November 18, 1997 (Tuesday)
December 3, 1997

September 29, 1997
October 13, 1997
October 27, 1997
November 10, 1997
November 24, 1997
December 8, 1997
December 22, 1997

INDEX 1 - Volume 14

January 1998

December 16, 1997 (Tuesday)
December 31, 1997
January 14, 1998
January 28, 1998
February 11, 1998
February 25, 1998
March 11, 1998

January 5, 1998
January 19, 1998
February 2, 1998
February 16, 1998
March 2, 1998
March 16, 1998
March 30, 1998

INDEX 2 - Volume 14

April 1998

TABLE OF CONTENTS

NOTICES OF INTENDED REGULATORY ACTION

Board for Accountancy.....	1633
Board of Funeral Directors and Embalmers.....	1633
Department of Medical Assistance Services.....	1633
Board of Medicine.....	1634
Board of Optometry.....	1635
Board of Pharmacy.....	1635
Board of Psychology.....	1635
Department of Social Services (State Board of).....	1636
Board of Veterinary Medicine.....	1636
Virginia Racing Commission.....	1636

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

Board of Juvenile Justice.....	1638
Board of Nursing.....	1639
Virginia Waste Management Board.....	1639

PROPOSED REGULATIONS

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Definitions and Miscellaneous: In General (amending 4 VAC 15-20-150, 4 VAC 15-20-160, and 4 VAC 15-20-200; repealing 4 VAC 15-20-170).....	1640
Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (amending 4 VAC 15-30-40).....	1640
Game: In General (amending 4 VAC 15-40-60, 4 VAC 15-40-70 and 4 VAC 15-40-240).....	1640
Game: Bear (amending 4 VAC 15-50-70, 4 VAC 15-50-120; adding 4 VAC 15-50-25).....	1640
Game: Bobcat (amending 4 VAC 15-70-20 and 4 VAC 15-70-30).....	1640
Game: Deer (amending 4 VAC 15-90-20, 4 VAC 15-90-70, 4 VAC 15-90-80, 4 VAC 15-90-90, 4 VAC 15-90-110, 4 VAC 15-90-160, 4 VAC 15-90-170, 4 VAC 15-90-190, 4 VAC 15-90-200, 4 VAC 15-90-210, 4 VAC 15-90-220, 4 VAC 15-90-250 and 4 VAC 15-90-280; adding 4 VAC 15-90-195 and 4 VAC 15-90-290).....	1640
Game: Fox (amending 4 VAC 15-110-10, 4 VAC 15-110-50, 4 VAC 15-110-75, and 4 VAC 15-110-90; repealing 4 VAC 15-110-40).....	1640
Game: Mink (repealing 4 VAC 15-130-30).....	1640
Game: Muskrat (repealing 4 VAC 15-140-30).....	1640

Game: Opossum (adding 4 VAC 15-160-31; repealing 4 VAC 15-160-30 and 4 VAC 15-160-40).....	1640
Game: Pheasant (repealing 4 VAC 15-180-20 and 4 VAC 15-180-30).....	1640
Game: Quail (amending 4 VAC 15-190-10; repealing 4 VAC 15-190-50).....	1640
Game: Raccoon (adding 4 VAC 15-210-51; repealing 4 VAC 15-210-50 and 4 VAC 15-210-60).....	1640
Game: Squirrel (amending 4 VAC 15-230-40).....	1640
Game: Turkey (amending 4 VAC 15-240-20 and 4 VAC 15-240-60).....	1640
Game: Pelts and Furs (amending 4 VAC 15-280-30).....	1640
Game: Permits (amending 4 VAC 15-290-130; adding 4 VAC 15-290-115).....	1640
Game: Woodchuck (repealing 4 VAC 15-310-10).....	1640
Game: In General (repealing 4 VAC 15-40-10, 4 VAC 15-40-90, and 4 VAC 15-40-180).....	1651
Game: Beaver (amending 4 VAC 15-60-10).....	1651
Game: Deer (repealing 4 VAC 15-90-50 and 4 VAC 15-90-270).....	1651
Game: Fox (repealing 4 VAC 15-110-80).....	1651
Game: Mink (repealing 4 VAC 15-130-10).....	1651
Game: Muskrat (repealing 4 VAC 15-140-10).....	1651
Game: Nutria (repealing 4 VAC 15-150-10 and 4 VAC 15-150-20).....	1651
Game: Otter (repealing 4 VAC 15-170-10).....	1651
Game: Rabbits and Hares (repealing 4 VAC 15-200-40).....	1651
Game: Squirrel (repealing 4 VAC 15-230-80).....	1651
Game: Falconry (amending 4 VAC 15-250-50, 4 VAC 15-250-70, and 4 VAC 15-250-110).....	1651
Game: Permits (amending 4 VAC 15-290-30 and 4 VAC 15-290-40; repealing 4 VAC 15-290-10, 4 VAC 15-290-90 and 4 VAC 15-290-100).....	1651
Game: Weasel (amending 4 VAC 15-300-10; repealing 4 VAC 15-300-20 and 4 VAC 15-300-30).....	1652

BOARD OF JUVENILE JUSTICE

Predispositional and Postdispositional Group Home Standards (REPEALING). (6 VAC 35-40-10 et seq.).....	1655
Standards for Juvenile Correctional Centers (REPEALING). (6 VAC 35-70-10 et seq.).....	1655
Standards for Post Dispositional Confinement for Secure Detention and Court Service Units (REPEALING). (6 VAC 35-90-10 et seq.).....	1655
Standards for Secure Detention (REPEALING). (6 VAC 35-100-10 et seq.).....	1655

Table of Contents

Standards for Family Group Homes (REPEALING). (6 VAC 35-120-10 et seq.) 1655

Standards for Juvenile Residential Facilities. (6 VAC 35-140-10 et seq.) 1655

Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs (amending 6 VAC 35-60-10, 6 VAC 35-60-20, 6 VAC 35-60-40, 6 VAC 35-60-50, 6 VAC 35-60-60, 6 VAC 35-60-170, 6 VAC 35-60-180, 6 VAC 35-60-190, 6 VAC 35-60-280, 6 VAC 35-60-290, 6 VAC 35-60-320, 6 VAC 35-60-330, 6 VAC 35-60-380, 6 VAC 35-60-390, 6 VAC 35-60-400, 6 VAC 35-60-410, 6 VAC 35-60-440, 6 VAC 35-60-450, 6 VAC 35-60-460, 6 VAC 35-60-480, 6 VAC 35-60-490, 6 VAC 35-60-500, 6 VAC 35-60-580, and 6 VAC 35-60-600; adding 6 VAC 35-60-71, 6 VAC 35-60-215, 6 VAC 35-60-235, 6 VAC 35-60-495, and 6 VAC 35-60-605; repealing 6 VAC 35-60-30, 6 VAC 35-60-70 through 6 VAC 35-60-160, 6 VAC 35-60-200 through 6 VAC 35-60-270, 6 VAC 35-60-300, 6 VAC 35-60-310, 6 VAC 35-60-340 through 6 VAC 35-60-370, 6 VAC 35-60-420, 6 VAC 35-60-430, 6 VAC 35-60-470, 6 VAC 35-60-510 through 6 VAC 35-60-570, 6 VAC 35-60-590, and 6 VAC 35-60-610 through 6 VAC 35-60-670). 1667

Holdover Standards (REPEALING). (6 VAC 35-80-10 et seq.) 1677

Minimum Standards for Court Services in Juvenile and Domestic Relations District Courts (REPEALING). (6 VAC 35-110-10 et seq.) 1677

Standards for Outreach Detention (REPEALING). (6 VAC 35-130-10 et seq.) 1677

Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts. (6 VAC 35-150-10 et seq.) 1677

BOARD OF NURSING

Regulations Governing the Certification of Massage Therapists. (18 VAC 90-50-10 et seq.) 1688

VIRGINIA WASTE MANAGEMENT BOARD

Financial Assurance Regulations for Solid Waste Facilities (amending 9 VAC 20-70-10, 9 VAC 20-70-30, 9 VAC 20-70-50, 9 VAC 20-70-60, 9 VAC 20-70-70, 9 VAC 20-70-90; adding 9 VAC 20-70-41, 9 VAC 20-70-75, 9 VAC 20-70-81, 9 VAC 20-70-111, 9 VAC 20-70-112, 9 VAC 20-70-113, 9 VAC 20-70-140, 9 VAC 20-70-150, 9 VAC 20-70-160, 9 VAC 20-70-170, 9 VAC 20-70-180, 9 VAC 20-70-190, 9 VAC 20-70-200, 9 VAC 20-70-210, 9 VAC 20-70-220, 9 VAC 20-70-230, 9 VAC 20-70-240, 9 VAC 20-70-250, 9 VAC 20-70-260, 9 VAC 20-70-270; repealing 9 VAC 20-70-20, 9 VAC 20-70-40, 9 VAC 20-70-80, 9 VAC 20-70-100, 9 VAC 20-70-110, 9 VAC 20-70-120, 9 VAC 20-70-130). 1699

FINAL REGULATIONS

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

SUSPENSION OF REGULATORY PROCESS

Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993 (suspending the repeal of paragraph 2 of Section R-214.1 of CABO One and Two Family Dwelling Code/1992 Edition of 13 VAC 5-60-20, 105.1 and 105.1.1 of 13 VAC 5-60-60, and 116.5 and 116.9 of 13 VAC 5-60-170). 1737

Virginia Uniform Statewide Building Code (suspending 13 VAC 5-61-80 A, 13 VAC 5-61-140 B, 13 VAC 5-61-190 A and 13 VAC 5-61-220 C 12). 1737

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Part III: HIV Premium Assistance Program. (12 VAC 30-100-250 et seq.) 1741

GENERAL NOTICES/ERRATA

STATE AIR POLLUTION CONTROL BOARD

Notice of Extended Public Comment Period 1748

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Changes to the Virginia Medicaid Income Eligibility Levels 1748

DEPARTMENT OF SOCIAL SERVICES

Child Care and Development Fund 1748

STATE WATER CONTROL BOARD

Notice of Additional Comment Period on Proposed Amendments to Virginia's Water Quality Standards 1749

Enforcement Action - Proposed Consent Special Order - C & M Oil Distributors, Inc. - Prillaman Chemical Corporation - Tarmac Mid-Atlantic, Inc. 1749

Enforcement Action - Proposed Consent Decree - District of Columbia - Lorton Reformatory Sewage Treatment Plant 1749

Enforcement Action - Proposed Amendments to Consent Special Orders - Erath Veneer Corporation of Virginia - Ronile, Incorporated - Montgomery County Public Service Authority 1750

VIRGINIA CODE COMMISSION

Notice to State Agencies 1750

Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations* 1750

ERRATA

**VIRGINIA POLYTECHNIC INSTITUTE AND STATE
UNIVERSITY**

Traffic and Parking Regulations. (8 VAC 105-10-10 et seq.)
..... 1750

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 1751

INDEPENDENT

Open Meetings and Public Hearings 1775

LEGISLATIVE

Open Meetings and Public Hearings 1775

CHRONOLOGICAL LIST

Open Meetings..... 1775
Public Hearings..... 1777

Table of Contents

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

BOARD FOR ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to consider amending regulations entitled: **18 VAC 5-20-10 et seq. Board for Accountancy Regulations**. The purpose of the proposed action is to eliminate overly restrictive and unnecessary licensure requirements recommended by the board's committees under Executive Order 15(94), and to review all provisions of current regulations to implement the least burdensome alternatives. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

Public comments may be submitted until April 17, 1997, at 5 p.m.

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

VA.R. Doc. No. R97-323; Filed February 26, 1997, 11:39 a.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **18 VAC 65-20-10 et seq. Regulations of the Board of Funeral Directors and Embalmers**. The purpose of the proposed action is to reorganize, simplify, and clarify regulations according to the recommendations of the review conducted pursuant to Executive Order 15(94). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Public comments may be submitted until May 14, 1997.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

VA.R. Doc. No. R97-356; Filed March 25, 1997, 12:20 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **18 VAC 65-30-10 et seq. Regulations for Preneed Funeral Planning**. The purpose of the proposed action is to simplify and clarify regulations according to the recommendations of the review conducted pursuant to Executive Order 15(94). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Public comments may be submitted until May 14, 1997.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

VA.R. Doc. No. R97-355; Filed March 25, 1997, 12:20 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service**. The purpose of the proposed action is to reorganize, simplify, and clarify regulations according to the recommendations of the review conducted pursuant to Executive Order 15(94). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Public comments may be submitted until May 14, 1997.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

VA.R. Doc. No. R97-354; Filed March 25, 1997, 12:20 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

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 Medical Assistance Services intends to consider promulgating regulations entitled: **Health Insurance Program for Working Uninsured Individuals**. The purpose of the proposed action

Notices of Intended Regulatory Action

is to promulgate regulations for a new program to assist employees in financing health insurance for working uninsured individuals. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 30, 1997.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R97-338; Filed March 11, 1997, 12:44 p.m.

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 Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care and Services (amending 12 VAC 30-50-100 and 12 VAC 30-50-140) and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-20, 12 VAC 30-60-25 and 12 VAC 30-60-60).** The purpose of the proposed action is to promulgate permanent regulations, essentially like the current emergency regulations, which provide for the required prior authorization of all inpatient hospital services before the Department of Medical Assistance Services will reimburse for such services. These permanent regulations will also permit the denial of claims for inpatient hospital services which have not met the appropriate prior authorization requirements. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R97-325; Filed February 26, 1997, 11:15 a.m.

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 Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services (amending 12 VAC 30-50-220 through 12 VAC 30-50-229, and 12 VAC 30-50-510) and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-140 through 12 VAC 30-60-149 and 12 VAC 30-130-540 through 12 VAC 30-130-590).** The purpose of the proposed action is to promulgate permanent regulations, substantially like the preceding emergency regulations, which provide for additional mental

health and mental retardation services than those already covered in the state plan and to add several new substance abuse treatment services to the plan. Minor revisions and technical corrections in the original 1990 existing mental health/mental retardation services will also be proposed. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R97-324; Filed February 26, 1997, 11:15 a.m.

† 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 Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-130-800 et seq. Amount, Duration and Scope of Selected Services: Client Medical Management.** The purpose of the proposed action is to extend restriction periods because recipients have been found to need more time to change their medical utilization habits, list services which are excluded from the restrictions of client medical management, and add new criteria for restriction. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until May 14, 1997, to Sharon Long, Division of Program Delivery Systems, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R97-359; Filed March 26, 1997, 11:14 a.m.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also consider less burdensome requirements for applicants seeking limited licensure and for those wanting to take the USMLE, Part III.

Notices of Intended Regulatory Action

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

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

Public comments may be submitted until April 16, 1997.

Contact: Warren K. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

VA.R. Doc. No. R97-309; Filed February 14, 1997, 2:09 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-110-10 et seq. Licensed Acupuncturists.** The purpose of the proposed action is to simplify and clarify regulations according to the recommendations of Executive Order 15(94). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Public comments may be submitted until May 14, 1997.

Contact: Warren K. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

VA.R. Doc. No. R97-357; Filed March 25, 1997, 12:20 p.m.

BOARD OF OPTOMETRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to consider amending regulations entitled: **18 VAC 105-20-10 et seq. Regulations of the Board of Optometry.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also consider amendments to alleviate the costs and time expended for course approval and recordkeeping for continuing education. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or FAX (804) 662-9943.

VA.R. Doc. No. R97-306; Filed February 14, 1997, 2:08 p.m.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20-10 et seq. Virginia Board of Pharmacy Regulations.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also consider amendments to update regulations to current pharmacy practices and technology. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Public comments may be submitted until April 16, 1997.

Contact: Elizabeth Scott Russell, R.Ph., Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9943.

VA.R. Doc. No. R97-308; Filed February 14, 1997, 2:08 p.m.

BOARD OF PSYCHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Psychology intends to consider amending regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to clarify and simplify the regulations, eliminate duplication, improve the format, simplify the late reinstatement procedure, establish an endorsement/reciprocity procedure for applicants with lengthy experience licensed in other states, update the education requirement for all categories of licensure, consider including temporary licensure provisions as authorized by statute, consider reducing the face-to-face supervision requirement, update diplomate titles for examination waiver, simplify the reexamination requirement, include a requirement for notifying the board of a name or address change, and consider incorporating some of the ethical standards of the American Psychological Association. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3600 et seq. of the Code of Virginia.

Public comments may be submitted until May 14, 1997.

Contact: Janet D. Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575 or FAX (804) 662-9943.

VA.R. Doc. No. R97-358; Filed March 25, 1997, 12:20 p.m.

Notices of Intended Regulatory Action

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

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 Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-60-10 et seq. Standards and Regulations for Licensed Adult Day Care Centers.** The purpose of the proposed amendments is to amend the regulation for clarity and understandability and to bring it up to date with Code of Virginia mandates. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-194.1 of the Code of Virginia.

Public comments may be submitted until April 16, 1997.

Contact: Kathryn Thomas, Program Development Supervisor, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1793 or FAX (804) 692-2370.

VA.R. Doc. No. R97-326; Filed February 26, 1997, 11: 07 a.m.

BOARD OF VETERINARY MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine intends to consider amending regulations entitled: **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also amend its regulations pursuant to § 54.1-3804 of the Code of Virginia as amended by the 1996 General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3804 of the Code of Virginia.

Public comments may be submitted until April 16, 1997.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or FAX (804) 662-9943.

VA.R. Doc. No. R97-307; Filed February 14, 1997, 2:08 p.m.

VIRGINIA RACING COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-20-**

190. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Criteria for Unlimited Horse Racing Facilities. The purpose of the proposed action is to establish standards for the operation of a racetrack including the latest safety standards compiled by Racing Commissioners International. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until May 15, 1997.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

VA.R. Doc. No. R97-349; Filed March 19, 1997, 3:43 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-50-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Racing Officials.** The purpose of the proposed action is to establish duties and responsibilities of racing officials and establish new categories of officials for satellite facilities. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until May 15, 1997.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

VA.R. Doc. No. R97-347; Filed March 19, 1997, 3:43 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-70-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Stewards.** The purpose of the proposed action is to establish duties and responsibilities of stewards at satellite facilities and set forth procedures for stewards' hearings. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until May 15, 1997.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

VA.R. Doc. No. R97-350; Filed March 19, 1997, 3:43 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-90-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Formal Hearings.** The purpose of the proposed action is to establish procedures for appeals from stewards' hearings to a review by the Virginia Racing Commission. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until May 15, 1997.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

VA.R. Doc. No. R97-348; Filed March 19, 1997, 3:43 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.

BOARD OF JUVENILE JUSTICE

May 14, 1997 - 10 a.m. -- Public Hearing
June 11, 1997 - 10 a.m. -- Public Hearing
Department of Juvenile Justice, 700 East Franklin Street,
Board Room, Richmond, Virginia.

June 13, 1997 -- 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 Board of Juvenile Justice intends to **repeal** regulations entitled: **6 VAC 35-40-10 et seq. Predispositional and Postdispositional Group Home Standards, 6 VAC 35-70-10 et seq. Standards for Juvenile Correctional Centers, 6 VAC 35-90-10 et seq. Standards for Post Dispositional Confinement for Secure Detention and Court Service Units, 6 VAC 35-100-10 et seq. Standards for Secure Detention, and 6 VAC 35-120-10 et seq. Standards for Family Group Homes; and adopt regulations entitled: 6 VAC 35-140-10 et seq. Standards for Juvenile Residential Facilities.** The proposed regulation revises and replaces existing regulations governing secure detention homes, post-dispositional confinement in secure detention, pre-dispositional and post-dispositional group home, family group homes and juvenile correctional centers. Additional new standards in the proposed regulation address juvenile boot camps, work camps, independent living programs and juvenile industries projects.

Statutory Authority: §§ 16.1-309.9 and 66-10 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

June 13, 1997 -- 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 Board of Juvenile Justice intends to amend regulations entitled: **6 VAC 35-60-10 et seq. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** The proposed amendments will simplify and streamline operating requirements for Virginia's offices on youth, reduce mandates to encourage local autonomy and flexibility, and define a closer working relationship between offices on youth and court service units.

Statutory Authority: §§ 66-10, 66-27 and 66-28 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

May 14, 1997 - 10 a.m. -- Public Hearing
June 11, 1997 - 10 a.m. -- Public Hearing
Department of Juvenile Justice, 700 East Franklin Street,
Board Room, Richmond, Virginia.

June 13, 1997 -- 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 Board of Juvenile Justice intends to **repeal** regulations entitled: **6 VAC 35-80-10 et seq. Holdover Standards, 6 VAC 35-110-10 et seq. Standards for Court Services in Juvenile and Domestic Relations Courts, and 6 VAC 35-130-10 et seq. Standards for Outreach Detention; and adopt regulations entitled: 6 VAC 35-150-10 et seq. Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts.** The proposed regulation replaces existing standards for court

Public Comment Periods - Proposed Regulations

service units, standards for outreach detention, and holdover standards. In addition, this regulation and the proposed consolidated Standards for Juvenile Residential Facilities will replace standards for post-dispositional confinement for secure detention and court service units.

Statutory Authority: §§ 16.1-233, 16.1-309.9 and 66-10 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

amendment to § 10.1-1410 of the Code of Virginia. Extensive changes are also proposed to conform the Virginia requirements to the federal requirements of 40 CFR Part 258. These changes include elimination of the third-party liability requirements.

Statutory Authority: § 10.1-1400 et seq. of the Code of Virginia.

Contact: Wladimir Gulevich, Assistant Division Director, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218, FAX (804) 698-4327, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

BOARD OF NURSING

May 20, 1997 - 1 p.m. -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

June 13, 1997 - 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 Board of Nursing intends to adopt regulations entitled: **18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists.** The proposed regulations establish an application process and requirements for certification in accordance with provisions of § 54.1-3029 of the Code of Virginia, fees for administration of the regulatory program, a schedule of renewal and reinstatement, and standards of conduct, which will protect the health, welfare and safety of the citizens of the Commonwealth.

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

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 or FAX (804) 662-9943.

VIRGINIA WASTE MANAGEMENT BOARD

May 19, 1997 - 10 a.m. -- Public Hearing

State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

May 22, 1997 - 1 p.m. -- Public Hearing

Roanoke County Administration Center, 5204 Bernard Drive, Board Meeting Room, Roanoke, Virginia.

June 16, 1997 - 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 Waste Management Board intends to amend regulations entitled: **9 VAC 20-70-10 et seq. Financial Assurance Regulations for Solid Waste Facilities.** The proposed amendment incorporates new regulatory requirements for financial assurance by the solid waste facilities owned or operated by the local governments as required by the 1993

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulations: 4 VAC 15-20-10 et seq. Definitions and Miscellaneous: In General (amending 4 VAC 15-20-150, 4 VAC 15-20-160, and 4 VAC 15-20-200; repealing 4 VAC 15-20-170).

4 VAC 15-30-10 et seq. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (amending 4 VAC 15-30-40).

4 VAC 15-40-10 et seq. Game: In General (amending 4 VAC 15-40-60, 4 VAC 15-40-70 and 4 VAC 15-40-240).

4 VAC 15-50-10 et seq. Game: Bear (amending 4 VAC 15-50-70, 4 VAC 15-50-120; adding 4 VAC 15-50-25).

4 VAC 15-70-10 et seq. Game: Bobcat (amending 4 VAC 15-70-20 and 4 VAC 15-70-30).

4 VAC 15-90-10 et seq. Game: Deer (amending 4 VAC 15-90-20, 4 VAC 15-90-70, 4 VAC 15-90-80, 4 VAC 15-90-90, 4 VAC 15-90-110, 4 VAC 15-90-160, 4 VAC 15-90-170, 4 VAC 15-90-190, 4 VAC 15-90-200, 4 VAC 15-90-210, 4 VAC 15-90-220, 4 VAC 15-90-250 and 4 VAC 15-90-280; adding 4 VAC 15-90-195 and 4 VAC 15-90-290).

4 VAC 15-110-10 et seq. Game: Fox (amending 4 VAC 15-110-10, 4 VAC 15-110-50, 4 VAC 15-110-75, and 4 VAC 15-110-90; repealing 4 VAC 15-110-40).

4 VAC 15-130-10 et seq. Game: Mink (repealing 4 VAC 15-130-30).

4 VAC 15-140-10 et seq. Game: Muskrat (repealing 4 VAC 15-140-30).

4 VAC 15-160-10 et seq. Game: Opossum (adding 4 VAC 15-160-31; repealing 4 VAC 15-160-30 and 4 VAC 15-160-40).

4 VAC 15-180-10 et seq. Game: Pheasant (repealing 4 VAC 15-180-20 and 4 VAC 15-180-30).

4 VAC 15-190-10 et seq. Game: Quail (amending 4 VAC 15-190-10; repealing 4 VAC 15-190-50).

4 VAC 15-210-10 et seq. Game: Raccoon (adding 4 VAC 15-210-51; repealing 4 VAC 15-210-50 and 4 VAC 15-210-60).

4 VAC 15-230-10 et seq. Game: Squirrel (amending 4 VAC 15-230-40).

4 VAC 15-240-10 et seq. Game: Turkey (amending 4 VAC 15-240-20 and 4 VAC 15-240-60).

4 VAC 15-280-10 et seq. Game: Pelts and Furs (amending 4 VAC 15-280-30).

4 VAC 15-290-10 et seq. Game: Permits (amending 4 VAC 15-290-130; adding 4 VAC 15-290-115).

4 VAC 15-310-10 et seq. Game: Woodchuck (repealing 4 VAC 15-310-10).

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

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed regulations opened March 21 and remains open until May 5, 1997. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Comments should be sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, and need to be received no later than April 28, 1997, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board at the Department of Game and Inland Fisheries to take place at the Comfort Inn, 3200 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Monday, May 5, 1997, at which time any interested citizen present shall be heard. At the board meeting staff will also present the results of a series of meetings held around the state for the purpose of providing the public with opportunities to review and comment on the proposed regulation amendments.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable, in the form in which published or as amended after receipt of the public's comments, the board may adopt regulations as final at the May 5-6, 1997, meeting. All regulations for game, nonreptilian terrestrial and avian nongame wildlife, permitting, hunting and trapping, including the length of seasons, bag limits and methods of take for game are open for consideration; the board may amend any such wildlife regulation at the May 5-6, 1997, meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

Summary:

The proposed amendments are a result of the board's regular biennial review of regulations for game, nonreptilian terrestrial and avian nongame wildlife; hunting and trapping, including the length of seasons; bag limits; and methods of take for game. Amendments proposed to the Definitions and Miscellaneous chapter (4 VAC 15-20-10 et seq.) (i) prohibit the construction of tree stands on Department of Conservation and Recreation lands; (ii) add sika deer (*Cervus nippon*), feral hog (*Sus scrofa*), nutria (*Myocastor coypus*), and woodchuck (*Marmota monax*) to those species designated as nuisance species; (iii) repeal the existing section which allows taking and possession of most species of native rodents for private use; (iv) consolidate three types of permits (commercial, private, and shooting preserve propagation) into one for a reduced fee at \$12.50 and remove the reference to deer farming permits; and (v) limit the importation, possession, and sale of prairie dogs (*Cynomys* spp.) by adding them to the department's list of predatory or undesirable nonnative (exotic) animals.

Amendments proposed in 4 VAC 15-40-10 et seq., Game: In General (i) allow the use of dogs for chasing or training between September 1 and March 31 on national forest lands or department-owned lands during raccoon hound field trials sanctioned by nationally recognized kennel clubs and permitted by the department and the U.S. Forest Service; (ii) exempt department employees from the prohibition of possessing loaded firearms on national forest lands or department-owned lands while engaged in official duties; (iii) clarify the type of captive waterfowl to be used in dog training; (iv) allow the training of dogs on rabbit and nonmigratory game birds on the Weston Wildlife Management Area from September 1 through March 31; and (v) allow special permits for animal population control to be issued during closed season.

The proposed amendments to 4 VAC 15-50-10 et seq., Game: Bear (i) expand the hunting season on black bear in the cities of Chesapeake and Suffolk by moving the opening day from the fourth Monday in November to the first Monday in November; (ii) allow disabled hunters to use crossbows to hunt bear on private property during the early special archery season; (iii) allow bear hound training season in the counties of Bland, Pulaski and Wythe and change the season dates to allow the training of bear hounds during the month of September.

The proposed amendments to 4 VAC 15-70-10 et seq., Game: Bobcat (i) change the closing date of the bobcat trapping season from January 31 to the last day of February to coincide with other recommended furbearer trapping season dates and (ii) change the bag limit from six to 12 bobcats taken by hunting and trapping combined.

The proposed amendments to 4 VAC 15-90-10 et seq., Game: Deer (i) remove the G. Richard Thompson Wildlife Management Area from the two-week west of the Blue Ridge general firearms deer season into the eastern seven-week general firearms deer season; (ii)

standardize language on the use of crossbows by disabled hunters to hunt deer on private property during the early special archery season; (iii) reduce the current special early muzzleloading season from two weeks to one week and eliminate the either-sex deer hunting day in the special early muzzleloading season west of the Blue Ridge Mountains and on national forest lands in Amherst, Bedford, and Nelson counties. This proposed amendment will also allow the use of ammunition other than lead projectiles (e.g., jacketed or copper). Other amendments to 4 VAC 15-90-10 et seq. (i) reduce the daily bag limit for deer from two per day to one per day west of the Blue Ridge Mountains and limit the number of antlered deer to be taken per hunter to one during the special early muzzleloading season statewide; (ii) allow for the use of bonus deer permits on certain public lands as authorized by the managing agency and limit the number of bonus permits to one per person per license year; (iii) allow two days of either-sex deer hunting during the general firearms season on the G.R. Thompson Wildlife Management Area; (iv) establish full season either-sex deer hunting during the general firearms season in the cities of Hampton and Newport News, the Town of Chincoteague, Prince William County and on the Pocahontas State Park; (v) remove the Pocahontas State Forest from the one day either-sex deer hunting category during the general firearms season; (vi) remove the Powhatan Wildlife Management Area from the first Saturday and last six hunting days either-sex deer hunting day category and into 4 VAC 15-90-191 (first two Saturdays and the last six hunting days) and to remove the reference to Warren and York counties in this regulation; (vii) add a section to have the first two Saturdays and the last six hunting days as either-sex deer hunting days during the general firearms season in Amelia, Appomattox, Brunswick, Buckingham, Charlotte, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Lunenburg, Mecklenburg, Nottoway, Powhatan, Prince Edward, and Prince George counties; (viii) include the Town of Chincoteague in the exception to Accomack County removing it from the first three Saturdays and last 24 hunting days either-sex deer hunting day category so it can be added to 4 VAC 15-90-160 (full season either-sex); (ix) remove the counties of Amelia, Appomattox, Brunswick, Buckingham, Charlotte, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Lunenburg, Mecklenburg, Nottoway, Powhatan, Prince Edward, and Prince George from the first two Saturdays and last 12 hunting days either-sex deer hunting category and add them to 4 VAC 15-90-191 (first two Saturdays and last six days), a total reduction of six either-sex deer hunting days, and the County of Prince William and the cities of Newport News and Hampton from this category to 4 VAC 15-90-160 (full season); (x) remove the prohibition on bucks only hunting in that portion of Dickenson County closed to hunting and allow deer hunting in the entire county and remove the Thompson Wildlife Management Area from the buck only hunting category; (xi) remove the prohibition of deer hunting in a portion of Dickenson County; (xii) allow the sale of deer hooves of legally

Proposed Regulations

taken deer; and (xiii) establish a special quality deer management area.

The proposed amendments to 4 VAC 15-110-10 et seq., Game: Fox (i) remove the prohibition on hunting fox with dogs in the city of Newport News and the counties of Loudoun and parts of Fairfax and Fauquier; (ii) repeal the section allowing the trapping of foxes in Albemarle County during the month of November, which would allow the fox trapping season in Albemarle County to fall within the general statewide season which opens November 15; (iii) change the closing date of the fox trapping season from January 31 to the last day of February to coincide with other proposed furbearer trapping season dates; (iv) remove the "sunset" clause which would cause the provisions of this section to expire after May 25, 2001, unless reenacted; (v) remove the prohibition on hunting fox with dogs in 17 counties to be consistent with § 29.1-516 of the Code of Virginia.

The proposed amendments to 4 VAC 15-130-10 et seq., Game: Mink, repeal the section allowing mink to be trapped from December 15 through March 10 in certain counties thus resulting in the mink trapping season in these counties to fall within the general statewide season of December 1 through the last day of February.

The proposed amendments to 4 VAC 15-140-10 et seq., Game: Muskrat, repeal the section allowing muskrat to be trapped from December 15 through March 10 in certain counties thus resulting in the muskrat trapping season in these counties to fall within the general statewide season of December 1 through the last day of February.

The proposed amendments to 4 VAC 15-160-10 et seq., Game: Opossum, establish a statewide trapping season for opossum from November 15 through the last day of February and repeal the sections allowing the trapping of opossum in counties east and west of the Blue Ridge Mountains.

The proposed amendments to 4 VAC 15-180-10 et seq., Game: Pheasant, repeal the section setting a bag limit and cock bird only restriction and repeal the section prohibiting the hunting or shooting of pheasants in Lancaster, Northumberland, Richmond and Westmoreland counties.

The proposed amendments to 4 VAC 15-190-10 et seq., Game: Quail, move the season opening date from the fourth Monday in November to the second Monday in November and repeal the section prohibiting the hunting of quail in the snow.

The proposed amendments to 4 VAC 15-210-10 et seq., Game: Raccoon, establish a statewide trapping season for raccoon from November 15 through the last day of February and repeal the sections allowing the trapping of raccoon in counties east and west of the Blue Ridge Mountains.

The proposed amendment to 4 VAC 15-230-10 et seq., Game: Squirrel, allows disabled hunters to use

crossbows to hunt squirrel on private property during the early special archery season.

The proposed amendments to 4 VAC 15-240-10 et seq., Game: Turkey, remove Camp Peary from the two week fall season category thus allowing it to be included in the six week fall season and allow disabled hunters to use crossbows to hunt turkey on private property during the early special archery season.

The proposed amendment to 4 VAC 15-280-10 et seq., Game: Pelts and Furs, clarifies the recording requirements and establishes a reporting interval for holders of permits to breed fur-bearing animals.

The proposed amendments to 4 VAC 15-290-10 et seq., Game: Permits (i) establish a time period from September 1 to May 31 when permits may be issued by the department for field trials with dogs and (ii) include permit holders engaged in the propagation, exhibition, or rehabilitation of any wild bird, animal, or fish under the existing "duty to comply with permit conditions" regulation and further set forth the penalty for violation of this section.

The proposed amendment to 4 VAC 15-310-10 et seq., Game: Woodchuck, repeals the section that allows a continuous season on taking woodchuck (*Marmota monax*).

4 VAC 15-20-150. Structures on department-owned lands and national forest lands.

A. It shall be unlawful to construct, maintain or occupy any permanent structure, except by permit, on department-owned lands and national forest lands. This provision shall not apply to structures, stands or blinds provided by the department.

B. It shall be unlawful to maintain any temporary dwelling on department-owned lands for a period greater than 14 consecutive days. Any person constructing or occupying any temporary structure shall be responsible for complete removal of such structures when vacating the site.

C. It shall be unlawful to construct, maintain or occupy any tree stand on department-owned lands and national forest lands; and on Department of Conservation and Recreation owned or controlled lands, provided; that portable tree stands which are not permanently affixed may be used.

4 VAC 15-20-160. Nuisance species designated.

A. The board hereby designates the following species as nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Mammals.
 - a. House mouse (*Mus musculus*);
 - b. Norway rat (*Rattus norvegicus*);
 - c. Black rat (*Rattus rattus*); and
 - d. Coyote (*Canis latrans*);
 - e. Sika deer (*Cervus nippon*);
 - f. Feral hog (*Sus scrofa*);

Proposed Regulations

- g. *Nutria (Myocastor coypus)*; and
- h. *Woodchuck (Marmota monax)*.

2. Birds.

- a. European starling (*Sturnus vulgaris*);
- b. English (house) sparrow (*Passer domesticus*);
- c. Pigeon (Rock Dove) (*Columba livia*); and
- d. Mute swan (*Cygnus olor*).

B. It shall be unlawful to take, possess, transport, or sell all other wildlife species not classified as game, furbearer or nuisance, or otherwise specifically permitted by law or regulation.

4 VAC 15-20-170. Taking and possession of certain rodents for private use. (Repealed.)

Except as otherwise provided for in the Code of Virginia and regulations of the board, it shall be lawful to take and possess no more than three individuals of any single species of rodents (order Rodentia) for private use except for those species listed as game or furbearers, endangered or threatened (§ 29.1-568 of the Code of Virginia), or listed as special concern, including the following:

1. Allegheny woodrat (*Neotoma floridana*);
2. Pungo mouse (*Peromyscus leucopus easti*);
3. Rock vole (*Microtus chrotorrhinus carolinensis*); and
4. Cotton mouse (*Peromyscus gossypinus gossypinus*).

4 VAC 15-20-200. Fees for miscellaneous permits.

A. Pursuant to §§ 29.1-417, 29.1-418, 29.1-422, 29.1-743 and other applicable provisions of the Code of Virginia, except as provided by this chapter the following fees shall be paid by applicants for the specified permits before any such permit may be issued.

Boat Ramp Special Use

- Nonprofit Public Use \$10
- Private/Commercial Use \$50

Boat Regattas/Tournaments \$50/day

Collect and Sell \$50

Commercial Nuisance Animals \$25

Deer Farming \$350

Exhibitors

- Commercial Use \$50
- Educational/Scientific Use \$20

Exotic Importation and Holding \$10

Field Trial \$25

Foxhound Training Preserves \$50

Hold for Commercial Use \$10

- Propagation \$12.50
- Commercial Use \$50
- Private Use \$20
- Licensed Shooting Preserves \$20
- Rehabilitation \$10
- Scientific Collection \$20
- Special Hunting Permit \$10
- Striped Bass Tournament \$10
- Threatened & Endangered Species \$20
- Trout Catch-Out Pond \$50

B. Veterinarians shall not be required to pay a permit fee or to obtain a permit to hold wildlife temporarily for medical treatment.

4 VAC 15-30-40. Importation requirements, possession and sale of nonnative (exotic) animals.

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

AMPHIBIANS:

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

BIRDS:

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

FISH:

Order	Family	Genus/Species	Common Name
Cypriniformes	Catostomidae	Ictiobus bubalus	Smallmouth buffalo*
		I. cyprinellus	Bigmouth buffalo*
		I. niger	Black buffalo*

Proposed Regulations

	Characidae	Pygopristis spp. Pygocentrus spp. Rooseveltiella spp. Serrasalmo spp. Serrasalmus spp. Taddyella spp.	Piranhas
	Cyprinidae	Aristichyhs nobilis	Bighead carp*
		Ctenopharyngodon idella	Grass carp or white amur
		Cyprinella lutrensis	Red shiner
		Hypophthalmichthys molitrix	Silver carp*
		Mylopharyngodon piceus	Black carp
		Scardinius erythrophthalmus	Rudd
	Tinca tinca	Tench*	
Gobiesociformes	Gobiidae	Proterorhinus marmoratus Neogobius melanostomus	Tubenose goby Round goby
Perciformes	Cichlidae	Tilapia spp. Gymnocephalus cernuum	Tilapia Ruffe*
Siluriformes	Clariidae	All Species	Air-breathing catfish

MAMMALS:

Order	Family	Genus/Species	Common Name	
Artiodactyla	Suidae	All Species	Pigs or Hogs*	
	Cervidae	All Species	Deer*	
Carnivora	Canidae	All Species	Wild Dogs*, Wolves, Coyotes or Coyote hybrids, Jackals and Foxes	
		Ursidae	All Species	Bears*
		Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species	Weasels, Badgers,* Skunks and Otters	
		(except Mustela putorius furo)	Ferret	
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongooses, and Fossas	
	Herpestidae	All Species	Mongoose*	
	Hyaenidae	All Species	Hyenas*	
Protelidae	Proteles cristatus	Aardwolf*		
Chiroptera	Felidae	All Species	Cats*	
	All Species	All Species	Bats*	

Lagomorpha	Leporidae	Lepus europeaeus	European hare
		Oryctolagus cuniculus	European rabbit
Rodentia	Sciuridae	Cynomys spp.	Prairie dogs

MOLLUSKS:

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

REPTILES:

Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, Caimans*
	Colubridae	Boiga irregularis	Brown tree snake*
	Crocodylidae	All Species	Crocodiles*
	Gavialidae	All Species	Gavials*

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

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

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

E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A that are imported or possessed by dealers, exhibitors, transporters, and researchers who are licensed or registered by the United States Department of Agriculture under the Animal Welfare Act (7 USC §§ 2131 et seq.) will be deemed to be permitted

pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license or licenses or registration or registrations from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.

F. Exception for prairie dogs. The effective date of listing of prairie dogs under subsection A of this section shall be January 1, 1998. Prairie dogs possessed in captivity in Virginia on December 31, 1997, may be maintained in captivity until the animals' deaths, but they may not be sold on or after January 1, 1998, without a permit.

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

4 VAC 15-40-60. Hunting with dogs or possession of weapons in certain locations during closed season.

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

B. Certain counties. Except as otherwise provided in 4 VAC 15-40-70, it shall be unlawful to have either a shotgun or a rifle in one's possession when accompanied by a dog in the daytime in the fields, forests or waters of the counties of Augusta, Clarke, Frederick, Page, Shenandoah and Warren, and in the counties east of the Blue Ridge Mountains, except Patrick, at any time except the periods prescribed by law to hunt game birds and animals.

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

D. It shall be unlawful to chase with a dog or train dogs on national forest lands or department-owned lands except during authorized hunting, chase, or training seasons that specifically permit these activities on these lands or *during raccoon hound field trials on these lands between September 1 and March 31, both dates inclusive, that are sanctioned by bona fide national kennel clubs and authorized by permits required and issued by the department and the U.S. Forest Service.*

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

F. The provisions of this section shall not prohibit the possession, transport and use of loaded firearms by employees of the Department of Game and Inland Fisheries while engaged in the performance of their authorized and official duties.

4 VAC 15-40-70. Open dog training season.

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

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

C. *Designated department-owned land(s). It shall be lawful to train dogs during daylight hours on rabbits and nonmigratory game birds on the Weston Wildlife Management Area from September 1 to March 31, both dates inclusive. Participants in this dog training season shall not have any weapons other than starter pistols in their possession, shall not release pen-raised birds, must comply with all regulations and laws pertaining to hunting and no game shall be taken.*

4 VAC 15-40-240. Animal population control.

Whenever biological evidence suggests that populations of game animals may exceed or threaten to exceed the carrying

Proposed Regulations

capacity of a specified range, or whenever the health or general condition of a species, or the threat of human public health and safety indicates the need for population reduction, the director is authorized to issue special permits to obtain the desired reduction ~~during the open season~~ by licensed hunters on areas prescribed by wildlife biologists. Designated game species may be taken in excess of the general bag limits on special permits issued under this section under such conditions as may be prescribed by the director.

4 VAC 15-50-25. Open season; cities of Chesapeake and Suffolk.

It shall be lawful to hunt bear from the first Monday in November through the first Saturday in January, both dates inclusive, in the cities of Chesapeake and Suffolk.

4 VAC 15-50-70. Bow and arrow hunting.

A. Season. It shall be lawful to hunt bear with bow and arrow from the second Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

B. Carrying firearms prohibited. It shall be unlawful to carry firearms while hunting with bow and arrow.

C. Requirements for bow and arrow. Arrows used for hunting big game must have a minimum width head of 7/8 of an inch and the bow used for such hunting must be capable of casting a broadhead arrow a minimum of 125 yards.

D. Use of dogs prohibited during bow season. It shall be unlawful to use dogs when hunting with bow and arrow from the second Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

E. *It shall be lawful for persons with permanent physical disabilities, who are in full compliance with the requirements of 4 VAC 15-40-20 B, to hunt bear subject to the provisions of subsections A through D of this section. For the purpose of the application of subsections A through D to this subsection the phrase "bow and arrow" includes crossbow.*

4 VAC 15-50-120. Bear hound training season.

Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to chase black bear with dogs, without capturing or taking, in all counties or in portions of counties in which bear hunting is permitted (except in the counties of Bland, Pulaski, Russell, Smyth, Tazewell, and Washington and Wythe) from the first Saturday in September 1 through the first Saturday in October September 30, both dates inclusive. It shall be unlawful to have in immediate possession a firearm, bow or any weapon or device capable of taking a black bear.

4 VAC 15-70-20. Open season for trapping.

It shall be lawful to trap bobcat from November 15 through January 31 the last day of February, both dates inclusive.

4 VAC 15-70-30. Bag limit.

The bag limit for hunting bobcat shall be two per hunting party, taken between noon of one day and noon the following

day. The season bag limit shall be ~~six~~ 12 bobcats in the aggregate, taken by hunting and trapping combined.

4 VAC 15-90-20. Open season; cities and counties west of Blue Ridge Mountains and certain cities and counties or parts thereof east of Blue Ridge Mountains.

It shall be lawful to hunt deer on the third Monday in November and for 11 consecutive hunting days following in the cities and counties west of the Blue Ridge Mountains (except on the Radford Army Ammunition Plant in Pulaski County), and in the counties (including cities within) of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad except in the City of Lynchburg), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad), and on the Chester F. Phelps and ~~G. Richard Thompson~~ Wildlife Management Areas Area.

4 VAC 15-90-70. Bow and arrow hunting.

A. Early special archery. It shall be lawful to hunt deer with bow and arrow from the first Saturday in October through the Saturday prior to the third Monday in November, both dates inclusive, except where there is a closed general hunting season on deer.

B. Late special archery season west of Blue Ridge Mountains and certain cities and counties east of Blue Ridge Mountains. In addition to the season provided in subsection A of this section, it shall be lawful to hunt deer with bow and arrow from the Monday following the close of the general firearms season on deer west of the Blue Ridge Mountains through the first Saturday in January, both dates inclusive, in all cities and counties west of the Blue Ridge Mountains and in the counties of (including cities within) Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad) and from December 1 through the first Saturday in January, both dates inclusive, in the cities of Chesapeake, Suffolk (east of the Dismal Swamp line) and Virginia Beach.

C. Either-sex deer hunting days. Deer of either sex may be taken full season during the special archery seasons as provided in subsections A and B of this section.

D. Carrying firearms prohibited. It shall be unlawful to carry firearms while hunting with bow and arrow during the special archery season.

E. Requirements for bow and arrow. Arrows used for hunting big game must have a minimum width head of 7/8 of an inch and the bow used for such hunting must be capable of casting a broadhead arrow a minimum of 125 yards.

F. Use of dogs prohibited during bow season. It shall be unlawful to use dogs when hunting with bow and arrow from the first Saturday in October through the Saturday prior to the third Monday in November, both dates inclusive.

G. ~~Crossbows permitted for persons with permanent physical disabilities. As provided in 4 VAC 15-40-20 B, it shall be lawful for persons whose with permanent physical disabilities prevent them from hunting with conventional archery equipment to hunt deer with a crossbow on their own property or on private property of another with the written~~

~~permission of the landowner as provided in subsections A, B, C, D, and F of this section, who are in full compliance with the requirements of 4 VAC 15-40-20 B, to hunt deer subject to the provisions of subsections A through G of this section. For the purpose of the application of subsections A through G to this subsection the phrase "bow and arrow" includes crossbow.~~

4 VAC 15-90-80. Muzzleloading gun hunting.

A. Early special muzzleloading season. It shall be lawful to hunt deer with muzzleloading guns from the first Monday in November through the Saturday prior to the third Monday in November, both dates inclusive, in all cities and counties where hunting with a rifle or muzzleloading gun is permitted east of the Blue Ridge Mountains, except on national forest lands in Amherst, Bedford and Nelson counties and in the cities of Chesapeake, Suffolk (east of the Dismal Swamp Line) and Virginia Beach.

It shall be lawful to hunt deer with muzzleloading guns from the second Monday in November through the Saturday prior to the third Monday in November, both dates inclusive, in all cities and counties where hunting with a rifle or muzzleloading gun is permitted west of the Blue Ridge Mountains and on national forest lands in Amherst, Bedford, and Nelson counties.

B. Late special muzzleloading season west of Blue Ridge Mountains and in certain cities and counties east of Blue Ridge Mountains. It shall be lawful to hunt deer with muzzleloading guns from the third Monday in December through the first Saturday in January, both dates inclusive, in all cities and counties west of the Blue Ridge Mountains, and east of the Blue Ridge Mountains in the counties of (including the cities within) Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad).

C. Either-sex deer hunting days. Deer of either sex may be taken during the entire early special muzzleloading season in all cities and counties east of the Blue Ridge Mountains (except on national forest lands, state forest lands, state park lands, department-owned lands and Philpott Reservoir) and on the first Saturday only in all cities and counties west of the Blue Ridge (except Buchanan, Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise and on national forest lands in Frederick, Page, Rockingham, Shenandoah, and Warren) and east of the Blue Ridge Mountains on national forest lands, state forest lands, state park lands, department-owned lands and on Philpott Reservoir. *It shall be unlawful to hunt antlerless deer during the early special muzzleloading season west of the Blue Ridge Mountains and on national forest lands in Amherst, Bedford, and Nelson counties.* It shall be lawful to hunt deer of either sex during the last six days of the late special muzzleloading season in all cities and counties west of the Blue Ridge Mountains (except Buchanan, Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, and Wise and in the counties (including cities within) or portions of counties east of the Blue Ridge Mountains listed in subsection B of this section. Provided further it shall be lawful to hunt deer of either sex during the last day only of the

last special muzzleloading season in the cities and counties within Lee, Russell, Scott, Smyth, Tazewell, and Washington.

D. Use of dogs prohibited. It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzleloading guns.

E. Muzzleloading gun defined. A muzzleloading gun, for the purpose of this section, means a single shot flintlock or percussion weapon, excluding muzzleloading pistols, .45 caliber or larger, firing a single lead projectile or sabot (with a .38 caliber or larger nonjacketed lead projectile) of the same caliber loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder (or black powder equivalent).

F. Unlawful to have other firearms in possession. It shall be unlawful to have in immediate possession any firearm other than a muzzleloading gun while hunting with a muzzleloading gun in a special muzzleloading season.

4 VAC 15-90-90. Bag limit; generally; bonus deer permits and tag usage.

A. The bag limit for deer statewide east of the Blue Ridge Mountains shall be two a day, three a license year, one of which must be antlerless. *Only one antlered buck may be taken during the special early muzzleloading season per hunter.* Antlerless deer may be taken only during designated either-sex deer hunting days during the special archery season, special muzzleloading seasons, and the general firearms season.

B. The bag limit for deer west of the Blue Ridge Mountains shall be one a day, three a license year, one of which must be antlerless. Only one antlered buck may be taken during the special early muzzleloading season per hunter. Antlerless deer may be taken only during designated either-sex deer hunting days during the special archery seasons, the late special muzzleloading season, and the general firearms season.

C. Bonus deer permits shall be valid on private land in counties and cities where deer hunting is permitted ~~and on Fort Belvoir and other special deer problem and harvest management areas identified and so posted by the Department of Game and Inland Fisheries during the special archery, special muzzleloading gun and the general firearms seasons during the special archery seasons, special muzzleloading seasons, and the general firearms season.~~ *Bonus deer permits shall be valid on public lands, including state parks, state forests, national wildlife refuges, military areas, etc., as authorized by the managing agency. Unless otherwise posted or authorized in writing for wildlife management areas by the department, or for national forest lands by the U. S. Forest Service, the use of bonus permits is prohibited on department-owned and national forest lands. Bonus deer permits will be limited to one set per person per license year.* Deer taken on bonus permits shall count against the daily bag limit but are in addition to the seasonal bag limit.

Proposed Regulations

4 VAC 15-90-110. General firearms season either-sex deer hunting days; Saturday following third Monday in November and last hunting day.

During the general firearms season, deer of either sex may be taken on the Saturday immediately following the third Monday in November and the last hunting day on *the G.R. Thompson Wildlife Management Area* and on national forest and department-owned lands in Alleghany, Augusta, Bath, Bland, Carroll, Craig, Giles, Highland, Montgomery, Pulaski, Roanoke, Rockbridge, and Wythe.

4 VAC 15-90-160. General firearms season either-sex deer hunting days; full season.

During the general firearms season, deer of either sex may be taken full season, in the counties of (including cities within) Amherst (west of U.S. Route 29, except on national forest lands), Bedford, Botetourt (except on national forest lands), Campbell (west of Norfolk Southern Railroad and in the City of Lynchburg only on private lands for which a special permit has been issued by the chief of police), Clarke, Fairfax (restricted to certain parcels of land by special permit), Floyd, Franklin (except Philpott Reservoir and Turkeycock Mountain Wildlife Management Area), Frederick (except on national forest lands), Greensville, Grayson (except on national forest lands and portions of Grayson Highland State Park open to hunting), Henry (except on Fairystone Farms Wildlife Management Area, Fairystone State Park, Philpott Reservoir, and Turkeycock Mountain Wildlife Management Area), Isle of Wight, Loudoun, Nelson (west of Route 151, except on national forest lands), Patrick (except on Fairystone Farms Wildlife Management Area, Fairystone State Park and Philpott Reservoir), Pittsylvania (west of Norfolk Southern Railroad), *Prince William*, Roanoke (except on national forest and department-owned lands), ~~Southampton~~ *Southampton*, Surry (except on the Carlisle Tract of the Hog Island Wildlife Management Area), Sussex, Warren (except on national forest lands) and in the cities of *Hampton* and *Newport News*, the town of *Chincoteague*, and on Back Bay National Wildlife Refuge, Fort A.P. Hill, Caledon Natural Area, Camp Peary, Cheatham Annex, Chincoteague National Wildlife Refuge, Chippoles State Park, Dahlgren Surface Warfare Center Base, Dam Neck Amphibious Training Base, Dismal Swamp National Wildlife Refuge, Eastern Shore of Virginia National Wildlife Refuge, False Cape State Park, Fentress Naval Auxiliary Landing Field, Fisherman's Island National Wildlife Refuge, Fort Belvoir, Fort Eustis, Fort Lee, Fort Pickett, Harry Diamond Laboratory, Langley Air Force Base, Naval Air Station Oceana, Northwest Naval Security Group, *Pocahontas State Park*, Presquile National Wildlife Refuge, Quantico Marine Corps Reservation, Radford Army Ammunition Plant, Sky Meadows State Park, York River State Park, Yorktown Naval Weapons Station.

4 VAC 15-90-170. General firearms season either-sex deer hunting days; Saturday following third Monday in November.

During the general firearms season, deer of either sex may be taken the Saturday immediately following the third Monday in November in the counties (including cities within) of Lee (except on national forest lands), Russell, Scott(except on

national forest lands), Smyth, Tazewell, Washington, and on the Buckingham-Appomattox State Forest, Cumberland State Forest and ~~Pocahontas State Forest~~, Prince Edward State Forest and on national forest lands in Frederick, Grayson, Page, Shenandoah, Rockingham and Warren counties and on portions of Grayson Highlands State Park open to hunting.

4 VAC 15-90-190. General firearms season either-sex deer hunting days; first Saturday immediately following third Monday in November and last six days.

During the general firearms season, deer of either sex may be taken on the first Saturday immediately following the third Monday in November and the last six hunting days, in the counties of (including cities within) Middlesex, Mathews, ~~Warren and York (except on Camp Peary, Cheatham Annex and Naval Weapons Station)~~ and on the Horsepen Lake Wildlife Management Area, James River Wildlife Management Area, Occoneechee State Park, Amelia Wildlife Management Area, Briery Creek Wildlife Management Area, Dick Cross Wildlife Management Area, White Oak Mountain Wildlife Management Area and ~~Powhatan Wildlife Management Area~~ and on national forest lands in Amherst, Botetourt and Nelson counties.

4 VAC 15-90-195. General firearms season either-sex deer hunting days; first two Saturdays immediately following third Monday in November and last six hunting days.

During the general firearms season, deer of either sex may be taken on the first two Saturdays immediately following the third Monday in November and on the last six hunting days, in the counties of (including the cities within) Amelia (except Amelia Wildlife Management Area), Appomattox (except Buckingham-Appomattox State Forest), Brunswick (except Fort Pickett), Buckingham (except on Buckingham-Appomattox State Forest and Horsepen Lake Wildlife Management Area), Charlotte, Chesterfield (except Pocahontas State Park and Presquile National Wildlife Refuge), Cumberland (except on Cumberland State Forest), Dinwiddie (except on Fort Pickett), Fluvanna, Goochland, Lunenburg, Mecklenburg (except Dick Cross Wildlife Management Area, Occoneechee State Park), Nottoway (except on Fort Pickett), Powhatan, Prince Edward (except on Prince Edward State Forest and Briery Creek Wildlife Management Area), Prince George (except on Fort Lee).

4 VAC 15-90-200. General firearms season either-sex deer hunting days; first three Saturdays following third Monday in November and last 24 hunting days.

During the general firearms season, deer of either sex may be taken on the first three Saturdays immediately following the third Monday in November and on the last 24 hunting days, in the counties of (including cities within) Accomack (except Chincoteague National Wildlife Refuge, and the town of *Chincoteague*), Northampton (except on Eastern Shore of Virginia National Wildlife Refuge and Fisherman's Island National Wildlife Refuge), and in the City of Suffolk (except on the Dismal Swamp National Wildlife Refuge).

4 VAC 15-90-210. General firearms season either-sex deer hunting days; first two Saturdays immediately

following third Monday in November and last 12 hunting days.

During the general firearms season, deer of either sex may be taken on the first two Saturdays immediately following the third Monday in November and on the last 12 hunting days, in the counties of (including the cities within) Albemarle, Amelia (~~except Amelia Wildlife Management Area~~), Amherst (east of U.S. Route 29), Appomattox (~~except Buckingham-Appomattox State Forest~~), Brunswick (~~except Fort Pickett~~), Buckingham (~~except on Buckingham-Appomattox State Forest and Horsepen Lake Wildlife Management Area~~), Campbell (east of Norfolk Southern Railroad except City of Lynchburg), Caroline (except Fort A.P. Hill), Charles City (except on Chickahominy Wildlife Management Area), Charlotte, Chesterfield (~~except Pocahontas State Forest and Presquile National Wildlife Refuge~~), Culpeper (except on Chester F. Phelps Wildlife Management Area), Cumberland (~~except on Cumberland State Forest~~), Dinwiddie (~~except on Fort Pickett~~), Essex, Fauquier (except on the G. Richard Thompson and Chester F. Phelps Wildlife Management Areas, Sky Meadows State Park and Quantico Marine Reservation), Fluvanna, Gloucester, Goochland, Greene, Halifax, Hampton (~~except on Langley Air Force Base~~), Hanover, Henrico (except Presquile National Wildlife Refuge), James City (except York River State Park), King and Queen, King George (except Caledon Natural Area and Dahlgren Surface Warfare Center), King William, Lancaster, Louisa, Lunenburg, Madison, Mecklenburg (~~except Dick Cross Wildlife Management Area, Occoneechee State Park~~), Nelson (east of Route 151 except James River Wildlife Management Area), New Kent, Newport News (~~except Fort Eustie~~), Northumberland, Nottoway (~~except on Fort Pickett~~), Orange, Pittsylvania (east of Norfolk Southern Railroad except White Oak Mountain Wildlife Management Area), Powhatan (~~except Powhatan Wildlife Management Area~~), Prince Edward (~~except on Prince Edward State Forest and Briery Creek Wildlife Management Area~~), Prince George (~~except on Fort Lee~~), Prince William (~~except on Harry Diamond Laboratory and Quantico Marine Reservation~~), Rappahannock, Richmond, Spotsylvania, Stafford (except on Quantico Marine Reservation), Westmoreland, and York (except on Camp Peary, Cheatham Annex and Yorktown Naval Weapons Station).

4 VAC 15-90-220. General firearms season; bucks only.

During the general firearms season, only deer with antlers visible above the hairline may be taken in the counties of (including the cities within) Dickenson ~~in that portion lying north of the Pound River and west of the Russell Fork River~~, Wise and on national forest lands in Lee and Scott and on the Chester F. Phelps Wildlife Management Area, G. Richard Thompson Wildlife Management Area, Chickahominy Wildlife Management Area and on the Carlisle Tract of Hog Island Wildlife Management Area.

4 VAC 15-90-250. Hunting prohibited in certain counties.

It shall be unlawful to hunt deer at any time in the counties of Arlington, ~~and Buchanan and in that portion of Dickenson County south of the Pound River and east of the Russell Fork River.~~

4 VAC 15-90-280. Sale of hides.

It shall be lawful to sell hides *and hooves* from any legally taken deer.

4 VAC 15-90-290. Special quality deer management areas.

A. *The board hereby designates the following areas posted by the Department of Game and Inland Fisheries as special quality deer management areas with special antlered buck harvest.*

B. *Special Fairystone quality deer management area. It shall be unlawful to kill an antlered deer on the special Fairystone quality deer management area unless the deer has at least four antler points, each greater than one inch in length, on either the right or left antler.*

4 VAC 15-110-10. Closed season in certain areas.

~~A. February 1 through September 30. It shall be unlawful to hunt foxes with dogs only in the City of Newport News from February 1 through September 30, both dates inclusive.~~

B. February 1 through October 31. It shall be unlawful to hunt foxes on the George Washington/Jefferson National Forest and on the Gathright, Goshen, G. Richard Thompson, Highland, Little North Mountain and Rapidan Wildlife Management Areas from February 1 through October 31, both dates inclusive.

~~C. April 1 through August 31. It shall be unlawful to hunt foxes with dogs only in the counties of Clarke, Fairfax (except that portion closed to all hunting), Fauquier (except within the confines of the Quantico Marine Reservation) and Loudoun from April 1 through August 31, both dates inclusive.~~

4 VAC 15-110-40. Open season -- Albemarle County. (Repealed.)

~~It shall be lawful for any person to trap foxes in the County of Albemarle during the month of November.~~

4 VAC 15-110-50. Open season.

Except as otherwise specifically provided by local legislation and with the specific exceptions provided in the sections appearing in this chapter, it shall be lawful to trap foxes from November 15 through ~~January 31 the last day of February~~, both dates inclusive.

4 VAC 15-110-75. Foxhound training preserves; live-trapping for release.

It shall be lawful for any foxhound training preserve permittee or those licensed trappers designated in writing by the permittee to live-trap and transport red (*Vulpes vulpes*) and gray (*Urocyon cinereoargenteus*) foxes from September 1 through the last day of February, both dates inclusive, only for the purpose of stocking foxhound training preserves covered by permits authorized by the board and issued by the department. For the purpose of this section, foxes may be live-trapped on private land with landowner permission or on public lands designated by the department. Foxes may be live-trapped only within a 50-mile radius of the foxhound training preserve in which they will be released unless a specific exception is granted by the department for good

Proposed Regulations

cause. Unless reenacted, the provisions of this section shall expire after May 25, 2004.

4 VAC 15-110-90. Use of dogs in hunting fox during deer season in certain counties and national forests.

It shall be unlawful to use dogs for the hunting of foxes during the open season for hunting deer in the counties of Alleghany, Amherst (west of U.S. Route 20), Augusta, Bath, Bedford, Botetourt, Campbell (west of Norfolk Southern Railroad), Clarke (except west of the Shenandoah River), Frederick, Highland, Nelson (west of Route 151), Page, Pittsylvania (west of Norfolk Southern Railroad), Rockbridge, Rockingham, Shenandoah and Warren (except between the Shenandoah River and the Norfolk Southern Railroad track), on the Gathright, Goshen, Highland and Little North Mountain Wildlife Management Areas and within the boundaries of the national forests George Washington/Jefferson National Forest.

4 VAC 15-130-30. Open season for trapping; certain counties and areas. (Repealed.)

It shall be lawful to trap mink from December 15 through March 10, both dates inclusive, in the counties of Accomack, Charles City, Essex, Gloucester, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Richmond, Southampton, Surry, Westmoreland and York; and in the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk (area formerly constituting Nansemond County) and Virginia Beach; and east of U.S. Route 95 in the counties of Caroline, Chesterfield, Fairfax, Greensville, Hanover, Henrico, Prince George, Prince William, Spotsylvania, Stafford and Sussex.

4 VAC 15-140-30. Open season for trapping; certain counties and areas. (Repealed.)

It shall be lawful to trap muskrat from December 15 through March 10, both dates inclusive, in the counties of Accomack, Charles City, Essex, Gloucester, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Richmond, Southampton, Surry, Westmoreland and York; and in the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk (area formerly constituting Nansemond County) and Virginia Beach; and east of U.S. Route 95 in the counties of Caroline, Chesterfield, Fairfax, Greensville, Hanover, Henrico, Prince George, Prince William, Spotsylvania, Stafford and Sussex.

4 VAC 15-160-30. Open season; counties east of Blue Ridge Mountains. (Repealed.)

Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to trap opossum in all counties east of the Blue Ridge Mountains from November 15 through the last day of February, both dates inclusive.

4 VAC 15-160-31. Open season for trapping; generally.

Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to trap opossum from November 15 through the last day of February, both dates inclusive.

4 VAC 15-160-40. Open season; counties west of Blue Ridge Mountains. (Repealed.)

Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to trap opossum in all counties west of the Blue Ridge Mountains from November 15 through January 31, both dates inclusive.

4 VAC 15-180-20. Bag limit. (Repealed.)

The bag limit for pheasant shall be one a day, two a license year, cocks only.

4 VAC 15-180-30. Continuous closed season in certain counties. (Repealed.)

There shall be a continuous closed season for the hunting or shooting of pheasant in the counties of Lancaster, Northumberland, Richmond and Westmoreland.

4 VAC 15-190-10. Open season; generally.

Except as otherwise specifically provided by the sections appearing in this chapter, it shall be lawful to hunt quail from the fourth second Monday in November through January 31, both dates inclusive.

4 VAC 15-190-50. Hunting in snow prohibited. (Repealed.)

It shall be unlawful to hunt quail in the snow.

4 VAC 15-210-50. Open season for trapping; counties east of the Blue Ridge Mountains. (Repealed.)

Except as otherwise specifically provided by local legislation and with the specific exceptions provided in the sections appearing in this chapter, it shall be lawful to take raccoon by trapping in all counties east of the Blue Ridge Mountains from November 15 through March 10, both dates inclusive.

4 VAC 15-210-51. Open season for trapping; generally.

Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to trap raccoon from November 15 through the last day of February, both dates inclusive.

4 VAC 15-210-60. Open season for trapping; counties west of the Blue Ridge Mountains. (Repealed.)

Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to take raccoon by trapping in all counties west of the Blue Ridge Mountains from November 15 through January 31, both dates inclusive.

4 VAC 15-230-40. Bow and arrow hunting.

A. Season. It shall be lawful to hunt squirrel with bow and arrow from the first Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

B. Carrying firearms prohibited. It shall be unlawful to carry firearms while hunting with bow and arrow during the special archery seasons.

C. Use of dogs prohibited during bow season. It shall be unlawful to use dogs when hunting with bow and arrow from

Proposed Regulations

the first Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

D. It shall be lawful for persons with permanent physical disabilities, who are in full compliance with the requirements of 4 VAC 15-40-20 B, to hunt squirrel subject to the provisions of subsections A, B, and C of this section. For the purpose of the application of subsections A, B, and C to this subsection the phrase "bow and arrow" includes crossbow.

4 VAC 15-240-20. Open season; certain counties and areas; last Monday in October and for 11 hunting days following.

It shall be lawful to hunt turkeys on the last Monday in October and for 11 consecutive hunting days following in the counties of Charles City, Chesterfield, Gloucester, Greensville, Henrico, Isle of Wight, James City, King George, Lancaster, Middlesex, New Kent, Northumberland, Prince George, Richmond, Southampton (north of U.S. Route 58), Surry, Sussex, Westmoreland and York; and on Camp Peary (except on Camp Peary).

4 VAC 15-240-60. Bow and arrow hunting.

A. Season. It shall be lawful to hunt turkey with bow and arrow in those counties and areas open to fall turkey hunting from the first Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

B. Bag limit. The daily and seasonal bag limit for hunting turkey with bow and arrow shall be the same as permitted during the general turkey season in those counties and areas open to fall turkey hunting, and any turkey taken shall apply toward the total season bag limit.

C. Carrying firearms prohibited. It shall be unlawful to carry firearms while hunting with bow and arrow during special archery season.

D. Requirements for bow and arrow. Arrows used for hunting turkey must have a minimum width head of 7/8 of an inch, and the bow used for such hunting must be capable of casting a broadhead arrow a minimum of 125 yards.

E. Use of dogs prohibited during bow season. It shall be unlawful to use dogs when hunting with bow and arrow from the first Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

F. It shall be lawful for persons with permanent physical disabilities, who are in full compliance with the requirements of 4 VAC 15-40-20 B, to hunt turkey subject to the provisions of subsections A through E of this section. For the purpose of the application of subsections A through E to this subsection the phrase "bow and arrow" includes crossbow.

4 VAC 15-280-30. Fur farming; records.

A holder of a permit to breed fur-bearing animals shall keep a record of the number of animals raised or required acquired, and the number of animals, furs or carcasses sold or disposed of and the number of animals on hand at the close of the fiscal year. The permittee shall provide reports to the agency at an interval specified on the permit.

4 VAC 15-290-115. Field trials; authorized dates.

In accordance with § 29.1-422 of the Code of Virginia, permits for field trials with dogs may be authorized by the department during the period between September 1 to May 31, both dates inclusive, under conditions and for the species specified in the permit.

4 VAC 15-290-130. Duty to comply with permit conditions.

A permit holder shall comply with all terms and conditions of any permit issued by the Department of Game and Inland Fisheries pursuant to Title 29.1 of the Code of Virginia and the regulations of the board pertaining to hunting, fishing, trapping, taking, attempting to take, possession, sale, offering for sale, transporting or causing to be transported, importing or exporting, propagating, exhibiting, and rehabilitating of any wild bird, wild animal or fish. The penalty for violation of this section is prescribed by § 29.1-505 of the Code of Virginia.

4 VAC 15-310-10. Continuous open season. (Repealed.)

~~There shall be a continuous open season for the taking of woodchuck (Marmota monax).~~

VA.R. Doc. No. R97-360; Filed March 26, 1997, 11:37 a.m.

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

Title of Regulations: 4 VAC 15-40-10 et seq. Game: In General (repealing 4 VAC 15-40-10, 4 VAC 15-40-90, and 4 VAC 15-40-180).

4 VAC 15-60-10 et seq. Game: Beaver (amending 4 VAC 15-60-10).

4 VAC 15-90-10 et seq. Game: Deer (repealing 4 VAC 15-90-50 and 4 VAC 15-90-270).

4 VAC 15-110-10 et seq. Game: Fox (repealing 4 VAC 15-110-80).

4 VAC 15-130-10 et seq. Game: Mink (repealing 4 VAC 15-130-10).

4 VAC 15-140-10 et seq. Game: Muskrat (repealing 4 VAC 15-140-10).

4 VAC 15-150-10 et seq. Game: Nutria (repealing 4 VAC 15-150-10 and 4 VAC 15-150-20).

4 VAC 15-170-10 et seq. Game: Otter (repealing 4 VAC 15-170-10).

4 VAC 15-200-10 et seq. Game: Rabbits and Hares (repealing 4 VAC 15-200-40).

4 VAC 15-230-10 et seq. Game: Squirrel (repealing 4 VAC 15-230-80).

4 VAC 15-250-10 et seq. Game: Falconry (amending 4 VAC 15-250-50, 4 VAC 15-250-70, and 4 VAC 15-250-110).

4 VAC 15-290-10 et seq. Game: Permits (amending 4 VAC 15-290-30 and 4 VAC 15-290-40; repealing 4 VAC 15-290-10, 4 VAC 15-290-90 and 4 VAC 15-290-100).

Proposed Regulations

4 VAC 15-300-10 et seq. Game: Weasel (amending 4 VAC 15-300-10; repealing 4 VAC 15-300-20 and 4 VAC 15-300-30).

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

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed regulations opened March 21 and remains open until May 5, 1997. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Comments should be sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, and need to be received no later than April 28, 1997, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board at the Department of Game and Inland Fisheries to take place at the Comfort Inn, 3200 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Monday, May 5, 1997, at which time any interested citizen present shall be heard. At the board meeting staff will also present the results of a series of meetings held around the state for the purpose of providing the public with opportunities to review and comment on the proposed regulation amendments.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable in the form in which published or as amended after receipt of the public's comments, the board may adopt regulations as final at the May 5-6 meeting. All regulations for game, nonreptilian terrestrial and avian nongame wildlife, permitting, hunting and trapping, including the length of seasons, bag limits and methods of take for game are open for consideration; the board may amend any such wildlife regulation at the May 5-6 meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

Summary:

The proposed amendments were developed as recommendations in 1995-1996 during the department's review of the regulations it administers in compliance with Executive Order Number 15 (94), Comprehensive Review of All Existing Agency Regulations.

The proposed amendments to 4 VAC 15-40-10 et seq., Game: In General (i) repeal the section that expressly permits the hunting of game birds, except quail, and game animals in the snow; (ii) repeal the section prohibiting hunting after sunset on the Quantico Marine Reservation; and (iii) repeal the section pertaining to the trapping of fur-bearing animals doing damage to crops or other property during the closed seasons.

The proposed amendment to 4 VAC 15-60-10 et seq., Game: Beaver, repeals the section allowing a landowner or their agent to shoot beaver on private lands or waters at any time when beavers are causing damage since this activity requires a kill permit to be issued by a game warden as directed by § 29.1-518 of the Code of Virginia.

The proposed amendments to 4 VAC 15-90-10 et seq., Game: Deer (i) repeal the designation of deer hunting season dates for the Back Bay National Wildlife Refuge and False Cape State Park and (ii) repeal the section prohibiting the use of dogs or organized drives for the purpose of deer hunting on the Quantico Marine Reservation. The Quantico Marine Reservation can prohibit such activity through base rule.

The proposed amendment to 4 VAC 15-110-10 et seq., Game: Fox, repeals the permitted activity of killing fox at any time by the owner or tenant on land owned or under their control.

The proposed amendment 4 VAC 15-130-10 et seq., Game: Mink, repeals the section that prohibits the hunting of mink.

The proposed amendment to 4 VAC 15-140-10 et seq., Game: Muskrat, repeals the section that prohibits the hunting of muskrat.

The proposed amendments to 4 VAC 15-150-10 et seq., Game: Nutria (i) repeal the section on the prohibition of hunting nutria with the aid of a watercraft on Back Bay and (ii) repeal the section prohibiting the trapping of nutria.

The proposed amendment to 4 VAC 15-170-10 et seq., Game: Otter, repeals the section that prohibits the hunting or shooting of otter.

The proposed amendment to 4 VAC 15-200-10 et seq., Game: Rabbits and Hares, repeals the section that prohibits the hunting, shooting, or trapping of Varying (snowshoe) hare.

The proposed amendment to 4 VAC 15-230-10 et seq., Game: Squirrel, repeals the section prohibiting the selling or buying of fox squirrel.

The proposed amendments to 4 VAC 15-250-10 et seq., Game: Falconry (i) eliminate a reporting requirement which was applicable only within 90 days of the original 1976 effective date of the section, eliminate a provision which requires marking of all raptors acquired after submission of that report, and establish a replacement provision that certain raptors must be banded with a permanent band supplied by the U.S. Fish and Wildlife Service; (ii) amend the documentation requirements for temporary maintenance and care of a raptor by a person other than the permittee under a department-issued falconry permit; and (iii) eliminate the requirement for permittee to make annual reports to the department of raptors acquired, possessed, transferred, or relinquished by any means, and to instead require that a report be submitted within five calendar days of any transaction involving such raptors.

The proposed amendments to 4 VAC 15-290-10 et seq., Game: Permits (i) repeal the section authorizing the department to issue permits for the placing of poison for the purpose of killing wild birds and wild animals where they are destructive to crops or other property; (ii) clarify the designation of game birds to be propagated as captive bred birds and not wild birds and add language to allow the sale and shipment of propagated captive bred game birds for use as food; (iii) clarify the designation of game birds to be captive bred birds and not wild birds; (iv) repeal the section requiring a permit holder breeding pheasants in captivity to maintain records since the amendments to 4 VAC 15-290-30, if adopted, will take its place; and (v) repeal the section requiring the packaging and labeling of pheasants.

The amendments to 4 VAC 15-300-10 et seq., Game: Weasel (i) allow the taking of any species of weasel during the open season; (ii) repeal the section prohibiting the taking or selling of the pelt of the least weasel; and (iii) repeal the section allowing the taking of weasels committing depredation by the landowner or tenant.

4 VAC 15-40-10. Hunting in the snow. (Repealed.)

Except as otherwise provided in 4 VAC 15-190-50, it shall be lawful to hunt game birds and game animals in the snow.

4 VAC 15-40-90. Quantico Marine Reservation; hunting after sunset prohibited. (Repealed.)

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

4 VAC 15-40-180. Trapping fur-bearing animals damaging property during closed season. (Repealed.)

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

4 VAC 15-60-10. Hunting or shooting of beaver.

A. Public lands or waters. There shall be a continuous closed season for the hunting or shooting of beaver on all public lands and waters of the Commonwealth.

B. Private lands or waters. There shall be a continuous open season on private lands and waters for a landowner or their designated agent to shoot beaver when beaver are causing damage on the private landowner's property.

4 VAC 15-90-50. Open season; Back Bay National Wildlife Refuge and False Cape State Park. (Repealed.)

It shall be lawful to hunt deer on the Back Bay National Wildlife Refuge and on False Cape State Park from October 4 through October 31.

4 VAC 15-90-270. Hunting with dogs or drives prohibited on Quantico Marine Reservation. (Repealed.)

It shall be unlawful to use dogs or to organize drives for the purpose of hunting deer within the confines of Quantico Marine Reservation.

4 VAC 15-110-80. Killing by owner or tenant. (Repealed.)

The owner or tenant may kill or have killed foxes at any time on his own land or land under his control.

4 VAC 15-130-10. Continuous closed hunting season. (Repealed.)

There shall be a continuous closed season for hunting mink.

4 VAC 15-140-10. Continuous closed hunting season. (Repealed.)

There shall be a continuous closed season for the hunting or shooting of muskrat.

4 VAC 15-150-10. Hunting with watercraft restricted. (Repealed.)

It shall be unlawful to hunt nutria with the aid of watercraft on Back Bay and its tributaries between October 1 and March 31, both dates inclusive.

4 VAC 15-150-20. Closed season for trapping. (Repealed.)

It shall be unlawful to trap nutria from March 11 through December 14, both dates inclusive.

4 VAC 15-170-10. Continuous closed season for hunting or shooting. (Repealed.)

There shall be a continuous closed season for the hunting or shooting of otter.

4 VAC 15-200-40. Continuous closed season for Varying hare. (Repealed.)

There shall be a continuous closed season for the hunting, shooting or trapping of Varying (snowshoe) hare (*Lepus americanus*).

4 VAC 15-230-80. Sale Prohibited. (Repealed.)

It shall be unlawful to sell, buy or offer for sale any fox squirrel.

4 VAC 15-250-50. Marking.

A. An inventory report shall be made to the department within 90 days of the effective date of this chapter (October 1, 1976) indicating numbers and descriptions of all raptors held in captivity, except those held for scientific or zoological purposes, regardless of whether the owners of such raptors intend to submit an application for a falconry permit pursuant to this chapter.

B. No raptor may be lawfully acquired after the inventory report required by A, above, is submitted unless the person acquiring the raptor first obtains a marker from the United States Fish and Wildlife Service and attaches it to the raptor immediately upon acquisition.

Proposed Regulations

A. All peregrine falcons (*Falco peregrinus*), gyrfalcons (*Falco rusticolus*), and Harris hawks (*Parabuteo unicinctus*), except a captive bred raptor lawfully marked by a numbered, seamless band issued by the U.S. Fish and Wildlife Service, must be banded with a permanent, nonreusable, numbered band supplied by the U.S. Fish and Wildlife Service.

C. B. It shall be unlawful for any person to alter, counterfeit or deface a raptor marker furnished by the United States Fish and Wildlife Service, except that falconry permittees may remove the rear tab on markers furnished, and may smooth any imperfect surface provided the integrity of the marker and numbering are not affected.

D. C. A permittee may replace the numbered seamless band on a captive bred bird with a standard adjustable yellow marker furnished by the Fish and Wildlife Service; however, once the seamless marker is removed, the bird may no longer be purchased, sold, or bartered.

4 VAC 15-250-70. Possession of raptors.

A. A person who possesses a lawfully acquired raptor before the enactment of this chapter and who fails to meet the permit requirements shall be allowed to retain the raptors. All such birds shall be identified with markers supplied by the United States Fish and Wildlife Service and cannot be replaced if death, loss, release, or escape occurs.

B. A person who possesses raptors before the enactment of this chapter, in excess of the number allowed under his class permit, shall be allowed to retain the extra raptors. All such birds shall be identified with markers supplied by the United States Fish and Wildlife Service and no replacement can occur, nor may an additional raptor be obtained, until the number in possession is at least one less than the total number authorized by the class of permit held by the permittee.

C. A falconry permit holder shall obtain written authorization from the department before any species not indigenous to Virginia is intentionally released to the wild, at which time the marker from the released bird shall be removed and surrendered to the department. The marker from an intentionally released bird which is indigenous shall also be removed and surrendered to the department. A standard federal bird band shall be attached to such birds by a state or United States Fish and Wildlife Service authorized federal bird bander whenever possible.

D. ~~Another person may care for the birds of a permittee if written authorization from the permittee accompanies the birds when they are transferred; provided, that if the period of care will exceed 30 days, the department shall be informed in writing by the permittee of this action within three days of the transfer and informed where the birds are being held, the reason for the transfer, who is caring for them, and approximately how many days they will be in the care of the second person. A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee for maintenance and care for a period not to exceed 30 days. The raptor must be accompanied at all times by a properly executed U.S. Fish and Wildlife Service authorization (currently USFWS form 3-186A) designating the person caring for the raptor as the possessor of record and~~

~~by a signed, dated statement from the permittee authorizing temporary possession.~~

E. Feathers that are molted or those feathers from birds held in captivity that die, may be retained and exchanged by permittees only for imping purposes.

4 VAC 15-250-110. Reports by permit holders; inspections.

~~Holders of permits issued under Code of Virginia § 29.1-419 to permit the taking, trapping, holding, transportation, carriage and shipment of live falcons, hawks and owls shall report to the department by July 31 of each year, listing:~~

~~1. All raptors in possession on June 30 preceding, by species, marker numbers, sex (if known), age (if known), and date and where or from whom acquired; and~~

~~2. All raptors possessed or acquired at any time since the previous annual report but no longer possessed, by species, marker numbers, sex (if known), age (if known), date and where or from whom acquired or given to, whether escaped, died or released, and when event occurred.~~

~~No permittee may take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless such permittee submits a properly executed U.S. Fish and Wildlife Service authorization (currently USFWS form 3-186A) to the issuing office within five calendar days of any transaction. Falcons, hawks and owls held under permit shall be open to inspection by representatives of the department at all times.~~

4 VAC 15-290-10. Poisoning of wild birds and wild animals destroying crops or property. (Repealed.)

~~Notwithstanding the provisions of 4 VAC 15-40-50, the department may issue permits authorizing the putting out of poison for the purpose of killing wild birds and wild animals where they are destructive to crops or other property. Where such permits are issued, the poisoning shall be under the supervision of employees of the department.~~

4 VAC 15-290-30. Breeding game birds and game animals for propagation and stocking; records.

Holders of permits issued under § 29.1-417 of the Code of Virginia to breed and rear wild captive bred game birds and wild animals in captivity and to sell and ship them alive for propagation or stocking or to kill, sell and ship the same for use as food shall keep a record showing the number of each species on hand, the number raised or acquired and the number sold.

4 VAC 15-290-40. Breeding game birds and game animals for propagation and stocking; labeling packages.

Packages containing wild captive bred game birds and wild animals raised under a permit for propagation purposes shall bear labels showing the name and address of the breeder and the contents of the package.

4 VAC 15-290-90. Breeding pheasants; records. (Repealed.)

~~The holder of a permit provided for by §§ 29.1-417 and 29.1-514 of the Code of Virginia to breed pheasants in captivity and to sell and ship the same alive for breeding, or to kill, sell and ship the same for use as food shall keep a record of the number raised or acquired, number sold and the number on hand.~~

4 VAC 15-290-100. Breeding pheasants; labeling packages. (Repealed.)

~~Packages containing pheasants raised under a permit from the department shall bear a label giving the name and address of the breeders and the contents of the package.~~

4 VAC 15-300-10. Open season for long-tailed weasel.

It shall be lawful to take long-tailed weasels (*Mustela frenata*) weasels from December 1 through the last day of February, both dates inclusive.

4 VAC 15-300-20. Sale, etc., of pelts of least weasel. (Repealed.)

~~It is unlawful to take or sell the pelt of the least weasel (*Mustela nivalis*).~~

4 VAC 15-300-30. Taking of weasels committing depredation. (Repealed.)

~~A landowner or tenant may take, on his own land or land under his control, weasels committing or about to commit depredation.~~

VA.R. Doc. No. R97-373; Filed March 26, 1997, 11:37 a.m.

BOARD OF JUVENILE JUSTICE

Title of Regulation: 6 VAC 35-40-10 et seq. Predispositional and Postdispositional Group Home Standards (REPEALING).

VA.R. Doc. No. R97-368; Filed March 26, 1997, 11:49 a.m.

Title of Regulation: 6 VAC 35-70-10 et seq. Standards for Juvenile Correctional Centers (REPEALING).

VA.R. Doc. No. R97-366; Filed March 26, 1997, 11:49 a.m.

Title of Regulation: 6 VAC 35-90-10 et seq. Standards for Post Dispositional Confinement for Secure Detention and Court Service Units (REPEALING).

VA.R. Doc. No. R97-369; Filed March 26, 1997, 11:49 a.m.

Title of Regulation: 6 VAC 35-100-10 et seq. Standards for Secure Detention (REPEALING).

VA.R. Doc. No. R97-370; Filed March 26, 1997, 11:49 a.m.

Title of Regulation: 6 VAC 35-120-10 et seq. Standards for Family Group Homes (REPEALING).

VA.R. Doc. No. R97-367; Filed March 26, 1997, 11:48 a.m.

Title of Regulation: 6 VAC 35-140-10 et seq. Standards for Juvenile Residential Facilities.

Statutory Authority: §§ 16.1-309.9, 66-10 and 66-25.1 of the Code of Virginia.

Public Hearing Date: May 14, 1997 - 10 a.m.
June 11, 1997 - 10 a.m.

Public comments may be submitted until June 13, 1997.
(See Calendar of Events section for additional information)

Basis: Section 16.1-309.9 A of the Code of Virginia directs the State Board of Juvenile Justice to "develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities authorized by this article. The state board shall also approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles to be housed in these facilities and programs."

Section 66-25.1 B of the Code of Virginia directs the state board to "promulgate regulations governing the form and review process for proposed agreements" with any entity to operate a work program for youth committed to the department.

Section 66-10 authorizes the board to promulgate regulations to carry out the provisions of Title 66.

Upon adoption of this regulation, the following existing regulations will be terminated:

Standards for Secure Detention (6 VAC 35-100-10 et seq.);

Standards for Post Dispositional Confinement for Secure Detention and Court Service Units (6 VAC 35-90-10 et seq.);

Predispositional and Postdispositional Group Home Standards (6 VAC 35-40-10 et seq.);

Standards for Family Group Homes (6 VAC 35-120-10 et seq.); and

Standards for Juvenile Correctional Centers (6 VAC 35-70-10 et seq.).

Purpose: The purpose of the proposed Consolidated Standards for Juvenile Residential Facilities is to provide, in one compact regulation, operating and programming standards for juvenile residential facilities regulated by the State Board of Juvenile Justice, whether operated by state, regional, local or private agencies. Separate sections of the regulation provide for the special needs of each class of facility, such as family group homes, juvenile boot camps, work camps, independent living programs, and secure custody facilities.

These standards are intended to provide for the safety and health of juveniles confined in residential facilities, to provide for the safety of staff who supervise the residents, and to protect the public by confining delinquent and criminal juveniles as directed by the courts of the Commonwealth.

Substance:

Proposed Regulations

A. Standards duplicating other regulations and the Code of Virginia are terminated. Many of the deleted standards duplicate Standards for the Interdepartmental Regulation of Residential Facilities for Children, known as "CORE," which requires: statement of mission and philosophy; chief administrative officer; rated capacity; insurance; research policies; case record management and monitoring; disposal of records; consent to release information; personnel policies; active staff supervision and written procedures; the same meal for youths and supervising staff; three meals a day; meal records; special medical and religious diets; adequate food preparation area; separate sleeping rooms for males and females; minimum sleeping room size; daily log; education program; educational and vocational testing; teacher certification; fire retardant mattresses and pillows; prompt delivery of mail; indoor and outdoor recreation; planned constructive leisure activities; voluntary attendance at religious services; waste disposal; annual inspection by building, health, sanitation and fire officials; inspection of the water supply; health and sanitation in food service; food preparation safety; control of vermin and pests; provision of personal hygiene articles; first-aid kits; prohibition of confinement in locked room except in secure custody facilities.

In addition, CORE substantially addresses some deleted standards, though not necessarily in the same way. Thus, CORE's requirement for recreation appropriate to residents' ages, developmental levels, interests and needs covers alternative recreation for physically handicapped youth. Similarly, CORE requires: legal authority for placing self-referrals; physician availability; clean, adequate clothing, repaired or replaced as needed; emergency procedures; record of medication administered; staff to manage, monitor and document the management of resident behavior; rules of conduct available to residents. And CORE prohibits abuse, corporal punishment, harassment, interference with functions of living; strip searches and body cavity searches except as permitted by other regulations or by court order.

A number of construction and physical plant requirements are deleted as they are more appropriately and more fully addressed in the board's Guidelines for Construction (e.g., heating, ventilation, cooling and lighting; plumbing and toilets; outdoor recreation facilities; classrooms; dayrooms; kitchen and dining areas; storage; administrative areas; building and safety code requirements; facility size and organization; and security).

B. Separate standards are simplified and combined. The consolidated standards include substantially the same requirements as the terminated regulations for: family group home systems and family operated group homes; juveniles' personal possessions; a written plan for postdispositionally confined youth; nondiscrimination; residents' mail, telephone calls and visitation; grievance procedures; contraband; criminal activity; transportation; insurance; computer security; release procedures; juveniles who are HIV-positive or who have infectious or communicable disease; informed consent to health care; residents' medical record; hospitalization of residents; payment for preexisting conditions; suicide prevention; personnel background checks; staff physical examinations; supervising outside personnel; inspections; repair or replacement of equipment; lighting in housing and

activity areas; fire prevention. For secure custody facilities, the new standards continue existing regulatory requirements for a classification plan for residents; physical examination for juveniles; a facility health authority; medical space and equipment; access to fresh drinking water; juveniles' personal possessions; area and equipment restrictions; keys; perimeter control; escapes; outdoor recreation; staff supervision of juveniles; limits on questioning of residents; searches; main control center. For Juvenile Correctional Centers (JCCs), the consolidated standards continue to require: a count of the juvenile population; transfer files, but with simpler requirements; post orders or shift duties, but require that these be submitted to the Chief of Operations for Juvenile Correctional Centers prior to implementation.

C. The new consolidated standards modify or eliminate certain existing requirements.

1. The new standards simplify:

- a. Health screening upon admission to a secure facility;
- b. Training requirements (in place of a minimum number of training hours, the new standard calls for training appropriate to the job, an annual training plan specific to each position, and specific training requirements set out in other regulations);
- c. Showering requirements in JCCs;
- d. Due process requirements in JCCs.
- e. Discharge or release requirements for JCCs (eliminating separate standards for: release preparation; temporary release; work release; graduated release; behavior during temporary release; procedures for employment; school and restitution release; day leave; criteria for release decisions; automatic scheduling of release consideration; deferral of release; written information for releasing authority; documenting release; identifying information used in release determination; juvenile's access to information used; and detainees).

2. Reading materials in secure facilities must be coordinated by a designated person, as it was not clear what constituted a "qualified" person under the old standard.

3. A secure facility's sleeping rooms in personal control units may be double occupancy; this replaces the current JCC standard that "there shall be no dormitories in control units."

4. A single standard requiring the court service unit (CSU) and the detention home to develop a plan to provide services for postdispositional youth replaces the entire regulation for postdispositional detention; a proper plan will meet all of the old requirements.

5. The new standards tighten controls on mechanical restraints in secure facilities, adding monitoring requirements and consultation with mental health professional.

6. Consolidated 6 VAC 35-140-660 now gives detention homes the same authority to use chemical agents as

juvenile correctional centers under certain circumstances, and substantially increases the procedural requirements for the use of chemical agents.

7. One standard governing room confinement in secure facility replaces and clarifies separate detention and JCC standards.

8. Old standards that are unnecessarily prescriptive or procedural are terminated (e.g., JCC requirements that full time staff manage food service; qualifications for person coordinating religious services; recreation staff to youth ratio; qualifications of the facility director and other appointed personnel; employee code of ethics [covered by the Commonwealth's Rules of Conduct]; employee assistance program; training program directed by a qualified employee; training advisory committee; library and references services; space and equipment to support training); annual review of health care policies and procedures; meetings and reports between health authority and facility director; administrative leave or reimbursement; postdispositional confinement standards limiting postdispositional beds to 20% of detention home capacity; requiring detention home and CSU coordinators of services; staff meeting to develop plan; community service treatment plan; CSU to provide information to detention at youth's admission; detention home to provide counseling; temporary release of juveniles; canteen; location of JCC; social services; counseling; private physicians.

D. New provisions not previously addressed in existing regulations:

6 VAC 35-140-40 authorizes outcome-based standards to substitute for specific requirements on a case-by-case basis for a specified time.

6 VAC 35-140-100 adds that youth's funds may be used to pay youth's restitution and fines.

6 VAC 35-140-150 (nonresidential programs and services must meet appropriate standards).

6 VAC 35-140-390 (staff physical and psychological qualifications for boot camp programs).

6 VAC 35-140-400 (juveniles' physical qualifications for boot camp).

6 VAC 35-140-410 (juveniles' nonparticipation in boot camp program).

6 VAC 35-140-420 (description of boot camp program).

6 VAC 35-140-710 (wilderness work camp).

6 VAC 35-140-720 (coordination between juvenile correctional center and court service unit staff).

6 VAC 35-140-770 (privately operated juvenile correctional center).

6 VAC 35-140-780 (Junior ROTC program in juvenile correctional center).

6 VAC 35-140-790 (agreements governing juvenile industries work programs).

Issues: The primary advantage for the public is enhanced public safety as a result of updating operational standards for residential facilities in the juvenile justice system. There is no known disadvantage to the public of adopting these regulatory changes.

The primary advantages to the agency and to public and private providers are: (i) reduced paperwork as a result of simplifying the regulations; (ii) greater flexibility to respond to changes in the resident juvenile population; and (iii) greater flexibility to respond to changing needs for training.

There are no known disadvantages to the agency.

Estimated Impact:

A. Projected number of persons affected: approximately 18,700 juveniles resided in the subject facilities in FY 1995. This number is projected to increase annually for the foreseeable future.

B. Projected costs for implementation and compliance: The department's regulatory enforcement operations ranged between approximately \$230,000 and \$260,000 for the past four years. Approximately half this cost, or \$120,000, is attributable to the regulation of residential facilities.

C. Projected costs to facilities: The proposed standards impose almost no new requirements beyond what is already required by law or by existing regulations. When detention facilities were polled regarding the fiscal impact of an earlier draft of these regulations, they identified costs associated with a communications system between the control center and juvenile living areas; a 24-hour control center for monitoring and coordinating the facility's security, safety and communications systems; and emergency lights and communications. The \$90,000 one-time cost and the \$11,000 on-going cost of meeting these standards system-wide is considered essential to the security of the facility and its occupants, both staff and detained juveniles.

D. Identity of any localities particularly affected: none.

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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation replaces five separate regulations governing secure detention homes, postdispositional confinement in secure detention, predispositional and postdispositional group homes, family group homes, and juvenile correctional

Proposed Regulations

centers. The primary amendments contained in the proposed regulation are as follows:

- General "housekeeping" changes (e.g., requirements that are duplicative of code provisions or other regulatory requirements are deleted);
- Health screening upon admission would be simplified;
- Training requirements would be simplified;
- Discharge requirements would be simplified and separate standards eliminated;
- Double occupancy would be permitted in personal control units;
- Requirements regarding mechanical restraints would be more stringent;
- Detention homes would be given the same authority to use chemical agents as juvenile correction facilities and requirements regarding the use of chemical agents would be made more stringent;
- A new requirement would allow youth's funds to be used to pay restitution and fines;
- Facilities would be required to pay for treatment of juveniles' preexisting medical conditions;
- Secure facilities would be required to maintain a communications system between the main control center and living areas, and between the facility and the community;
- Requirements governing privately operated juvenile corrections facilities would be added;
- Requirements governing Junior ROTC programs in juvenile corrections centers would be added;
- Requirements governing juvenile industries work programs would be added;
- Requirements governing boot camp programs would be added;
- Requirements governing wilderness work camps would be added; and
- Requirements governing coordination between treatment staff at juvenile correctional centers and court service unit staff would be added.

Estimated Economic Impact. The majority of the amendments contained in the proposed regulation are unlikely to have any significant economic effect. Because the requirements deleted in the proposed "housekeeping" changes remain in force elsewhere, their removal from the regulation will have no real economic consequence. In addition, many of the amendments contained in the proposed simply reflect current practice and, as a result, will have no additional economic effect. The simplification of health screenings, training requirements, and discharge requirements, as well as the provision that allows double occupancy in personal control units are examples of such amendments. Some of the proposed amendments, such as the requirement that facilities pay for the treatment of pre-existing conditions, simply restate statutory requirements

and, as a result, will have no independent economic effect. Finally, although some of the amendments establish requirements for various new programs (e.g., privately operated juvenile corrections facilities, Junior ROTC programs, juvenile industries work programs, boot camps, and wilderness work camps), they do not themselves establish those programs and therefore do not themselves have an economic consequence.

Two of the proposed amendments are likely to have an economic effect, however. The requirement that allows youths' funds to be used to pay for restitution and fines is likely to have a modest economic effect both on the youths' whose funds could be garnished and on those receiving restitution. In addition, because such funds could also be used to pay fines assessed against the youth by the juvenile facility for disciplinary infractions, they may also be used to reduce maintenance costs associated with the vandalism of center facilities and equipment.

The second amendment that is likely to have economic consequences is the requirement that secure facilities maintain a communications system between the main control center and living areas, and between the facility and the community. Estimates provided by the Department of Juvenile Justice (DJJ) indicate that improvements necessary to meet this requirement could entail one-time costs of \$90,000 and annual on-going costs of \$11,000.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects DJJ residential facilities and the approximately 19,000 juveniles in the care of those facilities.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the primary economic effect of the proposed amendments to current regulations governing juvenile residential facilities would be the potential one-time agency costs of \$90,000 and annual on-going costs of \$11,000 required to meet new communication standards.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department and Board of Juvenile Justice concur in the economic impact analysis prepared by the Department of Planning and Budget, but would suggest that the costs attributed to this regulation are in practice being met in most facilities currently as a matter of good practice.

Summary:

These Standards for Juvenile Residential Facilities replace five separate regulations governing secure detention homes, postdispositional confinement in secure detention, predispositional and postdispositional group homes; family group homes; and juvenile correctional centers. Since Standards for the Interdepartmental Regulation of Residential Facilities for

Children, commonly referred to as "CORE Standards," will continue to apply to these facilities, the deletion of standards that duplicated CORE will not change fundamental requirements.

These consolidated standards also provide, for the first time, standards for juvenile boot camps, work camps, juvenile industries projects in juvenile correctional centers, and independent living programs. The consolidated standards also reflect changes in the law, such as the mental health screening required when a juvenile is admitted to secure detention.

In general, the proposed consolidated standards are simpler and more flexible than the regulations they replace, while continuing to protect resident juveniles, staff, volunteers and visitors in the facilities, and the safety of the public.

CHAPTER 140. STANDARDS FOR JUVENILE RESIDENTIAL FACILITIES.

PART I. GENERAL PROVISIONS.

6 VAC 35-140-10. Definitions.

Unless the context clearly indicates otherwise, terms that are defined in Standards for the Interdepartmental Regulation of Residential Facilities for Children shall have the same meaning when used in this chapter, and the following words and terms have the following meaning:

"Board" means Board of Juvenile Justice.

"Boot camp" means a short-term secure or nonsecure juvenile residential program that includes aspects of basic military training, such as drill and ceremony.

"Control room" means a room on a living unit where staff can monitor the activities of juveniles on the unit and serves as the staff office.

"Department" means the Department of Juvenile Justice.

"Detention home" means a local or regional public or private locked residential facility which has construction fixtures designed to prevent escape and to restrict the movement and activities of juveniles held in lawful custody.

"Infraction" or "rule violation" means a violation of the program's rules of conduct, in one of the following degrees of severity:

"Major rule violation" means any action that is illegal or expressly prohibited by those legally responsible for administration and operation of the facility, including any actions which threaten the life, safety or security of persons or property.

"Moderate infraction" or "intermediate infraction" means a violation of the program's rules of conduct causing a loss of some significance and requiring use of due process procedures that may result in disciplinary confinement, loss of privileges, or lengthened time in the program.

"Minor infraction" means a violation of the program's rules of conduct that staff may resolve informally without imposing serious penalties.

"Juvenile" or "youth" means any person less than 18 years of age.

"Juvenile correctional center" means a secure facility operated by, or under contract with, the Department of Juvenile Justice to house and treat committed juveniles.

"Main control center" means the central point within a secure facility where security activities are monitored and controlled 24 hours a day, with equipment, staffing and access appropriate to the facility's security level.

"Master file" means the complete record of a juvenile which is retained at the reception and diagnostic center.

"Medical record" means the complete record of medical screening and examination information and ongoing records of medical and ancillary service delivery including all findings, diagnoses, treatments, dispositions, prescriptions and their administration.

"Personal control unit" means an area containing sleeping rooms with locked doors, which houses residents who have serious behavior problems or who are a threat to self, others or facility security.

"Resident" means a juvenile or other person who is legally placed in or formally admitted to the facility. In some facilities residents may be referred to as wards or detainees.

"Shall" means that an obligation to act is imposed.

"Summary punishments" means those punishments in a boot camp or Junior Reserve Officer Training Corps (JROTC) program that staff may impose at the moment they notice a minor infraction being committed, such as directing the offender to perform some physical feat, such as 20 pushups.

"Transfer file" means the complete record of a juvenile which accompanies the juvenile to whatever facility the juvenile is transferred while in direct state care.

"Volunteer" means any individual or group who, of their own free will, without any financial gain, provides goods or services to the program without compensation.

"Wilderness work camp" means a secure residential facility in a remote wilderness setting providing a program of therapeutic hard work to increase vocational skills.

6 VAC 35-140-20. Other applicable standards.

These standards will be applied with Standards for the Interdepartmental Regulation of Residential Facilities for Children, jointly issued by the Board of Juvenile Justice, the State Board of Education, the State Mental Health, Mental Retardation and Substance Abuse Services Board, and the Board of Social Services. Family operated group homes are not subject to the Standards for the Interdepartmental Regulation of Residential Facilities for Children.

Proposed Regulations

6 VAC 35-140-30. Applicability.

A. All residential programs must meet the applicable standards in Parts I (6 VAC 35-140-10 et seq.) and II (6 VAC 35-140-60 et seq.) of this chapter.

B. Detention homes, juvenile correctional centers, wilderness work camps and boot camps operated as secure facilities must also meet the applicable standards in Part III (6 VAC 35-140-430 et seq.) of this chapter.

6 VAC 35-140-40. Substitute standards authorized on trial basis.

To encourage the development of outcome-based performance measures in juvenile residential facilities, and to provide for trial testing of such measures, the board may, on a case-by-case basis and for a specified time, authorize individual programs to use an outcome-based or performance-based measure in place of a specific requirement of this regulation.

6 VAC 35-140-50. Periodic review of regulation; previous regulations terminated.

A. These standards shall be reviewed beginning three years after their effective date, and revised or amended pursuant to the Administrative Process Act.

B. This chapter replaces the following: Standards for Juvenile Correctional Centers (6 VAC 35-70-10 et seq.); Standards for Secure Detention (6 VAC 35-100-10 et seq.), Family Group Homes (6 VAC 35-120-10 et seq.), Holdover Standards (6 VAC 35-80-10 et seq.), Standards for Post-Dispositional Confinement for Detention Homes and Court Service Units (6 VAC 35-90-10 et seq.), and Predispositional and Postdispositional Group Home Standards (6 VAC 35-40-10 et seq.).

PART II. STANDARDS FOR ALL JUVENILE RESIDENTIAL FACILITIES.

Article 1. Program Operation.

6 VAC 35-140-60. Nondiscrimination.

Written policy, procedure and practice shall provide that:

1. Youth are not discriminated against based on race, national origin, color, creed, sex or disability;
2. Males and females in coeducational programs have equal access to all programs and activities; they may be housed in the same unit, but not the same sleeping room;
3. Consistent with facility security, reasonable accommodation is made to integrate youth with disabilities with the general population and grant them access to program and service areas, provided such accommodation is unlikely to place the juvenile into situations of direct threat; and
4. Youth are not subjected to corporal or unusual punishment, humiliation, mental abuse, or punitive

interference with the daily functions of living, such as eating or sleeping.

6 VAC 35-140-70. Residents' mail.

A. In accord with written procedures and in the presence of a witness, staff may:

1. Open and inspect incoming mail for contraband, but shall not read it; and
2. Open and inspect outgoing mail when there is reason to suspect that a resident's mail contains contraband or threatens safety or security.

B. Staff shall not open or read correspondence and mail:

1. From a court, legal counsel, administrators of the grievance system or administrators of the department; or
2. Addressed to parents, family, legal guardian, counsel, courts, officials of the committing authority, public officials or grievance administrators.

C. Upon request, each youth shall be given postage and writing materials to mail at least two letters per week in addition to all legal correspondence.

D. At their own expense, youths shall be permitted to correspond with any person or organization provided such correspondence does not pose a threat to facility order and security.

6 VAC 35-140-80. Telephone calls.

The facility shall have policies and procedures governing residents' use of the telephone.

6 VAC 35-140-90. Visitation.

The facility shall have policies and procedures governing visits, and shall have a designated visiting area.

6 VAC 35-140-100. Youths' funds.

Policy, procedure and practice shall provide that youths' funds are used only for their benefit; to pay court-ordered restitutions, fines or costs; or to pay institution fines imposed through disciplinary procedures.

6 VAC 35-140-110. Juvenile grievance procedure.

All residents shall have access to a grievance process that by policy, procedure and practice provides for:

1. Staff and resident participation in the grievance process;
2. Documented, timely responses to all grievances, with the reasons for the decision;
3. At least one level of appeal;
4. Administrative review of grievances.

6 VAC 35-140-120. Contraband.

The facility shall have and follow procedures to control, detect and dispose of contraband.

6 VAC 35-140-130. Criminal activity.

Policy, procedure and practice shall require that:

1. All known criminal activity by residents is reported to the facility director or family group home supervisor or designee for appropriate action; and
2. Any known felony committed on or off the premises by residents or staff is reported, as appropriate, to the facility director or group home supervisor or designee, the state police, local law enforcement, or the intake officer.

6 VAC 35-140-140. Transportation.

Routine and emergency transportation shall be available.

6 VAC 35-140-150. Nonresidential programs and services.

Any nonresidential services offered shall comply with all applicable laws and regulations.

6 VAC 35-140-160. Insurance.

A. Each residential program shall have:

1. Liability insurance for all employees;
2. Insurance to protect volunteers, if applicable;
3. Premises liability insurance;
4. Vehicle insurance for facility vehicles.

B. Staff shall be informed when hired of the requirements to provide insurance coverage while using personal vehicles for official business.

6 VAC 35-140-170. Computer security.

If log book type information is recorded on computer, all entries shall post the date, time and name of the person making an entry; previous entries cannot be overwritten.

6 VAC 35-140-180. Release procedures.

Residents shall be released only in accord with written policy and procedure.

Article 2.
Health Care.

6 VAC 35-140-190. Health screening and mental health screening at admission.

Policy, procedure and practice shall require that:

1. All youth newly admitted to a facility or system undergo a preliminary health screening by individuals who have been trained to use a health screening tool or instrument that has been approved by the facility's health authority.
2. In secure detention facilities, a mental health screening shall be provided in accordance with § 16.1-248.2 of the Code of Virginia.
3. Youth who pose a health or safety threat to themselves or others are not admitted to the facility's general population.

4. Immediate health care is provided to youth who need it.

6 VAC 35-140-200. Special medical needs of residents.

Staff shall be trained in and follow procedures for dealing with residents who are HIV-positive or who have infectious or communicable diseases.

6 VAC 35-140-210. Informed consent as to health care.

The informed consent to health care shall be obtained from the youth, parent, guardian or legal custodian as required by law.

6 VAC 35-140-220. Residents' medical record.

A. Residents' active medical records shall be:

1. Kept confidential and in a file separate from the case record;
2. Readily accessible in case of emergency; and
3. Made available to authorized staff as defined in policy and procedure.

B. Residents' inactive medical records shall be retained and disposed of as required by The Library of Virginia.

6 VAC 35-140-230. Hospitalization of residents.

When a resident needs hospital care, a parent or legal guardian, a staff member, or a law-enforcement officer, as appropriate, shall accompany the resident and stay at least during admission and until appropriate continuing supervision is arranged.

6 VAC 35-140-240. Payment for treatment of preexisting conditions.

The facility shall pay for the treatment of preexisting medical, dental, psychological or psychiatric conditions when:

1. The condition gives rise to a health emergency or the health authority determines that treatment of such a preexisting condition is necessary to the youth's health while a resident at the facility; and
2. The facility administrator has determined that no other source of payment is available.

6 VAC 35-140-250. Suicide prevention.

Policy, procedure and practice shall provide that there is a suicide prevention and intervention program and all direct care staff are trained in it.

Article 3.
Personnel.

6 VAC 35-140-260. Background checks on personnel.

A. All persons selected for employment after [the effective date of these standards], all family group home parents, all persons who teach in the facility or provide professional services on a regular basis, and all volunteers and interns who work on a regular basis and will be alone with one juvenile, shall immediately undergo a check of references, criminal records, central registry and, if appropriate, driving record.

Proposed Regulations

B. If direct care staff are hired pending the completion of background checks, they shall always work with staff whose background checks have been completed.

6 VAC 35-140-270. Physical examination.

When the qualifications for a position require a given level of health or physical ability, all persons selected for such positions shall be examined by a physician at the time of employment to ensure their medical health and ability to perform assigned duties.

6 VAC 35-140-280. Training.

Initial orientation and annual training shall be provided to all staff, relief staff, volunteers, interns and family group home parents, in accord with each position's job description and annual training plan. As applicable to the position, the annual training plan shall address:

1. The training required by 6 VAC 35-140-200, 6 VAC 35-140-210, 6 VAC 35-140-260, 6 VAC 35-140-670 and 6 VAC 35-140-690;
2. Training required by the Standards for the Interdepartmental Regulation of Residential Facilities for Children; and
3. Training goals and objectives specific to the position.

6 VAC 35-140-290. Outside personnel.

A. Facility staff shall monitor outside personnel working in the immediate presence of youth.

B. Adult inmates or persons assigned to perform services as a result of a conviction in an adult court shall not work in areas where youth are present.

Article 4. Safety and Physical Environment.

6 VAC 35-140-300. Showers.

Residents shall have access to showers daily.

6 VAC 35-140-310. Inspections.

All safety, emergency and communications systems shall be inspected by designated staff according to a schedule which is approved by the facility administrator and which meets all applicable regulations.

6 VAC 35-140-320. Repair or replacement of defective equipment.

Whenever equipment is found to be defective, immediate steps shall be taken to rectify the situation and to repair or replace the defective equipment.

6 VAC 35-140-330. Lighting in housing and activity areas.

A. Sleeping and activity areas shall provide natural lighting.

B. There shall be night lighting sufficient to observe residents.

6 VAC 35-140-340. Fire prevention.

A. There shall be a fire prevention plan that provides for an adequate fire protection service.

B. The facility shall have receptacles for disposing of flammable materials.

C. All flammable, toxic and caustic materials shall be stored and used in accord with federal, state and local requirements.

D. Flame retardant and nontoxic materials shall be used in construction and furnishings.

Article 5. Independent Living Programs.

6 VAC 35-140-350. Independent living programs.

Independent living programs shall have a written description of the curriculum and methods used to teach living skills, which shall include finding and keeping a job, managing personal finances, household budgeting, and other life skills.

Article 6. Standards for Family Group Homes.

6 VAC 35-140-360. Requirements of family group home systems.

Family group home systems shall have policies and procedures for:

1. Setting the number of youth to be housed in each home and room of the home, and prohibiting youth and adults from sharing sleeping rooms without specific approval from the program administrator;
2. Providing supervision of and guidance for the family group home parents and relief staff;
3. Admitting and orienting juveniles placed in a home;
4. Promptly preparing and periodically reviewing a treatment plan for each juvenile;
5. Providing appropriate programs and services from intake through release;
6. Providing youth spending money;
7. Managing juvenile records and releasing information;
8. Providing medical and dental care to juveniles;
9. Notifying interested parties promptly of any serious incident;
10. Making a qualified person available to youths and house parents 24 hours a day;
11. Ensuring the secure control of any firearms in the home.

6 VAC 35-140-370. Examination by physician.

Each youth admitted to a family group home for more than 60 days shall have a physical examination including tuberculosis screening within 14 days of admission, unless

the youth was examined within six months prior to admission to the program.

6 VAC 35-140-280. Requirements of family group homes.

Each family group home shall have:

1. Fire extinguisher, inspected annually;
2. Smoke alarm devices in working condition;
3. Alternative methods of escape from second story;
4. Modern sanitation facilities;
5. Inspection of private water supplies;
6. Freedom from physical hazards;
7. A written emergency plan that is communicated to all new residents at orientation;
8. A listing of medical and other emergency resources in the community;
9. A separate bed for each juvenile, with clean sheets and linens weekly;
10. A bedroom that is well illuminated and ventilated; that is in good repair; that is not a hallway, unfinished basement or attic; and that provides conditions for privacy through the use of dividers or furniture arrangements;
11. A place to store youths' clothing and personal items;
12. Sanitary toilet and bath facilities that are adequate for the number of residents;
13. A safe and clean place for indoor and outdoor recreation;
14. Adequate and comfortable furniture;
15. Adequate laundry facilities or laundry services;
16. A clean and pleasant dining area; and
17. Adequate and nutritionally balanced meals.

Article 7.
Boot Camps.

6 VAC 35-140-390. Staff physical and psychological qualifications.

The boot camp shall include in the qualifications for staff positions a statement of:

1. The physical fitness level requirements for each staff position; and
2. Any psychological assessment or evaluation required prior to employment.

6 VAC 35-140-400. Juveniles' physical qualifications.

The boot camp shall have written policies and procedures that govern:

1. Admission criteria, including the physical conditioning a youth must demonstrate to qualify for admission; and

2. Discharge, should a juvenile be physically unable to keep up with the program.

6 VAC 35-140-410. Juveniles' nonparticipation.

The boot camp shall have procedures for dealing with youth who are not complying with boot camp program requirements.

6 VAC 35-140-420. Program description.

The boot camp shall have a written program description that states:

1. How youths' physical training, work assignment, education and vocational training and treatment program participation will be interrelated;
2. The length of the boot camp program and the kind and duration of treatment and supervision that will be provided upon the juvenile's release from the residential program;
3. Whether youth will be cycled through the program individually or in platoons; and
4. The program's incentives and sanctions, including whether military or correctional discipline will be used; if military discipline is used, written procedures shall specify what summary punishments are permitted.

PART III.
STANDARDS FOR ALL SECURE FACILITIES.

Article 1.
General Requirements of Secure Facilities.

6 VAC 35-140-430. Classification plan.

Juveniles shall be assigned to sleeping rooms and living units according to a plan that takes into consideration facility design, staffing levels, and behavior of individual juveniles and characteristics of the facility's juvenile population.

6 VAC 35-140-440. Juvenile's physical examination.

Within five days of admission, all juveniles who are not directly transferred from another secure juvenile residential facility shall be medically examined by a qualified health care practitioner to determine if the youth requires medical attention or poses a threat to the health of staff or other juveniles.

6 VAC 35-140-450. Health authority.

A physician, health administrator or health agency shall be designated the health authority responsible for arranging all levels of health care, consistent with law and medical ethics.

6 VAC 35-140-460. Medical space and equipment.

There shall be a central medical room with medical examination facilities equipped in consultation with the health authority.

6 VAC 35-140-470. Juveniles' personal possessions.

Juveniles' personal possessions shall be inventoried upon admission and either:

Proposed Regulations

1. Securely stored during the juvenile's residence and returned upon release;
2. Given to the juvenile's parents or guardians; or
3. Shipped to the juvenile's last known address.

6 VAC 35-140-480. Area and equipment restrictions.

A. Written procedures shall govern access to all areas where food or utensils are stored.

B. All security, maintenance, educational, recreational, culinary, and medical equipment shall be inventoried and controlled.

C. Juveniles shall not be permitted to work in the detention home food service.

6 VAC 35-140-490. Reading materials.

Reading materials that are appropriate to residents' ages and levels of competency shall be available to all juveniles, and shall be coordinated by a designated person.

6 VAC 35-140-500. Postdispositional detention.

When a juvenile is ordered by a court, pursuant to § 16.1-248.1 B of the Code of Virginia, into a facility that houses postdispositionally detained youth, the facility shall have a written plan with the court service unit to enable such youth to take part in one or more community treatment programs appropriate for their rehabilitation.

6 VAC 35-140-510. Housing and activity areas.

In sleeping rooms and activity areas, residents shall have access to fresh drinking water.

6 VAC 35-140-520. Sleeping rooms in personal control units.

There shall be no more than two juveniles in each room in personal control units.

6 VAC 35-140-530. Outdoor recreation.

There shall be a level, well-drained area in which residents are permitted to exercise daily, subject to weather conditions and facility security, behavior management and discipline procedures.

6 VAC 35-140-540. Supervision of juveniles by staff.

A. Staff shall provide 24-hour awake supervision seven days a week.

B. In juvenile correctional centers, when both males and females are housed in the same living unit, at least one male and one female staff member shall be actively supervising at all times.

C. In secure detention facilities, staff shall always be in plain view of staff of the opposite sex when entering an area occupied by juveniles of the opposite sex.

6 VAC 35-140-550. Major rule violations.

A. During the orientation to the facility, major rule violations and the punishments for such violations shall be explained to the juvenile and documented by the juvenile's and staff member's signatures and date.

B. Where a language or literacy problem exists which can lead to resident misunderstanding of facility rules and regulations, staff or a qualified person under the supervision of staff shall assist the resident.

6 VAC 35-140-560. Due process.

The secure facility shall have and follow procedures for:

1. Reporting major rule violations to supervisory personnel;
2. Conducting a timely, impartial investigation and hearing including provisions for the youth to participate in and to be represented at the hearing;
3. Recording and notifying the parties of the hearing's findings and any action taken;
4. Expunging all reference to the charges if the youth is found innocent;
5. Reviewing the hearing record to ensure conformity with policy and regulations; and
6. Permitting the juvenile to appeal the decision.

6 VAC 35-140-570. Room confinement.

A. Written procedures shall govern how and when juveniles may be confined within the facility.

B. If a juvenile in secure detention is confined to his room for more than 72 hours, the confinement shall be reported to the regional manager along with the steps being taken or planned to resolve the situation.

C. If a juvenile in a juvenile correctional center is confined for more than 72 hours, the Chief of Operations for Juvenile Correctional Centers, or designee, must approve the continued confinement.

6 VAC 35-140-580. Questioning of residents.

No local, state or federal authority shall be permitted to question a resident without the permission of the committing agency, attorney, parent or guardian or other person standing in loco parentis.

6 VAC 35-140-590. Searches of juveniles.

Policy, procedure and practice shall provide that:

1. Unreasonable searches and undue force are prohibited.
2. Only qualified medical personnel conduct body cavity searches.
3. Strip searches are performed by staff of the same sex as the resident.
4. Any witness to a body cavity search or strip search is of the resident's sex.

6 VAC 35-140-600. Main control center.

Staff shall monitor and coordinate security, safety and communications systems from a main control center with restricted access 24 hours a day.

6 VAC 35-140-610. Communications systems.

A. There shall be a communications system between the main control center and living areas.

B. The facility shall be able to provide communications in an emergency.

C. A secure custody facility shall have a communications system linked to the community, and written procedures governing its use.

6 VAC 35-140-620. Keys.

A. Each key's current location shall be readily accounted for.

B. Keys shall be identified in a manner appropriate to the level of security.

C. Fire and emergency keys shall be instantly identifiable by sight and touch.

D. There shall be different masters for the interior security and outer areas.

E. Keys shall be kept secure at all times.

6 VAC 35-140-630. Control of perimeter.

There shall be a plan to control the perimeter by appropriate means to contain confined juveniles and to prevent unauthorized access by the public.

6 VAC 35-140-640. Escapes.

The secure facility shall have and follow procedures regarding escapes and AWOLS.

6 VAC 35-140-650. Transportation of detained youth.

A. Detained juveniles shall be transported in accord with "Guidelines for Transporting Juveniles in Detention" issued by the board in accord with § 16.1-254 of the Code of Virginia.

B. When a juvenile is transported to the department from a detention home, all information pertaining to the youth's medical, behavioral and family problems shall be sent to the department (i) with the juvenile, if the home is given at least 24 hours notice; or (ii) as soon as possible after the youth is transported, if such notice is not given.

6 VAC 35-140-660. Chemical agents.

A. Written procedure and practice shall provide for a progressive response to juvenile behavior which at a minimum begins with verbal calming and delineates when physical, mechanical or chemical restraints may be used, including documentation requirements.

B. Written policy shall restrict the use of a chemical agent only to instances of justifiable protection of residents and staff and shall prohibit the use of any chemical agent as a means of punishment.

C. Only those chemical agents that have been approved by the board shall be permitted in the facility. There shall be a written description, including the name and chemical analysis, of the chemical agent to be maintained for use.

Written procedure shall prohibit the use of any other chemical agent except one that has the same analysis and composition.

D. Written procedure and practice shall require the safe and secure storage of the chemical agent and shall specify:

1. Which staff have access to and are authorized to use the chemical agent;

2. The circumstances under which staff members may carry the chemical agent on their person; and

3. That only properly trained staff may use the chemical agent. A program of training shall include at least:

a. An understanding of the circumstances under which the chemical agent may be used;

b. An overview of the chemical agent's symptoms and their duration; the chemical agent's medical and physiological effects; and the requirements for storage, maintenance and replacement;

c. How to properly use the chemical agent;

d. Decontamination procedures; and

e. First aid, postexposure observation for nonmedical staff, and treatment.

E. Written procedure and practice shall require periodic inspection of the chemical agent consistent with the scheduled inspection of other security devices, and must provide for the disposal of outdated canisters as required by the manufacturer.

F. Written procedure must specify the decontamination steps to be followed after the situation is stabilized and the requirements for postexposure observation. At a minimum it shall include close monitoring of the subject's breathing for 24 hours and the provision of emergency medical treatment, if needed.

G. Written procedure shall provide for immediate reporting of the use of the chemical agent to the facility administrator or designee, and the completion of a department reportable incident form.

6 VAC 35-140-670. Mechanical restraints.

A. Only restraints approved by the board shall be permitted in the facility.

B. Restraints shall be kept at a designated location.

C. When transporting or moving juveniles, the use of mechanical restraints shall be in accord with written procedures.

D. The approval of the facility director or designee shall be obtained immediately upon using restraints in an emergency situation.

E. Restraints shall never be applied as punishment.

F. Juveniles shall not be restrained to a fixed object.

Proposed Regulations

G. Mechanical restraints shall be used only to protect persons or property or prevent escapes after other efforts to control the situation have failed, and in accordance with law.

H. Mechanical restraints used shall be the least restrictive needed to control the behavior.

I. No juvenile shall be restrained for longer than necessary to regain control of his behavior.

J. Each use of mechanical restraints, except when used to transport a juvenile, shall be recorded in the youth's case file or in a central log book.

6 VAC 35-140-680. Training required to use mechanical restraints.

If a facility uses mechanical restraints, all staff who are authorized to use restraints shall receive department-approved training in their use, including how to check the youth's circulation and how to check for injuries; only properly trained staff shall use restraints.

6 VAC 35-140-690. Monitoring restrained juveniles.

When a youth is mechanically restrained, staff shall provide for the youth's reasonable comfort and ensure the youth's access to water, meals and toilet, and either:

1. Check on the youth at least every 15 minutes, and more often if the youth's behavior warrants; or
2. Keep the youth under constant visual supervision along an uninterrupted line of sight, either directly, or through windows, or via video monitoring.

6 VAC 35-140-700. Consultation with mental health professional.

A. When a youth is restrained for more than two hours cumulatively in any 24-hour period, staff shall make and document a determination, arrived at in accordance with policies and procedures, as to whether a mental health problem is indicated.

B. If a mental health problem is indicated, staff shall document that they have consulted with a licensed mental health professional or the local community services board.

Article 2.

Wilderness Work Camps.

6 VAC 35-140-710. Wilderness work camps.

The wilderness work camp shall have a written statement describing:

1. Its intended juvenile offender population;
2. How youths' work assignment, education and vocational training and treatment program participation will be interrelated;
3. The length of the wilderness work camp program and the kind and duration of treatment and supervision that will be provided upon the juvenile's release from the residential program; and
4. The program's incentives and sanctions.

Article 3.

Juvenile Correctional Centers.

6 VAC 35-140-720. Coordination with court service unit staff.

A. Treatment staff at the reception and diagnostic center and at each juvenile correctional center shall notify each youth's probation or parole officer of scheduled staffings and treatment team meetings to review the youth's progress.

B. The facility's treatment staff and the probation or parole officer taking part in the treatment team meeting shall:

1. Review the youth's service plan and adjust as needed;
2. Sign the reviewed service plan; and
3. Send a copy to the reception and diagnostic center.

C. Treatment staff shall send the court service unit progress reports on each youth at least once every 60 days.

6 VAC 35-140-730. Post orders or shift duties.

The superintendent or designee shall issue post orders or shift duties that provide details for carrying out daily operations. The post orders or shift duties shall be submitted to the Chief of Operations for Juvenile Correctional Centers, or designee, prior to implementation.

6 VAC 35-140-740. Population count.

There shall be a system for each shift to count residents and notify appropriate staff of any changes in resident population. All housing moves, school and work assignments, admissions and releases shall be reflected on a daily master count sheet.

6 VAC 35-140-750. Institutional operating procedures.

Institutional operating procedures shall be in place that are consistent with standard operating procedures that have been approved by the Chief of Operations for Juvenile Correctional Centers.

6 VAC 35-140-760. Transfer file.

A. A separate transfer file shall be kept for each youth, documenting all treatment and significant events. All transfer files shall be kept current and in a uniform manner.

B. An exact copy of all material added to the transfer file shall be sent to the reception and diagnostic center for inclusion in the youth's master file.

6 VAC 35-140-770. Privately operated juvenile correctional centers.

In addition to the other requirements of juvenile correctional centers, privately operated juvenile correctional centers shall:

1. House only juveniles who have been committed to the department and who have been properly transferred to the facility by the department, unless otherwise specified by contract with the department;
2. Follow the department's case management procedures and practices; and

Proposed Regulations

3. Provide a written summary of a resident's behavior and other significant observations to the department upon request.

6 VAC 35-140-780. Junior ROTC program.

Each Junior ROTC program shall have a written description of the program that states:

1. Criteria juveniles must meet to enter and remain in the program;
2. How military discipline, including summary punishments, will be applied; and
3. Criteria and procedures for terminating a juvenile's participation in the program.

6 VAC 35-140-790. Agreements governing juvenile industries work programs.

A. If the department enters into an agreement with a public or private entity for the operation of a work program pursuant to § 66-25.1 of the Code of Virginia, the agreement shall:

1. Comply with all applicable federal and state laws and regulations, including but not limited to the Fair Labor Standards Act (29 USC § 201 et seq.), child labor laws, workers' compensation insurance laws, and the Standards for the Interdepartmental Regulation of Residential Facilities for Children relating to work and employment;
2. State the length of the agreement and the criteria by which it may be extended or terminated;
3. Specify where juveniles will work and, if not at a juvenile correctional center, the security arrangements at the work site;
4. Summarize the educational, vocational or job training benefits to youth.

B. The agreement shall address how juveniles will be hired and supervised, including:

1. The application and selection process;
2. The qualifications required of youth hired;
3. A requirement that there be a job description for each juvenile's position;
4. Evaluation of each youth's job related behaviors and attitudes, attendance and quality of work; and
5. Whether and how either party may terminate a youth's participation.

C. The agreement shall address youths' compensation including:

1. Whether juveniles are to be paid directly by the outside entity or through the department; and
2. If applicable, whether any deductions shall be made from the juveniles' compensation for subsistence payments, restitution to victims, etc.

D. As applicable, the agreement shall specify:

1. That accurate records be kept of the work program's finances, materials inventories, and youths' hours of work, and that such records be subject to inspection by either party and by an independent auditor;

2. How the project's goods or services will be marketed;

3. How proceeds from the project will be collected and distributed to the parties;

4. Which party is responsible for providing:

- a. The materials to be worked on;
- b. The machinery to be used;
- c. Technical training and supervision in the use of equipment or processes;
- d. Utilities;
- e. Transportation of raw materials and finished goods; and
- f. Disposal of waste generated in the work project.

INCORPORATED BY REFERENCE

"Guidelines for Transporting Juveniles in Detention," Board of Youth and Family Services, June 13, 1991.

VA.R. Doc. No. R97-371; Filed March 26, 1997, 11:48 a.m.

Title of Regulation: 6 VAC 35-60-10 et seq. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs (amending 6 VAC 35-60-10, 6 VAC 35-60-20, 6 VAC 35-60-40, 6 VAC 35-60-50, 6 VAC 35-60-60, 6 VAC 35-60-170, 6 VAC 35-60-180, 6 VAC 35-60-190, 6 VAC 35-60-280, 6 VAC 35-60-290, 6 VAC 35-60-320, 6 VAC 35-60-330, 6 VAC 35-60-380, 6 VAC 35-60-390, 6 VAC 35-60-400, 6 VAC 35-60-410, 6 VAC 35-60-440, 6 VAC 35-60-450, 6 VAC 35-60-460, 6 VAC 35-60-480, 6 VAC 35-60-490, 6 VAC 35-60-500, 6 VAC 35-60-580, and 6 VAC 35-60-600; adding 6 VAC 35-60-71, 6 VAC 35-60-215, 6 VAC 35-60-235, 6 VAC 35-60-495, and 6 VAC 35-60-605; repealing 6 VAC 35-60-30, 6 VAC 35-60-70 through 6 VAC 35-60-160, 6 VAC 35-60-200 through 6 VAC 35-60-270, 6 VAC 35-60-300, 6 VAC 35-60-310, 6 VAC 35-60-340 through 6 VAC 35-60-370, 6 VAC 35-60-420, 6 VAC 35-60-430, 6 VAC 35-60-470, 6 VAC 35-60-510 through 6 VAC 35-60-570, 6 VAC 35-60-590, and 6 VAC 35-60-610 through 6 VAC 35-60-670).

Statutory Authority: §§ 66-10, 66-27 and 66-28 of the Code of Virginia.

Public Hearing Date: N/A - Public comments may be submitted until June 13, 1997.

(See Calendar of Events section for additional information)

Basis: The Code of Virginia is the foundation for the development of Minimum Standards for Delinquency Prevention Programs. Section 66-28 of the Code of Virginia directs the State Board of Juvenile Justice to prescribe

Proposed Regulations

policies governing applications for grants and standards for the operation of programs developed and implemented under Delinquency Prevention and Youth Development Act grants.

Section 66-10 of the Code of Virginia authorizes the board to promulgate regulations to carry out the provisions of Title 66.

Purpose: To prescribe policies governing applications for Virginia Delinquency Prevention and Youth Development grants and standards for the operation of offices on youth and "to promote efficiency and economy in the delivery of youth services and to provide support to localities seeking to respond positively to the growing rate of juvenile delinquency." Objectives:

1. To simplify and streamline the regulations, reducing mandates wherever possible;
2. To reflect the change in focus of office on youth programs to work more closely with court service units; and
3. To encourage local autonomy and flexibility in addressing juvenile crime.

These standards are intended to protect the public's safety and welfare by providing guidance for programs to prevent juvenile delinquency and intervene early in the cases of juveniles brought before the court.

Substance:

1. Standards that essentially restate the Code of Virginia are deleted as unnecessary (e.g., 6 VAC 35-60-30 duplicates § 66-34 of the Code of Virginia; 6 VAC 35-60-540 duplicates § 66-35 of the Code of Virginia and unnecessarily specifies what a "linking mechanism" must include; 6 VAC 35-60-550 duplicates § 66-35 (1) of the Code of Virginia).
2. A number of standards are re-written for clarity and accuracy, without changing the substance of the standards.
4. Standards specifying the responsibilities of policy-making boards and standards specifying the responsibilities of advisory boards are replaced by a single new standard which states that "the responsibilities of the Youth Services Citizens Board shall be delineated in writing in a form approved by the local governing body."
5. The standard regarding job descriptions and knowledge, skills and abilities, is amended; 6 VAC 35-60-210 is deleted as an unnecessary elaboration on 6 VAC 35-60-215; 6 VAC 35-60-220, requiring that staff have the knowledge, skills and abilities needed for their positions, is deleted as redundant of 6 VAC 35-60-215.
6. 6 VAC 35-60-230, requiring that Office on Youth salaries be equitable with comparable occupations in the locality, is deleted.
7. Standards prescribing the kind of personnel policy manuals to be issued by each type of citizen board, are replaced by a single new standard that states simply: "Staff of the Office on Youth shall be governed by, and

have ready access to, written personnel policies and procedures."

8. Standards specifying a minimum number of annual training hours for full time and part time staff, are deleted. 6 VAC 35-60-290 continues to require an annual "program of training with defined objectives relating to the job description, the Biennial Operating Plan" and the Delinquency Prevention and Youth Development Plan.

9. 6 VAC 35-60-320 is amended to require the Youth Citizen Services Board to review and comment on, but not approve, the Office on Youth's annual budget.

10. 6 VAC 35-60-340 and 6 VAC 35-60-350, specifying requirements for financial recordkeeping, and 6 VAC 35-60-370, requiring an independent audit by a CPA, are deleted as unnecessarily going beyond the requirement of § 66-31 B of the Code of Virginia that "Each county and city receiving moneys under this chapter shall keep records of receipts and disbursements thereof which records shall be open for audit and evaluation by the appropriate state authorities."

11. 6 VAC 35-60-360, requiring bonding of all members of the Youth Services Citizens Board and Office on Youth staff who handle funds, is deleted. Localities may still elect to bond such persons.

12. Standards 6 VAC 35-60-420, requiring an annual self-evaluation by the Youth Citizens Services Board, and 6 VAC 35-60-430, requiring documentation of the self-evaluation, are deleted. Self-evaluation is left to the discretion of the locality.

13. 6 VAC 35-60-450, requiring an assessment of needs of youth in the community, is amended to delete the specific requirements to survey agency representatives' opinions, public opinion, and youth and to analyze archival data. The methodology for the needs assessment is left to the locality.

14. 6 VAC 35-60-460 is amended to include the court service unit as an agency to be involved in developing the Biennial Plan.

15. 6 VAC 35-60-470, overly prescribes the requirements for the Delinquency Prevention and Youth Development Needs Assessment and Plan, and so is deleted.

16. 6 VAC 35-60-490 is amended to require that a majority of the objectives in the Biennial Operating Plan be based on the needs of juveniles as identified by the Court Service Unit; and new standard 6 VAC 35-60-495 requires that a majority of services address the needs of juveniles who are eligible to receive CSU services.

17. 6 VAC 35-60-510 and 6 VAC 35-60-520 are deleted as unnecessarily prescribing the contents of the Biennial Operating Plan.

18. 6 VAC 35-60-530 through 6 VAC 35-60-570, dealing with various aspects of community involvement by the office on youth, are deleted. The first three standards restate § 66-35 of the Code of Virginia (and 6 VAC 35-

60-530 also unnecessarily requires legislative efforts by the Youth Services Citizen Board). 6 VAC 35-60-560 (requiring letters of understanding) and 6 VAC 35-60-570 (requiring telephone or in-person availability of the Office on Youth 40 hours per week) are unnecessarily prescriptive.

19. 6 VAC 35-60-580 is amended to suggest direct service categories appropriate for offices on youth, and to require specific elements in a written justification for such services. 6 VAC 35-60-590 is deleted as being unnecessarily prescriptive of the documentation already required by amended standard 6 VAC 35-60-580. 6 VAC 35-60-605 requires that all direct services provided by the Office on Youth be governed by regulations issued by the state board, or be approved by the department's regional office pending promulgation of such regulations.

20. 6 VAC 35-60-600 is amended for clarity, and includes a new requirement that all services be provided by persons who are appropriately licensed or certified.

21. Standards governing case management procedures are deleted as unnecessarily prescriptive. Proposed Standards for Nonresidential Services Available to the Juvenile and Domestic Relations District Court will set case management requirements. 6 VAC 35-60-670, requiring minimum number of hours training hours annually for counselors, is deleted as unnecessary, since professional service providers must meet the licensing requirements of their profession, including training.

22. As a result of the simplification of the standards, a number of definitions are no longer needed and are proposed to be deleted from the regulation.

23. Titles or headings are amended throughout the document.

Issues: The primary advantages for the public are greater flexibility in determining the structure and activities of a locality's delinquency prevention and youth development programs. There are no known disadvantages for the public.

The primary advantages to the agency are reduced paperwork as a result of simplifying the regulation and greater coordination among offices on youth and court service units. There are no known disadvantages to the agency.

Estimated Impact:

Projected number of persons affected: In May 1996 there were 46 offices on youth serving 56 localities. Each office had a director, some also had a full-time or part-time support person, and is directed by a commission of 10-12 persons in accordance with law. While programs and services vary dramatically from locality to locality, potentially the entire population of Virginia under the age of 18 is affected indirectly by the adoption of these standards.

Projected costs for implementation and compliance: The department's regulatory enforcement operations ranged between approximately \$230,000 and \$260,000 for the past four years. Approximately 10% of this cost, or \$24,000, is attributable to the regulation of Delinquency Prevention and

Youth Development Act Grant Programs. Since the proposed revised standards eliminate many of the procedural requirements of the old standards, the cost to the locality of complying with this regulation is essentially the same as the cost of complying with the requirements of §§ 66-27 through 66-35 of the Code of Virginia, which authorize delinquency prevention and youth development programs. These costs are paid for by Virginia Delinquency Prevention and Youth Development Grants, which are funded by the General Assembly.

Identity of any localities particularly affected: none.

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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation amends current regulations governing applications for Virginia Delinquency Prevention and Youth Development grants, and operating standards for Virginia's Offices on Youth. The amendments contained in the proposed regulation can be roughly grouped into two categories:

- Those that constitute "housekeeping" changes (e.g., removing language that simply reiterates sections of the Virginia Code and clarifying existing language in the regulation); and
- Those that remove or simplify requirements in the current regulation judged to be overly prescriptive or intrusive (e.g., replacing detailed requirements for personnel manuals with the simple requirement that "Staff of the Office of Youth shall be governed by, and have ready access to, written personnel policies and procedures," and deleting minimum training requirements for counselors because such professionals must already meet the training requirements of their licensing boards).

Estimated Economic Impact. The most likely economic effect of the proposed amendments would be a reduction in regulatory costs. By deleting several overly detailed and prescriptive requirements contained in the current regulation, the proposed regulation should reduce clerical and other costs incurred by Virginia's Offices of Youth in complying with regulatory mandates. It would be costs prohibitive for DPB to determine the precise magnitude of this cost reduction however.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects Virginia's 46 Offices of Youth and their clientele.

Proposed Regulations

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the primary economic effect of the proposed amendments to current regulations governing minimum standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs will be a reduction in the clerical and other costs incurred by Virginia's Offices of Youth in complying with regulatory mandates.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department and Board of Juvenile Justice concur in the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

This revision of an existing regulation simplifies the operating standards for Virginia's Offices on Youth. The goal of the revised regulation is "to promote efficiency and economy in the delivery of youth services and to provide support to localities seeking to respond positively to the growing rate of juvenile delinquency." Consequently, proposed amendments simplify and streamline the regulation, reducing mandates wherever possible; reflect the change in focus of office on youth programs to work more closely with court service units; and encourage local autonomy and flexibility in addressing juvenile crime.

Preface:

In 1970, the Delinquency Prevention Service was established in recognition of the need to reduce the number of institutionalized children by preventing their contact with the Virginia Juvenile Justice System. The program was founded on several assumptions:

- 1. While individuals are responsible for their decisions and behaviors, factors contributing to juvenile delinquency are to be found, in large part, in conditions and situations that exist in every community.*
- 2. If these conditions and situations are to be changed, there must be a coordinated and systematic effort by each community to identify those which need to be modified.*
- 3. The involvement of citizens as well as professionals in this process will help assure that each locality will make maximum utilization of existing services before new programs are developed.*
- 4. The goal should be to create an environment which will provide for the positive and wholesome development of youth.*

In 1974, the Virginia General Assembly enacted legislation officially delegating the responsibility for a delinquency prevention and youth development program

to the Department of Corrections. This was followed in 1979 by the Delinquency Prevention and Youth Development Act which provided funds for the operation of community-based delinquency prevention programs. The Department of Youth Services became responsible for this program July 1, 1990, when Youth Services was separated from the Department of Corrections. Although these standards must be met by those receiving Act funds, they can also be used by other communities as guidelines for developing a delinquency prevention and youth development program. Within the minimum requirements of these standards, each community is free to develop new and innovative approaches to delinquency prevention.

A program's Youth Services Citizen Board derives its authority from its city council or board of supervisors. Therefore, city councils or boards of supervisors are to define the relationship of the Youth Services Citizen Board to its staff, the Office on Youth. Local governing bodies are not limited in their discretion in determining what form of Youth Services Citizen Board is appropriate for their locality.

The Code of Virginia is the foundation for the development of Minimum Standards for Delinquency Prevention Programs. Section 66-28 of the Code of Virginia directs the State Board of Juvenile Justice to prescribe policies governing applications for grants and standards for the operation of programs developed and implemented under Delinquency Prevention and Youth Development Act grants. The State Board of Juvenile Justice is authorized to monitor the activities of the department and its effectiveness in implementing the policies of the board as specified by § 66-10 of the Code of Virginia.

The Board of Juvenile Justice will certify all Virginia Delinquency Prevention and Youth Development Act grant programs in accordance with the certification process adopted by the Board of Juvenile Justice.

CHAPTER 60.
MINIMUM STANDARDS FOR VIRGINIA DELINQUENCY
PREVENTION AND YOUTH DEVELOPMENT ACT GRANT
PROGRAMS.

PART I.
INTRODUCTION: GENERAL PROVISIONS.

6 VAC 35-60-10. Definitions.

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

~~"Administrative Manual" means a written document which contains policies, procedures, rules and regulations, or other operating instructions for a Youth Services Citizen Board or Office on Youth.~~

~~"Biennial Operating Plan" means a written plan, covering two fiscal years, setting forth measurable goals and objectives for a two-year period (two fiscal years) which will accomplish the goal of for developing, coordinating, and evaluating youth services. The Biennial Operating Plan is to~~

Proposed Regulations

be based primarily on the six-year Delinquency Prevention and Youth Development Needs Assessment and Plan.

"Community" means the particular city or county or combination thereof which a Youth Services Citizen Board serves.

"Counseling Plan" means a written statement of objectives and goals, services to be rendered, identification of service provider, and timetable for the accomplishment of the objectives and goals.

"Delinquency Prevention and Youth Development Needs Assessment and Plan" means a document, developed every six years, which analyzes the problems, opportunities and conditions of youth and concludes with a plan of action to meet identified needs.

"Direct service" means Office on Youth staff or assigned Youth Services Citizen Board members or both providing substantial person-to-person contact with youth or families or both for purposes of instructional or skills development training.

"Direct services counseling" means a one-to-one or group relationship involving a trained counselor and focusing on some aspects of a client's adjustment, developmental, or decision-making needs.

"Functional Working Agreement" means a written document indicating an intent on the part of an agency or organization or individual to support, coordinate and cooperate with, refer to, receive referrals from, provide a resource or service, serve on a task force or committee, etc.

"Generally accepted accounting principles" means the conventions, rules, procedures, or principles necessary to define accepted accounting practice at a particular time.

"Government agencies" means an administrative division of state or local government.

"Knowledge, skills, and abilities qualifications" means the criteria which set forth the expectations of a position (formerly a correlative to education or experience qualifications or both).

"Local governing body" means the a city council or county board of supervisors, respectively. Many governmental services in Virginia are regionalized to serve more than one governmental jurisdiction. Any Youth Services Citizen Board and Office on Youth designed to provide regionalized that provides services to more than one governmental jurisdiction must have the endorsement and support of all affected governing bodies.

"Locality" means the city, county or combination thereof served by a Youth Services Citizen Board.

"Office on Youth" means the staff and the place of business of the staff of the Youth Services Citizen Board.

"On-site status report" means the semi-annual written report completed by the department's regional office staff based on a visit to the office on youth to review progress on the office's Biennial Operating Plan.

"Personnel Policy Manual" means a written document which contains the conditions of employment including policies, procedures, responsibilities and benefits for employees of an Office on Youth.

"Primary prevention" means the active process of creating conditions that promote the well being of people. It encompasses activities which impact systems which address causes rather than symptoms. Primary prevention promotes positive youth development before delinquency occurs. Service options of primary prevention include community assessment, planning, community organization, community education, organizational development, consultation, training, parent education, advocacy for changes in conditions, employment development, legislation development.

"Principal administrative officer" means the individual (i.e., city manager or county administrator) who is appointed and paid by a local governing body to implement its decisions.

"Program of public education" means a planned overall approach to provide information to the public related to the needs of youth. Program does not mean a single activity, but multiple types of activities.

"Self evaluation" means the assessment that a Youth Services Citizen Board performs at least once a fiscal year of its performance and program. Some factors to include in the self evaluation are the relevancy of the Youth Services Citizens Board/Office on Youth Program; the performance of the Youth Services Citizen Board's/Office on Youth's program; the performance of the staff; the funding of the Youth Services Citizen Board/Office on Youth and its program; the organization, responsibilities, and functioning of the Youth Services Citizen Board, and the Youth Services Citizen Board and Office on Youth relationships and delegated responsibilities.

"Service agency" means a public or private human service or juvenile justice organization or agency which primarily addresses the needs of youth and families.

"Youth Services Citizen Board" means an organization of citizens created by legislative action of the local governing body or bodies to be responsible for planning and coordination and other functions relative to the system of youth services in the community.

"Sponsoring locality" means the locality that is the fiscal agent or administrator of the grant.

PART II.

YOUTH SERVICES CITIZEN BOARD ADMINISTRATION.

Article 1.

Powers, Appointment, and Qualifications of Members.

6 VAC 35-60-20. Establishment of Youth Services Citizen Board. Ordinance required.

The Youth Services Citizen Board shall be established by an ordinance or resolution of the local governing body or bodies of a one or more locality in accordance with §§ 66-29 and 66-34 of the Code of Virginia, and shall derive its authority from, and be administered by the local governing body or bodies. The ordinance or resolution shall be in

Proposed Regulations

~~accordance with §§ 66-29 through 66-35 of the Code of Virginia.~~

~~6 VAC 35-60-30. Appointment of Youth Services Citizen Board member. (Repealed.)~~

~~The members of the Youth Services Citizen Board, a majority of whom shall be citizens who are not employed by government or service agencies and who are not elected government officials, shall be appointed by the local governing body or bodies. At least one member shall be below the age of 18 years.~~

~~6 VAC 35-60-40. Length of appointment. Terms.~~

~~Terms of Youth Services Citizen Board members shall be appointed for a term of no less than three years and not more than five years; appointments shall be staggered, as determined by the participating locality or localities, and provide for continuity. Youth members shall serve one-year terms and may be reappointed as eligible.~~

~~6 VAC 35-60-50. Prohibitions on appointment. Restrictions.~~

~~No title, position or agency shall be appointed to the Youth Services Citizen Board.~~

~~6 VAC 35-60-60. Election Officers and bylaws.~~

~~The Youth Services Citizen Board shall elect its own officers and establish its own bylaws.~~

~~Article 2.~~

~~Responsibilities of Youth Services Citizen Boards: Policy-Making Boards.~~

~~6 VAC 35-60-70. Responsibilities of Youth Services Citizen Board. (Repealed.)~~

~~The Youth Services Citizen Board shall be responsible for supervision and administration of the Office on Youth.~~

~~6 VAC 35-60-71. Youth Services Citizen Board responsibilities.~~

~~The responsibilities of the Youth Services Citizen Board shall be delineated in writing in a form approved by the local governing body.~~

~~6 VAC 35-60-80. Board approval. (Repealed.)~~

~~The Youth Services Citizen Board shall hire the administrator for the Office on Youth and shall approve the following:~~

- ~~1. The number of staff for the Office on Youth;~~
- ~~2. Written job descriptions; and~~
- ~~3. Written minimum knowledge, skills, and abilities qualifications.~~

~~6 VAC 35-60-90. Hiring of staff. (Repealed.)~~

~~The Youth Services Citizen Board shall delegate, in writing to the administrator of the Office on Youth, authority for the hiring of staff.~~

~~6 VAC 35-60-100. Administrative manual. (Repealed.)~~

~~The Youth Services Citizen Board shall be responsible for developing or adopting and maintaining a written~~

~~administrative manual which shall include policies, procedures, and guidelines for the Office on Youth. This manual shall be available to all Office on Youth staff.~~

~~6 VAC 35-60-110. Delegation of administrative authority. (Repealed.)~~

~~The Youth Services Citizen Board shall establish or adopt written policies, for the Office on Youth administrator, relating to delegation of administrative authority.~~

~~6 VAC 35-60-120. Conflict of interest. (Repealed.)~~

~~The Youth Services Citizen Board shall establish or adopt written policy which prohibits Youth Services Citizen Board members and Office on Youth staff from using their official position to secure privileges for themselves or others and from engaging in activities that constitute conflict of interest.~~

~~Article 3.~~

~~Responsibilities of Youth Services Citizen Boards: Advisory Boards.~~

~~6 VAC 35-60-130. Supervision and administration. (Repealed.)~~

~~The Youth Services Citizen Board shall assist the principal administrative officer in the supervision and administration of the Office on Youth.~~

~~6 VAC 35-60-140. Establishment of staff qualifications. (Repealed.)~~

~~The Youth Services Citizen Board shall assist the principal administrative officer in establishing for the Office on Youth the following:~~

- ~~1. The number of staff;~~
- ~~2. Written job descriptions; and~~
- ~~3. Written minimum knowledge, skills, and abilities qualifications.~~

~~6 VAC 35-60-150. Hiring of Office on Youth administrator. (Repealed.)~~

~~The Youth Services Citizen Board shall participate in the hiring of the administrator of the Office on Youth.~~

~~6 VAC 35-60-160. Policies, procedures, and guidelines. (Repealed.)~~

~~The principal administrative officer shall be responsible for developing and maintaining a written administrative manual which shall include policies, procedures, and guidelines for the Office on Youth. This manual shall be available to all Office on Youth staff.~~

~~PART III.~~

~~OFFICE ON YOUTH ADMINISTRATION.~~

~~Article 1.~~

~~Goals and Objectives.~~

~~6 VAC 35-60-170. Implementation of strategies.~~

~~The Office on Youth shall implement the strategies to accomplish the goals and objectives as established and authorized in the Youth Services Citizen Board Biennial Operating Plan.~~

Proposed Regulations

Article 2. Personnel and Operations.

6 VAC 35-60-180. ~~Full-time administrator. Director.~~

The Office on Youth shall have one paid full-time ~~administrator director.~~

6 VAC 35-60-190. ~~Administrative capability. Support services.~~

The Office on Youth shall ~~possess an administrative capability including have access to clerical and other support services.~~

6 VAC 35-60-200. ~~Job descriptions. (Repealed.)~~

~~A written job description with minimum knowledge, skills, and abilities qualifications shall exist for each Office on Youth staff position.~~

6 VAC 35-60-210. ~~Minimum qualifications. (Repealed.)~~

~~Job descriptions and minimum knowledge, skills, and abilities qualifications for the Office on Youth administrator staff position shall include, but not be limited to the following:~~

- ~~1. Ability to conduct studies, analyze findings, identify problems, and formulate solutions;~~
- ~~2. Ability to research and develop informational materials;~~
- ~~3. Ability to provide technical assistance and consultation;~~
- ~~4. Ability to establish effective working relationships with agency management and employees, with citizen groups, and with state, local and private organizations; and~~
- ~~5. Ability to communicate orally and in writing.~~

6 VAC 35-60-215. ~~Personnel qualifications.~~

~~The Youth Services Citizen Board, if a policy making board, or the city manager or county administrator, with the advice of the Youth Services Citizen Board if an advisory board, shall establish (i) the number of staff; (ii) a written job description for each position; and (iii) the minimum knowledge, skills and abilities required for each position.~~

6 VAC 35-60-220. ~~Staff requirements. (Repealed.)~~

~~All Office on Youth staff members shall meet the minimum knowledge, skills, and abilities qualifications established for their respective positions.~~

6 VAC 35-60-230. ~~Salaries and benefits. (Repealed.)~~

~~Salary levels and employee benefits for all Office on Youth personnel shall be equitable with comparable occupational groups within the sponsoring locality.~~

6 VAC 35-60-235. ~~Personnel policies.~~

~~Staff of the Office on Youth shall be governed by, and have ready access to, written personnel policies and procedures.~~

6 VAC 35-60-240. ~~Sponsoring locality policy. (Repealed.)~~

~~An Office on Youth shall be governed by the written personnel policy manual of the sponsoring locality when operated under an advisory Youth Services Citizen Board. If no sponsoring locality manual exists, one shall be developed for the Office on Youth.~~

6 VAC 35-60-250. ~~Personnel policy manual. (Repealed.)~~

~~Policy making Youth Services Citizen Boards shall develop and approve a written personnel policy manual for Office on Youth employees or adopt the sponsoring locality's.~~

6 VAC 35-60-260. ~~Operation under a policy making board. (Repealed.)~~

~~When the Office on Youth is operated under a policy making board, the Office on Youth personnel policy manual shall include, but not be limited to, policies concerning:~~

- ~~1. Recruitment and selection;~~
- ~~2. Grievance and appeal;~~
- ~~3. Annual employee evaluation;~~
- ~~4. Confidentiality of employee personnel records;~~
- ~~5. Equal employment opportunity;~~
- ~~6. Leave and benefits;~~
- ~~7. Resignations and termination;~~
- ~~8. Promotion, demotion and transfer;~~
- ~~9. Probationary period; and~~
- ~~10. Compensation.~~

6 VAC 35-60-270. ~~Availability of policy manual. (Repealed.)~~

~~A copy of the personnel policy manual shall be made available to each Office on Youth employee by the administrator of the Office on Youth.~~

6 VAC 35-60-280. ~~Statewide procedures and guidelines.~~

~~A copy of the statewide procedures and guidelines manual developed by the Department of Youth Services Juvenile Justice shall be made available to each Youth Services Citizen Board member and Office on Youth employee by the administrator of the maintained in each Office on Youth and shall be followed by the Office on Youth when applicable procedures and policies are not provided by the local governing body or developed and approved by the Youth Services Citizen Board. Local procedures shall not be in conflict with the statewide procedures and guidelines manual.~~

Article 3.

Staff Training and Development.

6 VAC 35-60-290. ~~Training program.~~

~~A program of training with defined objectives relating to the job description, the Biennial Operating Plan and the Delinquency Prevention and Youth Development Needs Assessment and Plan shall be written annually for each position established for the Office on Youth.~~

Proposed Regulations

~~6 VAC 35-60-300. Full-time staff training. (Repealed.)~~

~~All full-time staff members of the Office on Youth shall have a minimum of 40 hours of training per year based on the written training program.~~

~~6 VAC 35-60-310. Part-time staff training. (Repealed.)~~

~~All part-time staff members of the Office on Youth working 20 hours or more per week shall have a minimum of 20 hours of training per year based on the written training program.~~

Article 4. Fiscal Management.

~~6 VAC 35-60-320. Annual operating budget. Budget review.~~

~~The Youth Services Citizen Board shall review and comment on the proposed annual operating budget of the Youth Services Citizen Board and the Office on Youth shall be approved by the Youth Services Citizen Board prior to submission to the locality's principal administrative officer or officers and governing body or bodies.~~

~~6 VAC 35-60-330. Revenue and projected expenses. Budget submission.~~

~~The sponsoring locality shall submit annually to the Department of Corrections Juvenile Justice the approved operating budget for the Youth Services Citizen Board and Office on Youth showing appropriated revenue and projected expenses for the coming year.~~

~~6 VAC 35-60-340. Financial record keeping. (Repealed.)~~

~~There shall be a system of financial record keeping for the Youth Services Citizen Board/Office on Youth that is consistent with generally accepted accounting principles.~~

~~6 VAC 35-60-350. Separation of accounts. (Repealed.)~~

~~There shall be a system of financial record keeping that shows a separation of the Youth Services Citizen Board/Office on Youth accounts from all other records.~~

~~6 VAC 35-60-360. Bond requirements. (Repealed.)~~

~~Those members of the Youth Services Citizen Board and Office on Youth staff who have been authorized the responsibility of handling funds of the program shall be bonded.~~

~~6 VAC 35-60-370. Compliance audits. (Repealed.)~~

~~A compliance audit by an independent Certified Public Accountant shall be conducted annually on the financial records of the Youth Services Citizen Board/Office on Youth programs in accordance with local and state regulations.~~

~~6 VAC 35-60-380. Purchasing policies and procedures.~~

~~The sponsoring locality's purchasing policies and procedures shall govern purchasing of supplies, materials, equipment and services.~~

~~6 VAC 35-60-390. Review of income and disbursements. Quarterly review.~~

~~The Youth Services Citizen Board shall review, on at least a quarterly basis, income received and disbursements made by of the Youth Services Citizen Board and Office on Youth.~~

Article 5. Monitoring and Evaluation.

~~6 VAC 35-60-400. Biennial operating plan. Semi-annual documentation.~~

~~The administrator director of the Office on Youth shall provide the Department of Youth Services Juvenile Justice, at least semi-annually, documentation to evaluate the accomplishment of the Biennial Operating Plan.~~

~~6 VAC 35-60-410. On-site status report.~~

~~The administrator director of the Office on Youth shall circulate or distribute copies of the on-site status report received from the department's regional Juvenile Delinquency Prevention Specialist program manager to all members of the Youth Services Citizen Board and the principal administrative officer city manager or county administrator within 45 calendar days of its receipt.~~

~~6 VAC 35-60-420. Self evaluation. (Repealed.)~~

~~The Youth Services Citizen Board shall conduct a self evaluation at least once a year regarding the board's functioning. The self evaluation shall include, but not be limited to, the following factors: the relevancy of the Youth Services Citizen Board/Office on Youth program; the performance of the Youth Services Citizen Board's/Office on Youth's program; the performance of the staff; the funding of the Youth Services Citizen Board/Office on Youth and its program; the organization, responsibilities, and functioning of the Youth Services Citizen Board; and the Youth Services Citizen Board and Office on Youth relationships and delegated responsibilities.~~

~~6 VAC 35-60-430. Retention of self evaluation. (Repealed.)~~

~~The administrator of the Office on Youth shall keep a signed, dated copy of the annual Youth Services Citizen Board's self evaluation in the office files.~~

PART IV. PROGRAMS AND SERVICES.

Article 1.

Delinquency Prevention and Youth Development Needs Assessment and Plan.

~~6 VAC 35-60-440. Youth assessment. Needs assessment every six years.~~

~~The Office on Youth shall conduct an assessment of assess the needs of youth within their in the jurisdiction at least every six years after the initial assessment, which shall be completed within the first two years of operation.~~

~~6 VAC 35-60-450. Assessment criteria. Needs assessment contents.~~

~~The assessment of the needs of youth shall include but not be limited to:~~

- ~~1. A detailed compilation of the problems, needs, opportunities and conditions of youth based on: in the community that is received by the regional office; and~~

- ~~a. Youth service agencies' opinions;~~

- b. ~~A survey of public opinion;~~
- c. ~~A survey of youth; and~~
- d. ~~An analysis of available archival data.~~

2. A comprehensive inventory of current programs and resources impacting on youth, including:

- a. Identifying information;
- b. Program descriptions;
- c. Clientele served; and
- d. Fee requirements.

6 VAC 35-60-460. ~~Delinquency prevention and youth development needs assessment plan. Plan based on needs assessment.~~

The Youth Services Citizen Board and the Office on Youth, in conjunction with other youth-serving agencies, *including the court service unit*, shall develop and approve the *plan for their locality or localities based upon the written Delinquency Prevention and Youth Development Needs Assessment and Plan for their community or communities.*

6 VAC 35-60-470. ~~Criteria of assessment plan. (Repealed.)~~

~~The Delinquency Prevention and Youth Development Needs Assessment and Plan.~~

~~The plan shall include, but not be limited to:~~

- ~~1. An analysis of the needs assessment;~~
- ~~2. Recommendations concerning youth service needs of the community; and~~
- ~~3. A plan of action to meet the identified needs.~~

6 VAC 35-60-480. ~~Submission of plan. Distribution of needs assessment and plan.~~

The Youth Services Citizen Board shall submit a signed copy of *both* the written six-year Delinquency Prevention and Youth Development Needs Assessment and *the resulting plan* to the local governing body or bodies and the Virginia Department of Youth Services *Juvenile Justice* within 60 days of Youth Services Citizen Board approval.

Article 2.
Biennial Operating Plan.

6 VAC 35-60-490. ~~Biennial operating plan. Focus of plan.~~

The Youth Services Citizen Board and the Office on Youth shall develop a written Biennial Operating Plan with 75% of the objectives based on the Delinquency Prevention and Youth Development Needs Assessment and Plan, *which and a majority of the objectives based on the needs of juveniles as identified by the court service unit. The Biennial Operating Plan shall set forth goals, objectives and strategies for the Youth Services Citizen Board and Office on Youth.*

6 VAC 35-60-495. ~~Service population.~~

A majority of the services provided through the Biennial Operating Plan objectives shall address the needs of

juveniles who are eligible to receive services through the juvenile court service unit.

6 VAC 35-60-500. ~~Written progress reports. Annual reports.~~

Annually, the Youth Services Citizen Board shall submit a written report to the local governing body, and *send copies to the regional office of the Virginia Department of Youth Services Juvenile Justice, the director of the court service unit, and the juvenile judges,* regarding progress toward ~~accomplishment—of accomplishing~~ the Delinquency Prevention and Youth Development Needs Assessment and Plan, and the Biennial Operating Plan.

6 VAC 35-60-510. ~~Areas to be addressed. (Repealed.)~~

~~The Biennial Operating Plan shall address at least three of the youth needs areas identified by the Department of Youth Services.~~

6 VAC 35-60-520. ~~Public education. (Repealed.)~~

~~The Biennial Operating Plan shall include a program of public education to be conducted related to the needs of youth as identified in the Delinquency Prevention and Youth Development Needs Assessment and Plan.~~

Article 3.
Community Involvement.

6 VAC 35-60-530. ~~Improvement of community conditions. (Repealed.)~~

~~The Youth Services Citizen Board shall document attempts to add, delete or change laws, policies, and procedures that will improve community conditions for youth development.~~

6 VAC 35-60-540. ~~Referral system. (Repealed.)~~

~~It shall be the responsibility of the Youth Services Citizen Board, through the Office on Youth, to assure that a mechanism exists for all youth and their families to be linked to appropriate services through a 40-hour or more per week referral system in the community. Exceptions to the 40 hours or more per week referral system can be made for locally approved holidays as specified in the sponsoring governing body's personnel policy manual.~~

6 VAC 35-60-550. ~~Working agreements. (Repealed.)~~

~~The Office on Youth shall document efforts to promote collaboration among and between other youth serving agencies through the development and updating of functional working agreements with and among other youth service agencies.~~

6 VAC 35-60-560. ~~Letters of agreement. (Repealed.)~~

~~Letters of understanding, cooperation or agreement outlining expectations of all parties shall be established between the Youth Services Citizen Board/Office on Youth and other agencies identified as primary participants in the accomplishment of the Biennial Operating Plan.~~

6 VAC 35-60-570. ~~Public accessibility. (Repealed.)~~

~~Consistent with the applicable personnel policies, the Office on Youth shall be accessible to the public by phone or walk-in 40 hours per week.~~

Proposed Regulations

Article 4. 3. Direct Service Programs.

6 VAC 35-60-580. ~~Direct service programs. Documented need required.~~

The need for the Office on Youth to operate a direct service program shall be documented and be included in the Delinquency Prevention and Youth Development Needs Assessment and Plan, and Biennial Operating Plan. ~~If there is a documented need for the Office on Youth to operate a direct service program, the Biennial Operating Plan shall specify:~~

- ~~1. The range of services to be provided, which may include individual, group or family counseling; immediate, intensive, problem specific, in-home interventions to children and their families; parenting skills training; and other services;~~
- ~~2. How these services will be made available to juveniles and their families including eligibility criteria, methods to be used, the number and type of contacts anticipated, and the factors to be considered in determining or adjusting the appropriate level and number of contacts;~~
- ~~3. Who will provide the service;~~
- ~~4. Documentation and record management requirements; and~~
- ~~5. That the service cannot be provided by existing agencies.~~

6 VAC 35-60-590. ~~Letters of assurance. (Repealed.)~~

~~In order for the Office on Youth to operate a direct service program, documentation shall be submitted for approval to the Department of Youth Services with the Biennial Operating Plan to include letters of assurance from the Youth Services Citizen Board and the administrator of the appropriate agency or organization. The letters shall state that the service cannot be provided by existing agencies.~~

6 VAC 35-60-600. ~~Case record Records management.~~

~~When a program provides direct counseling services, the administrator director of the Office on Youth shall develop written policy and procedure governing counseling case record management to include, but not be limited to ensure that:~~

- ~~1. Confidentiality Juveniles' records are kept confidential;~~
- ~~2. Release of Information is released only in conformity with law; and~~
- ~~3. Destruction of Records are destroyed as prescribed in regulations issued by the Virginia State Library Board; and~~
- ~~4. All services are provided by individuals who are appropriately licensed or certified to provide the service.~~

6 VAC 35-60-605. ~~Approval of direct services.~~

~~Direct services provided by the Office on Youth shall:~~

- ~~1. Be certified under applicable regulations; or~~
- ~~2. In the absence of applicable regulations, be individually approved by the department's regional office to operate on a provisional basis for not more than two years, pending promulgation of appropriate regulations by the board.~~

6 VAC 35-60-610. ~~Uniformity of case record. (Repealed.)~~

~~Direct counseling services case records shall be basically uniform as to content and arrangement of content.~~

6 VAC 35-60-620. ~~Contents of case files. (Repealed.)~~

~~The direct counseling services case files shall include, but not be limited to, the following:~~

- ~~1. Face sheet;~~
- ~~2. Reason for referral;~~
- ~~3. Assessment or evaluation, or both;~~
- ~~4. Case narrative;~~
- ~~5. Correspondence;~~
- ~~6. Counseling service plan; and~~
- ~~7. Reason for termination and date.~~

6 VAC 35-60-630. ~~Face sheet information. (Repealed.)~~

~~The direct counseling services face sheet shall contain the following client information:~~

- ~~1. Name;~~
- ~~2. Sex;~~
- ~~3. Race;~~
- ~~4. Date of birth;~~
- ~~5. Name of parents or legal guardian or guardians;~~
- ~~6. Address of child, parent or legal guardian or guardians;~~
- ~~7. Telephone number;~~
- ~~8. Referral source; and~~
- ~~9. Date of initial contact.~~

6 VAC 35-60-640. ~~Review of direct counseling services. (Repealed.)~~

~~Each direct counseling services case shall be reviewed and evaluated by the administrator of the Office on Youth at least once every 90 days to determine the appropriateness of the counseling plan and continued service delivery.~~

6 VAC 35-60-650. ~~Discussion with client. (Repealed.)~~

~~The direct counseling services plan shall be discussed with the client (juvenile or family) within the initial 30 days and at least every 90 days thereafter.~~

6 VAC 35-60-660. ~~Review of service plan. (Repealed.)~~

~~The written direct counseling service plan shall be reviewed by the administrator of the Office on Youth before being implemented.~~

6 VAC 35-60-670. ~~Counselor training. (Repealed.)~~

~~Counselors or existing staff assigned to provide direct counseling services shall receive, at a minimum, 40 hours of annual training. At least 20 of these hours shall be in counseling theory and techniques.~~

VA.R. Doc. No. R97-361; Filed March 26, 1997, 11:47 a.m.

Title of Regulation: 6 VAC 35-80-10 et seq. Holdover Standards (REPEALING).

VA.R. Doc. No. R97-362; Filed March 26, 1997, 11:46 a.m.

Title of Regulation: 6 VAC 35-110-10 et seq. Minimum Standards for Court Services in Juvenile and Domestic Relations District Courts (REPEALING).

VA.R. Doc. No. R97-363; Filed March 26, 1997, 11:46 a.m.

Title of Regulation: 6 VAC 35-130-10 et seq. Standards for Outreach Detention (REPEALING).

VA.R. Doc. No. R97-364; Filed March 26, 1997, 11:47 a.m.

Title of Regulation: 6 VAC 35-150-10 et seq. Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts.

Statutory Authority: §§ 16.1-233, 16.1-309.9 and 66-10 of the Code of Virginia.

Public Hearing Date: May 14, 1997 - 10 a.m.
June 11, 1997 - 10 a.m.

Public comments may be submitted until June 13, 1997.
(See Calendar of Events section for additional information)

Basis: This regulation is based on the Code of Virginia:

1. Section 16.1-233 C states: "The State Board shall establish minimum standards for court service staffs and related supportive personnel and promulgate regulations pertaining to their appointment and function to the end that uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth."
2. Section 16.1-309.9 of the Code of Virginia directs the Board of Juvenile Justice to "develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities" that localities may establish under § 16.1-309.3 for juveniles who are before the court or an intake officer.
3. Section 66-10 authorizes and directs the Board of Juvenile Justice "to promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department."

Purpose: The purpose of these standards is to make uniform services available to juvenile and domestic relations district courts throughout the Commonwealth, insofar as is practical (see § 16.1-233 C of the Code of Virginia), and to establish standards for the development, implementation, operation and evaluation of the nonresidential community-based programs and services authorized by the Virginia Juvenile Community Crime Control Act (§ 16.1-309.9 of the Code of Virginia).

This new regulation revises and replaces Standards for Court Service Units (6 VAC 35-110-10 et se.), which have not been revised since 1983; Standards for Outreach Detention (6 VAC 35-130-10 et seq.), issued by the State Board of Corrections March 9, 1983, and adopted without amendment by the State Board of Youth and Family Services July 12, 1990; and Holdover Standards (6 VAC 35-80-10 et seq.). In addition, this regulation and the proposed Consolidated Standards for Juvenile Residential Facilities (6 VAC 35-140-10 et seq.), taken together, will replace Standards for Post Dispositional Confinement for Secure Detention and Court Service Units (6 VAC 35-90-10 et seq.).

A major goal in issuing this new regulation is to balance the need for statewide minimum levels of service delivery with the need for program flexibility to meet diverse local circumstances. The revised standards reflect a desire on the part of the department and the board to shift away from measuring activities and toward measuring outcomes or results.

These standards are intended to protect the public's safety and welfare by providing for the supervision of juveniles in the community.

Substance:

- A. The following requirements are substantially changed:
 1. Standards requiring a minimum number and type of contacts with supervised subjects are replaced by 6 VAC 35-150-350 which requires supervision "according to a written supervision plan that describes the range and nature of field and office contact with the subject and with the parents or guardians of the subject" as appropriate.
 2. Old standard B-21 (authority to carry weapons) is changed to place additional requirements on probation officers who carry weapons, and to clarify that department policy, not court service unit (CSU) directors, will set the conditions to be met.
 3. Standards requiring a minimum number of hours of training and orientation are replaced by 6 VAC 35-150-90 requiring orientation and training appropriate to each person's job duties and to address needs identified annually in each person's training plan.
 4. Social histories must be prepared when required by 6 VAC 35-150-160 ("unless otherwise ordered by the court" is deleted).
 5. New 6 VAC 35-150-340 amends old standard J-2 to allow five days, rather than three days, to make initial contact with a subject.

Proposed Regulations

6. Old J-19 (parole supervision plan) is replaced by 6 VAC 35-150-350 E, which reflects statutory changes regarding judicial review hearings and re-enrollment plans.

7. New 6 VAC 35-150-390, in replacing B-29 (cases transferred by another unit), deals only with cases under supervision, and specifies the process for transferring the case.

8. Victim impact information is now required in the social history (old I-3, new 6 VAC 35-150-150 and 6 VAC 35-150-160 C).

B. Changes that are somewhat less substantial.

1. The new regulation deletes standards that essentially repeat provisions of the Code of Virginia (one Director per CSU; the CSU to serve persons coming within the jurisdiction of the juvenile and domestic relations district court; intake unit and 24-hour intake services; conformance with Interstate Compact); and standards that are vague (CSU professional library); obsolete (system for managing data; workload formulas); or covered by professional standards of practice (family counseling). Also deleted are standards governing custody investigations (superseded by Guidelines for Custody Investigations issued jointly by this board and the Board of Social Services) and salaries of local CSU personnel, since local CSU salaries typically exceed those for state CSU positions; reimbursement to localities that comply with this standard has been below the level required by § 16.1-238 of the Code of Virginia in recent years due to budget constraints.

2. New standards permitting greater flexibility to meet goals replace old standards that unnecessarily prescribe how or what to do (e.g., rules of the court in the administrative manual; director and supervisors' monthly meetings; listing of personnel policies; intake officers' competencies and training; monitoring of intake decisions; informing persons of the intake process; inventory of services; caseload levels; volunteer requirements; supervisory review of reports; servicing support cases; persons who fail to pay child support; staffing patterns; contacts with youth in "286" placements; documenting reasons for holding a juvenile in jail; 24-hour emergency services; unofficial cases; providing for juveniles' handicaps; criteria for predispositional facilities; involvement in RDC staffing).

3. "Discussions" of the various standards have been eliminated. These commentaries sometimes took on the status of standards themselves. The commentary has either been dropped altogether or incorporated into the new standard (e.g., some of the suggestions regarding arrest in B-20 are now requirements under new 6 VAC 35-150-240).

C. New standards issued for the first time.

1. New 6 VAC 35-150-50 authorizes experimental outcome-based standards to substitute for specific standards in the regulation.

2. Part III of the regulation sets standards for nonresidential programs included in Virginia Juvenile Community Crime Control Act plans and for public and private programs to which juveniles are referred by the CSU.

a. The standards prohibit: discrimination in programming; specified inappropriate actions by staff; medical or pharmaceutical testing; and the use of mechanical devices or chemical substances to control behavior.

b. The standards permit the department to limit any person's contact with juveniles for the juveniles' safety.

c. For all programs, the standards require: statement of purpose, objectives, rules of conduct and disciplinary procedures, evaluation process and certain policies; background checks of personnel; staff qualified for their jobs; emergency procedures; financial recordkeeping; case management procedures; confidentiality of juveniles' records; documentation and reporting of serious incidents and suspected child abuse and neglect; conformance with building, fire and zoning laws and regulations; safety measures when staff visit juveniles' homes; human research procedures.

d. For certain programs, the standards set additional requirements for: accepting referrals; service plans; 24-hour crisis response; surveillance officers; substance abuse testing; and electronic monitoring. Additional standards protect the health and safety of youth and staff in day programs: active staff supervision; meals; fire safety; first-aid kit; medication; documentation of any use of mechanical restraints; and requirements for time-out.

Issues: The primary advantage to the public is enhanced public safety as provisions are made throughout the regulation to hold juveniles accountable for their actions and to provide appropriate supervision in the community. There are no known disadvantages to the public as a result of these regulatory changes.

The primary advantages to the agency are (i) reduced paperwork as a result of simplifying the regulations; (ii) greater flexibility to respond to changes in the resident juvenile population; and (iii) greater flexibility to respond to changing needs for training.

There are no known disadvantages to the agency.

Estimated Impact:

A. Projected number of persons affected: statewide, approximately 192,000 intake complaints were processed in FY 1995. These included domestic relations and child welfare cases, delinquency petitions, juvenile status cases and other cases.

B. Projected costs for implementation and compliance:

1. The regulation imposes no direct cost on Court Service Units that are not inherent in the Code of Virginia's requirements as to the operation of CSUs.

2. The regulation imposes some costs on nonresidential programs and services beyond what is already required by applicable statutes.

a. For all programs, the cost of background investigations will range from \$20 to more than \$50 per person, depending on where an individual has lived before becoming a Virginia resident.

b. For alternative day programs the cost of training staff in First Aid and CPR and providing a first aid kit is estimated at \$2,000.

c. When providers were polled as to the fiscal impact of an earlier draft of similar standards, they identified the following additional costs: for those programs required to provide 24-hour crisis response: \$5,000 per program.

3. The department's regulatory enforcement operations ranged between approximately \$230,000 and \$260,000 for the past four years. Approximately 40% of this cost, or \$96,000, is attributable to the regulation of nonresidential programs and services.

C. Identity of any localities particularly affected: none.

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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. The proposed regulation amends current standards for court service units and staff, and establishes standards for nonresidential community-based programs and services, such as those authorized by the Virginia Juvenile Community Crime Control Act. This regulation would replace three current regulations: Standards for Court Service Units, Standards for Outreach Detention, and Holdover Standards. The primary amendments contained in the proposed regulation are as follows:

- General "housekeeping" changes (e.g., requirements that are duplicative of code provisions or other regulatory requirements are deleted);
- Training requirements would be simplified;
- Under certain circumstances, the Board of Juvenile Justice may authorize individual units to substitute outcome-based or performance based standards for the standards established in the regulation;

- Background checks would be required for all new employees;

- It would be required that social history reports contain victim impact information;

- Probation officers would be required to make initial contact with released juveniles within five days rather than the current three days;

- Nonresidential programs providing supervision or direct individualized services would be required to provide for 24-hour crisis response; and

- Alternative Day Treatment and Structured Day Programs would be required to have at least one staff member actively supervising juveniles who possessed a current First Aid and CPR Certification, and a well stocked first aid kit.

Estimated Economic Impact. The primary economic consequence of the proposed amendments is the likely effect they would have on agency costs. It is anticipated that any such effect would be fairly modest however.

Because the requirements deleted in the proposed "housekeeping" changes remain in force elsewhere, their removal from the regulation will have no real economic impact. The simplification of training requirements, possible authorization of alternative performance-based or outcome-based standards, and relaxation of the time probation officers have to make initial contact with a juvenile all could conceivably generate efficiencies that would have a beneficial impact on agency costs. Conversely, the requirement that social history reports contain victim impact information is an additional reporting requirement that could conceivably have a detrimental impact on agency costs. These impacts are in no way certain however, and the magnitude of any realized change in agency costs would be difficult to pre-judge.

Three of the proposed amendments are likely to generate quantifiable increases in agency costs however. According to information provided by DJJ: 1) the new requirements regarding background checks will increase agency costs by between \$20 and \$50 for every new employee; 2) the new requirements regarding 24-hour crisis response in nonresidential programs would increase agency costs by approximately \$5,000 per program; and 3) the new requirements regarding first aid and CPR training and first aid kits would increase agency costs by roughly \$2,000 per program.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects staff at Court Service Units and in nonresidential community-based programs, and the juveniles in the care of those staffs.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Proposed Regulations

Summary of Analysis. DPB anticipates that the primary economic effects of the proposed amendments to the standards for court service units and staff, and proposed standards for nonresidential community-based programs and services, would be a modest increase in agency costs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department and Board of Juvenile Justice concur in the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

This regulation is a revision of Standards for Court Service Units, which have not been revised since at least 1983. The regulation establishes minimum standards for court service staffs and related supportive personnel so that "uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the Commonwealth" [Code of Virginia, § 16.1-233 C].

The regulation also establishes standards for the development, implementation, operation and evaluation of the nonresidential community-based programs and services such as those authorized by the Virginia Juvenile Community Crime Control Act [§ 16.1-309.9].

The regulation seeks to balance the goal of establishing statewide minimum levels of service delivery with the goal of permitting program flexibility to meet diverse local circumstances. The regulation is drafted to place increased emphasis on outcomes and effectiveness, and less emphasis on the measurement of inputs or activities.

CHAPTER 150.

STANDARDS FOR NONRESIDENTIAL SERVICES AVAILABLE TO JUVENILE AND DOMESTIC RELATIONS DISTRICT COURTS.

PART I. GENERAL PROVISIONS.

6 VAC 35-150-10. Definitions.

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

"Agency" means any governmental entity of the Commonwealth or any unit of local government including counties, cities, towns and regional governments and the departments thereof, and including any entity, whether public or private, with which any of the foregoing has entered into a contractual relationship for the provision of services as described in this chapter.

"Alternative day services" or "structured day treatment" means nonresidential programs that provide services, which may include counseling, supervision, recreation, and education, to juveniles at a central facility.

"Behavior management" means the planned and systematic use of various techniques selected according to group and individual differences of juveniles and designed to teach awareness of situationally appropriate behavior, strengthen desirable behavior, and reduce or eliminate

undesirable behavior. The term is consistently generic, not confined to techniques derived specifically from behavior therapy, operant conditioning, etc.

"Board" means the Board of Juvenile Justice.

"Case record" means written or electronic information regarding one person, and the person's family if applicable.

"Counseling" means the planned use of interpersonal relationships to promote behavioral change or social adjustment.

"Counselor" means an individual who provides counseling.

"Department" means the Department of Juvenile Justice.

"Diversion" means the provision of programs and services, consistent with the protection of the public safety, to youth who can be cared for or treated through alternatives to the juvenile justice system as provided for in § 16.1-227 of the Code of Virginia.

"Electronic monitoring" means the use of electronic devices to verify a person's compliance with certain judicial orders or conditions of release from incarceration, or short term sanction for noncompliance with rules of probation or parole.

"Human research" means any medical or psychological investigation designed to develop or contribute to general knowledge by using human subjects who may be exposed to possible physical or psychological injury as a consequence of participation as subjects and which departs from the application of established and accepted methods appropriate to meet the subjects' needs.

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

"Intake" means the process for screening complaints and requests alleged to be within the purview of the juvenile and domestic relations district court.

"Intake officer" means the court service unit staff person who performs the intake function.

"Intensive supervision" means frequent contacts, strict monitoring of behavior, and counseling provided to pre-dispositional or post-dispositional youth who are at high risk of committing new offenses.

"Juvenile" or "youth" means a person less than 18 years of age.

"Local plan" means a document or set of documents prepared by one or more localities pursuant to § 16.1-309 3 D of the Code of Virginia, describing a range of community-based sanctions and services addressing individual juvenile offenders' needs and local juvenile crime trends.

"Nonresidential services" means services that are not part of a residential program, including those provided by a residential program to nonresidents.

"Outreach detention" means intensive supervision of youth who might otherwise be in secure detention.

"Parole" means supervision of an individual released from commitment to the department as provided for by § 16.1-293 of the Code of Virginia.

"Probation" means a court-ordered disposition placing an individual under the supervision of a probation officer.

"Program" means the planned application of staff and resources to achieve the stated mission for working with juveniles identified in Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of Title 16.1 of the Code of Virginia.

"Provider" means an agency, organization or association that runs a program or service.

"Shall" means an obligation to act is imposed.

"Substance abuse assessment and testing" means a qualified professional's assessment and evaluation of the nature of, and the factors that contribute to, individual or family problems associated with substance abuse, and recommendations for treatment and related services.

"Supervision" means visiting or making other contact with, or providing treatment, rehabilitation or services to a juvenile as required the court or an intake officer.

"Supervision plan" means a written plan of action, updated as needed, to provide supervision and treatment for a specific individual. It specifies needs, goals, methods, time frames, and who is responsible for each step. A single supervision plan may include, as appropriate, specific plans for supervision during probation and parole, and for treatment of a youth and services for the youth's family during commitment.

"Surveillance officer" means a person, other than a probation or parole officer, who makes contact with a juvenile under supervision to verify the juvenile's presence at work, school, home, etc. A surveillance officer may be an employee of a court service unit or other service provider, or a properly trained and supervised volunteer.

"Tamper" means any accidental or purposeful alteration to electronic monitoring equipment that interferes with or weakens the monitoring system.

"Time-out" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a juvenile from contact with people or other reinforcing stimuli. A time-out room shall not be locked nor the door secured in any way that will prohibit the juvenile from opening it. Time-out shall not be used for periods longer than 30 consecutive minutes.

"Unit" or "CSU" means court service unit.

"Volunteer" means any individual or group who, of their own free will, without any financial gain, provides goods or services to the program without compensation.

6 VAC 35-150-20. Previously adopted regulations superseded.

These Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts supersede:

1. 6 VAC 35-110-10 et seq., *Minimum Standards for Court Services in Juvenile and Domestic Relations District Courts*, issued by the Board of Corrections January 12, 1983, and adopted by the Board of Youth and Family Services July 12, 1990; and

2. 6 VAC 35-130-10 et seq., *Standards for Outreach Detention*, adopted by the State Board of Corrections on June 9, 1981, revised on March 3, 1983, and adopted by the State Board of Board of Youth and Family Services in 1990.

6 VAC 35-150-30. *Applicability.*

A. Parts I (6 VAC 35-150-10 et seq.) and II (6 VAC 35-150-60 et seq.) of this chapter apply to all court service units for juvenile and domestic relations district courts.

B. Parts I (6 VAC 35-150-10 et seq.) and III (6 VAC 35-150-430 et seq.) of this chapter apply to programs and services (i) for which the CSU contracts or (ii) to which the CSU refers juveniles who are before the court or before an intake officer, including programs and services included in a local "Virginia Community Crime Control Act" plan. 6 VAC 35-150-600, 6 VAC 35-150-610 and Articles 3 (6 VAC 35-150-620 et seq.) and 4 (6 VAC 35-150-700 et seq.) of Part III of this chapter also apply to those programs and services that are operated by the court service unit.

6 VAC 35-150-40. *Outcome-based and performance-based standards authorized.*

The board may, in its discretion on a case-by-case basis and for a specified time, exempt individual units or programs from specific standards set out in this chapter, and authorize the unit or program to implement on an experimental basis one or more substitute standards that measure performance or outcomes.

6 VAC 35-150-50. *Licensure by other agencies.*

Licensure by another state agency shall be accepted as evidence of a program's compliance with the specific standards of this chapter that are substantially the same as the requirements for such licensure.

PART II.

OPERATING STANDARDS FOR COURT SERVICE UNITS.

Article 1.

Administration.

6 VAC 35-150-60. *Organizational structure.*

There shall be a written description and organizational chart of the unit showing current lines of authority, responsibility and accountability, including the unit director's reporting responsibility.

6 VAC 35-150-70. *Court service unit director.*

Consistent with policies and procedures of the department or the locality, as applicable, the court service unit director shall:

1. Plan, coordinate, and direct all services, programs, and personnel of the unit;

Proposed Regulations

2. With involvement of the staff, set specific written unit goals and objectives and communicate these to all staff;

3. Request and manage the spending of state and local budget allocations;

4. Provide required financial, managerial and programmatic reports;

5. Coordinate the unit's relations with the court, the public, other agencies and the press;

6. Ensure that there is supervision for all staff, as provided for in job descriptions and consistent with performance evaluations;

7. Ensure availability of appropriate staff to respond to emergencies; and

8. Ensure that there are unit procedures for processing complaints about staff or services.

6 VAC 35-150-80. Background checks.

Consistent with department policy, all new unit employees and auxiliary personnel, including volunteers, shall undergo a preemployment check of references and criminal and driving records; those who have direct contact with youth shall also undergo a child protective services registry check.

6 VAC 35-150-90. Training.

A. All staff shall receive orientation and annual training appropriate to their duties and to address any needs identified in their performance plan.

B. All volunteers and interns shall receive orientation and training appropriate to their duties.

6 VAC 35-150-100. Personnel policies and operating procedures.

All staff shall have access to current unit operating procedures, applicable federal, state and local rules and regulations, and personnel policies and procedures of the department or the local government authority, as appropriate.

6 VAC 35-150-110. Volunteers.

If volunteers are used:

1. They shall comply with all applicable board policies and department and unit procedures;

2. One or more designated persons shall coordinate volunteer services; and

3. Volunteers shall be registered with the department for liability insurance purposes.

6 VAC 35-150-120. Reportable incidents.

Staff shall report all incidents as required and in accordance with department procedures.

6 VAC 35-150-130. Research.

A. Youth shall not be used as subjects of human research unless the unit specifically permits human research in accord with Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia and department policy.

B. The testing of medicines or drugs for experimentation or research is prohibited.

6 VAC 35-150-140. Records management.

A. The unit shall have a system for indexing all case records.

B. Case records shall be kept up to date, uniform in content and arrangement within the unit.

C. Juvenile case records shall be kept in a secure location accessible only to authorized staff.

D. All records shall be maintained and disposed of in accordance with The Library of Virginia requirements as provided for in department procedures.

E. Any disclosure or release of information shall be in accordance with the Code of Virginia.

F. The case records of youth placed in any postdispositional residential care shall contain:

1. Social history;

2. Order or agreement concerning the placement;

3. Dates of acceptance and placement;

4. Reason for placement;

5. Financial and tuition arrangements, if appropriate; and

6. Supervision and visitation agreements.

6 VAC 35-150-150. Reports for the court.

All reports prepared for the court shall be prepared and reviewed in accordance with unit procedures, and shall contain the following identifying information:

1. Full name of subject;

2. Social Security Number, when available;

3. Address;

4. Race;

5. Date of birth (must be verified);

6. Sex;

7. Parents or guardians (for juveniles only);

8. Author; and

9. Date of report.

6 VAC 35-150-160. Social history.

A. A social history shall be prepared for each juvenile placed on probation supervision with the court service unit or committed to the department. When a juvenile is placed on probation without benefit of a predisposition report, the social history shall be completed within 60 days of receiving the case following disposition.

B. A current social history shall be prepared upon written request from other units, when accompanied by a court order. An existing social history that is not more than 12 months old

may be used, provided an addendum is prepared updating all changed information.

C. Social history reports shall be in written form and include at least the following information:

1. Identifying information as listed in 6 VAC 35-150-150.
2. Court history - specific description of past, present and pending petitions and dispositions.
3. Victim impact information, when applicable.
4. Previous contacts with the unit, including diversion and informal resolution at intake, and known contacts with other agencies or treatment services in the community.
5. Subject: physical description; behavioral description; medical, educational, psychological information (as applicable); educational and other known handicaps or disabilities (if applicable); peer relationships; response to authority.
6. Family: parents/custodians/guardians - ages, marital status, court record, employment status, economic status, level of education, health, interpersonal relationships. Siblings - ages, court record, level of education.
7. Home and neighborhood: Physical description of home and neighborhood, family's and officer's view of neighborhood impact on subject, and length of residence.
8. Assessment of the subject's strengths and weaknesses and, if applicable, the subject's family.
9. Recommendations may be included if permitted by the court.

D. Adults' social history reports, if ordered by the court, may be in a modified format as provided for in unit procedures.

Article 2.
Budget and Finance.

6 VAC 35-150-170. Suitable quarters.

A. The CSU director annually shall review the unit's needs for suitable quarters, utilities and furnishings and request from the appropriate governing body the resources to meet these needs.

B. Intake, probation and parole officers shall have access to private office space so equipped that conversations may not be overheard from outside the office.

6 VAC 35-150-180. Prohibited financial transactions.

The unit shall not collect or disburse support payments, fines, or restitution.

6 VAC 35-150-190. Procedures for handling funds.

The court service unit director shall establish written policies which regulate how all funds are handled within the unit.

Article 3.
Security and Safety.

6 VAC 35-150-200. Security and emergency procedures.

Unit procedures shall provide for:

1. Safety and security precautions for the office environment, to include at least fire, bomb threat, hostage and medical emergency situations; and
2. Safety and security precautions for staff making field visits to juveniles and their families.

6 VAC 35-150-210. Physical force.

Physical force shall be used only to protect self or others. Each use of physical force shall be reported in writing to the CSU director.

6 VAC 35-150-220. Searches of youth.

Only staff who have received training in the conduct of searches, as approved by the department, may search juveniles, and then only when permitted by and in accordance with the unit's written guidelines.

6 VAC 35-150-230. Weapons.

If a probation officer carries a weapon, he may do so only when he is authorized by § 16.1-237 H of the Code of Virginia and when he is in compliance with a written policy promulgated by the department concerning the training, carrying and use of weapons, and which shall include requirements for a psychological or mental assessment, the successful completion of department approved training with annual department approved training thereafter, and written notification to the department that the probation officer will carry a weapon. All court service unit staff authorized to carry weapons shall have received training approved by the department regarding the limited circumstances when weapons may be carried and used as required by law and liability insurance coverage.

6 VAC 35-150-240. Arrest of youth by staff.

The court service unit director shall develop a written policy governing the arrest of juveniles by probation officers. If the policy permits arrests, it shall require that:

1. When possible, any arrest action should be preceded by conference between the probation officer and the supervisor; and
2. If an arrest is necessary, probation officers trained in proper arrest procedures should make the arrest only when law-enforcement personnel are not available and when the safety of staff, the juvenile or the public may be in danger.

6 VAC 35-150-250. Absconders.

Staff shall follow written unit procedures to locate and recover juveniles who fail to report for probation or parole supervision or who escape or run away from a juvenile correctional center, detention home or other juvenile placement.

Proposed Regulations

6 VAC 35-150-260. Transportation of detained juveniles.

A. CSU staff shall not transport juveniles who are in the custody of a secure detention facility. Detained juveniles shall be transported in accord with "Guidelines for Transporting Juveniles in Detention" issued by the board in accord with § 16.1-254 of the Code of Virginia.

B. When the CSU is responsible for the transportation of youth to special placements pursuant to § 16.1-286 of the Code of Virginia, staff shall make transportation arrangements appropriate to the security risk posed by the juvenile.

C. Routine transportation of juveniles in postdispositional detention shall be the responsibility of the parents or the program providing service to the juvenile.

Article 4. Intake.

6 VAC 35-150-270. Intake duties.

When making an intake determination as provided for by the Code of Virginia, whether in person or by telephone or interactive video conferencing, the intake officer shall:

1. Explain the steps and options in the intake process to each person present; and
2. Consult with available parents or guardians to determine the appropriate placement, unless a court has ordered detention.

6 VAC 35-150-280. Medical and psychiatric emergencies at intake.

During the intake interview, if it comes to the attention of the intake officer that the youth may require emergency medical or psychiatric care, the intake officer shall:

1. Immediately contact the youth's parents or legal guardians to advise them of the emergency and any responsibilities they may have; and
2. In cases that involve placing a youth in a more restrictive setting, the intake officer shall arrange for the youth to receive the needed emergency care before placing the youth.

6 VAC 35-150-290. Intake communication with detention.

When CSU staff facilitate the detention process, they shall give detention staff, as soon as practicable, by telephone or in writing, the reason for detention and the instant offenses, and the following information when available and applicable: medical information; parents' names, addresses and phone numbers; prior record as regards sexual offenses, violence against persons or arson; suicide attempts; and gang affiliation.

Article 5. Out-of-Home Placements.

6 VAC 35-150-300. Predispositionally placed youth.

A. A representative of the court service unit shall make face-to-face contact with each youth placed in predispositional detention, jail or shelter care, within five days

of the placement, and shall make contact with the youth at least once every 10 days thereafter, either face-to-face or by telephone.

B. Every 10 days, the CSU director or designee shall make and document a review of each predispositionally placed youth to determine whether there has been a material change sufficient to warrant recommending a change in placement.

C. When the unit has placed or is supervising a youth in a residential facility, designated staff shall be available to the facility's staff 24 hours a day in case of emergency.

6 VAC 35-150-310. Postdispositional detention.

When a juvenile is ordered by a court, pursuant to § 16.1-248.1 B of the Code of Virginia, into a facility that houses postdispositionally detained youth, the court service unit shall have a written plan with the facility to enable such youth to take part in one or more community treatment programs appropriate for their rehabilitation.

6 VAC 35-150-320. Notice of youth's transfer.

When staff learn that a youth has been moved from one facility or program to another and the parents or guardians have not been notified, they shall notify the youth's parents or guardians within 24 hours and document the notification in the youth's case record.

6 VAC 35-150-330. Removal of youth from home.

When considering whether to remove a youth from his home for any reason other than to detain the youth, the youth's parents or guardians, if available, shall be included in making that decision in accordance with unit procedures.

Article 6. Probation, Parole and Other Supervision.

6 VAC 35-150-340. Beginning supervision.

No later than five work days after (i) receiving the court order of probation or (ii) the juvenile's release from direct state care, a probation or parole officer shall:

1. See the subject face-to-face;
2. Give the subject the written rules of supervision, including any special conditions, and explain these to the subject and, when appropriate, to the subject's parents or guardians; and
3. Document that the rules and conditions of supervision have been given to the subject, and parents if applicable.

6 VAC 35-150-350. Supervision plan.

A. To provide for the public safety and address the needs of subjects and their families, subjects shall be supervised according to a written supervision plan that describes the range and nature of field and office contact with the subject and with the parents or guardians of a juvenile subject.

B. The supervision plan for juvenile probation shall be written and approved, in accordance with unit procedures, within 60 days of receiving a case after disposition, after

Proposed Regulations

consulting with the youth and, when appropriate, the youth's family.

C. When the youth resides in or is expected to return to the family home, the probation officer shall write a family involvement plan within 30 days of a committed youth's arrival at the reception and diagnostic center, after consulting with the youth's family, to involve the family with the youth during the youth's commitment, to prepare for the youth's release and, when appropriate, to work to change family members' behaviors.

D. A report on the family's progress toward planned goals shall be sent to the facility at which the juvenile is housed in direct state care at least once every 90 days.

E. A written supervision plan for parole shall be prepared for all judicial review hearings as provided for by law, and for consideration by the Internal Review Committee before a ward's release from direct state care, in accordance with department procedure. The plan shall be developed after consulting with the subject and the juvenile correctional center staff and, when appropriate, staff of the Virginia Department of Rehabilitative Services, the Department of Correctional Education, the local school division in which the youth will be enrolled, and the youth's family.

F. If the court has not ordered specific conditions of supervision, a supervision plan for an adult probation subject shall be prepared within 60 days of receiving the case after disposition, after consulting with the adult and, if appropriate, his family.

6 VAC 35-150-360. Periodic review.

A. Each written supervision plan or family involvement plan shall be reviewed at least every 90 days with the subject and the subject's family, as applicable.

B. In accordance with unit procedures, each subject's case shall be reviewed at least once every 90 days from both a treatment and case management perspective to determine the appropriateness of the supervision plan or family involvement plan.

6 VAC 35-150-370. Placements in the community.

When the unit (i) is supervising and (ii) has placed a subject in a community facility or program, unit staff shall advise the facility or program of the subject's service needs and shall maintain contact with the subject and the facility or program staff in accordance with the supervision plan.

6 VAC 35-150-380. Violation of probation or parole.

Unit procedures shall provide for actions to be taken when a subject violates probation or parole.

6 VAC 35-150-390. Transfer of case supervision to another unit.

A. When a subject's legal residence is not within the jurisdiction of the original court service unit, supervision cases may be transferred to another unit providing similar services in Virginia. Within 30 days of receiving a written request to transfer supervision, the receiving unit shall respond in writing to the initiating unit either accepting or, if

the subject does not reside in the jurisdiction or the proposed placement is unacceptable, refusing the transfer.

B. The receiving unit shall provide supervision services for cases that are properly transferred unless exceptional circumstances exist.

C. The sending unit shall be responsible for supervising the case, in accord with written procedures governing such circumstances, until supervision is accepted by the receiving unit.

D. The sending unit shall send the receiving unit:

1. A copy of the petition or warrant;
2. Complete social history, if applicable, or as otherwise agreed by the units involved;
3. Copy of the court order placing the subject under supervision, including any court-ordered special rules or conditions, and the length of time that the subject is to remain under supervision, if specified;
4. Signed copy of conditions of supervision or contract, or as otherwise agreed by the units;
5. Summary of supervision, if applicable; and
6. For juveniles, the most recent known address of parent or guardian.

6 VAC 35-150-400. Notice of release from supervision.

Subjects, and the parents of juvenile subjects, shall be notified when they are released from probation or other supervision. Notice shall be by letter, copy of the court order, or an appearance in court, and shall be documented in the case record.

Article 7. Juvenile in Direct Care.

6 VAC 35-150-410. Commitment information.

When a youth is committed to the department, and whenever possible before the youth's transfer into direct state care, unit staff shall send to the reception and diagnostic center the order of commitment, copies of clinical reports, predisposition studies, record of immunizations when available, and any other information required by the Code of Virginia or department policy.

6 VAC 35-150-420. Contacts during youth's commitment.

During the period of a youth's commitment, a designated staff person shall:

1. Contact the juvenile correctional center treatment staff at least every 30 days;
2. Meet with the youth at least every 90 days; and
3. Contact the youth's family or custodians at least every 30 days to provide services and support consistent with the family involvement plan unless prevented by documented exceptional circumstances.

Proposed Regulations

PART III.

STANDARDS FOR PROGRAMS AND SERVICES.

Article 1.

General Requirements of Programs and Services.

6 VAC 35-150-430. Written statements required.

A. Each program or service shall have a written statement of its:

1. Purpose;
2. Supervision and treatment objectives, including criteria for admission and for measuring a juvenile's progress;
3. General rules of juvenile conduct and the behavior management system with specific expectations for behavior and appropriate consequences, which shall be made available to juveniles and parents upon acceptance into the program;
4. Criteria and procedures for terminating services, including terminations prior to the juvenile's successful completion of the program;
5. Methods and criteria for evaluating program effectiveness;
6. Drug-free workplace policy; and
7. Policy regarding contacts with the news media.

B. The department administration shall be notified in writing of any plan to change any of the elements listed in subsection A of this section.

6 VAC 35-150-440. Employee and volunteer background check.

No person shall provide services or conduct programs in direct contact with juveniles who has not had a reference check, a criminal record check, a central registry check, and a driving record check if applicable to the person's job duties, to ascertain whether there are criminal acts or other circumstances that would be detrimental to the safety of juveniles in the program.

6 VAC 35-150-450. Limitation of contact with juveniles.

When there are indications that an individual who is providing programs or services has a physical, mental or emotional condition that might jeopardize the safety of juveniles, department personnel may immediately require that the individual be removed from contact with juveniles until the situation is resolved.

6 VAC 35-150-460. Personnel qualifications.

Staff and volunteers shall be qualified and trained for the positions and duties to which they are assigned; those who provide professional services shall be appropriately licensed or certified or be supervised by an appropriately licensed or certified person as required by law.

6 VAC 35-150-470. Medical emergencies.

The program or service shall have procedures to deal with medical emergencies that might occur while a juvenile is in attendance at the program.

6 VAC 35-150-480. Financial record requirements.

All programs and services shall manage their finances in accordance with acceptable accounting procedures; shall certify that all funds were handled in accord with the applicable Virginia Juvenile Community Crime Control Act plan, contract or other agreement; and shall be subject to independent audit or examination by department personnel at the department's discretion.

6 VAC 35-150-490. Juveniles' rights.

A. Juveniles shall not be excluded from a program nor be denied access to services on the basis of race, national origin, color, creed, gender, physical handicap or sexual orientation.

B. Juveniles shall not be subjected to:

1. Deprivation of drinking water or food necessary to meet a juvenile's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the juvenile's record;
2. Any action which is humiliating, degrading or abusive;
3. Corporal punishment;
4. Unsanitary conditions;
5. Deprivation of access to toilet facilities;
6. Confinement in a room with the door secured in a manner that will prohibit the juvenile from opening it.

6 VAC 35-150-500. Juvenile participation in research.

A. Medical or pharmaceutical testing for experimentation or research shall be prohibited.

B. Juvenile's participation as subjects in any other research shall be consistent with Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia, unless the program or service has a written policy explicitly prohibiting juveniles' participation as subjects of human research as defined in that statute.

6 VAC 35-150-510. Case management requirements.

For each juvenile, a separate case record shall be kept up to date and in a uniform manner, and shall always contain:

1. Identifying and demographic information on the juvenile;
2. Court order, placement agreement or service agreement;
3. Rules imposed by judge or probation officer, if applicable; and
4. Date of acceptance and release.

6 VAC 35-150-520. Confidentiality of records.

Juveniles' records shall be kept confidential in accordance with applicable laws and regulations.

6 VAC 35-150-530. Incident documentation and reporting.

The program or service shall document and report all serious incidents as defined and required by department procedures.

6 VAC 35-150-540. Child abuse and neglect.

Any case of suspected child abuse or neglect shall be reported immediately to the local department of public welfare or social services as required by § 63.1-248.3 of the Code of Virginia, and documented in the juvenile's record.

Article 2.

Specific Requirements for Particular Programs and Services.

6 VAC 35-150-550. Physical setting.

Each program that provides direct services to juveniles or their families within or at the program's office or place of operation shall comply with all applicable building, fire, sanitation, zoning and other federal, state and local standards, and shall have premises liability insurance. The interior and exterior of all buildings shall be maintained in good repair and kept clean and free of rubbish.

6 VAC 35-150-560. Individual service or contact plan.

Programs that provide counseling, treatment or supervision shall:

1. Develop an individual service plan for each juvenile, which shall specify the number and nature of contacts between the juvenile and staff;
2. Document all contacts with the juvenile, the juvenile's family and others involved with the case; and
3. Provide written progress reports to the referring agency at agreed upon intervals.

6 VAC 35-150-570. Response to crises.

All programs providing supervision or direct individualized services shall provide for response to juveniles' crises 24 hours a day, and shall notify juveniles in writing how to get these services.

6 VAC 35-150-580. Emergencies and safety in juveniles homes.

Programs that provide services in juveniles' homes shall prescribe safety measures for staff making field visits and shall provide for actions for staff to take in the event of:

1. Domestic violence;
2. Severe injury;
3. Threats and violence against staff; and
4. Absence of life sustaining resources such as food or fuel.

6 VAC 35-150-590. Referrals.

Each program and service that accepts referrals shall have a written description of:

1. The population to be served;
2. Its criteria and requirements for accepting referrals, including whether a social history and diagnostic testing is required before accepting a youth; and
3. Intake and acceptance procedures.

6 VAC 35-150-600. Surveillance officers.

Programs that use staff or volunteer surveillance officers shall specify:

1. The nature and number of the surveillance officer's contacts with the youth under supervision;
2. How and to whom the officer will report such contacts and any problems identified.

6 VAC 35-150-610. Substance abuse and testing services.

Programs that provide substance abuse and testing services shall have a written description of:

1. The substance abuse assessment tools or instruments used;
2. The professional license or certification required of staff or contracted providers; and
3. How and to whom the results of the assessment and evaluation, and any recommendations for treatment or other services, will be reported.

Article 3.

Alternative Day Treatment and Structured Day Programs.

6 VAC 35-150-620. Supervision of juveniles.

A. At all times that juveniles are on the premises, there shall be at least one staff member actively supervising who has a current first aid and CPR certification.

B. Program staff are responsible for managing juveniles' behavior, and shall not delegate this responsibility to other juveniles except as part of an approved leadership training program under the supervision of qualified staff.

6 VAC 35-150-630. Meals.

If the program spans traditional meal times, juveniles shall be provided nutritionally balanced meals.

6 VAC 35-150-640. Fire safety.

A. The program shall have a written fire plan, developed with the consultation and approval of the appropriate local fire authority and reviewed with the local fire authority at least annually, and updated if necessary.

B. There shall be at least one documented fire drill each month.

C. Each new staff member shall be trained in fire safety and emergency procedures before assuming supervision of juveniles.

Proposed Regulations

6 VAC 35-150-650. First-aid kits.

A well stocked first-aid kit shall be kept in the facility and in any vehicle used to transport juveniles and shall be readily accessible for minor injuries and medical emergencies.

6 VAC 35-150-660. Delivery of medication.

There shall be written policy governing the delivery of medication that either (i) prohibits staff from delivering medication or (ii) designates staff persons authorized to deliver prescribed medication by written agreement with a juvenile's parents; and that either (i) permits or (ii) prohibits self-medication by juveniles.

6 VAC 35-150-670. Juveniles' medical needs.

When necessary, program staff shall be notified of individual juveniles' medical needs or restrictions, and given specific instructions for meeting these needs.

6 VAC 35-150-680. Physical and mechanical restraint.

A. Only staff who have received department-sanctioned training may apply physical restraint, and only when a juvenile's uncontrolled behavior could result in harm to self or others and when less restrictive interventions have failed.

B. The use of physical restraint shall be only that which is minimally necessary to protect the juvenile or others.

C. Any application of physical restraint shall be fully documented in the juvenile's record as to date, time, staff involved, circumstances, reasons for use of physical restraint and extent of physical restraint used.

D. The use of mechanical devices or chemical substances to restrain a juvenile's behavior is prohibited.

6 VAC 35-150-690. Procedural requirements for time-out.

A program that uses time-out shall have written procedures to provide that juveniles in time-out shall:

1. Be able to communicate with staff;
2. Have bathroom privileges according to need; and
3. Be served any meal scheduled during the time-out period.

Article 4. Electronic Monitoring.

6 VAC 35-150-700. Not an automatic condition of supervision.

Electronic monitoring shall not be an automatic condition of probation, parole or predispositional supervision.

6 VAC 35-150-710. Conditions of home and parents.

Juveniles must reside in their own home or a surrogate home; parents or guardians must give written consent and be fully oriented to the operation of the electronic monitoring device and program rules before a juvenile is placed on electronic monitoring.

6 VAC 35-150-720. Required contacts.

Designated staff or volunteers shall see each juvenile face-to-face, and shall contact the juvenile's parents or guardians in person or by telephone, as required by the written supervision or service plan.

6 VAC 35-150-730. Tamperers and violations.

The program shall have written procedures for responding to and investigating tamperers and program violations.

6 VAC 35-150-740. Time limits.

Written policy shall establish the maximum time a juvenile may be electronically monitored; if monitoring could extend beyond 45 days, the rationale and the criteria for imposing a longer time period shall be stated in writing.

INCORPORATED BY REFERENCE

"Guidelines for Transporting Juveniles in Detention," Board of Youth and Family Services, June 13, 1991.

VA.R. Doc. No. R97-365; Filed March 26, 1997, 11:46 a.m.

BOARD OF NURSING

Title of Regulation: 18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists.

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

Public Hearing Date: May 20, 1997 - 1 p.m.

Public comments may be submitted until June 13, 1997.
(See Calendar of Events section for additional information)

Basis: Chapters 24 (§ 54.1-2400 et seq.) and 30 (§ 54.1-3000 et seq.) of the Code of Virginia provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 30 provides the definition of massage therapy, the specific power of the board to promulgate regulations for certification of massage therapists, and the statutory qualifications for certified massage therapists.

Purpose: The purpose for the proposed regulations is to establish an application process and requirements for certification, fees for administration of the regulatory program, a schedule of renewal and reinstatement, and standards of conduct, which will protect the health, welfare and safety of the citizens of the Commonwealth.

Substance:

1. 18 VAC 90-50-10 establishes the operational requirements of maintaining a current mailing address with the board, notifying the board of a name change and posting of the certificate at a practice location.
2. 18 VAC 90-50-20 establishes the fees necessary to administer the regulatory program.

3. 18 VAC 90-50-30 references the requirements for initial certification as established in the Code of Virginia and also sets forth alternative requirements of education and experience for those persons who do not meet the statutory qualifications.

4. 18 VAC 90-50-40 establishes provisions for massage therapists seeking certification in Virginia by endorsement from another U. S. jurisdiction. An applicant who is licensed or certified in another country is required to take a national certifying examination.

5. 18 VAC 90-50-50 provides for provisional certification for eligible candidates awaiting the results of the licensing examination.

6. 18 VAC 90-50-60 establishes the biennial renewal schedule for certificate holders and specifies that if the certificate is lapsed, the titles shall not be used.

7. 18 VAC 90-50-70 establishes the requirements for reinstatement of a lapsed or expired certificate.

8. 18 VAC 90-50-80 sets forth those actions which could constitute cause for the board to take disciplinary action against a certificate holder.

Issues: Issue #1: What requirements are necessary for certification of persons who do not meet the statutory qualifications?

Qualifications for certification, including 500 hours of training and passage of the National Certification Exam for Massage and Bodywork, are specifically set forth in § 54.1-3029 of the Code of Virginia. In addition, the Code specifies other conditions in which the board may certify: (i) persons who have been practicing for up to 10 years and have completed 200 hours of training; (ii) persons who have been practicing for more than 10 years and have completed 20 hours of such training; or (iii) persons who have passed the national exam prior to 1994.

In its proposed regulations, the board determined that it would "grandfather" persons who were in practice prior to enactment of the law in 1996 by offering certification to persons who met the criteria listed above. However, while the law specified that persons who have 200 hours of training and have been practicing for up to 10 years before July 1, 1997, may be certified, it did not establish a minimum length of work experience. The board determined that work experience of at least one year was necessary for those persons who have the lower number of hours. Therefore, if someone was enrolled in a school offering the 200-hour course of training before passage of § 54.1-3029, it would be possible for them to have gained one year of work experience before the July 1, 1997, deadline for implementation.

Issue #2: What fees are necessary and sufficient to support the regulatory program as required by law?

To determine the application fee, renewal fee, and other administrative fees for massage therapists, a fiscal analysis of the program within the operation of the Board of Nursing was requested. Costs of processing applications, evaluating qualifications, entering a data system for the profession, issuing certificates, sending renewals, and conducting investigations and disciplinary hearings were considered. In

addition, costs for an advisory committee on massage therapy and proportional costs of the Board of Nursing were also factored. The analysis compared current fees for other regulated entities within the board and suggested minimal proposed fees that would be consistent with the statutory requirement of having fees sufficient to cover costs.

The board also looked at fees in other states. In a comparison of application and/or initial licensing fees in other states with the \$40 fee for certification in Virginia, the proposal from the board appears to be among the lowest in the United States.

Issue #3: What qualifications are necessary for an applicant who holds certification in another state?

The Code of Virginia permits the board to issue a certificate without examination to an applicant licensed or certified in another state if, in the opinion of the board, they meet Virginia requirements. From its review of entry qualifications in other states, the board determined that all require an examination, and most require hours of training equal to or greater than those in Virginia. Therefore, the board proposed the least restrictive regulation for endorsement of a license or certificate in good standing from another U. S. jurisdiction.

If an applicant was licensed or certified in another country, proposed regulations require passage of a national certifying examination.

Issue #4: In addition to provisions in the Code of Virginia, what conditions should be set in regulation for issuance of a provisional certificate?

The Code of Virginia permits the board to issue no more than one provisional certificate to an applicant prior to passage of the certifying examination. The board has clarified in its regulations that the provisional certificate is valid for 90 days and that the protected titles should not be issued while working with such certification. From its review of the national examination schedule, the 90 days of provisional certification should allow sufficient time to take the examination and get the results. Also, the board currently allows nurses up to 90 days to practice with a provisional license prior to receiving exam results.

Issue #5: What should be the renewal schedule and requirements for certified massage therapists?

Since certified massage therapists are to be regulated by the Board of Nursing, the proposed regulations mirror requirements of other regulated professionals under that board. Renewals will be established on a biennial basis and require only the completion of a renewal form and payment of a \$50 fee. No evidence of continuing competency is proposed.

Persons who fail to renew are required to file a reinstatement application and pay the current renewal fee and a reinstatement fee. If the certificate has been lapsed for some time, the board may require evidence of competency, such as practice in another state or additional hours of training.

Issue #6: What should be regulated as unprofessional conduct by a massage therapist and what would subject the certificate holder to possible disciplinary action by the board?

Proposed Regulations

Regulations set forth acts which may provide cause for a disciplinary action by the Board of Nursing. Most of the acts of fraud or deceit and other acts of unprofessional conduct, as established in regulation, are generally applicable to all health professionals. Some of those in 18 VAC 90-50-90, such as failure to refer patients to appropriate health care professionals when indicated, are unique to the scope of practice for massage therapy as set forth in the Code of Virginia.

Advantages: Regulation was sought by an organization of massage therapists because certification provides criteria for minimal education and training, an entry-level examination, and standards for conduct for the profession. While certification is voluntary, persons who do not have the necessary qualifications or who do not conduct their practice in an ethical manner will not be able to call themselves "massage therapists." While there is no assurance that localities will amend their ordinances on massage to recognize state certification, there is a possibility that regulated entities could be exempted from some local licensing and inspection.

Disadvantages: The only disadvantage to regulation is the requirement that certified massage therapists pay a fee to become certified and to renew certification. Persons who are not able to meet the statutory criteria for certification or do not practice according to established standards of conduct must drop the restricted titles.

Advantages or disadvantages to the public: The advantage to the public is the availability of professional massage therapists who have state certification and the assurance that those persons have minimal qualifications and have an established standard of conduct.

There are no disadvantages to the public.

Estimated Impact of the Regulations:

A. Projected number of persons affected and their cost of compliance: It is estimated that there may be 1,200 persons in the Commonwealth who would seek the voluntary certification as massage therapists. There would be a cost of \$40 to apply for certification and \$50 to renew every biennium. Other administrative charges would only apply to individuals who are delinquent with their renewal fee and must be reinstated, who have a check returned for insufficient funds, or who seek a special service from the board such as verification of certification to another state.

B. Cost to the agency for implementation: Costs for the administration of a certification program and for disciplinary cases are unknown since the Commonwealth has no history with regulation of this profession. Based on the estimated 1,200 massage therapists who would seek initial certification and the 300 to 350 persons who would annually apply thereafter, proportional costs of the Board of Nursing for data processing, human resources, administrative and financial services, committee and board meetings, investigations and disciplinary proceedings, equipment and supplies is projected to be \$29,200 in 1997 and \$73,900 in 1998. Of that amount, approximately \$55,900 is estimated to be over and above the currently projected budget for the biennium for the Board of Nursing.

To cover the new costs of administering the program, the board proposes fees shown in proposal #2 which will generate approximately \$52,250 in revenue.

In addition, the board estimates that it will expend \$2,500 in costs for mailings to persons on their Public Participation Guidelines list (which numbers approximately 3,000) and a separate mailing list for persons interested in massage therapy. In addition, costs for meetings of the advisory committee on massage therapy throughout the promulgation process are estimated to be \$1,500.

C. Cost to local governments: There should be no impact of these regulations on local government as individuals seeking certification are employed in private business rather than governmental agencies. The provision in law for state certification of massage therapists may provide some localities the option of eliminating inspection programs for massage establishments employing only certified individuals.

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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the Proposed Regulation. Pursuant to Chapter 166 of the 1996 Acts of Assembly, the proposed regulation establishes requirements for the voluntary certification of massage therapists. These requirements include:

- provisions requiring certificate holders to notify the Board of Nursing (the board) of any change in address or legal name;
- a fee schedule for initial certification and certification renewal;
- by reference to § 54.1-3029, initial certification prerequisites of 500 hours of training in a certified educational program and passage of the National Certification Exam for Massage and Bodywork;
- the board may also certify individuals: 1) with 200 hours of training in a certified educational program and one year of practice in massage therapy, or 2) with 20 hours of training in a certified educational program and at least 10 years of practice in massage therapy, or 3) who passed the National Certification Exam for Massage and Bodywork prior to 1994;
- conditions for certification by endorsement and provisional certification;
- provisions for certification renewal and reinstatement; and

- a list of infractions that could lead to disciplinary action by the Board of Nursing.

Estimated Economic Impact. The proposed regulation is anticipated to have three economic effects: 1) it will likely enhance the quality of massage therapist services by guaranteeing that individuals certified to provide those services have met minimum professional standards; 2) it will increase the entry costs associated with practicing massage therapy in Virginia; and 3) it will entail associated agency costs.

Quality of Massage Therapist Services. Prior to the legislation that engendered this proposed regulation, it was theoretically possible for anyone in Virginia to present themselves to the public as a qualified massage therapist regardless of whether they had the requisite training or education. The primary benefit of the proposed regulation is that it establishes the board as a third party guarantor of the professional credentials of certified massage therapists, thereby reducing the uncertainty and risk that consumers confront when obtaining the services of such individuals. It would be cost prohibitive for DPB to quantify the exact magnitude of this benefit however.

Increased Entry Costs. Although certification is voluntary, market preferences and prohibitions placed on the use of the title "massage therapists" by individuals who have not obtained certification will likely lead most massage therapists to seek certification. As a result, the other economic effect of the proposed regulation is that it will increase the costs associated with practicing massage therapy in Virginia. The most obvious of these increased costs are the fees that will be required for certification and other administrative functions. Estimates provided by the board indicate that such fees will total approximately \$52,250 in the 1996-98 biennium, and \$116,250 in the 1998-2000 biennium.

Another cost that would be imposed on the regulated community by the proposed regulation are the expenses associated with meeting the required educational standards. For individuals without prior experience, or who did not pass the National Certification Exam for Massage and Bodywork prior to 1994, these costs would include all tuition and fees necessary to obtain the requisite 500 hours of training and any costs associated with preparing for and taking the National Certification Exam for Massage and Bodywork. According to information provided by DHP, these costs would total approximately \$3,000 to \$4,000.

An auxiliary economic effect of the above mentioned costs is that they could place upward pressure on the prices charged for massage therapy services in Virginia. This would be attributable in the main to the effect that such costs may have on restricting the entry of new massage therapists into the market. The primary law of economics, the law of supply and demand, dictates that the market outcome of any restriction in supply is likely to be an increase in price. The voluntary nature of the proposed massage therapist certification program should serve to mitigate this adverse consequence however.

Agency Costs. Information provided by the board indicates that the agency costs associated with the proposed certification program would total approximately \$103,100 in

the 1996-98 biennium, and \$170,125 in the 1998-2000 biennium.

Businesses and Entities Particularly Affected. The proposed regulation particularly affects the estimated 1,200 individuals in Virginia that the board anticipates will apply for certification as massage therapists, all individuals currently practicing massage therapy in Virginia or likely to do so in the future, and their clients.

Localities Particularly Affected. No localities are particularly affected by the proposed regulation.

Projected Impact on Employment. Although the proposed regulation could effectively restrict the number of individuals practicing massage therapy in Virginia, this outcome should be largely mitigated by the voluntary nature of the program. As a result, the proposed regulation is not anticipated to have a significant effect on employment.

Effects on the Use and Value of Private Property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of Analysis. DPB anticipates that the proposed regulation governing the certification of massage therapists will have three primary economic effects, it will likely: 1) enhance the quality of massage therapy services provided in Virginia; 2) bring about a moderate increase in the costs associated with practicing massage therapy in Virginia; and 3) entail a moderate increase in agency costs for the Board of Nursing.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: The Board of Nursing disagrees with the portion of the Economic Impact Analysis prepared by the Department of Planning and Budget which attributes increased entry costs to the proposed regulations. Qualifications for certification, including the 500 hours of training and passage of the National Certification Exam for Massage and Bodywork, are specifically set forth in § 54.1-3029 of the Code of Virginia. Any costs associated with entry requirements for voluntary certification in massage therapy are attributable to the statutory mandate rather than to regulations which merely repeat the requirements as stated in the Code of Virginia for clarity and ease of compliance. The board is exercising no discretion in this area.

Summary:

The proposed regulations establish an application process and requirements for certification in accordance with the provisions of § 54.1-3029 of the Code of Virginia, fees for administration of the regulatory program, a schedule of renewal and reinstatement, and standards of conduct, which will protect the health, welfare and safety of the citizens of the Commonwealth.

Proposed Regulations

CHAPTER 50. REGULATIONS GOVERNING THE CERTIFICATION OF MASSAGE THERAPISTS.

PART I. GENERAL PROVISIONS.

18 VAC 90-50-10. Definitions.

The terms "board," "certified massage therapist" and "massage therapy," when used in this chapter, shall have the meanings ascribed to them in § 54.1-3000 of the Code of Virginia.

18 VAC 90-50-20. Operational requirements.

A. Requirements for current mailing address.

1. Each applicant or certificate holder shall maintain a record of his current mailing address with the board. Any change of address shall be submitted in writing to the board within 30 days of such change.

2. All required notices mailed by the board to any applicant or certificate holder shall be validly given when mailed to the latest address on file with the board.

B. A certificate holder who has had a change of name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence and the required fee.

C. Each certified massage therapist shall conspicuously post his current Virginia certificate in a public area at his practice location.

18 VAC 90-50-30. Fees.

A. Fees listed in this section shall be payable to the Treasurer of Virginia and shall not be refunded unless otherwise provided.

B. Fees required by the board are:

Application for certification	\$40
Biennial renewal	\$50
Reinstatement of certification	\$50
Duplicate certificate	\$15
Verification of certification	\$25
Transcript of all or part of applicant/ certificate holder records	\$20
Returned check charge	\$15

PART II. REQUIREMENTS FOR CERTIFICATION.

18 VAC 90-50-40. Initial certification.

A. An applicant seeking initial certification shall submit a completed application and required fee and verification of meeting the requirements of § 54.1-3029 A or B of the Code of Virginia.

B. An applicant who does not meet the education and examination requirements of § 54.1-3029 A of the Code of Virginia shall provide satisfactory evidence that the applicant:

1. Is at least 18 years old;
2. Has not committed any acts or omissions that would be grounds for disciplinary action or denial of certification as set forth in this chapter; and
3. Has competed at least 200 hours of training in a certified education program as provided in § 54.1-3029 B of the Code of Virginia and has at least one year of practice in massage therapy, or has completed 20 hours of such training and has at least 10 years of practice in massage therapy, or has passed the National Certification Exam for Therapeutic Massage and Bodywork prior to 1994.

18 VAC 90-50-50. Certification by endorsement.

A. A massage therapist who has been licensed or certified in another U.S. jurisdiction and who is in good standing or is eligible for reinstatement, if lapsed, shall be eligible for certification by endorsement in Virginia.

B. An applicant for certification by endorsement shall submit a completed application and required fee to the board and shall submit the required form to the appropriate credentialing agency in the state of original licensure or certification for verification. Applicants will be notified by the board after 30 days if the completed verification form has not been received from that state.

C. An applicant who has been licensed or certified in another country shall take a national certifying examination and become nationally certified as required by § 54.1-3029 of the Code of Virginia.

18 VAC 90-50-60. Provisional certification.

A. An eligible candidate who has filed an application for certification in Virginia may practice massage therapy in Virginia for a period not to exceed 90 days between completion of the education program and the receipt of the results of the candidate's first certifying examination.

B. The designation of "massage therapist" or "certified massage therapist" shall not be used by the applicant during the 90 days of provisional certification.

C. An applicant who fails the certifying examination shall have his provisional certification withdrawn upon the receipt of the examination results and shall not be eligible for certification until he passes such examination and becomes nationally certified.

PART III. RENEWAL AND REINSTATEMENT.

18 VAC 90-50-70. Renewal of certification.

A. Certificate holders born in even-numbered years shall renew their certificates by the last day of the birth month in even-numbered years. Certificate holders born in odd-numbered years shall renew their certificates by the last day of the birth month in odd-numbered years.

B. The certificate holder shall complete the application and return it with the required fee.

C. Failure to receive the application for renewal shall not relieve the certified massage therapist of the responsibility for renewing the certificate by the expiration date.

D. The certificate shall automatically lapse by the last day of the birth month if not renewed; and use of the title "massage therapist" or "certified massage therapist" is prohibited.

18 VAC 90-50-80. Reinstatement of lapsed certificates.

A. A massage therapist whose certificate has lapsed shall file a reinstatement application and pay the current renewal fee and the reinstatement fee.

B. The board may require evidence that the massage therapist is prepared to resume practice in a competent manner.

PART IV.
DISCIPLINARY PROVISIONS.

18 VAC 90-50-90. Disciplinary provisions.

The board has the authority to deny, revoke or suspend a certificate issued, or to otherwise discipline a certificate holder upon proof that the practitioner has violated any of the provisions of § 54.1-3007 of the Code of Virginia or of this chapter or has engaged in the following:

1. Fraud or deceit which shall mean, but shall not be limited to:

- a. Filing false credentials;
- b. Falsely representing facts on an application for initial certification, reinstatement or renewal of a certificate; or
- c. Misrepresenting one's qualifications including scope of practice.

2. Unprofessional conduct which shall mean, but shall not be limited to:

- a. Performing acts which constitute the practice of any other health care profession for which a license or a certificate is required or acts which are beyond the limits of the practice of massage therapy as defined in § 54.1-3000 of the Code of Virginia;
- b. Assuming duties and responsibilities within the practice of massage therapy without adequate training or when competency has not been maintained;
- c. Failing to acknowledge the limitations of and contraindications for massage and bodywork or failing to refer patients to appropriate health care professionals when indicated;
- d. Initiating or engaging in any sexual conduct involving a patient;
- e. Falsifying or otherwise altering patient or employer records

f. Violating the privacy of patients or the confidentiality of patient information unless required to do so by law; or

g. Employing or assigning unqualified persons to practice under the title of "massage therapist" or "certified massage therapist."

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARD OF NURSING
 6606 WEST BROAD STREET, 4TH FLOOR
 RICHMOND, VIRGINIA 23230-1717
 (804) 662-9909

**INSTRUCTIONS FOR FILING APPLICATION
 FOR CERTIFICATION AS A MASSAGE THERAPIST**

APPLICATION

COMPLETE THE APPLICATION FORM AND RETURN IT WITH THE REQUIRED FEE TO THE ADDRESS SHOWN ABOVE. COMPLETE THE AFFIDAVIT ON PAGE 3 AND HAVE IT NOTARIZED BY A NOTARY PUBLIC.

SUPPORTING DOCUMENTS

THE FOLLOWING IS REQUIRED TO SUPPORT THE APPLICATION:

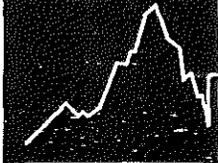
1. A TRANSCRIPT FROM YOUR MASSAGE THERAPY EDUCATION PROGRAM SENT DIRECTLY TO THIS OFFICE.
2. VERIFICATION OF HAVING PASSED THE NATIONAL CERTIFICATION EXAM FOR MASSAGE AND BODY WORK OR EVIDENCE THAT YOU ARE SCHEDULED TO TAKE THE NEXT AVAILABLE EXAMINATION SENT DIRECTLY TO THIS OFFICE.
3. VERIFICATION OF CURRENT NATIONAL CERTIFICATION.

PROVISIONAL CERTIFICATION

1. AN ELIGIBLE CANDIDATE WHO HAS FILED AN APPLICATION FOR CERTIFICATION IN VIRGINIA MAY PRACTICE MASSAGE THERAPY IN VIRGINIA FOR A PERIOD NOT TO EXCEED 90 DAYS BETWEEN COMPLETION OF THE EDUCATION PROGRAM AND RECEIPT OF THE RESULTS OF THE CANDIDATES FIRST CERTIFYING EXAMINATION.
2. DURING THE 90 DAYS OF PROVISIONAL CERTIFICATION, THE DESIGNATION OF "MASSAGE THERAPIST" OR "CERTIFIED MASSAGE THERAPIST," MAY NOT BE USED.
3. AN APPLICANT WHO FAILS THE CERTIFYING EXAMINATION WILL HAVE HIS PROVISIONAL CERTIFICATION WITHDRAWN AND WILL NOT BE ELIGIBLE FOR CERTIFICATION UNTIL HE PASSES SUCH EXAMINATION AND BECOMES NATIONALLY CERTIFIED.

AN INCOMPLETE APPLICATION FOR LICENSURE WILL BE RETAINED ON FILE ONLY AS REQUIRED FOR AUDIT. IF NOT COMPLETED WITHIN ONE YEAR, A NEW APPLICATION MAY BE NECESSARY.

PLEASE NOTIFY THIS OFFICE WITHIN THIRTY DAYS OF A NAME CHANGE OR ADDRESS CHANGE.



COMMONWEALTH OF VIRGINIA
Board of Nursing

Department of Health Professions
 6606 West Broad Street, 4th Floor
 Richmond, Virginia 23230-1717
 (804) 662-9909

**APPLICATION FOR CERTIFICATION
 MASSAGE THERAPIST**

I hereby make application for certification as a massage therapist. The following information in support of my application is submitted with a check or money order in the amount of \$40 made payable to the Treasurer of Virginia. Fee is non-refundable.

For Office Use Only				Approval:	
Fee Rec'd:	Ack. Sent:	Pt. 2 Rec'd:	Provisional Number:	Certificate Number # 0019:	Date Issued:

1. Identifying Information

APPLICANT - Please print or type the information requested below and on the succeeding pages. Use full name not initials.

Name - Last	Suffix	First	Middle	Maiden
Street Address				
City		State		Zip Code
Date of Birth (M/D/Y)		Social Security Number		Area Code & Telephone Number

2. Education Information

Name of Education Program:	
Program Address:	
Date Program Completed:	Length of Program in hours:
Program accredited/approved by: (Accrediting Authority)	

3. Examination and Certification Information

Title of Examination:	Date Passed:
Name of Certifying Organization:	Expiration Date:

4. Please respond to the following questions:

- a. Have you ever *applied* for licensure or certification as a health care provider in Virginia? Yes ___ No ___ If yes:
Year _____ Type of license _____
- b. Have you ever *applied* for licensure or certification as a health care provider in another state? Yes ___ No ___ If yes give the date, state and type of license:
State _____ Year Certified/Licensed _____ Type of License _____
- c. (1) Have you ever been certified or licensed as a massage therapist in any jurisdiction? Yes ___ No ___ If yes give the certificate or license number and jurisdiction.
State of original licensure _____
Year _____ Certificate/License number _____
- (2) In what other states have you been certified or licensed as a massage therapist?
State _____ Year Certified/Licensed _____ Certificate/License Number _____
State _____ Year Certified/Licensed _____ Certificate/License Number _____
State _____ Year Certified/Licensed _____ Certificate/License Number _____

d. Please answer yes or no to each of the following:

Has any certificate or license issued to you been voluntarily surrendered to any licensing authority in any jurisdiction _____, placed on probation _____, suspended _____, revoked _____, or otherwise disciplined _____ or has your practice ever been the subject of an investigation by any licensing board _____? If yes, explain in detail below.

Is your certificate or license in good standing in all jurisdictions where licensed? Yes ___ No ___ If no, explain in detail below.

- 5. Have you ever been convicted, pled guilty to or pled Nolo Contendere to the violation of any federal, state or other statute or ordinance constituting a felony or misdemeanor? (Including convictions for driving under the influence, but excluding traffic violations) Yes ___ No _____. If yes, explain on next page and have a certified copy of the court order sent directly to the Board of Nursing.
- 6. Do you have a mental, physical or chemical dependency condition which could interfere with your current ability to practice as a massage therapist? Yes ___ No _____. If yes, explain on next page and have a letter from your treating licensed professional, summarizing diagnosis, treatment, and prognosis, sent directly to the Board of Nursing.
- 7. If education program was less than 500 hours, list employers and dates of employment since completion of education program.

Employer: _____ Dates: From: _____ To: _____
Address: _____ Phone #: _____

Employer: _____ Dates: From: _____ To: _____
Address: _____ Phone #: _____

Employer: _____ Dates: From: _____ To: _____
Address: _____ Phone #: _____

(Use space on next page if additional lines are needed)

PLEASE BE SURE THAT YOU HAVE ANSWERED EACH OF THE ABOVE QUESTIONS.

EXPLANATIONS

AFFIDAVIT

(To be completed before a notary public)

State of _____ County/City of _____

Name _____, being duly sworn, says that he/she is the person who is referred to in the foregoing application for certification as a massage therapist in the Commonwealth of Virginia; that the statements herein contained are true in every respect; that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

Signature of Applicant

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

My commission expires on _____

Signature of Notary Public

SEAL

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARD OF NURSING
 6606 WEST BROAD STREET, 4TH FLOOR
 RICHMOND, VIRGINIA 23230-1717
 (804) 662-9909

INSTRUCTIONS FOR FILING APPLICATION
 FOR CERTIFICATION AS A MASSAGE THERAPIST BY ENDORSEMENT

APPLICATION FORM

COMPLETE THE APPLICATION FORM AND RETURN IT WITH THE REQUIRED FEE TO THE BOARD OFFICE. COMPLETE THE AFFIDAVIT ON PAGE 3 AND HAVE IT NOTARIZED BY A NOTARY PUBLIC.

LICENSE VERIFICATION FORM

COMPLETE ONLY THE TOP PORTION OF THE LICENSE VERIFICATION FORM AND SEND IT TO THE LICENSING AUTHORITY WHERE YOU WERE ORIGINALLY CERTIFIED OR LICENSED BY EXAMINATION. YOU ARE RESPONSIBLE FOR ANY FEE YOUR ORIGINAL AUTHORITY MAY REQUIRE TO COMPLETE THE FORM. DELAYS MAY BE AVOIDED BY INQUIRING ABOUT THESE FEES IN ADVANCE. YOUR ORIGINAL LICENSING AUTHORITY WILL SEND THE FORM TO THIS OFFICE. VERIFICATION FORMS RECEIVED IN THIS OFFICE PRIOR TO RECEIPT OF THE APPLICATION WILL BE RETAINED ON FILE FOR NO LONGER THAN 90 DAYS. IF THE APPLICATION IS NOT RECEIVED WITHIN THIS TIME, YOU MUST REQUEST ANOTHER FORM TO BE COMPLETED AND SENT TO THIS OFFICE.

NAME CHANGE

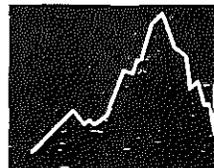
IF YOUR NAME ON THE APPLICATION FOR VIRGINIA CERTIFICATION IS DIFFERENT FROM THE NAME ON FILE WITH YOUR ORIGINAL LICENSING AUTHORITY, A COPY OF YOUR MARRIAGE CERTIFICATE OR THE COURT ORDER AUTHORIZING THE CHANGE MUST ACCOMPANY YOUR APPLICATION.

FOR APPLICANTS EDUCATED IN OTHER COUNTRIES

IF YOUR MASSAGE THERAPY EDUCATION WAS RECEIVED IN ANOTHER COUNTRY AND YOU ARE NOT LICENSED IN ANOTHER STATE IN THE U.S.A., CONTACT THIS OFFICE BEFORE FILING THIS APPLICATION.

AN INCOMPLETE APPLICATION FOR LICENSURE WILL BE RETAINED ON FILE ONLY AS REQUIRED FOR AUDIT. IF NOT COMPLETED WITHIN ONE YEAR, A NEW APPLICATION MAY BE NECESSARY.

PLEASE NOTIFY THIS OFFICE WITHIN THIRTY DAYS OF A NAME CHANGE OR ADDRESS CHANGE.



COMMONWEALTH OF VIRGINIA
 Board of Nursing

Department of Health Professions
 6606 West Broad Street, 4th Floor
 Richmond, Virginia 23230-1717
 (804) 662-9909

APPLICATION FOR CERTIFICATION BY ENDORSEMENT
 MASSAGE THERAPIST

I hereby make application for certification as a massage therapist. The following information in support of my application is submitted with a check or money order in the amount of \$40 made payable to the Treasurer of Virginia. Fee is non-refundable.

For Office Use Only				Approval:
Fee Rec'd:	Ack. Sent:	Pt. 2 Rec'd:	Pt. 3 Rec'd:	Certification Number # 0019:
				Date Issued:

1. Identifying Information

APPLICANT - Please print or type the information requested below and on the succeeding pages. Use full name not initials.

Name - Last	Suffix	First	Middle	Maiden
Street Address				
City		State	Zip Code	
Date of Birth (M/D/Y)	Social Security Number		Area Code & Telephone Number	

2. Education Information

Name of Education Program:	
Program Address:	
Date Program Completed:	Length of Program in hours:
Program accredited/approved by: (Accrediting Authority)	

3. Examination and Certification Information

Title of Examination:	Date Passed:
Name of Certifying Organization:	Expiration Date:

EXPLANATIONS (Continued)

4. Certification/Licensure History

a. For applicants who have been certified or licensed in another state:

State of original certification/licensure _____
Year _____ Certificate/License number _____

1. In what other states have you been certified or licensed as a massage therapist?

State _____ Year Certified/Licensed _____ Certificate/License Number _____
State _____ Year Certified/Licensed _____ Certificate/License Number _____
State _____ Year Certified/Licensed _____ Certificate/License Number _____

b. Please answer yes or no to each of the following:

Has any certificate or license issued to you been voluntarily surrendered to any licensing authority in any jurisdiction _____, placed on probation _____, suspended _____, revoked _____, or otherwise disciplined _____ or has your practice ever been the subject of an investigation by any licensing board _____? If yes, explain in detail below.

Is your certificate or license in good standing in all jurisdictions where licensed? Yes _____ No _____. If no, explain in detail below.

5. Have you ever been convicted, pled guilty to or pled Nolo Contendere to the violation of any federal, state or other statute or ordinance constituting a felony or misdemeanor? (Including convictions for driving under the influence, but excluding traffic violations) Yes _____ No _____. If yes, explain below and have a certified copy of the court order sent directly to the Board of Nursing.

6. Do you have a mental, physical or chemical dependency condition which could interfere with your current ability to practice as a massage therapist? Yes _____ No _____. If yes, explain below and have a letter from your treating licensed professional, summarizing diagnosis, treatment, and prognosis, sent directly to the Board of Nursing.

PLEASE BE SURE THAT YOU HAVE ANSWERED EACH OF THE ABOVE QUESTIONS.

EXPLANATIONS:

AFFIDAVIT
(To be completed before a notary public)

State of _____ County/City of _____

Name _____, being duly sworn, says that he/she is the person who is referred to in the foregoing application for certification as a massage therapist in the Commonwealth of Virginia; that the statements herein contained are true in every respect; that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

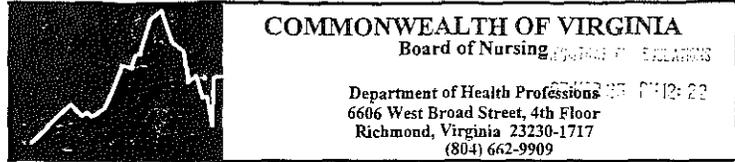
Signature of Applicant

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

My commission expires on _____

Signature of Notary Public

SEAL _____



**MASSAGE THERAPIST
CERTIFICATION/LICENSURE VERIFICATION FORM**

TO THE APPLICANT - Complete the top portion only and send to licensing authority in the state where you were originally certified or licensed as a massage therapist. (Fee may be required.)

Name - Last	First	Middle	Social Security Number
Address			
License or Certification Number:		Year Issued:	
Name on Original License or Certificate:			
TO THE LICENSING AUTHORITY: Please provide information requested and return form to the Virginia Board of Nursing.			
APPLICANT'S FULL NAME:			
Last	First	Middle	Maiden
Was school approved/accruited at time applicant graduated? Yes <input type="checkbox"/> No <input type="checkbox"/>			Date Program Completed:
Name of School: _____			
Location: _____			
Title of Examination: _____		Date Passed: _____	
Name of National Certifying Organization: _____			

CERTIFICATE OR LICENSE NUMBER _____ was granted on _____ by examination _____ by endorsement _____. Status of License: Current Lapsed Inactive

Has license ever been suspended, revoked or otherwise disciplined? Yes No . If yes, please attach certified copy of any order by the Board.

I certify the above information to be true in every respect, according to the record on file with the _____ Licensing Authority.

SEAL
Date
Executive Director

VA.R. Doc. No. R97-375, Filed March 25, 1997, 12:22 p.m.

Virginia Register of Regulations

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: 9 VAC 20-70-10 et seq. **Financial Assurance Regulations for Solid Waste Facilities** (amending 9 VAC 20-70-10, 9 VAC 20-70-30, 9 VAC 20-70-50, 9 VAC 20-70-60, 9 VAC 20-70-70, 9 VAC 20-70-90; adding 9 VAC 20-70-41, 9 VAC 20-70-75, 9 VAC 20-70-81, 9 VAC 20-70-111, 9 VAC 20-70-112, 9 VAC 20-70-113, 9 VAC 20-70-140, 9 VAC 20-70-150, 9 VAC 20-70-160, 9 VAC 20-70-170, 9 VAC 20-70-180, 9 VAC 20-70-190, 9 VAC 20-70-200, 9 VAC 20-70-210, 9 VAC 20-70-220, 9 VAC 20-70-230, 9 VAC 20-70-240, 9 VAC 20-70-250, 9 VAC 20-70-260, 9 VAC 20-70-270; repealing 9 VAC 20-70-20, 9 VAC 20-70-40, 9 VAC 20-70-80, 9 VAC 20-70-100, 9 VAC 20-70-110, 9 VAC 20-70-120, 9 VAC 20-70-130).

Statutory Authority: § 10.1-1400 et seq. of the Code of Virginia.

Public Hearing Date: May 19, 1997 - 10 a.m. (Richmond)
May 22, 1997 - 1 p.m. (Roanoke)

Public comments may be submitted until June 16, 1997.
(See Calendar of Events section
for additional information)

Basis: Section 10.1-1402(11), Chapter 14, Title 10.1, of the Code of Virginia authorizes the Virginia Waste Management Board to promulgate and enforce regulations, and to provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of the Virginia Waste Management Act and the federal acts. The Act further requires the board to promulgate regulations which ensure that if a facility for the disposal or treatment of solid waste is abandoned, the costs associated with protecting the public health and safety from the consequences of such abandonment may be recovered from the person abandoning the facility (§ 10.1-1410 A).

Purpose: Technical requirements regarding closure and post-closure care at the solid waste management facilities are effective in protecting human health and the environment only if funds are available in a timely manner to conduct these activities. The Virginia Financial Assurance Regulations for Solid Waste Facilities ("FAR," 9 VAC 20-70-10 et seq.) were adopted in July 1987 to ensure that sufficient funds would be available to cover these costs in case of insolvency of the owner or operator of the site. On October 9, 1991, EPA published Solid Waste Disposal Facility Criteria (Part 258, Title 40, Code of Federal Regulations) which contained requirements that were substantially different from those of the Virginia regulations. The federal regulations were more stringent than the FAR by requiring facilities owned and operated by the local governmental entities to have financial assurance for closure, post-closure care and corrective action. In response to that federal requirement, the Virginia Waste Management Act was amended in 1993 by the General Assembly to remove the exemption from the financial assurance requirements for local governments. At the same time, the federal regulations were less stringent than FAR in that they did not require the owners or operators of the facilities to obtain third-party liability insurance to cover off-site damages. The proposed amendment will remove these differences and thus prevent regulatory inconsistencies.

Substance: The proposed amendment incorporates all the requirements of the federal criteria of October 9, 1991, as they pertain to sanitary landfills. Aside from the items indicated below, these changes were minor in character.

- New requirements for facilities owned and operated by local governmental bodies. These requirements include all the financial assurance mechanisms listed in the 1991 federal criteria and the federal financial test for local governments proposed by EPA in July 1996. The proposed financial test represents a significant reduction in the fiscal impact on the majority of Virginia's counties and cities.
- Addition of the requirement to obtain financial assurance for corrective action. Federal regulations require that the owners and operators of solid waste facilities obtain financial assurance to cover the costs of any corrective action whenever such action may be required to clean up groundwater pollution caused by leaking liners.
- Removal of requirements to maintain third-party liability insurance. Third-party liability insurance is a very onerous requirement to obtain and maintain insurance to cover long-term damages to persons and property off site.
- Streamlining of the corporate financial test and guarantee. The current requirements for the corporate financial test will be streamlined based on EPA's regulatory proposal published in October 1994.

Issues: Virginia FAR are currently applicable to all privately owned and operated facilities to include landfills and other solid waste facilities. The 1989 Virginia Supreme Court decision (*Board of Supervisors of King and Queen County v. KingLand Corporation*, 238 Va. 97) invalidated all solid waste facility permits issued between 1981 and 1986 because the Department of Health and its successor, the Department of Waste Management, failed to promulgate financial assurance regulations in due time as required by statute. That decision affirms the requirement for the regulation for all treatment and disposal facilities. In this area, the Virginia regulations are more stringent than the federal regulations which are only applicable to sanitary landfills.

The federal criteria are applicable to owners and operators of sanitary landfills in Virginia regardless of the regulatory requirements of the Commonwealth and are enforceable through citizen suit provisions in federal courts. However, should Virginia's solid waste management program be recognized as equivalent to that of the United States Environmental Protection Agency, the Director of the Department of Environmental Quality may provide for variances to the federal requirements that may streamline the program. The department received partial program approval from EPA in March 1994 and may provide regulatory flexibility in all facets of the program except for the financial assurance requirements. Promulgation of the proposed amendment will cure that deficiency.

On April 7, 1995, EPA announced that the effective date of the federal financial assurance requirements will be delayed until April 9, 1997, because EPA recognized that the budgeting process on the local level is quite lengthy and

Proposed Regulations

requires long lead times. In keeping with that finding, the proposed amendment establishes a regulatory delay for facilities owned by the local governing bodies and regional authorities to coincide with the federal deadline. In addition to the delay, the proposed amendments developed provisions for the financial test for regional authorities, a mechanism that is absent in the federal regulations. With the addition of these provisions, the impact on localities that are fiscally sound will be greatly minimized.

The availability of third-party liability insurance for solid waste disposal facilities is practically nonexistent. After an extensive survey, EPA determined that there were only two insurers who actively provide coverage for sanitary landfills. In the few cases when insurance underwriting is available, the premiums are extremely high and are, in the case of smaller facilities, difficult to afford. Additionally, older existing facilities are practically uninsurable because most of them have affected the groundwater to some degree. The proposed amendment would remove this requirement from all owners or operators.

No public comment, either oral or written, was received in response to the notice of regulatory action and at the public meeting held on June 17, 1993, by the close of the public comment period on July 1, 1993.

There are no disadvantages to the department or the public expected from the adoption of the proposed amendments.

Estimated Impact: At the present time the number of the facilities subject to the FAR are shown in the table below.

Landfills	119
Materials Recovery Facilities	22
Incinerators and Energy Recovery Facilities	9
Regulated Medical Waste Management Facilities	245
Yard Waste Composting Facilities	14
Total	409

The proposed amendment would eliminate the need for the privately owned facilities to maintain third-party liability insurance. For a large landfill (1,000 tons per day) this may save as much as \$60,000 per annum. This change would also bring into compliance the majority of landfills with deficient liability coverage. For private companies, all other costs of maintaining financial assurance mechanisms would remain essentially the same.

The economic impact of federal requirements contained in the October 9, 1991, criteria would be very substantial and would cause a significant unfunded mandate. With the addition of the financial test for facilities owned and operated by the local governing bodies and regional authorities to the list of allowed assurance mechanisms, the impact on these owners or operators would be limited to the costs associated with the preparation of paperwork. With the inclusion of shadow bond ratings, most financially sound localities would be eligible to use the test. For localities that have not issued

bonds and are not rated, the shadow rating may cost up to \$10,000.

Materials and energy recovery facilities, incinerators, and composting facilities are only required to provide financial assurance for closure costs. In case of these facilities, the costs are minimal (usually amounting to the removal of stockpiled wastes and products) and the regulatory impact is small. Because most of such facilities are privately owned, the costs would be further reduced with the elimination of the third-party liability requirement.

Localities Particularly Affected: No local governments are known to be uniquely or disproportionately impacted.

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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The four major amendments contained in the proposed regulation are listed below.

1. Addition of financial assurance mechanisms and a financial test for facilities owned and operated by local governmental bodies.
2. Addition of the requirement that the owners and operators of solid waste facilities obtain financial assurance to cover the costs of any corrective action whenever such action may be required to clean up groundwater pollution caused by leaking liners.
3. Eliminate the requirement that the owners and operators of solid waste facilities maintain third-party liability insurance to cover long term damages to persons and property off site.
4. Streamline the current requirements for the corporate financial test and guarantee.

Estimated Economic Impact

New requirements for facilities owned and operated by local governmental bodies:

State regulation of local waste management facilities is necessary to ensure that such facilities do not contaminate the air, public waters, adjacent properties, or local groundwater. Abandoned facilities with improper closure, post-closure care and corrective action will decrease property values and the health of the people around them. Prior to these regulations, waste management facilities run by localities were not required to have financial assurance.

The proposed regulation allows local facilities to use a financial test to demonstrate financial assurance. The financial test can be passed by having a proper bond rating, shadow bond rating, or satisfying certain financial ratios. The ratio test requires that cash plus marketable securities to total expenditures must be greater than or equal to 0.05; and annual debt service to total expenditures must be less than or equal to 0.20. According to DEQ, most localities can meet these ratios, and furthermore, there are a declining number of counties operating their own waste management facilities. Therefore, few localities will be significantly affected.

Localities that are unable to pass the financial test to prove financial assurance, especially smaller facilities, will be affected the most. These facilities will have to spend money on either a trust fund, surety bond, letter of credit, etc. to prove financial assurance.

Facilities that are not able to pass the financial test, as well as those that are close to passing or failing the test will have an added incentive to find ways to reduce anticipated costs of closure and post-closure care. For some localities, accounting for the potential future costs of closure, post-closure care and corrective action could place that locality's otherwise good debt rating in jeopardy. For localities not in any danger of having their financial rating downgraded, these requirements will have little impact.

A good example of the incentives brought about by the proposed regulation is shown in private facilities that are already subject to the regulation. Private facilities only have a small number of acres closed at a certain point in time. Private facilities have found it more efficient to only open and close a small portion of their facility at one time, unlike local facilities that open and close the entire lot at once. This regulation will be an incentive for local facilities to duplicate the efforts of the private facilities to minimize anticipated closure costs.

Addition of the requirement to obtain financial assurance for corrective action:

This amendment to the regulation clarifies a requirement already present in the regulation. This will be nothing new to private facilities and will be included in the requirements for local facilities. Therefore, this amendment will mainly affect local facilities that will, for the first time, be required to provide financial assurance for corrective action as well as closure and post-closure care. In addition to the incentives mentioned in the section above, this requirement may reduce the probability that accidents occur, since facilities will have to account for the costs of corrective action.

Removal of requirement to maintain third-party liability insurance:

The waste management facilities currently subject to these regulations (409 total) will no longer have to maintain third party liability insurance. Third party liability insurance is very expensive, and is almost impossible to get. In fact there are only two suppliers in the state.

According to DEQ very few facilities meet the current requirement. Therefore, bringing into compliance the majority of landfills with deficient liability coverage will be the major effect of this modification. Nevertheless, according to DEQ,

for a large landfill (1,000 tons per day) this may save as much as \$60,000 per year. Therefore, those facilities that no longer purchase third party liability insurance due to this revision will have a significant reduction in expenditures.

Streamlining of the corporate financial test and guarantee:

This will have a net positive effect on private facilities by providing them with a less expensive means to prove financial stability. The magnitude of these savings is not known.

Administrative Costs:

For new facilities, the selected financial responsibility mechanism or mechanisms shall be filed with DEQ as part of the permit application procedures. For existing facilities, the financial responsibility mechanism shall be filed with DEQ within 180 days of the effective date of the proposed amendments, unless an extension is given. To a limited extent, DEQ will also have to continue to monitor the local government's financial activity. As a result, DEQ and facilities operated by local governments will incur some costs due to the increased administrative requirements. This will affect the consumer through higher costs.

There will be some administrative savings to all facilities by eliminating the requirement of furnishing a certificate or memorandum of insurance (or lack thereof) to the department. There will also be some savings to DEQ by eliminating the need to process and review these certificates and memorandum. While the magnitude of these and all administrative savings or costs are not known, they will probably be quite small.

Businesses and entities affected. The businesses primarily affected will be the owners and operators of local waste management facilities. There will also be a generally positive effect on neighboring landowners whose property values and health will be ensured by the proper closure, post-closure care and corrective action of the facilities around them.

Localities particularly affected. The regulation is applied to all localities throughout the Commonwealth, and does not disproportionately affect any particular locality. However, rural counties tend to operate waste management facilities more than urban counties and cities, therefore rural counties could be affected to a greater extent.

Projected impact on employment. The proposed regulation is not expected to have a significant effect on employment.

Effects on the use and value of private property. To the extent that the risks of improper closure or inadequate remediation is reduced, the value of land near waste management facilities may rise to some extent.

Summary of analysis. The proposed regulation will ensure that local waste management facilities are financially able to provide proper closure, post-closure care, and corrective action. This will help to secure the property values and health of neighboring landowners. In addition, by requiring facilities to account for future expenditures, the proposed regulation will require operators of the facilities to secure sufficient revenues to either pass the financial test, or purchase another type of assurance mechanism. While this regulation should have some net benefit to the

Proposed Regulations

Commonwealth, the magnitude of this benefit is not known at this time.

Both removing the requirement for facilities to maintain third party liability insurance and streamlining the financial test for corporations have a net positive effect on private facilities. Nonetheless, due to the small number of localities that currently have third party liability insurance this effect is expected to be minimal.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Environmental Quality has reviewed the economic impact analysis prepared by the Department of Planning and Budget. The department has no objections to the analysis.

Summary:

An owner or operator of a solid waste, regulated medical waste or composting treatment and disposal facility is required to obtain one, or a combination, of the financial responsibility mechanisms described in Part III of these regulations in order to assure that the costs associated with protecting the public health and safety from the consequences of an abandonment or a failure to properly execute closure, post-closure care or corrective action are recovered.

The proposed amendment to these regulations incorporates all the requirements of the federal Solid Waste Disposal Facility Criteria (40 CFR Part 258) promulgated on October 9, 1991. Accordingly, it contains several major changes and numerous editorial changes designed to remove definitional inconsistencies with other regulations governing the management of solid wastes. The amendment also updates the wording of the financial responsibility documents. The major changes are shown below.

Based on the 1993 amendment to the Virginia Waste Management Act, the proposed regulatory amendment would remove the exemption from the financial assurance regulations for facilities owned and operated by the local governing bodies and regional authorities. It also proposes a local government financial test and guarantee that would lessen the impact of statutorily required assurance.

The proposed amendment states explicitly that costs associated with corrective action for releases are to be included in the financial responsibility documents at the time when such costs become known. It also states explicitly that storage facilities are not required to obtain financial assurance.

The amendment proposes to remove the requirements to obtain and maintain third-party liability insurance currently required of all facilities and proposes changes that would streamline the financial test for privately owned and operated facilities.

CHAPTER 70. FINANCIAL ASSURANCE REGULATIONS FOR SOLID WASTE FACILITIES.

PART I. DEFINITIONS.

9 VAC 20-70-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning, unless the content clearly indicates otherwise:

"Abandoned facility" means any inactive solid waste management facility which no longer receives solid waste on a regular basis and which that has not been properly closed in accordance with plans approved by the department met closure and post-closure care requirements.

"Ash" means waste material produced from an incineration process or any combustion. Ash types include fly ash, bottom ash, and incinerator residue.

"Bottom ash" means ash or slag remaining in the combustion unit after combustion.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Authority" means an authority created under the provisions of § 15.1-1241 of the Virginia Water and Sewer Authorities Act or, if any such authority shall be abolished, the board, body, or commission succeeding to the principal functions thereof or to whom the powers given by the Virginia Water and Sewer Authorities Act to such authority shall be given by law.

"Board" means the Virginia Waste Management Board.

"Cash plus marketable securities" means all the cash plus marketable securities held on the last day of a fiscal year, excluding cash and marketable securities designed to satisfy past obligations such as pensions.

"Closed facility" means a solid waste management facility which that has been properly terminated secured in accord accordance with an approved the facility closure plan on file with the Department of Waste Management and complying with all applicable regulations and requirements concerning its stabilization. A closed facility may be undergoing post-closure care.

"Closure" means the act of securing and stabilizing a solid waste management facility pursuant to the requirements of this chapter and any other applicable solid waste management standards.

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing. This category includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, shopping centers, and similar commercial facilities.

"Construction/demolition/debris landfill" means a solid waste disposal area used for the controlled disposal of

construction wastes, demolition wastes, debris wastes, or nondecomposable inert solids which are insoluble in water.

"Construction waste" means the waste building material refuse and other largely inert solid waste resulting from construction, remodeling, and repair operations on houses, commercial buildings, pavements, and other structures. Construction waste includes lumber, wire, sheetrock, broken brick, shingles, glass, pipes, asphalt, concrete and other nonhazardous, nonsoluble unwanted or unused construction material. Paints, coatings, asbestos and any liquid, compressed gases, or semi-liquids are not construction wastes. A mixture of construction waste with any amount of other type of solid waste will cause it to be classified as other than construction waste.

"Corrective action" means all actions necessary to mitigate the public health or environmental threat from a release to the environment of pollutants solid waste or constituents of solid waste from an operating, abandoned, or closed solid waste disposal management facility and to restore the environmental conditions as required.

"Cover material" means soil or other approved material which is used to blanket solid waste in a landfill.

"Debris waste" means inert solid wastes such as brick or block, wood chips, tree stumps, or brush.

"Demolition waste" means solid waste which is largely inert, resulting from the demolition or razing of buildings, roads, and other man-made structures. Asbestos waste is not demolition waste.

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during normal operating cycle of the business.

"Current closure cost estimate" means the most recent of the estimates prepared in accordance with the requirements of 9 VAC 20-70-111.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with the requirements of 9 VAC 20-70-112.

"Debt service" means the amount of principal and interest due on a loan in a given time period, typically the current year.

"Deficit" means total annual revenues less total annual expenditures.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Disposal" means the intentional discharge, deposition deposit, injection, dumping, spilling, leaking or placement placing of any solid waste into or on any land or water so that

such solid waste or any constituent thereof may enter the environment (i.e., air, soil, surface water or groundwater) or to otherwise discard or be emitted into the air or discharged into any waters.

"Facility" means a solid waste management processing or disposal site, or resource recovery site, including any and all contiguous land structures and other appurtenances and improvements thereon used for solid waste disposal and associated activities. Facility types include sanitary landfills, construction/demolition/debris landfills, industrial waste landfills, resource recovery systems, transfer stations, incinerators and composting operations. A facility may consist of more than one operational unit any waste management facility unless the context clearly indicates otherwise.

"Fly ash" means ash particulate collected from air pollution attenuation devices on combustion units, such as those that burn fossil fuels or incinerate solid waste.

"Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency, or establishment of the federal government including any government corporation and the Government Printing Office.

"Garbage and refuse collection and disposal system" means a system, plant or facility designed to collect, manage, dispose of, or recover and use energy from solid waste and the land, structures, vehicles and equipment for use in connection therewith.

"Governmental unit" means any department, institution or commission of the Commonwealth and any public corporate instrumentality thereof, and any district, and shall include local governments.

"Groundwater" means any water, except capillary moisture or unsaturated zone moisture, beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this state Commonwealth, whatever may be the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

"Hazardous waste" means a "hazardous waste" as defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.).

"Incineration" means the controlled combustion of solid waste in an enclosed device.

"Incinerator" means a commercial furnace or other combustion unit which is an enclosed device using controlled flame combustion for solid waste with a rated capacity for greater than 20 tons of solid waste per day and is not classified as a boiler or industrial furnace for other than solid waste.

"Incinerator residue" means the resulting ash product from the incineration of solid waste.

"Industrial solid waste" means all solid waste resulting from a manufacturing and industrial process which is not suitable for discharge to a sanitary sewer or treatment in a publicly owned sewage treatment plant. Industrial solid wastes may

Proposed Regulations

~~include: mining wastes from the extraction, beneficiation and processing of ores and minerals unless those materials are returned to the mine site; fly ash; bottom ash; slag; fire gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; and asbestos.~~

~~"Industrial waste landfill" means a sanitary landfill facility for the disposal of a specific industrial waste or a waste which is a by-product of a production process.~~

~~"Infectious waste" means solid wastes which are generated by health care facilities, laboratories, and research facilities and are contaminated with pathogenic organisms and may cause infectious disease in exposed persons.~~

~~"Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and either public or private schools. It can include infectious waste from health care facilities and research facilities that has not been classified as a hazardous waste by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.).~~

~~"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill, or an impoundment closed in situ as an industrial waste landfill. See Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) for further detail.~~

~~"Leachate" means water or other a liquid that has percolated passed through or originated in emerged from solid waste and contained, dissolved, that contains soluble, suspended, or miscible containments extracted from the solid materials from such waste. Leachate and any material with which it is mixed is solid waste; except that leachate that is pumped from a collection containment facility tank for transportation to for disposal in an off-site facility is regulated as septage, and leachate discharged into a wastewater collection system is regulated as industrial wastewater.~~

~~"Monitoring" means all procedures and techniques used to systematically analyze, inspect, and collect data on operational parameters of the facility or on the quality of air, groundwater, surface water, and soil.~~

~~"Monitoring wells" means a well point below the uppermost or regional groundwater table for the purpose of obtaining periodic water samples for qualitative analysis.~~

~~"Nonhazardous solid waste" means solid waste that is not classified as hazardous waste by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.).~~

~~"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.~~

~~"Local government" means a county, city or town or any authority, commission, or district created by one or more counties, cities or towns.~~

~~"Net working capital" means current assets minus current liabilities.~~

~~"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.~~

~~"Operator" means the person responsible for the overall operation and site management of a solid waste management facility.~~

~~"Owner" means the person, corporation or other legal entity which legally possesses the land on which a solid waste management facility is located for the purposes of this chapter, all individuals, incorporated companies, copartnerships, societies or associations, and any federal agency or governmental unit of the Commonwealth having any title or interest in any garbage and refuse collection and disposal system, or the services or facilities to be rendered thereby.~~

~~"Parent corporation" means a corporation that directly owns at least 50% of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.~~

~~"Permit" means the written permission of the executive director to own, operate, modify, or construct a solid waste management facility.~~

~~"Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body, or federal government agency a governmental body, a municipal corporation or any other legal entity.~~

~~"Post-closure care" means the requirements placed upon an owner or operator of a solid waste disposal facility after closure to ensure environmental and public health safety for a specified number of years after closure.~~

~~"Regulated medical waste" means solid waste defined to be regulated medical waste in Part III of the Regulated Medical Waste Management Regulations (9 VAC 20-120-10 et seq.)~~

~~"Sanitary landfill" means a land disposal site employing an engineered, constructed and controlled burial method of disposal of solid waste to minimize environmental and health nuisances and hazards. The methods include spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, confining the solid waste to the smallest practical area, and applying suitable cover material at the end of each operating day or at such more frequent intervals as may be necessary an engineered land burial facility for the disposal of solid waste which is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment.~~

~~"Secure access control" means the use of fences with locking gates, entry control, operational inspection of incoming solid waste and positive limitations on unauthorized disposal. Natural barriers which prevent unauthorized access may be considered as a replacement for fence sections.~~

~~"Shadow bond rating" means bond rating as determined by Moody's or Standard and Poor's after analysis of the debt~~

capacity of a local government with no outstanding general obligation bonds.

"Signature" means the name of a person written with his own hand.

"Site" means the all land area upon which a facility or activity is physically located or conducted and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of solid waste. This term includes adjacent land used for utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste.

"Solid waste" means any discarded material, garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including but not limited to solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigating return flow or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by The Atomic Energy Act of 1954, as amended (68 Stat. 923). Solid waste can include construction waste, commercial waste, debris waste, industrial waste, infectious waste, and institutional waste except where excluded as a hazardous waste of those materials defined as "solid waste" in the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations (9 VAC 20-80-10 et seq.).

"Solid waste disposal facility" means any sanitary landfill facility, construction/demolition/debris landfill facility, industrial waste landfill, resource recovery facility, incinerator and composting facility. A wastewater treatment plant is not a solid waste facility a solid waste management facility at which solid waste will remain after closure.

"Solid waste management facility (SWMF)" means a site used for planned treating, storing, transferring, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

"Storage" means the holding of waste, at the end of which the waste is treated, disposed, or stored elsewhere.

"Substantial business relationship" means the extent of a business relationship necessary under applicable Virginia law to make a guarantee contract incident to that relationship valid and enforceable. A "substantial business relationship" shall arise from a pattern of recent and on-going business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the director.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

"Total expenditures" means all expenditures excluding capital outlays and debt repayment.

"Total revenue" means revenue from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed on behalf of a specific third party.

"Treatment" means any method, technique, or process, including but not limited to incineration, designed to change the physical, chemical, or biological character or composition of any waste to render it more stable, safer for transport, or more amenable to use, reuse, reclamation or recovery.

PART II.

GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

9 VAC 20-70-20. Authority for regulations. (Repealed.)

Section 10.1-1410 of the Code of Virginia authorizes the Virginia Waste Management Board to exercise general supervision and control over solid waste management activities in this Commonwealth and promulgate regulations for financial responsibility by privately owned solid waste disposal facilities in the event of abandonment. Authority to adopt regulations is established under the Administrative Process Act (§ 9-6-14:4.1.(C)(5)) of the Code of Virginia.

9 VAC 20-70-30. Purpose of chapter.

A. The purpose of this chapter is to assure that owners and operators of nonhazardous solid permitted or unpermitted waste disposal management facilities identified in 9 VAC 20-70-50 A are financially responsible for the closure and, post-closure of care and corrective action at their facilities and can provide financial assurance for liability which may result from any sudden or nonsudden accidental occurrences, as applicable.

B. This chapter establishes standards and procedures for financial assurance to be used in the issuance and continuation of permits to construct or, operate solid waste management facilities, modify, close, or provide post-closure care and to be used in the performance of corrective actions or in formulation of enforcement documents issued by the department.

9 VAC 20-70-40. Petition for revisions. (Repealed.)

The Virginia Waste Management Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision of this chapter.

9 VAC 20-70-41. Analysis of this chapter.

A. Within three years after the effective date of this amended chapter, the department shall perform an analysis on this chapter and provide the board with a report on the results. The analysis shall include:

1. The purpose and need for the chapter;
2. Alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner;
3. An assessment of the effectiveness of this chapter;
4. The results of a review of current state and federal statutory and regulatory requirements, including

Proposed Regulations

identification and justification of requirements of this chapter which are more stringent than federal requirements; and

5. The results of a review as to whether this chapter is clearly written and easily understandable by affected entities.

B. Upon review of the department's analysis, the board shall confirm the need to:

1. Continue this chapter without amendment;
2. Repeal this chapter; or
3. Amend this chapter.

C. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

9 VAC 20-70-50. Applicability of chapter.

A. This chapter applies to all persons who own, operate, or allow solid the following permitted or unpermitted waste disposal management facilities to be operated on their property in the Commonwealth except counties, cities, and towns or federal and state agencies:

1. Solid waste treatment and disposal facilities regulated under the Virginia Solid Waste Management Regulations (9 VAC 20-80-10 et seq.);
2. Composting facilities regulated under Yard Waste Composting Regulations (9 VAC 20-100-10 et seq.); or
3. Medical waste treatment or disposal facilities regulated under Regulated Medical Waste Management Regulations (9 VAC 20-120-10 et seq.).

B. Exemptions to this chapter include:

1. ~~Composting of sewage sludge at the sewage treatment plant of generation and not involving other solid wastes.~~
2. ~~Land application of wastes regulated under Virginia Sewerage Regulations or the State Water Control Board as a part of the National Pollution Discharge Elimination System (NPDES).~~
3. ~~Solid waste generated in the normal operation of a farm and related to the production of crops, to the extent these solid wastes are managed on the site of their generation.~~
4. ~~Management of hazardous waste as defined and controlled by the Commonwealth of Virginia, Virginia Waste Management Board, Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.).~~

1. Owners or operators of facilities who are federal or state government entities whose debts and liabilities are the debts or liabilities of the United States or the Commonwealth, are exempt from this chapter;

2. Owners and operators of facilities conditionally exempt under 9 VAC 20-80-60 D of the Virginia Solid Waste Management Regulations are exempt from this

chapter so long as they meet the conditions of the exemption;

3. Owners and operators of facilities that manage solely wastes excluded under 9 VAC 20-80-150 or conditionally exempt under 9 VAC 20-80-160 of the Virginia Solid Waste Management Regulations are exempt from this chapter;

4. Owners or operators of regulated medical waste management facilities exempt or excluded under Article 2, Part III, of the Virginia Regulated Medical Waste Management Regulations (9 VAC 20-120-10 et seq.) are exempt from this chapter; and

5. Owners and operators of yard waste composting facilities exempt under 9 VAC 20-100-60 of the Yard Waste Composting Facility Regulations are exempt from this chapter; and

6. Owners and operators of hazardous waste management units regulated under the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.) are exempt from this chapter as far as such units are concerned.

C. Management of solid Owners and operators of facilities or units that treat or dispose of wastes which are exempted from the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.) are subject to these regulations unless also exempted herein.

D. Facilities with separate ownership and operation. If separate, nonexempt persons own and operate a waste management facility subject to this chapter, the owner and operator shall be jointly and severally responsible for meeting the requirements of this chapter. If either the owner or operator is exempt, as provided in 9 VAC 20-70-50 B, then the other person shall be responsible for meeting the requirements of this chapter. If both the owner and the operator are exempt, as provided in 9 VAC 20-70-50 B, then the requirements of this chapter are not applicable to that waste management facility.

E. Owners and operators of facilities who are local governmental entities or regional authorities are exempt from the requirements of this chapter until April 9, 1997. The director may delay on a case-by-case basis the effective date for such entities until April 9, 1998, provided that the owner/operator demonstrates to the director's satisfaction that the April 9, 1997, deadline does not provide sufficient time to comply with these requirements and that such a waiver will not adversely affect human health and the environment.

9 VAC 20-70-60. Enforcement and appeal procedures; offenses and penalties.

A. An enforcement action commences with a notice from the department or its representative that there is information indicating that a named party (i) is or may be in violation of a law or regulation; or (ii) is not or may not be in compliance with any existing requirement for obtaining or retaining a permit or other benefit or right. The commencement of an enforcement action is not a case decision. An enforcement

action ends when a case decision becomes final, either administratively or on court review.

A. B. All administrative enforcement actions and appeals taken from actions of the director relative to the provisions of § 10.1-1457 of the Virginia Waste Management Act and this chapter shall be governed by the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

B. C. Orders. The executive director is authorized to issue orders to require any person to comply with this chapter as stated or to require such steps he deems necessary to bring about compliance. Orders will be issued in written form through certified mail and will be issued in accord with provisions of the Virginia Administrative Process Act.

9 VAC 20-70-70. Suspensions and revocations.

A. If the executive director believes that the public health or the environment is or may be threatened by a solid waste management facility and that the threat poses a substantial present or potential hazard to human health or environment, he may suspend all or part of the operation of the facility for such time as he shall prescribe. The suspension shall be made by written notice to the operator. Such a suspension shall constitute an order. An administrative hearing on the suspension will be held at the request of the owner/operator.

B. The executive director may revoke, suspend, or amend any permit for cause as set in § 10.1-1409 of the Code of Virginia and as provided for in 9 VAC 20-80-600 and 9 VAC 20-80-620 of Virginia Solid Waste Management Regulations. Failure to provide or maintain adequate financial assurance in accordance with these regulations shall be a basis for revocation of such facility solid waste permit and site closure. Failure to provide or maintain adequate financial assurance in accordance with this chapter, taken with other relevant facts and circumstances, may be a basis for summary suspension of such facility permit pending a hearing to amend or revoke the permit, or to issue any other appropriate order.

9 VAC 20-70-75. Forfeitures.

Forfeiture of any financial obligation imposed pursuant to this chapter shall not relieve any holder of a permit issued pursuant to the provisions of Part VII of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) or Parts IV and X of the Regulated Medical Waste Regulations (9 VAC 20-120-10 et seq.), or any other legal obligations for the consequences of abandonment of any facility.

PART III.
CLOSURE AND POST-CLOSURE FINANCIAL
RESPONSIBILITY AND LIABILITY COVERAGE.
FINANCIAL ASSURANCE CRITERIA.

Article 1.
General Provisions.

9 VAC 20-70-80. General purpose and scope. (Repeated.)

A. Permits for nonhazardous solid waste disposal facilities shall require closure, and post-closure financial assurance and liability insurance plans as prescribed in this part for the purpose of assuring that owners and operators of these

facilities are financially responsible for protection of public health and the environment.

B. This part contains general provisions governing closure and post-closure care for solid waste disposal facilities. These provisions may be supplemented by more specific closure and post-closure care requirements. Together with the cost estimate provisions, these provisions form the basis of the financial assurance requirements and liability insurance limits included in this part.

9 VAC 20-70-81. General purpose and scope.

In order to assure that the costs associated with protecting the public health and safety from the consequences of an abandonment or a failure to properly execute closure, post-closure care or corrective action at a waste management facility are to be recovered from the owner or operator, the owner or operator of such facility shall obtain one, or a combination of the financial responsibility mechanisms described in this part. Financial responsibility mechanisms shall be in amount calculated as the cost estimate using the procedures set forth in 9 VAC 20-70-110.

A. In the case of new facilities, the selected financial responsibility mechanism or mechanisms shall be filed with the Department of Environmental Quality as part of the permit application procedures and prior to the issuance of an operating permit.

B. In the case of existing facilities that become regulated as the result of a regulatory amendment, the selected financial responsibility mechanism shall be filed with the Department of Environmental Quality within 180 days of the effective date of the amendment.

C. The director may reject the proposed evidence of financial responsibility if the mechanism or mechanisms submitted do not adequately assure that funds will be available for closure, post-closure care, or corrective action. The owner or operator shall be notified in writing within 45 days of receipt of the financial assurance mechanism of the tentative decision to accept or reject the proposed evidence.

Article 2.
Closure, Post-Closure Care and Corrective Action
Requirements.

9 VAC 20-70-90. Closure and post-closure care and corrective action requirements.

A. Notification.

1. An owner or operator intending to close a solid waste disposal facility shall notify the department of the intention to do so at least 180 days prior to the anticipated date for initiating closure. Simultaneous notice shall be made to the governing body of each host locality and adjacent property owners.

2. The owner or operator shall post one sign notifying all persons of the closing and prohibition against further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

B. Closure and post-closure standards.

Proposed Regulations

~~4. Closure and post closure care shall occur in accord with approved plans. A closure plan and a post closure plan shall be submitted with the permit application. The holder of the permit shall submit a proposed modified closure plan or post closure plan to the department for review and approval as such modifications become necessary during the life of the facility.~~

2. A. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance; and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the groundwater, surface water, or to the atmosphere. ~~The post-closure period shall continue for 40 years after the date of completing closure of the solid waste disposal facility or as the department decides is sufficient to protect human health and the environment.~~

The closure standards applicable to the solid waste management facilities are described in 9 VAC 20-80-200 D, 9 VAC 20-80-210 A 7, 9 VAC 20-80-250 E, 9 VAC 20-80-260 E, 9 VAC 20-80-270 E, 9 VAC 20-80-330 E, 9 VAC 20-80-340 E, 9 VAC 20-80-350 E, 9 VAC 20-80-380 B, and 9 VAC 20-80-470 E of the Solid Waste Management Regulations. The closure requirements applicable to the regulated medical waste facilities are specified in 9 VAC 20-120-290 of the Regulated Medical Waste Management Regulations. The closure requirements for yard waste composting facilities are specified in 9 VAC 20-100-110 of the Yard Waste Composting Facilities.

C. Inspection.

~~1. The department shall inspect all solid waste management facilities that have been closed to determine if the closing is complete and adequate in accordance with the approved plan not more than 30 days after being notified by the owner or operator that closure has been completed. The department shall notify the owner of a closed facility in writing not more than 30 days after the inspection of its findings.~~

~~a. If the closure is not satisfactory, it shall order necessary construction or such other steps as may be appropriate to bring unsatisfactory sites into compliance with the closure requirements.~~

~~b. If the closure is satisfactory, the owner shall be advised in writing.~~

~~2. Notification by the department that the closure is satisfactory does not relieve the operator of responsibility for corrective action in accordance with regulations of the department to prevent or abate problems caused by the facility.~~

B. *Following closure of each solid waste disposal unit, the owner or operator shall conduct post-closure care in accordance with the requirements of 9 VAC 20-80-250 F, 9 VAC 20-80-260 F, or 9 VAC 20-80-270 F of the Solid Waste Management Regulations, as applicable.*

C. *The owner or operator shall institute a corrective action program when required to do so by 9 VAC 20-80-190, 9 VAC*

20-80-210 A 7, or 9 VAC 20-80-310 of the Solid Waste Management Regulations, as applicable.

9 VAC 20-70-100. Financial responsibility. *(Repealed.)*

A. General.

~~1. In order to assure that the costs associated with protecting the public health and safety from the consequences of an abandonment or a failure to properly execute closure or post closure care of a nonhazardous solid waste disposal facility are to be recovered from the owner or operator, the owner or operator of such a facility shall obtain one, or a combination of the financial responsibility instruments described in this section. Evidence of financial responsibility shall be in one or a combination of the following forms: a surety bond; a trust fund maintained for the benefit of the Department of Waste Management; a letter of credit; a deposit of acceptable collateral with the executive director; with the financial test and corporate guarantee or such other mechanisms as the board may deem appropriate. Financial responsibility instruments for site closure shall be in the amount calculated as the cost estimate for facility closure using the procedures set forth in 9 VAC 20-70-110 and 9 VAC 20-70-120. The selected financial responsibility instrument or instruments shall be filed with the Department of Waste Management as part of the permit application procedures and prior to the issuance of an operating permit. The director may reject the proposed evidence of financial responsibility if the mechanisms submitted do not adequately assure that funds will be available for closure and post closure care. The owner shall be notified in writing within 45 days of receipt of the financial assurance mechanisms of the decision to accept or reject the proposed evidence.~~

~~2. To further protect the public health and safety, owners or operators of nonhazardous solid waste disposal facilities shall obtain liability coverage for sudden and nonsudden accidental occurrences using the procedures set forth in 9 VAC 20-70-130.~~

B. Applicability.

~~1. The requirements for appropriate financial responsibility for solid nonhazardous waste disposal facilities as contained in this chapter shall apply to all private owners or operators of such existing and future facilities throughout the Commonwealth of Virginia; no state, local or other governmental agency is required to comply with these provisions on financial responsibility.~~

~~2. Any funds forfeited to the state pursuant to a financial responsibility plan required by this chapter shall be paid over to the county, city, or town in which the abandoned facility is located to be expended by the county, city, or town only as necessary to restore and maintain such facility in a safe condition.~~

Article 3. Cost Estimates.

9 VAC 20-70-110. Cost estimates. *(Repealed.)*

A. Cost estimate for facility closure.

~~1. In submitting a closure plan as required by this chapter, the owner or operator of a solid nonhazardous waste disposal facility shall include therein a written estimate of the cost of closing the facility. The estimated closing cost shall be jointly agreed upon by the Department of Environmental Quality and the owner or operator filing the permit application but in no case shall the estimated closing cost be less than:~~

- ~~a. One thousand dollars for each acre of a landfill ultimately to be utilized at the site for actual waste disposal purposes.~~
- ~~b. Five thousand dollars for each acre used for composting of solid waste and for on-site storage.~~
- ~~c. Ten thousand dollars for each acre or fraction thereof used at an incinerator for the collection and storage of solid waste and for incinerator residue.~~

~~2. If no mutually agreed to estimate is arrived at, the estimate will be determined by the department.~~

~~3. The estimated closing cost shall be based on the work required for a third party contractor to effect proper closure at the most expensive point in the life of the facility. Those factors to be considered in estimating the closing cost shall include:~~

- ~~a. The size and topography of the site.~~
- ~~b. The daily and weekly tonnage of waste to be received at the site.~~
- ~~c. Availability of cover and fill material needed for site grading.~~
- ~~d. The type of waste to be received at the site.~~
- ~~e. Landfill method and sequential landfill plan.~~
- ~~f. The location of the site and the character of the surrounding area.~~
- ~~g. Requirements for surface drainage.~~
- ~~h. Leachate collection and treatment system.~~
- ~~i. Environmental quality monitoring systems.~~
- ~~j. Structures and other improvements to be dismantled and removed.~~
- ~~k. Site storage capacity for solid waste, incinerator residue, and compost material.~~
- ~~l. Off site disposal requirements.~~
- ~~m. An appropriate forecasted average rate of inflation over the period of the life of the site.~~
- ~~n. Vector control requirements.~~

~~4. If the executive director has reason to believe that a previously submitted closure cost estimate is no longer adequate, he may require that the operator submit a revised estimate. The operator shall submit the revised estimate within 90 days following the receipt of a notice of the requirement by the executive director. When the revised estimates are approved, the owner/operator shall~~

~~submit revised financial assurance for the revised closure costs.~~

~~B. Cost estimate for facility post-closure.~~

~~1. In submitting a closure plan as required by this chapter, the owner or operator of a nonhazardous solid waste disposal facility shall include therein a written estimate of the cost of post-closure care, monitoring, maintenance, and corrective action for a privately owned or operated facility located in the Commonwealth of Virginia. Unless on site disposal is planned or required, an incinerator, resource recovery facility, and compost facility will not be required to include a post-closure cost estimate in its closure plan. The estimated post-closure cost shall be jointly agreed upon by the Department of Environmental Quality and the owner or operator filing the permit application. If no mutually agreed to estimate is arrived at, the estimate will be determined by the department. Such costs shall be based on the work required for a third party contractor.~~

~~2. Those factors to be considered in estimating post-closure care costs shall include:~~

- ~~a. The size and topography of the site.~~
- ~~b. The type and quantity of waste received.~~
- ~~c. Landfill method and sequential landfill plan.~~
- ~~d. The potential for significant leachate production and the possibility of contaminating water supplies.~~
- ~~e. Environmental quality monitoring systems.~~
- ~~f. Soil conditions.~~
- ~~g. An appropriate forecasted average rate of inflation over the period of the life of the site.~~
- ~~h. The location of the site and the character of the surrounding area.~~

~~3. Estimated costs of post-closure activities shall be determined on a case-by-case basis. If during a disposal site's active waste collection life a substantial change occurs in the operations of the facility or in the nature and development of the surrounding area, the executive director may order the filing of a revised estimate of post-closure costs by the owner or operator, which shall be submitted within 90 days following the receipt of notice of the requirement by the executive director. When the revised estimates are approved, the owner/operator shall submit revised financial assurance for the revised post-closure costs.~~

~~9 VAC 20-70-111. Cost estimate for facility closure.~~

~~A. The owner or operator shall have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements of 9 VAC 20-70-90 A.~~

~~1. The estimate shall equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.~~

Proposed Regulations

2. The closure cost estimate shall be based on the costs to the owner or operator of hiring a third party to close the facility. A third party may not be either a parent or a subsidiary of the owner or operator.

3. The closure cost estimate may not incorporate any salvage value that may be realized by the sale of wastes, facility structures or equipment, land or other facility assets at the time of partial or final closures.

4. The owner or operator may not incorporate a zero cost for waste that might have economic value.

B. During the active life of the facility, the owner or operator shall adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial mechanisms used to comply with this part. For owners and operators using the financial test or guarantee, the closure cost estimate shall be updated for inflation within 30 days after the close of the owner's or operator's fiscal year. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business, as specified below. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

1. The first adjustment is made by multiplying the closure cost estimate by the latest inflation factor. The result is the adjusted closure cost estimate.

2. Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

C. During the active life of the facility, the owner or operator shall revise the closure cost estimate no later than 30 days after a revision has been made to the closure plan which increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate shall be revised no later than 30 days after the closure plan has been modified, if the change in the closure plan increases the cost of closure. The revised closure cost estimate shall be adjusted for inflation as specified in subdivisions B 1 and B 2 of this section.

D. The owner or operator shall keep at the facility the latest closure cost estimate prepared in accordance with subsections A through C of this section during the operating life of the facility.

E. The owner or operator of each waste management unit shall establish financial assurance for closure of the unit in compliance with 9 VAC 20-70-140. The owner or operator shall provide continuous coverage for closure until released from financial assurance requirements by the director.

F. The owner or operator may reduce the closure cost estimate and the amount of financial assurance provided under subsection E of this section, if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the unit. The owner or operator shall notify the director that the justification for the reduction of the

closure cost estimate and the amount of financial assurance has been placed in the operating record.

9 VAC 20-70-112. Cost estimate for facility post-closure.

A. The owner or operator shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the solid waste disposal unit in compliance with the post-closure plan required by 9 VAC 20-70-90 B. The post-closure cost estimate used to demonstrate financial assurance shall account for the total costs of conducting post-closure care, including annual and periodic costs as described in the post-closure plan over the entire post-closure care period. The owner or operator shall notify the director that the estimate has been placed in the operating record.

1. The cost estimate for post-closure care shall be based on the most expensive costs of post-closure care during the post-closure care period.

2. During the active life of the solid waste disposal unit and during the post-closure care period, the owner or operator shall annually adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial mechanism used to comply with this part. For owners or operators using the financial test or guarantee, the post-closure care cost estimate shall be updated for inflation within 30 days after the close of the owner's or operator's fiscal year. The adjustment process to be used is described in 9 VAC 20-70-111 B.

3. The owner or operator shall increase the post-closure care cost estimate and the amount of financial assurance provided under subsection B of this section if changes in the post-closure plan or solid waste disposal unit conditions increase the maximum costs of post-closure care.

4. The owner or operator may reduce the post-closure cost estimate and the amount of financial assurance provided under subsection B of this section if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. The owner or operator shall notify the director that the justification for the reduction of the post-closure cost estimate and the amount of financial assurance has been placed in the operating record.

B. The owner or operator of each solid waste disposal unit shall establish, in a manner under 9 VAC 20-70-140, financial assurance for the costs of post-closure care as required under 9 VAC 20-70-90 B. The owner or operator shall provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care by the director.

C. The owner or operator shall keep the latest post-closure cost estimate prepared in accordance with subsection B of this section during the operating life of the facility and during the entire post-closure care period at a place specified in the post-closure plan.

9 VAC 20-70-113. *Financial assurance for corrective action.*

A. An owner or operator of a solid waste management unit required to undertake a corrective action program under 9 VAC 20-70-90 C shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to perform the corrective action. The corrective action cost estimate shall account for the total costs of corrective action activities as described in the corrective action plan for the entire corrective action period. The owner or operator shall notify the director that the estimate has been placed in the operating record unless corrective action is proceeding under Part IV of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.). In the latter case, the new corrective action cost estimate shall be submitted to the director within 30 days of its preparation.

1. The owner or operator shall annually adjust the estimate for inflation until the corrective action program is completed within 60 days prior to the anniversary date of the establishment of the financial mechanism used to comply with this part. For owners or operators using the financial test or guarantee, the corrective action cost estimate shall be updated for inflation within 30 days after the close of owner's or operator's fiscal year. The adjustment process to be used is described in 9 VAC 20-70-111 B.
2. The owner or operator shall increase the corrective action cost estimate and the amount of financial assurance provided under subsection B of this section if changes in the corrective action program or solid waste management unit conditions increase the maximum costs of corrective action.
3. The owner or operator may reduce the amount of the corrective action cost estimate and the amount of financial assurance provided under subsection B of this section if the cost estimate exceeds the maximum remaining costs of corrective action. The owner or operator shall notify the director that the justification for the reduction of the corrective action cost estimate and the amount of financial assurance has been placed in the operating record.

B. The owner or operator of each solid waste management unit required to undertake a corrective action program under 9 VAC 20-70-90 C shall establish financial assurance for the most recent corrective action program. The owner or operator shall provide continuous coverage for corrective action until released from financial assurance requirements for corrective action by the director.

Article 4.
Allowable Financial Mechanisms.

9 VAC 20-70-120. *Financial assurance for facility closure and post-closure. (Repealed.)*

A. General. For each nonhazardous solid waste facility for which a permit is applied, a separate financial assurance mechanism shall be provided for closure and post-closure activities. Determination of the financial responsibility requirements for post-closure care shall be made by the department when the complete closure plan, closure financial

responsibility mechanisms, and the permit application are evaluated.

B. Financial mechanisms. Financial responsibility may be demonstrated by one or a combination of the following financial instruments executed in the amount calculated as the estimated closing cost in accordance with 9 VAC 20-70-110. Financial instruments shall substantially comply with the language shown in the cited appendices.

1. A closure trust fund maintained by the owner or operator of a disposal site for the benefit of the Department of Environmental Quality (see Appendices 3.1 and 3.2).
2. A surety bond guaranteeing performance of closure, with the disposal site owner or operator as the principal and the Commonwealth of Virginia as the obligee, issued for the life of the disposal site or until closure is completed, written with a penal sum equal to the estimated closure cost amount (see Appendices 3.3 and 3.4).
3. A letter of credit from a bank or other financial institution regulated by an agency of the Commonwealth of Virginia written in the amount of the estimated closure cost (see Appendices 3.5 and 3.6).
4. A deposit of acceptable collateral, as determined by the executive director, with the Commonwealth of Virginia with market value at least equal to the amount of the estimated closure cost (see Appendix 3.7).
5. A financial test and corporate guarantee as determined appropriate by the executive director in accordance with Appendices 3.8, 3.9, and 3.10.
6. Other individual or group mechanisms that the department may deem appropriate.

C. Multiple financial mechanisms.

1. An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism. These mechanisms are limited to trust funds, performance bonds, letters of credit, and deposits of acceptable collateral. The mechanisms must be as specified in Appendices 3.1 through 3.7 except that it is the combination of mechanisms rather than each single mechanism, which must provide financial assurance for an amount at least equal to the closure cost estimate.
2. The executive director may elect to use any or all of the mechanisms, in accordance with the requirements of Appendices 3.1 through 3.7.

D. Release of the owner or operator from the requirements of this section. Within 60 days after receiving certification from the owner or operator that closure has been accomplished in accordance with the closure plan and the provisions of this chapter, the executive director shall verify that proper closure has occurred. Unless the executive director has reason to believe that closure has not been in accordance with the closure plan, he shall notify the owner or operator in writing that he is no longer required to maintain financial assurance for closure of the particular facility. Such notice shall release the owner or operator only from the

Proposed Regulations

requirements for financial assurance for closure of the facility; it does not release him from legal responsibility for meeting the closure or post-closure standards or from liability for any sudden or nonsudden accidents occurring either before, during, or after closure of the site. If no written notice of termination of financial assurance requirements or failure to properly perform closure is received by the owner or operator within 60 days after certifying proper closure, the owner or operator may petition the executive director for an immediate decision, in which case the executive director shall respond within 10 days after receipt of such petition.

E. Incapacity of institution issuing financial responsibility instruments. An owner or operator who fulfills the requirements of this section by obtaining a letter of credit, a surety bond, or by depositing negotiable collateral will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency, or a suspension or revocation of the license or charter of the issuing institution. The owner or operator shall establish other financial assurance within 60 days of such event.

9 VAC 20-70-130. Liability insurance requirements. (Repealed.)

A. Each owner and operator of a solid waste disposal facility shall secure and maintain liability coverage for claims arising from injuries to other parties, including bodily injury or damage to property of others. This coverage shall be in the form of a financial test for liability coverage (see Appendix 3.8) an insurance policy, or other financial instruments as authorized in 9 VAC 20-70-130-G. These forms of coverage shall be of the types and in not less than the amounts listed in subsections D, E and F below. Each person securing a permit shall file evidence of satisfactory liability coverage when the department issues the permit and before any site development work begins.

B. The liability insurance shall be issued by an insurance company authorized to do business in the Commonwealth of Virginia. The liability insurance shall be subject to the insurer's policy provisions filed with and approved by the executive director.

C. A certificate or memorandum of insurance shall be furnished to the department for its approval showing specifically the coverage and limits, together with the name of the insurance company and the insurance agent. If any of the coverages set forth on these certificates or memoranda of insurance are reduced, cancelled, terminated, or nonrenewed, the permittee or, insurance company shall, not less than 30 days before the effective date of the action, furnish the department with appropriate notices of that action. Timely proof of periodic renewal shall be furnished to the department by submittal of a certificate or memorandum of insurance before the expiration date of the policy.

D. Each owner or operator of a solid waste disposal facility shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility. The minimum liability limits for sudden accidental occurrences shall be for the annual aggregate of \$100,000 for all landfills, incinerators, resource recovery facilities and compost facilities.

E. If the executive director determines at any time that an owner's or operator's required liability limits are not consistent with the degree and duration of present or potential risks associated with the disposal facility, the executive director may increase the operator's limit as may be necessary to protect human health and the environment. An insurance policy shall have not more than a \$5,000 deductible for each occurrence. The executive director may authorize an increase in the deductible based on the owner/operator's financial ability to pay a higher deductible. The minimum coverage shall include the following expenses:

1. Coverage of premises and operations, including operations of independent contractors; and
2. Coverage for contamination or pollution.

F. An owner or operator of a solid waste disposal facility shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the disposal facility. The owner or operator shall have and maintain minimum liability coverage for nonsudden accidental occurrences for an annual aggregate sum exclusive of legal defense cost as follows:

1. Five hundred thousand dollars for sanitary landfills and industrial landfills without a liner and leachate collection system;
2. Two hundred fifty thousand dollars for sanitary and industrial landfills with a liner and leachate collection system; and
3. One hundred thousand dollars for construction/demolition/debris landfills.

G. Any applicant, after conducting a site risk assessment, may request that the department evaluate the hazards involved in an accidental occurrence and may request a variance from the specific insurance coverage amounts prescribed under this chapter or requirements for liability insurance where the applicant is able to demonstrate other financial responsibility satisfactory to the executive director.

1. Solid waste disposal facilities accepting construction/demolition/debris waste shall not be required to obtain liability insurance if the applicant can demonstrate that:

- a. No wastes other than construction, demolition or debris wastes have been or will be accepted into the site;
- b. Reasonably secure access control, either natural or man-made, eliminate the risk that unauthorized wastes will enter the site; and
- c. The location and design of the site is sufficient to prevent adverse effects associated with the disposal of construction/demolition/debris wastes.

2. Any applicant may request a waiver of the requirement for liability insurance. In evaluating the request for a waiver, the director shall consider:

- a. The nature of the wastes accepted in the site.

- b. ~~The security of access control.~~
- c. ~~The ownership of the land on which the disposal is occurring.~~
- d. ~~The existence of a groundwater monitoring program.~~
- e. ~~The compliance record of the applicant.~~

~~3. If the director finds that commercial insurance cannot be obtained in the voluntary market due to circumstances beyond the control of the permit holder or applicant or such insurance is not economically feasible to obtain, the director may allow the use of personal bonds or other mechanisms in lieu of commercial insurance.~~

9 VAC 20-70-140. Allowable financial mechanisms.

The mechanisms used to demonstrate financial assurance shall ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners and operators shall choose from the options specified in this article.

9 VAC 20-70-150. Trust fund.

A. *The owner or operator of a waste management facility may satisfy the requirements of this article by establishing a trust fund that conforms to the requirements of this section and by submitting an originally signed duplicate of the trust agreement to the director. The trustee for the trust fund shall be a bank or financial institution that has the authority to act as a trustee and whose trust operations are regulated and examined by the Commonwealth of Virginia.*

B. *Payments into the trust fund shall be made annually by the owner or operator over the useful or the remaining life of the waste management facility unit, whichever is shorter, in the case of a trust fund for closure or post-closure care, or over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is hereafter referred to as the "pay-in period."*

C. *If a trust fund is used to demonstrate financial assurance for closure and post-closure care:*

1. *For a new facility, the first payment shall be made at least 60 days before the initial receipt of waste for treatment or disposal. A receipt from the trustee for this payment shall be submitted by the owner or operator to the director before this initial receipt of solid or regulated medical waste. The first payment shall be at least equal to the current closure cost and, if applicable, post-closure care estimate divided by the number of years in the pay-in period. Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment shall be determined by this formula:*

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure and post-closure care cost estimate, CV is the current value of the trust fund,

and Y is the number of years remaining in the pay-in period.

2. *For an existing facility, permitted or unpermitted, if an owner or operator establishes a trust fund as specified in this section, the first payment shall not be less than the closure and, if applicable, post-closure care cost of that portion of the facility that has not been closed in accordance with an approved plan. This payment is due on the effective date of the trust agreement. If the value of the trust fund is less than the current closure cost for the entire facility and, if applicable, post-closure care estimate, the amount of the current closure cost or post-closure care estimate still to be paid into the trust fund shall be paid in over the pay-in period. Payments shall continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to this regulation. The amount of each payment shall be determined by this formula:*

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure and post-closure care cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

3. *At no time during the life of the facility or the term of the permit shall the trust fund have a value less than the cost of closure of that portion of the facility that has not been closed in accordance with an approved closure plan at the time of the annual payment.*

D. *For a trust fund used to demonstrate financial assurance for corrective action, the first payment into the trust fund shall be at least equal to one-half of the current cost estimate for corrective action divided by the number of years in the corrective action pay-in period as defined in subsection B of this section. The amount of subsequent payments shall be determined by the following formula:*

$$\text{Next payment} = \frac{RB - CV}{Y}$$

where RB is the most recent estimate of the required trust fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period), CV is the current value of the trust fund, and Y is the number of years remaining on the pay-in period. The initial payment into the trust fund shall be made no later than 120 days after the corrective action remedy has been selected.

E. *If the owner or operator establishes a trust fund after having used one or more alternate mechanisms specified in this section, the initial payment into the trust fund shall be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this section, as applicable.*

F. *The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the cost estimate at the time the fund is established. However, the value of the fund shall be maintained at no less than the*

Proposed Regulations

value would have been if annual payments were made as specified in subsections B through E of this section, as applicable.

G. Whenever the cost estimate changes after the pay-in period is completed, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new cost estimate, the owner or operator shall, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain other financial assurance as specified in this article to cover the difference. If the value of the trust fund is greater than the total amount of the cost estimate, the owner or operator may submit a written request to the director for release of the amount that is in excess of the cost estimate.

H. If the owner or operator substitutes other financial assurance as specified in this article for all or part of the trust fund, he may submit a written request to the director for release of the amount in excess of the current cost estimate covered by the trust fund.

I. Within 60 days after receiving a request from the owner or operator for release of funds specified in subsections G through H of this section, the director will instruct the trustee to release to the owner or operator such funds as the director deems appropriate, if any, in writing.

J. After beginning closure or during the period of post-closure care, an owner or operator or any other person authorized to conduct closure or post-closure care, may request reimbursement for closure or post-closure expenditures by submitting itemized bills to the director. Within 60 days after receiving bills for closure or post-closure care activities, the director shall instruct the trustee to make reimbursements in those amounts as the director determines are in accordance with the closure or post-closure plan or are otherwise justified.

K. The director shall agree to terminate the trust when:

1. The owner or operator substitutes alternate financial assurance as specified in this article; or
2. The director notifies the owner or operator that he is no longer required by this article to maintain financial assurance for the closure, post-closure care or corrective action.

L. The wording of the trust agreement shall be identical to the wording specified in Appendix I and the trust agreement shall be accompanied by a formal certification of acknowledgment. Schedule A of the trust agreement, as described in Appendix I, shall be updated within 60 days after a change in the amount of the current cost estimate covered by the agreement.

9 VAC 20-70-160. Surety bond guaranteeing payment or performance.

A. An owner or operator may demonstrate financial assurance for closure or post-closure care by obtaining a payment or performance surety bond that satisfies the requirements of this section. An owner or operator may

demonstrate financial assurance for corrective action by obtaining a performance bond which conforms to the requirements of this section.

1. An owner or operator of a new facility shall submit the bond to the director at least 60 days before the date on which waste is first received for treatment or disposal. In case of existing facilities, the owner or operator who substitutes a surety bond for another financial assurance mechanism already in place shall submit the bond to the director at least 30 days before the expiration date of the previous mechanism.

2. The bond shall be effective before the initial receipt of waste, [effective date of this amendment], or the expiration date of the previous assurance mechanism, whichever is later, or no later than 120 days after the corrective action remedy has been selected.

3. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of Treasury.

B. The surety bond shall name the facility operator or owner as the principal and name the Commonwealth of Virginia as the obligee.

C. The penal sum of the bond shall be in an amount at least equal to the current closure, post-closure care or corrective action cost estimate, whichever is applicable.

D. The term of the bond shall be for the active life of the waste management facility for which a permit is applied by the owner or operator through the closure period. A bond used for post-closure care assurance shall extend through the post-closure period. A bond used for corrective action shall extend through the corrective action period.

E. The bond shall guarantee that the owner or operator will:

1. Perform final closure, post-closure care, or corrective action in accordance with the closure or post-closure plan and other requirements in any permit for the facility;
2. Perform final closure, post-closure care, or corrective action following an order to begin closure, post-closure, or corrective action issued by the director or by a court, or following issuance of a notice of termination of the permit; or
3. Provide alternate financial assurance as specified in this article within 60 days after receipt by the director of a notice of cancellation of the bond from the surety.

F. The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

G. The owner or operator shall establish a standby trust fund. The standby trust fund shall meet the requirements of 9 VAC 20-70-150 except the requirements for initial payment and subsequent annual payments.

H. Payments made under the terms of the bond will be deposited by the surety directly into the standby trust fund.

Payments from the trust fund shall be approved by the trustee.

I. If upon amendment of the permit, the cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator shall, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this article to cover the increase. Whenever the cost estimate decreases, the penal sum may be reduced to the amount of the cost estimate following written approval by the director. Notice of an increase or decrease in the penal sum shall be sent to the director by certified mail within 60 days after the change.

J. The bond shall remain in force for its term unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the director. Cancellation cannot occur, however:

1. During the 120 days beginning on the date of receipt of the notice of cancellation by the director as shown on the signed return receipt; or
2. While an enforcement procedure is pending.

K. Following a determination that the owner or operator has failed to perform closure or post-closure in accordance with the approved plan and any other permit or order requirements when required to do so, the surety shall perform, or cause to have performed, closure, post-closure care or corrective action in accordance with the terms of the bond, approved plan and any other permit requirement or enforcement order. As an alternative to performing final closure or post-closure, the surety may forfeit the full amount of the penal sum to the Commonwealth.

L. The owner or operator may cancel the bond if the director has given prior written consent based on receipt of evidence of alternative financial assurance as specified in this article or if the owner or operator is no longer required to demonstrate financial responsibility.

M. The director will notify the surety if the owner or operator provides alternate financial assurance as specified in this article.

N. The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the owner or operator has been notified by the director that the owner or operator is no longer required by this article to maintain financial assurance for closure or post-closure care of the facility.

O. In regard to closure or post-closure performed either by the owner or operator or by the surety, proper final closure of a waste management facility shall be deemed to have occurred when the director determines that final closure or post-closure has been completed. Such final closure shall be deemed to have been completed when the provisions of the site's approved plan have been executed and the provisions of any other permit requirements or enforcement orders relative to closure or post-closure care have been complied with.

P. The wording of the surety bond shall be identical to the wording specified in Appendix II.

9 VAC 20-70-170. Letter of credit.

A. An owner or operator of a waste management facility may satisfy the requirements of this article by obtaining an irrevocable standby letter of credit that satisfies the requirements of this section and by submitting the letter of credit to the director. The letter of credit shall be effective before the initial receipt of waste or before [the effective date of this amendment], whichever is later, in case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected. The issuing institution shall be a bank or other financial institution that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Commonwealth of Virginia, by a federal agency, or by an agency of another state.

B. The letter of credit shall be irrevocable and issued for a period of at least one year in an amount at least equal to the current cost estimate for closure, post-closure care, or corrective action, whichever applicable. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the current expiration date it shall, at least 120 days before the date, notify both the owner or operator and the director by certified mail of that decision. The 120-day period will begin on the date of receipt by the director as shown on the signed return receipt. Expiration cannot occur, however, while an enforcement procedure is pending. If the letter of credit is canceled by the issuing institution, the owner or operator shall obtain alternate financial assurance.

C. Whenever the cost estimate increases to an amount greater than the amount of credit, the owner or operator shall, within 60 days of the increase, cause the amount of credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this article to cover the increase. Whenever the cost estimate decreases, the letter of credit may be reduced to the amount of the new estimate following written approval by the director. The issuing institution shall send the notice of an increase or decrease in the amount of the credit to the director by certified mail within 60 days of the change.

D. Following a determination that the owner or operator has failed to perform closure, post-closure or corrective action in accordance with the approved plan or other permit or order requirements, the director will draw on the letter of credit.

E. The owner or operator may cancel the letter of credit only if alternate financial assurance acceptable to the director is substituted as specified in this article or if the owner or operator is released by the director from the requirements of this chapter.

F. The director shall return the original letter of credit to the issuing institution for termination when:

Proposed Regulations

1. The owner or operator substitutes acceptable alternate financial assurance for closure, post-closure care, or corrective action as specified in this article; or

2. The director notifies the owner or operator that he is no longer required by this article to maintain financial assurance for closure or post-closure of the facility.

G. The wording of the letter of credit shall be identical to the wording specified in the Appendix III.

9 VAC 20-70-180. Deposit of acceptable collateral.

A. An owner or operator of a waste management facility (with the exception of sanitary landfills) may satisfy the requirements of this article, wholly or in part, by filing with the director a collateral bond payable to the Commonwealth of Virginia, conditioned so that the owner or operator shall comply with the closure, post-closure care or corrective action plan filed for the site. The amount of the bond shall be at least equal to the estimated closure, post-closure care or corrective action cost for the site for which the permit application has been filed or any part thereof not covered by other financial responsibility mechanisms. Liability of such bond shall be for the term of the permit or until proper final closure, post-closure care or corrective action is completed, whichever comes last. Such bond shall be executed by the owner or operator after depositing with the director acceptable collateral, the market value of which shall be at least equal to the total estimated closure, post-closure care, or corrective action cost or any part thereof not covered by other financial responsibility mechanisms.

B. Acceptable collateral may include certificates of deposit, negotiable bonds of the United States Government, the Commonwealth of Virginia or any of its agencies, any government authority within the Commonwealth of Virginia, or any county, municipality or other local bond issuing authority within the Commonwealth of Virginia approved as acceptable for financial responsibility purposes by the director.

C. The director shall, upon receipt of any such collateral, place the mechanisms with the state treasurer to be held in the name of the Commonwealth of Virginia, in trust, for the purposes for which such deposit is made.

D. The owner or operator shall be entitled to demand, receive and recover the interest and income from said mechanisms as it becomes due and payable as long as the market value of the mechanisms plus any other mechanisms used continue to at least equal the amount of the estimated closure, post-closure care, or corrective action cost.

E. The owner or operator shall also be permitted to replace the collateral mechanisms with other like mechanisms of at least equal market value upon proper notification to the director and the state treasurer.

F. In the event of failure of the owner or operator to comply with the final closure, post-closure care or corrective action requirements, the director shall declare said collateral forfeited and shall request the state treasurer to convert said collateral into cash and transfer such funds to the director to be used for closure, post-closure care or corrective action purposes.

9 VAC 20-70-190. Insurance.

A. An owner or operator may demonstrate financial assurance for closure, post-closure care or corrective action by obtaining insurance which conforms to the requirements of this section. The insurance shall be effective before the initial receipt of waste or before [the effective date of this amendment], whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected. At a minimum, the insurer shall be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states. The owner or operator shall notify the director that a copy of the insurance policy has been placed in the operating record.

B. The insurance policy shall guarantee that funds will be available to close the waste management unit whenever final closure occurs, or to provide post-closure care for the solid waste disposal unit whenever the post-closure care period begins, whichever is applicable. The policy shall also guarantee that once closure or post-closure care begins, the insurer will be responsible for the paying out of funds to the owner or operator or other person authorized to conduct closure or post-closure care, up to an amount equal to the face amount of the policy.

C. The insurance policy shall be issued for a face amount at least equal to the current cost estimate for closure or post-closure care, whichever is applicable. The term face amount means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount although the insurer's future liability will be lowered by the amount of the payments.

D. An owner or operator, or any other person authorized to conduct closure or post-closure care, may receive reimbursements for closure or post-closure expenditures, whichever is applicable. Requests for reimbursement will be granted by the insurer only if the remaining value of the policy is sufficient to cover the remaining costs of closure or post-closure care, and if justification and documentation of the cost is placed in the operating record. The owner or operator shall notify the director that the documentation of the justification for reimbursement has been placed in the operating record and that reimbursement has been received.

E. Each policy shall contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

F. The insurance policy shall provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner and operator and to the director 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator shall obtain alternate financial assurance as specified in this section.

G. For insurance policies providing coverage for post-closure care, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase shall be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85% of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

H. The owner or operator may cancel the insurance policy only if alternate financial assurance is substituted as specified in this article, or if the owner or operator, is no longer required to demonstrate financial responsibility.

I. The wording of the insurance certificate shall be identical to the wording specified in Appendix IV.

9 VAC 20-70-200. Corporate financial test.

An owner or operator may satisfy the requirements for financial assurance by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator shall meet the following criteria:

1. Financial component.

a. The owner or operator shall satisfy one of the following three conditions:

(1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's;

(2) A ratio of less than 1.5 comparing total liabilities to net worth; or

(3) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities.

b. The tangible net worth of the owner or operator shall be greater than the sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test plus \$10 million.

c. The owner or operator shall have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test as described in subdivision 3 of this section.

2. Reporting requirements.

a. To demonstrate that he meets the financial component, the owner or operator shall submit the following items to the director:

(1) A letter signed by the owner's or operator's chief financial officer and worded as specified in Appendix V.

(2) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest

completed fiscal year except as provided in subdivision 2 a (2) (a) of this section:

(a) To be eligible to use the financial test, the owner's or operator's financial statements referenced in subdivision 2 of this section shall receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance. The director may evaluate qualified opinions on a case by case basis and allow use of the financial test in cases where the director deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the director does not allow use of the test, the owner or operator shall provide alternate financial assurance as specified in this article.

(b) (Reserved.)

(3) If the chief financial officer's letter providing evidence of financial assurance includes financial data that are different from data in the audited financial statements referred to in subdivision 2 a (2) of this section or any other audited financial statement or data filed with the Securities Exchange Commission (SEC), a special report from the owner's or operator's independent certified public accountant to the owner or operator is required stating that:

(a) He has compared the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(b) In connection with that examination, no matters came to his attention which caused him to believe that the data in the chief financial officer's letter should be adjusted.

b. An owner or operator shall submit the items specified in subdivision 2 of this section before the initial receipt of waste or before [the effective date of this amendment], whichever is later in the case of closure; post-closure care, or no later than 120 days after the corrective action remedy has been selected. If the owner or operator changes the financial assurance mechanism to corporate financial test from any other mechanism, the owner or operator shall submit the items specified in subdivision 2 of this section at least 60 days before the date that the former assurance expires.

c. After the initial submission of items specified in subdivision 2 of this section, the owner or operator shall update the information and submit updated information to the director within 90 days following the close of the owner or operator's fiscal year. This information must consist of all three items specified in subdivision 2 of this section.

Proposed Regulations

d. The owner or operator is no longer required to submit the items specified in subdivision 2 of this section when:

(1) He substitutes alternate financial assurance as specified in this article; or

(2) He is released from the requirements of this article by the director.

e. If the owner or operator no longer meets the requirements of subdivision 1 of this section, the owner or operator shall, within 120 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this article, notify the director that the owner or operator no longer meets the criteria of the financial test and submit the alternate assurance documentation.

f. The director may, based on a reasonable belief that the owner or operator may no longer meet the requirement of this article, require reports of financial condition at any time from the owner or operator in addition to those specified in subdivision 2 of this section. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subdivision 1 of this section, the owner or operator shall provide alternate financial assurance as specified in this article within 30 days after notification of such a finding.

g. The director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subdivision 2 a (2) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The director will evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in this article within 30 days after notification of the disallowance.

3. Calculation of costs to be assured. When calculating the current cost, estimates for closure, post-closure care, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations assured by a financial test referred to in subdivision 1 of this section, the owner or operator must include cost estimates required for municipal solid waste management facilities under this part, as well as cost estimates required for the following environmental obligations, if it assures them through a financial test obligations associated with underground injection control (UIC) facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, polychlorinated biphenyls (PCB) storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265.

4. During the period of post-closure care, the director may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the director that the

amount of the cost estimate exceeds the remaining cost of the post-closure care.

9 VAC 20-70-210. Local government financial test.

An owner or operator that satisfies the requirements of subdivisions 1 through 3 of this section may demonstrate financial assurance up to the amount specified in subdivision 4 of this section:

1. Financial component.

a. The owner or operator shall satisfy subdivision 1 a (1) or subdivision 1 a (2) of this section, as applicable:

(1) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, he shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds; or,

(2) If the owner or operator does not have outstanding, rated, general obligation bonds:

(a) He shall have a current shadow bond rating of Aaa, Aa, A, or Baa as issued by Moody's, or AAA, AA, A, or BBB as issued by Standard and Poor's; or

(b) He shall satisfy each of the following financial ratios based on the owner's or operator's most recent audited annual financial statement:

i. A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

ii. A ratio of annual debt service to total expenditures less than or equal to 0.20.

b. The owner or operator shall prepare his financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant or by the Auditor of Public Accounts.

c. An owner or operator is not eligible to assure its obligations under this section if it:

(1) Is currently in default on any outstanding general obligation bonds,

(2) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's,

(3) Operated at a deficit equal to 5.0% or more of total annual revenue in each of the past two fiscal years, or

(4) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or Auditor of Public Accounts auditing its financial statement as required under subdivision 1 b of this section. However, the director may evaluate qualified

opinions on a case-by-case basis and allow use of the financial test in cases where the director deems the qualification insufficient to warrant disallowance of the test.

2. *Public notice component.* The local government owner or operator shall place a reference to the closure, post-closure care, or corrective action costs assured through the financial test into next comprehensive annual financial report (CAFR) after the effective date of this section or prior to the initial receipt of waste at the facility, whichever is later. Disclosure shall include the nature and source of closure and post-closure requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date, and the estimated landfill life in years. A reference to corrective action cost shall be placed in CAFR no later than 120 days after the corrective action remedy has been selected in accordance with 9 VAC 20-80-310. For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure care costs, conformance with Government Accounting Standards Board Statement 18 assures compliance with this public notice component.

3. Recordkeeping and reporting requirements.

a. The local government owner or operator must place the following items in the facility's operating record:

(1) A letter signed by the local government's chief financial officer that:

(a) Lists all the current cost estimates covered by a financial test, as described in subdivision 4 of this section;

(b) Provides evidence and certifies that the local government meets the conditions of subdivisions 1 a, 1 b, and 1 c of this section; and

(c) Certifies that the local government meets the conditions of subdivisions 2 and 4 of this section.

(2) The local government's independently audited year-end financial statements for the latest fiscal year, including the unqualified opinion of the auditor who must be an independent, certified public accountant or an appropriate state agency that conducts equivalent comprehensive audits;

(3) A report to the local government from the local government's independent certified public accountant (CPA) or the Auditor of Public Accounts based on performing an agreed upon procedures engagement relative to the financial ratios required by subdivision 1 a (2) of this section, if applicable, and the requirements of subdivisions 1 b, 1 c (3) and 1 c (4) of this section. The CPA or state agency's

report should state the procedures performed and the CPA or state agency's findings; and

(4) A copy of the comprehensive annual financial report (CAFR) used to comply with subdivision 2 of this section or certification that the requirements of General Accounting Standards Board Statement 18 have been met.

b. The items required in subdivision 3 a of this section shall be placed in the facility operating record as follows:

(1) In the case of closure and post-closure care, either before [the effective date of this section], or prior to the initial receipt of waste at the facility, whichever is later, or

(2) In the case of corrective action, not later than 120 days after the corrective action remedy is selected in accordance with the requirements of 9 VAC 20-80-310.

c. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

d. The local government owner or operator is no longer required to meet the requirements of subdivision 3 of this section when:

(1) The owner or operator substitutes alternate financial assurance as specified in this section; or

(2) The owner or operator is released from the requirements of this section in accordance with 9 VAC 20-70-111 E, 9 VAC 20-70-112 B, or 9 VAC 20-70-113 B.

e. A local government shall satisfy the requirements of the financial test at the close of each fiscal year. If the local government owner or operator no longer meets the requirements of the local government financial test it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternate financial assurance that meets the requirements of this section, place the required submissions for that assurance in the operating record, and notify the state director that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

f. The director, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the local government shall provide alternate financial assurance in accordance with this article.

Proposed Regulations

4. Calculation of costs to be assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under subdivision 1 of this section is determined as follows:

a. If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue or the sum of total revenues of constituent governments in the case of regional authorities.

b. If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under Part IX or X of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 et seq.), it shall add those costs to the closure, post-closure, and corrective action costs it seeks to assure under subdivision 1 of this section. The total shall not exceed 43% of the local government's total annual revenue.

c. The owner or operator shall obtain an alternate financial assurance mechanism for those costs that exceed the limits set in subdivisions 4 a and 4 b of this section.

9 VAC 20-70-220. Corporate guarantee.

A. An owner or operator may meet the requirements of this article by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor shall be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator.

B. Financial component. The guarantor shall meet the requirements for owners or operators in 9 VAC 20-70-200 and shall comply with the terms of the corporate guarantee.

C. Reporting requirements.

1. The wording of the corporate guarantee shall be identical to the wording specified in Appendix VI. The corporate guarantee shall accompany the items sent to the director as specified in subdivision 2 of 9 VAC 20-70-200.

2. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter shall describe this "substantial business relationship" and the value received in consideration of the guarantee.

3. The guarantee shall be effective and the guarantor shall submit the items specified in subdivision 2 of 9 VAC 20-70-200 before the initial receipt of the waste or before

[the effective date of this amendment], whichever is later in the case of closure or post-closure care, or no later than 120 days after the corrective action remedy has been selected. If the owner or operator changes the financial assurance mechanism to corporate guarantee from any other mechanism, the guarantor shall submit the required items 60 days before the former mechanism expires.

D. The terms of the corporate guarantee shall provide that:

1. If the owner or operator fails to perform final closure or post-closure care, or corrective action of a facility covered by the corporate guarantee in accordance with the closure, post-closure care or corrective action plan and other permit or order requirements whenever required to do so, the guarantor will:

a. Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required (performance guarantee); or

b. Establish a fully funded trust fund as specified in 9 VAC 20-70-150 in the name of the owner or operator (payment guarantee).

2. The corporate guarantee will remain in force unless the guarantor sends a prior notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

3. If a guarantee is canceled, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator, obtain alternate financial assurance, and submit the required documentation to the director.

4. If the owner or operator fails to provide alternate financial assurance as specified in this article and to obtain the written approval of such alternate assurance from the director within 90 days after the receipt by both the owner or operator and the director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

E. If a corporate guarantor no longer meets the requirements of subdivision 1 of 9 VAC 20-70-200, the owner or operator must, within 90 days following the close of the guarantor's fiscal year, obtain alternative assurance and submit the required documentation to the director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days following the close of the guarantor's fiscal year, obtain alternative assurance, and submit the necessary documentation to the director.

F. The owner or operator is no longer required to submit the items specified in this section when:

1. The owner or operator substitutes alternate financial assurance, or

2. The owner or operator is released from the requirements by the director.

9 VAC 20-70-230. Local government guarantee.

A. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required by this article, by obtaining a written guarantee provided by a local government. The guarantor shall meet the requirements of the local government financial test in 9 VAC 20-70-210 and shall comply with the terms of a written guarantee.

B. Terms of the written guarantee. The guarantee shall be effective before the initial receipt of waste or before [the effective date of this amendment], whichever is later, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected. The guarantee shall provide that:

1. If the owner or operator fails to perform closure, post-closure care, and/or corrective action of a facility covered by the guarantee, the guarantor will:

a. Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required; or

b. Establish a fully funded trust fund as specified in 9 VAC 20-70-150 in the name of the owner or operator.

2. The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

3. If a guarantee is canceled, the owner or operator shall, within 90 days following receipt of the cancellation notice by the owner or operator and the director, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and notify the director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor shall provide that alternate assurance within 120 days following the close of the guarantor's fiscal year, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the director.

C. Recordkeeping and reporting.

1. The owner or operator shall place a certified copy of the guarantee along with items required under subdivision 3 of 9 VAC 20-70-210 into the facility's operating record before the initial receipt of waste or before [the effective date of this amendment], whichever is later, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected.

2. The owner or operator is no longer required to maintain the items specified in 9 VAC 20-170-190 when:

a. The owner or operator substitutes alternate financial assurance as specified in this section; or

b. The owner or operator is released from the requirements of this chapter.

3. If a local government guarantor no longer meets the requirements of 9 VAC 20-70-210, the owner or operator shall, within 90 days following the close of the guarantor's fiscal year, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor shall provide that alternate assurance within 120 days.

9 VAC 20-70-240. Other mechanisms.

A. An owner or operator may satisfy the requirements of this article by obtaining any other mechanism that is approved by the director. In order to receive such approval, the owner or operator shall submit documentation that:

1. The financial assurance mechanisms shall ensure that the amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action for known releases when needed;

2. The financial assurance mechanisms shall ensure that funds will be available in a timely fashion when needed; and

3. The financial assurance mechanisms shall be obtained by the owner or operator by [the effective date of this amendment] or prior to the initial receipt of solid waste, whichever is later, in the case of closure and post-closure care, and no later than 120 days after the corrective action remedy has been selected, until the owner or operator is released from the financial assurance requirements.

B. The financial assurance mechanisms shall be legally valid, binding, and enforceable under Virginia law.

9 VAC 20-70-250. Multiple financial mechanisms.

An owner or operator may satisfy the requirements of this article by establishing more than one financial mechanism per facility, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other mechanisms. The mechanisms shall be specified in 9 VAC 20-70-150 through 9 VAC 20-70-240, except that financial assurance for the amount at least equal to the current cost estimate for closure, post-closure care, or corrective action may be provided by a combination of mechanisms, rather than a single mechanism.

Article 5.

Release from Financial Assurance Requirements.

9 VAC 20-70-260. Release of the owner or operator from the financial assurance requirements.

Within 60 days after receiving certification from the owner or operator that closure, post-closure care or corrective action has been accomplished in accordance with the requirements of the permit or the order, the director shall

Proposed Regulations

verify whether proper closure, post-closure care, or corrective action has occurred. Unless the director has reason to believe that closure, post-closure care or corrective action has not been in accordance with the appropriate plan or other requirements, he shall notify the owner or operator in writing that he is no longer required to maintain financial assurance for the particular unit or facility. Such notice shall release the owner or operator only from the requirements for financial assurance for the unit or facility; it does not release him from legal responsibility for meeting the closure, post-closure care or corrective action standards. If no written notice of termination of financial assurance requirements or failure to properly perform closure, post-closure care or corrective action is received by the owner or operator within 60 days after certifying proper closure, post-closure care or corrective action, the owner or operator may request the director for an immediate decision in which case the director shall respond within 10 days after receipt of such request.

Article 6.

Incapacity of Owners, Operators or Financial Institution.

9 VAC 20-70-270. Incapacity of owners, operators or financial institution.

A. An owner or operator shall notify the director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 9 VAC 20-70-220 shall make such a notification if he is named as debtor, as required under the terms of the corporate guarantee.

B. An owner or operator who fulfills the requirements of Article 4 (9 VAC 20-70-140 et seq.) of this part by obtaining a trust fund, a letter of credit, a surety bond, or an insurance policy, will be deemed to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing a surety bond, letter of credit, or insurance policy to issue such mechanisms. The owner or operator shall establish other financial assurance within 60 days of such event.

Article 7. Discounting.

9 VAC 20-70-270. Discounting.

The director may allow discounting of closure cost estimates, post-closure care cost estimates, and/or corrective action costs up to the rate of return for essentially risk free investments, net of inflation, under the following conditions:

1. The director determines that cost estimates are complete and accurate and the owner or operator has submitted a statement from a registered professional engineer so stating;
2. The director finds the facility in compliance with applicable and appropriate permit conditions;
3. The director determines that the closure date is certain and the owner or operator certifies that there are

no foreseeable factors that will change the estimate of site life; and

4. Discounted cost estimates must be adjusted annually to reflect inflation and years of remaining life.

APPENDIX 3.1. GUIDELINES FOR TRUST FUND.

A. The owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section by establishing a closure trust fund which satisfies the requirements of this appendix and by attaching an originally signed duplicate of the trust agreement to the facility closure or post closure plan submitted with the permit application. The trustee for the trust fund must be a bank or financial institution which has the authority to act as a trustee and whose trust operations are regulated and examined by the Commonwealth of Virginia.

B. The trust agreement shall be executed in the form provided for such purposes by the executive director. The trust agreement must contain a formal certification of the acknowledgement as indicated in Appendix 3.2.

C. Payments to the trust fund must be made annually by the owner or operator over the term of the state permit issued for such facility or over the disposal life of the facility if such facility life is shorter than the term of the state permit. Payments must be made as follows:

1. The first payment shall be made when the trust is established and shall be at least equal to the cost estimate (as determined under 9 VAC 20-70-110), divided by the number of years in the term of the permit or life of the facility, whichever is the shorter.

2. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment shall be the cost estimate minus the current value of the trust fund, divided by the number of years remaining in the term of the permit, or the remaining number of years in the life of the site, whichever is the shorter.

D. The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the cost estimate at the time the fund is established. However, the value of the fund must be maintained at no less than the value would have been if annual payments were made as specified in paragraphs A and C of this Appendix.

E. If the owner or operator establishes a trust fund after having initially used one or more alternative mechanisms specified in this section, his first payment must be at least the amount that the fund would have contained if the trust fund were established and annual payments were made as specified in paragraphs A and C of this Appendix.

F. Whenever the cost estimate changes after the pay-in period is completed, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new cost estimate, the owner or operator must, within 60 days of the change in the cost estimate, deposit a sufficient amount into the fund so that its value after payment at least equals the amount of the new estimate, or obtain

~~other financial assurance as specified in this section to cover the difference. If the value of the trust fund is greater than the total amount of the cost estimate, the owner or operator may submit a written request to the executive director for release of the amount which is in excess of the closure cost estimate.~~

~~G. If the owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the executive director for release of the amount which is greater than the amount required as a result of the substitution.~~

~~H. Within 60 days after receiving a request from the owner or operator for release of funds specified in paragraphs F and G of this Appendix, the executive director will instruct the trustee to release to the owner or operator such funds as the executive director specifies in writing.~~

~~I. After beginning final closure or during the period of post-closure care, an owner or operator or any other person authorized to conduct closure, may request reimbursement for closure or post-closure expenditures respectively by submitting itemized bills to the executive director. Within 60 days after receiving bills for closure activities, the executive director shall instruct the trustee to make reimbursements in those amounts as the executive director determines that the expenditures are in accordance with the closure or post-closure plan or are otherwise justified.~~

~~J. The executive director shall agree to terminate the trust when:~~

- ~~1. The owner or operator substitutes alternate financial assurance as specified in this section; or~~
- ~~2. The executive director notifies the owner or operator that he is no longer required by this section to maintain financial assurance for the closure or post-closure of the facility.~~

APPENDIX 3-2. 1.

WORDING OF TRUST AGREEMENT FOR A TRUST FUND AGREEMENTS.

~~A trust agreement for a trust fund as specified in 9 VAC 20-70-120, must be worded as follows, except that (NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets deleted.)~~

TRUST AGREEMENT

~~Trust agreement, the "Agreement," entered into as of (date) by and between (name of the owner or operator), a (State) (corporation, partnership, association, proprietorship), the "Grantor," /and (name of corporate trustee), a (State corporation) (national bank), the "Trustee".~~

~~Whereas, the Virginia Waste Management Board, Commonwealth of Virginia, has established certain regulations applicable to the Grantor, requiring that the owner or operator of a nonhazardous (solid) (regulated medical) (yard) waste (disposal) (management) facility must provide assurance that funds will be available when needed for (closure or, post-closure care, or corrective action) of the facility,~~

Whereas, the Grantor has elected to establish a trust to provide (all or part of) such financial assurance for the facility identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

A. The term "fiduciary" means any person who exercises any power of control, management, or disposition or renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of this trust fund, or has any authority or responsibility to do so, or who has any authority or responsibility in the administration of this trust fund.

B. The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

C. The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facility and Cost Estimates. This Agreement pertains to (insert the facility number, if any, name, address, and the closure cost estimate, or portion thereof, for which financial assurance is demonstrated by this Agreement) facility(ies) and cost estimates identified on attached Schedule A.

(NOTE: On Schedule A, for each facility list, as applicable, the permit number, name, address, and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.)

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Department of Environmental Quality, Commonwealth of Virginia. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule A B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund will be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee undertakes no responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments to discharge any liabilities of the Grantor established by the Commonwealth of Virginia's Department of Environmental Quality.

Section 4. Payment for (Closure, Post-Closure Care, or Corrective Action). The Trustee will make such payments from the Fund as the Department of Environmental Quality, Commonwealth of Virginia will direct, in writing, to provide for the payment of the costs of (closure or, post-closure care, corrective action) of the facility covered by this Agreement. The Trustee will reimburse the Grantor or other persons as

Proposed Regulations

specified by the Department of Environmental Quality, Commonwealth of Virginia, from the Fund for (closure or, post-closure care, corrective action) expenditures in such amounts as the Department of Environmental Quality will direct, in writing. In addition, the Trustee will refund to the Grantor such amounts as the Department of Environmental Quality specifies in writing. Upon refund, such funds will no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the fund will consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee will invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with investment guidelines and objectives communicated in writing to the Trustee from time to time by the Grantor, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling and managing the Fund, the Trustee or any other fiduciary will discharge his duties with respect to the trust fund solely in the interest of the participants and beneficiaries beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of any enterprise of a like character and with like aims; except that:

A. Securities or other obligations of the Grantor, or any other owner or operator of the facility, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a-2(a), will not be acquired or held, unless they are securities or other obligations of the federal or a state government;

B. The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

C. The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

A. To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate subject to all of the provisions thereof, to be commingled with the assets of other trusts participating participating herein. To the extent of the equitable share of the Fund in any such commingled trust, such commingled trust will be part of the Fund; and

B. To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC § 80a-1 et seq., of one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustees may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the

Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

A. To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by private contract or at public auction. No person dealing with the Trustee will be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other dispositions;

B. To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

C. To register any securities held in the fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United State government, or any agency or instrumentality thereof with a Federal Reserve Bank, but the books and records of the Trustee will at all times show that all such securities are part of the Fund;

D. To deposit any cash in the fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

E. To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund will be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee will be paid from the Fund.

Section 10. Annual Valuation. The Trustee will annually, at the end of the month coincident with or preceding the anniversary date of establishment of the Fund, furnish the Grantor and to the executive director of the Department of Environmental Quality, Commonwealth of Virginia, a statement confirming the value of the Trust. Any securities in the Fund will be valued at market value as of no more than 30 days prior to the date of the statement. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the executive director of the Department of Environmental Quality, Commonwealth of Virginia will constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee will be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee will be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. ~~Upon the written agreement of Grantor, the Trustee, and the executive director of the Department of Environmental Quality, Commonwealth of Virginia, the Trustee may resign or the Grantor may replace the Trustee. In either event, the Grantor will appoint a successor Trustee who will~~ *The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon acceptance of the appointment by the successor trustee, the Trustee will assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee and the date on which he assumes administration of the trust will be specified in writing and sent to the Grantor, the executive director of the Department of Environmental Quality, Commonwealth of Virginia, and the present and successor trustees by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section will be paid as provided in Part IX.*

Section 14. Instructions to the Trustee. All orders, requests and instructions by the Grantor to the Trustee will be in writing, signed by the grantor, trustee, a Notary Public and ~~any person the Grantor may designate such persons as are designated in the attached Exhibit A or such other designees as the grantor may designate by amendment to Exhibit A.~~ The Trustee will be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests, and instructions by the Executive Director of the Department of Environmental Quality, Commonwealth of Virginia, to the Trustee will be in writing, signed by the Executive Director and the Trustee will act and will be fully protected in acting in accordance with such orders, requests and instructions. The Trustee will have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Commonwealth of Virginia's Department of Environmental Quality hereunder has occurred. The Trustee will have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or the Commonwealth of Virginia's Department of Environmental Quality, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee will notify the Grantor and the Executive Director of the Department of Environmental Quality, Commonwealth of Virginia, by certified mail within 10 days following the expiration of the 30 day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee is not required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Executive Director of the Department of Environmental Quality, Commonwealth of Virginia, or by the Trustee and the Executive Director of the Department of Environmental Quality, Commonwealth of Virginia, if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust will be irrevocable and will continue until terminated at the written agreement of the Grantor, the Trustee, and the Executive Director of the Department of Environmental Quality, Commonwealth of Virginia, or by the Trustee and the Executive Director if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, will be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee will not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Executive Director of the Department of Environmental Quality, Commonwealth of Virginia, issued in accordance with this Agreement. The Trustee will be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement will be administered, construed and enforced according to the laws of the Commonwealth of Virginia.

Section 20. Interpretation. As used in the Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement will not affect the interpretation of the legal efficacy of this Agreement.

In witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in the relevant regulations of the Department of Environmental Quality, Commonwealth of Virginia.

(Signature of Grantor)

By: (Title)

(Date)

Attest:

(Title)

(Date)

Proposed Regulations

(Seal)

(Signature of Trustee)

By

Attest:

(Title)

(Seal)

(Date)

Certification of Acknowledgement:

COMMONWEALTH OF VIRGINIA

STATE OF

CITY/COUNTY OF

On this date, before me personally came [owner or operator] to me known, who being by me duly sworn, did *depose* and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Expiration Date]

APPENDIX 3.3.

GUIDELINES FOR SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE OR POST CLOSURE.

A. An owner or operator may satisfy the requirements of this section by obtaining a surety bond which satisfies the requirements of this appendix and by submitting the original copy of the bond with the facility closure plan along with the permit application. Only bonds issued by surety companies licensed to operate as sureties in the Commonwealth of Virginia and approved by the executive director will satisfy the requirements of this section.

B. The surety bond form supplied by the executive director shall be used by the owner or operator and the surety.

C. The surety bond must name the disposal site operator or owner as the principal and name the Commonwealth of Virginia as the obligee.

D. The term of the bond shall be for the life of the disposal facility for which a permit is applied by the owner or operator through the closure period. A bond used for post closure assurance shall extend through the post closure period.

E. The bond must guarantee that the owner or operator will:

1. Perform final closure or post closure in accordance with the closure or post closure plan and other requirements in the permit for the facility; or
2. Perform final closure or post closure following an order to begin closure or post closure issued by the executive director or by a court, or following issuance of a notice of termination of the permit.

F. Provide alternate financial assurance as specified in this section within 60 days after receipt by the executive director of a notice of cancellation of the bond from the surety.

G. The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

H. The penal sum of the bond must be in an amount at least equal to the amount of the closure or post closure cost estimate. (See 9 VAC 20-70-110.)

I. If upon renewal of the permit, the cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator shall, within 60 days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance, as specified in this section, to cover the increase. Whenever the cost estimate decreases, the penal sum may be reduced to the amount of the cost estimate following written approval by the executive director. Notice of an increase or decrease in the penal sum must be sent to the executive director by certified mail within 60 days after the change.

J. The bond shall remain in force for its term unless the surety sends written notice of cancellation by certified mail to the owner or operator and to the executive director. Cancellation cannot occur, however:

1. During the 120 days beginning on the date of receipt of the notice of cancellation by the executive director as shown on the signed return receipt; or
2. While a compliance procedure is pending.

K. Following a determination that the owner or operator has failed to perform final closure or post closure in accordance with the approved plan and other permit requirements when required to do so, the surety shall perform final closure in accordance with the terms of the bond, approved plan and other permit requirements or closure order. As an alternative to performing final closure or post closure, the surety may forfeit the full amount of the penal sum to the Commonwealth.

L. The owner or operator may cancel the bond if the executive director has given prior written consent based on receipt of evidence of alternative financial assurance as specified in this section.

M. The executive director will notify the surety if the owner or operator provides alternate financial assurance as specified in this section.

N. The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the owner or operator has been notified by the executive director that the owner or operator is no longer required by this section to maintain financial assurance for closure of the facility.

O. In regard to closure or post closure performed either by the owner or operator or the surety, proper final closure of a nonhazardous solid waste disposal site shall be deemed to have occurred when the executive director determines that

~~final closure or post-closure has been completed. Such final closure shall be deemed to have been completed when the provisions of the site's approved plan have been executed and at the minimum, an acceptable final cover has been applied to all excavated trenches, pits, basins, and wastes; backfills have been returned to reasonably acceptable grades for the areas; leachate and erosion potential has been eliminated or minimized; and adequate revegetation of excavated and disturbed grounds and areas has been completed.~~

APPENDIX 3.4. II.

WORDING OF SURETY BOND GUARANTEEING PERFORMANCE OF CLOSURE OR POST-CLOSURE.

~~A surety bond guaranteeing performance of closure, as specified in 9 VAC 20 70 120 B 2, must be worded as follows, except that the (NOTE: instructions in brackets are to be replaced with the relevant information and the brackets deleted.)~~

PERFORMANCE BOND FOR CLOSURE

Date bond executed:

Effective date:

Principal: (legal name and business address)

Type of organization: (insert "individual," "joint venture," "partnership," or "corporation")

State of incorporation:

Surety: (name and business address)

Name, address, identification permit number, if any, and (closure, post-closure care, or corrective action) cost estimate for the facility:

Penal sum of bond: \$.....

Surety's bond number:

Know all men by these present, That we, the Principal and Surety hereto are firmly bound to the Department of Environmental Quality, Commonwealth of Virginia, (hereinafter called the Department) in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of each sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have a permit from the Department of Environmental Quality, Commonwealth of Virginia, in order to own or operate the nonhazardous (solid, regulated medical, yard) waste disposal management facility identified above, and

Whereas, said Principal is required to provide financial assurance for (closure, post-closure care, corrective action) of the facility as a condition of the permit,

Now, therefore the conditions of this obligation are such that if the Principal shall faithfully perform (closure or, post-closure care, corrective action), whenever required to do so, of the facility identified above in accordance with the (closure or, post-closure care, corrective action) plan submitted to receive said permit and other requirements of said permit as such plan and permit may be amended or renewed pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall faithfully perform (closure or, post-closure care, corrective action) following an order to begin (closure or, post-closure care, corrective action) issued by the Commonwealth of Virginia's Department of Environmental Quality or by a court, or following a notice of termination of the permit,

Or, if the Principal shall provide alternate financial assurance as specified in the Department's regulations and obtain the director's written approval of such assurance, within 90 days of the date notice of cancellation is received by the executive Director of the Department of Environmental Quality from the Surety, then this obligation will be null and void, otherwise it is to remain in full force and effect for the life of the disposal management facility identified above.

The Surety shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the executive Director of the Department of Environmental Quality, Commonwealth of Virginia, that the Principal has been found in violation of the requirements of the Department's regulations, the Surety must either perform (closure or, post-closure care, corrective action) in accordance with the approved plan and other permit requirements or forfeit the (closure, post-closure care, corrective action) amount of the cost estimate guaranteed for the facility to the Commonwealth of Virginia.

Upon notification by the executive Director of the Department of Environmental Quality, Commonwealth of Virginia, that the Principal has been found in violation of an order to begin (closure or, post-closure care, corrective action), the Surety must either perform (closure or, post-closure care, corrective action) in accordance with the closure order or forfeit the amount of the (closure cost estimates, post-closure care, corrective action) guaranteed for the facility to the Commonwealth of Virginia.

The Surety hereby waives notification of amendments to the (closure, post-closure care, corrective action) plans, orders, permit, applicable laws, statutes, rules, and regulations and agrees that such amendments to the closure or post-closure plan, permit, applicable laws, statutes, rules and regulations shall in no way alleviate its obligation on this bond.

For purposes of this bond, final (closure or, post-closure care, corrective action) shall be deemed to have been completed when the executive Director of the Department of Environmental Quality, Commonwealth of Virginia, determines that the conditions of the approved plan have been met and, at the minimum, an acceptable final cover has been applied to all excavated trenches, pits, basins, and exposed wastes; backfills have been returned to reasonable grades for the area; leachate and erosion potential has been

Proposed Regulations

~~eliminated or minimized; and adequate revegetation of excavated and disturbed grounds and areas has been completed.~~

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety hereunder exceed the amount of said penal sum.

The Surety may cancel the bond by sending written notice of cancellation to the owner or operator and to the executive Director of the Department of Environmental Quality, Commonwealth of Virginia, provided, however, that cancellation cannot occur (1) during the 120 days beginning on the date of receipt of the notice of cancellation by the executive director as shown on the signed return receipt; or (2) while a compliance procedure is pending.

The Principal may terminate this bond by sending written notice to the Surety, provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond by the executive Director of the Department of Environmental Quality, Commonwealth of Virginia.

In witness whereof, the Principal and Surety have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety and that the wording of this surety bond is identical to the wording specified in the relevant regulations of the Commonwealth of Virginia, Department of Environmental Quality.

Principal

Signature(s):

Name(s) and Title(s) (typed)

Corporate Surety

Name and Address:

State of Incorporation:

Liability Limit: \$.....

Signature(s):

Name(s) and Title(s) (typed)

Corporate Seal:

APPENDIX 3-5. GUIDELINES FOR LETTER OF CREDIT.

~~A. An owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which satisfies the requirements of this appendix and by submitting the original copy of the letter of credit attached to the facility closure or post-closure plan along with the permit application. The letter of credit must be effective before the initial receipt of waste at the facility for which it is issued. The issuing institution must be a bank or other financial institution which~~

~~has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by the Commonwealth of Virginia.~~

~~B. The wording of the letter of credit must be identical to the wording specified in the Appendix 3-6.~~

~~C. The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the current expiration date it must, at least 120 days before the date, notify both the owner or operator and the executive director by certified mail of that decision. The 120 day period will begin on the date of receipt by the executive director as shown on the signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending.~~

~~D. The letter of credit must be issued for at least the amount of the cost estimate (see 9 VAC 20-70-110), except as provided in 9 VAC 20-70-120.~~

~~E. Whenever the cost estimate increases to an amount greater than the amount of credit, the owner or operator shall, within 60 days of the increase, cause the amount of credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified in this section to cover the increase. Whenever the cost estimate decreases, the letter of credit may be reduced to the amount of the new estimate following written approval by the executive director. Notice of an increase or decrease in the amount of the credit shall be sent to the executive director by certified mail within 60 days of the change.~~

~~F. Following a determination that the owner or operator has failed to perform closure or post-closure in accordance with the approved plan or other permit requirements, the executive director will draw on the letter of credit.~~

~~G. The letter of credit no longer satisfies the requirements of this paragraph subsequent to the receipt by the executive director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the executive director shall issue an order of noncompliance with these regulations, unless the owner or operator of the site has demonstrated alternate financial assurance as specified in this appendix. Should the owner or operator not correct the violation by demonstrating such alternate financial assurance within 30 days of issuance of the compliance order, the executive director will draw on the letter of credit.~~

~~H. The executive director shall return the original letter of credit to the issuing institution for termination when:~~

- ~~1. The owner or operator substitutes alternate financial assurance for closure or post-closure as specified in this section; or~~
- ~~2. The executive director notifies the owner or operator, in accordance with 9 VAC 20-70-120-D that he is no longer required by this section to maintain financial assurance for closure or post-closure of the facility.~~

Proposed Regulations

APPENDIX 3.6. III. WORDING OF IRREVOCABLE STANDBY LETTER OF CREDIT.

A letter of credit as specified in 9 VAC 20-70-120-B-3 must be worded as follows, except that (NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets deleted.)

IRREVOCABLE STANDBY LETTER OF CREDIT

Executive Director
Department of Environmental Quality
P.O. Box 10009
Richmond, Virginia 23240-0009

Dear (Sir or Madam):

We hereby establish our Irrevocable Letter of Credit No. in your favor of the Executive Director, Department of Environmental Quality, Commonwealth of Virginia, at the request and for the account of (owner's or operator's name and address) up to the aggregate amount of (in words) U.S. dollars \$....., available upon presentation of

1. your sight draft, bearing reference to this letter of credit No. together with
2. your signed statement declaring that the amount of the draft is payable pursuant to regulations issued under the authority of the Department of Environmental Quality, Commonwealth of Virginia.

The following amounts are included in the amount of this letter of credit: (Insert the facility identification permit number, if any, name and address, and the closure, post-closure care, corrective action cost estimate, or portions thereof, for which financial assurance is demonstrated by this letter of credit.)

This letter of credit is effective as of (date) and will expire on (date at least one year later), but such expiration date will be automatically extended for a period of (at least one year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you and (owner or operator's name) by certified mail that we decide not to extend the Letter of Credit beyond the current expiration date. In the event you are so notified, unused portion of the credit will be available upon presentation of your sight draft for 120 days after the date of receipt by you as shown on the signed return receipt or while a compliance procedure is pending, whichever is later.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we will duly honor such draft upon presentation to us, and we will pay to you the amount of the draft promptly and directly.

I hereby certify that I am authorized to execute this letter of credit on behalf of (issuing institution) and that the wording of this letter of credit is identical to the wording specified in the relevant regulations of the Department of Environmental Quality, Commonwealth of Virginia.

Attest:

(Signature and title of official of issuing institution) (Date)

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code.")

APPENDIX 3.7. GUIDELINES FOR DEPOSIT OF ACCEPTABLE COLLATERAL.

A. An owner or operator of a nonhazardous solid waste disposal facility may satisfy the requirements of this section, wholly or in part, by filing with the executive director a collateral bond payable to the Commonwealth of Virginia, conditioned so that the owner or operator shall comply with the closure or post-closure plan filed for the site. The amount of the bond shall be at least equal to the estimated closure or post-closure cost of the site for which the permit application has been filed or any part thereof not covered by other financial responsibility instruments. Liability of such bond shall be for the term of the permit or until proper final closure or post-closure of the site is completed, whichever comes first. Such bond shall be executed by the owner or operator after depositing with the executive director acceptable collateral, the market value of which shall be at least equal to the total estimated closure or post-closure cost or any part thereof not covered by other financial responsibility instruments.

B. Acceptable collateral may include certificates of deposit, negotiable bonds of the United States Government, the Commonwealth of Virginia or any of its agencies, any government authority within the Commonwealth of Virginia, or any county, municipality or other local bond issuing authority within the Commonwealth of Virginia approved as acceptable for financial responsibility purposes by the executive director.

C. The executive director shall, upon receipt of any such collateral, place the instruments with the State Treasurer to be held in the name of the Commonwealth of Virginia, in trust, for the purposes for which such deposit is made.

D. The owner or operator shall be entitled to demand, receive and recover the interest and income from said instruments as it becomes due and payable as long as the market value of the instruments plus any other mechanisms used continue to at least equal the amount of the estimated closing cost.

E. The owner or operator shall also be permitted to replace the collateral instruments with other like instruments of at least equal market value upon proper notification to the executive director and the State Treasurer.

F. In the event of failure of the owner or operator to comply with the final closure or post-closure plan, the executive director shall declare said collateral forfeited and shall request the State Treasurer to convert said collateral into cash and transfer such funds to the executive director to be used for final closure purposes.

Proposed Regulations

APPENDIX 3.8. GUIDELINES FOR FINANCIAL TEST AND CORPORATE GUARANTEE FOR FINANCIAL ASSURANCE AND LIABILITY COVERAGE.

A. An owner or operator may satisfy the requirements for financial assurance by demonstrating that he passes a financial test as specified in this appendix. To pass this test the owner or operator shall meet the criteria in either 1 or 2 below:

1. The owner or operator shall have:

- a. Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
- b. Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and
- c. Tangible net worth of at least \$10 million; and
- d. Assets in the United States amounting to at least 90% of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

2. The owner or operator shall have:

- a. A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and
- b. Tangible net worth at least six times the sum of the current closure and post-closure cost estimates or a Bond rating of AA for Standard and Poor's or Aa for Moody's and a tangible net worth of two times the sum of the current closure and post-closure cost estimates; and
- c. Tangible net worth of at least \$10 million; and
- d. Assets located in the United States amounting to at least 90% of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

B. To demonstrate that he meets this test, the owner or operator shall submit the following items to the executive director;

1. A letter signed by the owner's or operator's chief financial officer and worded as specified in Appendix 3.9 for closure and post-closure financial assurance or Appendix 3.11 for liability coverage. A separate letter is required for closure and post-closure and for assuring liability coverage.
2. A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statement for the latest completed fiscal year; and
3. A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

a. He has compared the data which the letter from the chief financial officer specifies as having been derived from an independently audited, year-end financial statement for the latest fiscal year with the amounts in such financial statements; and

b. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

C. An owner or operator of a new facility shall submit the items specified to the executive director at least 60 days before the date on which solid waste is first received for treatment, storage, or disposal.

D. After the initial submission of items specified in B, the owner or operator shall send updated information to the executive director within 90 days after the close of each succeeding fiscal year. This information shall consist of all three items specified in B.

E. If the owner or operator no longer meets the requirements of A, he shall send notice to the executive director of intent to establish alternate financial assurance as specified in this part. The notice shall be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator shall provide the alternate financial assurance within 120 days after the end of such fiscal year.

F. The executive director may, based on a reasonable belief that the owner or operator may no longer meet the requirement of A, require reports of financial condition at any time from the owner or operator in addition to those specified in B. If the executive director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of A, the owner or operator shall provide alternate financial assurance as specified in this part within 30 days after notification of such a finding.

G. The executive director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see B 2 of this appendix). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The executive director will evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in this part within 30 days after notification of the disallowance.

H. During the period of post-closure care, the executive director may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the executive director that the amount of the cost estimate exceeds the remaining cost of the post-closure care.

I. The owner or operator is no longer required to submit the items specified in B when:

1. An owner or operator substitutes alternate financial assurance as specified in this part; or
2. The executive director releases the owner or operator from the requirements of this part.

Proposed Regulations

J. Release of the owner or operator from the requirements of this appendix within 60 days after receiving certification from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan. The executive director will notify the owner or operator in writing that he is no longer required by this appendix to maintain financial assurance for closure of the particular facility, unless the Executive Director has reason to believe that closure has not been in accordance with the closure plan.

K. An owner or operator may meet the requirements of this appendix by obtaining a written guarantee, hereafter referred to as "corporate guarantee". The guarantor shall be the parent corporation of the owner or operator. The guarantor shall meet the requirements for owners or operators in A through G and shall comply with the terms of the corporate guarantee. The wording of the corporate guarantee shall be identical to the wording specified in Appendix 3.10. The corporate guarantee shall accompany the items sent to the executive director as specified in B. The terms of the corporate guarantee shall provide that:

1. If the owner or operator fails to perform final closure or post closure of a facility covered by the corporate guarantee in accordance with the closure plan or post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Appendices 3.1 and 3.2 in the name of the owner and operator.
2. The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the executive director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the executive director, as evidenced by the return receipts.
3. If the owner or operator fails to provide alternate financial assurance as specified in this part and obtain the written approval of such alternate assurance from the executive director within 90 days after the receipt by both the owner or operator and the executive director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

APPENDIX IV. WORDING OF CERTIFICATE OF INSURANCE.

(NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets deleted.)

CERTIFICATE OF INSURANCE

Name and Address of Insurer (herein called the "Insurer"):

Name and Address of Insured (herein called the "Insured"):

Facilities Covered: {List for each facility: Permit number (if applicable), name, address and the amount of insurance for closure, post-closure care or corrective action (these amounts for all facilities covered shall total the face amount shown below).}

Face Amount: \$.....

Policy Number:

Effective Date:

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for {insert "closure," "post-closure care," "corrective action"} for the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of 9 VAC 20-70-190 of the Financial Assurance Regulations for Solid Waste Facilities ("Regulations") (9 VAC 20-70-10 et seq.), as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the Director, the Insurer agrees to furnish to the Director a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in APPENDIX IV of the Regulations as such regulations were constituted on the date shown immediately below.

{Authorized signature for Insurer}

{Name of person signing}

{Title of person signing}

Signature of witness or notary:

{Date}

APPENDIX 3-9. V.

WORDING OF LETTER FROM CHIEF FINANCIAL OFFICER FOR CLOSURE AND POST-CLOSURE FINANCIAL ASSURANCE.

{NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets removed.}

Executive Director
Department of Environmental Quality
P.O. Box 10009
Richmond, Virginia 23240-0009

Dear {Sir, Madam}:

I am the chief financial officer of {name and address of firm}. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 9 VAC 20-70-120 of the Solid Waste Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70-10 et seq.) ("Regulations").

{Fill out the following four paragraphs regarding solid waste, regulated medical waste, yard waste composting, hazardous waste, underground injection (regulated under the

Proposed Regulations

federal program in 40 CFR Part 144, or its equivalent in other states), petroleum underground storage, and PCB storage (regulated under 40 CFR Part 761) facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its name, address, permit number, if any, and current closure and/or post-closure care, corrective action or any other environmental obligation cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care, corrective action or other environmental obligation.)

Yes No

Line 2 exceeds line 1 by at least \$10 million?

Line 3 exceeds line 1 by at least \$10 million?

{Fill in Alternative I if the criteria of Appendix 3.8-A-4 9 VAC 20-70-200 1 a (1) are used. Fill in Alternative II if the criteria of Appendix 3.8-A-2 9 VAC 20-70-200 1 a (2) are used. Fill in Alternative III if the criteria of 9 VAC 20-70-200 1 a (3) are used.}

ALTERNATIVE I.

{1} Sum of current closure and post-closure cost estimates {total of all cost estimates shown in the four paragraphs above.} \$.....

Current bond rating of most recent issuance of this firm and name of rating service

Date of issuance of bond

Date of maturity of bond

ALTERNATIVE II

{*2} 4 Total liabilities {if any portion of the closure or, post-closure care, corrective action or other environmental obligations cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4 line 5.} \$.....

{*3} Tangible net worth \$.....

{*4} New 5 Net worth \$.....

{*5} Current assets \$.....

{*6} Current liabilities \$.....

{7} New working capital {line 5 minus line 6}. \$.....

{*8} The sum of net income plus depreciation, depletion, and amortization. \$.....

{*9} Total assets in U.S. {required only if less than 90% of firm's assets are located in the U.S.}. \$.....

YES NO

{10} Is line 3 at least \$10 million?

{11} Is line 3 at least 6 times line 1?

{12} Is line 7 at least 6 times line 1?

{*13} Are at least 90% of firm's assets located in the U.S.? If not, complete line 14.

{14} Is line 9 at least 6 times line 1?

YES NO

{15} Is line 2 4 divided by line 4 5 less than 2.0?

ALTERNATIVE II

6 Total liabilities \$.....

1. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial corporate test specified in Appendix 3.8 of the 9 VAC 20-70-200 or its equivalent in other applicable regulations. The current closure and/or post-closure cost estimates covered by the test are shown for each facility:

2. This firm guarantees, through the corporate guarantee specified in Appendix 3.8 of the regulations 9 VAC 20-70-220, the closure or post-closure care of financial assurance for the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility:

3. This firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

4. This firm is the owner or operator of the following solid waste management facilities for which financial assurance for closure and post-closure care is not demonstrated through the financial test or any other financial assurance mechanism. The current closure and/or post-closure cost estimates for the facilities which are not covered by such financial assurance are shown for each facility:

This firm {insert "is required" or "is not required"} to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on {month, day}. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended {date}.

1 Sum of current closure, post-closure care, corrective action or other environmental obligations cost estimates {total of all cost estimates shown in the four paragraphs above.} \$.....

2 Tangible net worth* \$.....

3 Total assets located in the United States* \$.....

Proposed Regulations

7 The sum of net income plus depreciation, depletion, and amortization minus \$10 million* \$.....

YES NO

(16) Is line 8 7 divided by line 2 6 greater than 0.1?

(17) Is line 5 divided by line 6 greater than 1.5?

ALTERNATIVE II.

(1) Sum of current closure and post closure cost estimates ~~{total of all cost estimates shown in the four paragraphs above}~~. \$.....

(2) Current bond rating of most recent issuance of this firm and name of rating service \$.....

(3) Date of issuance of bond. \$.....

(4) Date of maturity of bond. \$.....

(5) Tangible net worth ~~{if any portion of the closure and post closure cost estimates if included in "Total Liabilities" on your firm's financial statements, you may add the amount of that portion to this line.}~~ \$.....

(6) Total assets in U.S. ~~{required only if less than 90% of firm's assets are located in the U.S.}~~ \$.....

YES NO

(*7) Is line 5 at least \$10 million?

(*8) Is line 5 at least 6 times line 1?

(*9) Are at least 90% of firm's assets located in the U.S.? If not, complete line 10.

(*10) Is line 6 at least 6 times line 1?

I hereby certify that the wording of this letter is identical to the wording specified in Appendix 3.8 of the Article 4 (9 VAC 20-70-140 et seq.) of Part III of the Financial Assurance Regulations as such regulations were constituted on the date shown immediately below.

{Signature}

{Name}

{Title}

{Date}

APPENDIX 3.10. VI.

WORDING OF CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE.

{NOTE: Instructions in brackets are to be replaced with the relevant information and the brackets removed.}

CORPORATE GUARANTEE FOR CLOSURE OR POST-CLOSURE CARE.

Guarantee made this {date} by {name of guaranteeing entity}, a business corporation organized under the laws of the state of {insert name of state}, herein referred to as guarantor. This guarantee is made on behalf of the {owner or operator} of {business address}, which is {one of the following: "our subsidiary"; "a subsidiary of {name and address of common parent corporation} of which guarantor is a subsidiary"; or "an

entity with which the guarantor has a substantial business relationship, as defined in Part I of the Virginia Financial Assurance Regulations for Solid Waste Management Facilities (9 VAC 20-70-10 et seq.)" to the Virginia Department of Environmental Quality ("Department"), obligee, on behalf of our subsidiary [owner or operator] of [business address].

Recitals

1. Guarantor meets or exceeds the financial test criteria in 9 VAC 20-70-200 and agrees to comply with the reporting requirements for guarantors as specified in Appendix 3.8 9 VAC 20-70-220 of the Financial Assurance Regulations for Solid Waste Facilities ("Regulations").

2. [Owner or operator] owns or operates the following [solid, regulated medical, yard] waste management facility(ies) covered by this guarantee: [List for each facility: name, and address, and permit number, if any. Indicate for each whether guarantee is for closure, post-closure care, or both corrective action or other environmental obligations.]

3. "Closure plans" and "post-closure care plans" as used below refer to the plans maintained as required by 9 VAC 20-70-120 the {Solid Waste Management Regulations (9 VAC 20-80-10 et seq.), Regulated Medical Waste Management Regulations (9 VAC 20-120-10 et seq.)} or Yard Waste Composting Regulation (9 VAC 20-100-10 et seq.).

4. For value received from [owner or operator], guarantor guarantees to the Department that in the event that [owner or operator] fails to perform [insert "closure", "post-closure care", or "closure and post-closure care corrective action"] of the above facility(ies) in accordance with the closure or post-closure care plans and other [requirements of the] permit or [interim status requirements the order] whenever required to do so, the guarantor shall do so or establish a trust fund as specified in 9 VAC 20-70-120 9 VAC 20-70-140 in the name of [owner or operator] in the amount of the current closure or post-closure cost estimates as specified in 9 VAC 20-70-140.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the executive director and to [owner or operator] that he intends to provide alternate financial assurance as specified in 9 VAC 20-70-120 Article 4 of Part III of the Regulations, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.

6. The guarantor agrees to notify the Executive director by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

Proposed Regulations

7. Guarantor agrees that within 30 days after being notified by the Executive director of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or, post-closure care, or corrective action, he shall establish alternate financial assurance as specified in ~~9 VAC 20-70-120 Article 4 of Part III of the Regulations~~, in the name of [owner or operator] unless [owner or operator] has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or post-closure plan, amendment or modification of the closure or post-closure plan, amendment or modification of the permit, *amendment or modification of the order*, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to the Virginia [Solid or Regulated Medical Waste Management or Yard Waste Composting] Regulations.

9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] shall comply with the applicable financial assurance requirements of ~~9 VAC 20-70-120 Article 4 of Part III of the Regulations~~ for the above-listed facilities, except that ~~guarantor may cancel this guarantee by sending notice by certified mail to the executive director and to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by both the Department and [owner or operator], as evidenced by the return receipts as provided in paragraph 10 of this agreement.~~

10. *[Insert the following language if the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator:] Guarantor may terminate this guarantee by sending notice by certified mail to the Director of the Department of Environmental Quality and to the [owner or operator], provided that this guarantee may not be terminated unless and until [the owner or operator] obtains and the director approves, alternate [closure, post-closure, corrective action] coverage complying with the requirements of 9 VAC 20-70-10 et seq. [Insert the following language if the guarantor is a firm qualifying as a guarantor due to its "substantial business relationship" with the owner or operator:] Guarantor may terminate this guarantee 120 days following the receipt of notification, through certified mail, by the director and by [the owner or operator].*

10. 11. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in ~~9 VAC 20-70-120 Article 4 of Part III of the Regulations~~, and obtain written approval of such assurance from the executive director within 90 days after a notice of cancellation by the guarantor is received by the executive director from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].

11. 12. Guarantor expressly waives notice of acceptance of this guarantee by the Department or by

[owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in Appendix 3.10 V/ of the Regulations as such regulations were constituted on the date first above written.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX 3.11. WORDING OF THE LETTER FROM CHIEF FINANCIAL OFFICER FOR LIABILITY COVERAGE.

Executive Director
Department of Environmental Quality
P.O. Box 10009
Richmond, VA 23240

Dear [Sir, Madam]:

I am the chief financial officer of [owner's or operator's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and closure and/or post-closure care" if applicable] as specified in ~~9 VAC 20-70-130 of the Virginia Solid Waste Financial Assurance Regulations.~~

~~[Fill out the following paragraph regarding facilities and liability coverage. For each facility, include its name and address.]~~

~~The owner or operator identified above is the owner or operator of the following facilities for which liability coverage is being demonstrated through the financial test specified in 9 VAC 20-70-130.~~

~~[If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following four paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are not facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its name, address, and current closure and/or post-closure care.]~~

~~1. The owner or operator identified above owns or operates the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in 9 VAC 20-70-120 of the Virginia Solid Waste Financial Assurance Regulations. The current closure and/or post-closure cost estimates covered by the test are shown for each facility:~~

~~2. The owner or operator identified above guarantees, through the corporate guarantee specified in 9 VAC 20-70-120 of the Virginia Solid Waste Financial Assurance~~

Proposed Regulations

Regulations, the closure and post-closure care of the following facilities owned or operated by its subsidiaries. The current cost estimates for the closure and post-closure care so guaranteed are shown for each facility:

3. This owner or operator is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of financial test. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

4. The owner or operator identified above owns or operates the following hazardous waste management facilities. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility:

This owner or operator [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this owner or operator ends on [month, day]. The figures for the following items marked with the asterisk are derived from this owner's or operator's independently audited, year-end financial statements for the latest completed fiscal year ended [date].

[Fill in part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A.

Liability Coverage for Accidental Occurrences.

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.]

ALTERNATIVE I.

- (1) Amount of annual aggregate liability coverage to be demonstrated. \$.....
- (*2) Current Assets. \$.....
- (*3) Current Liabilities. \$.....
- (4) Net working capital (line 2 minus line 3). \$.....
- (*5) Tangible net worth. \$.....
- (*6) If less than 90% of assets are located in the U.S., give total U.S. assets. \$.....

YES NO

- (7) Is line 5 at least \$10 million?
- (8) Is line 4 at least 6 times line 1?
- (9) Is line 5 at least 6 times line 1?
- (*10) Are at least 90% of assets located in the U.S.? If not, complete 11.
- (11) Is line 6 at least 6 times line 1?

ALTERNATIVE II.

- (1) Amount of annual aggregate liability coverage to be demonstrated. \$.....

- (2) Current bond rating of most recent issuance and name of rating service. \$.....
- (3) Date of issuance of bond. \$.....
- (4) Date of maturity of bond. \$.....
- (*5) Tangible net worth. \$.....
- (*6) Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) \$.....

YES NO

- (7) Is line 5 at least \$10 million?
- (8) Is line 5 at least 6 times line 1?
- (*9) Are at least 90% of assets located in the U.S.? If not, complete line 10.
- (10) Is line 6 at least 6 times line 1?

[Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

Part B.

Closure or Post-Closure Care and Liability Coverage.

[Fill in Alternative I if the criteria of Appendix 3.8.A.1 are used. Fill in Alternative II if the criteria of Appendix 3.8.A.2 are used.]

ALTERNATIVE I.

- (1) Sum of current and post-closure cost estimates (total of all cost estimates listed above). \$.....
- (2) Amount of annual aggregate liability coverage to be demonstrated. \$.....
- (3) Sum of lines 1 and 2. \$.....
- (*4) Total liabilities (if any portion of your closure or post-closure cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6). \$.....
- (*5) Tangible net worth. \$.....
- (*6) Net worth. \$.....
- (*7) Current Assets. \$.....
- (*8) Current Liabilities. \$.....
- (9) Net working capital (line 7 minus line 8). \$.....
- (*10) The sum of net income plus depreciation, depletion, and amortization. \$.....
- (*11) Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) \$.....

YES NO

- (12) Is line 5 at least \$10 million?
- (13) Is line 5 at least 6 times line 3?
- (14) Is line 9 at least 6 times line 3?
- (*15) Are at least 90% of assets located in the U.S.? If not, complete line 16.

Proposed Regulations

- (16) Is line 11 at least 6 times line 3?
- (17) Is line 4 divided by line 6 less than 2.0?
- (18) Is line 10 divided by line 4 greater than 0.1?
- (19) Is line 7 divided by line 8 greater than 1.5?

ALTERNATIVE II.

- (1) Sum of current and post-closure cost estimates (total of all cost estimates listed above). _____ \$.....
- (2) Amount of annual aggregate liability coverage to be demonstrated. _____ \$.....
- (3) Sum of lines 1 and 2. _____ \$.....
- (4) Current bond rating of most recent issuance and name of rating service. _____ \$.....
- (5) Date of issuance of bond. _____ \$.....
- (6) Date of maturity of bond. _____ \$.....
- (*7) Tangible net worth (if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line). _____ \$.....
- (*8) Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.) _____ \$.....

YES NO

- (9) Is line 7 at least \$10 million?
- (10) Is line 7 at least 6 times line 3?
- (*11) Are at least 90% of assets located in the U.S.? If not, complete line 12.
- (12) Is line 8 at least 6 times line 3?

I hereby certify that the wording of this letter is identical to the wording specified in Appendix 3.11 of the Virginia Solid Waste Financial Assurance Regulations as such regulations were constituted on the date shown immediately below.

{Signature}

{Name}

{Title}

{Date}

VA.R. Doc. No. R97-352; Filed March 24, 1997, 2 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 HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Suspension of Regulatory Process

EDITOR'S NOTICE: Final action on the Virginia Uniform Statewide Building Code was published in 13:12 VA.R. 1344-1363 March 3, 1997. Pursuant to § 9-6.14:7.1 K of the Code of Virginia, the Board of Housing and Community Development is suspending the regulatory process on (i) the repeal of paragraph 2 of Section R-214.1 of CABO One and Two Family Dwelling Code/1992 Edition of 13 VAC 5-60-20, (ii) the repeal of 105.1 and 105.1.1 of 13 VAC 5-60-60, (iii) the repeal of 116.5 and 116.9 of 13 VAC 5-60-170, (iv) the adoption of 13 VAC 5-61-80 A, (v) the adoption of 13 VAC 5-61-140 B, (vi) the adoption of 13 VAC 5-61-190 A, and (vii) the adoption of 13 VAC 5-61-220 C 12, which were scheduled to become effective on April 15, 1997. Only the above-referenced provisions of the Virginia Uniform Statewide Building Code are suspended and, as a result, will not go into effect on April 15, 1997. The regulatory process was suspended in order to solicit additional public comment on these provisions. The above-referenced sections, as they will be effective on April 15, 1997, are shown below.

A public hearing will be held on Monday, April 28, 1997, at 10 a.m. in the General Assembly Building, House Room D, 910 Capitol Square, Richmond, Virginia 23219. Public comments may be submitted until May 28, 1997. Direct comments and inquiries to Norman Crumpton or George Rickman, Department of Housing and Community Development, Jackson Center, 501 North Second Street, Richmond, Virginia 23219-1321, telephone (804) 371-7170.

Title of Regulations: 13 VAC 5-60-10 et seq., Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993 (suspending the repeal of paragraph 2 of Section R-214.1 of CABO One and Two Family Dwelling Code/1992 Edition of 13 VAC 5-60-20, 105.1 and 105.1.1 of 13 VAC 5-60-60, and 116.5 and 116.9 of 13 VAC 5-60-170).

13 VAC 5-61-10 et seq., Virginia Uniform Statewide Building Code (suspending 13 VAC 5-61-80 A, 13 VAC 5-61-140 B, 13 VAC 5-61-190 A and 13 VAC 5-61-220 C 12).

13 VAC 5-60-20. Reference standards and amendments.

The permit applicant shall have the option to select as an acceptable alternative for detached one and two family dwellings and one family townhouses not more than three stories in height and their accessory structures the following standard:

CABO ONE AND TWO FAMILY DWELLING CODE/1992 EDITION and 1993 Amendments (also referred to herein

as One and Two Family Dwelling Code) (*Editor's Note: Regulatory process suspended on repeal of paragraph 2 of Section R-214.1 of the CABO One and Two Family Dwelling Code/1992 Edition, which reads: "The handgrip portion of the handrails shall not be more than 2 5/8 inches in cross-sectional dimension, or the shape shall provide an equivalent gripping surface. The handgrip portion of handrails shall have a smooth surface with no sharp corners." This language is identical to the language suspended in 13 VAC 5-61-220 C 12.*)

Jointly published by:

Building Officials and Code Administrators International, Inc.

Southern Building Code Congress International, Inc. and International Conference of Building Officials.

13 VAC 5-60-60. Application for construction permit.

105.1. When permit is required. Written application shall be made to the building official when a construction permit is required. A permit shall be issued by the building official before any of the following actions subject to the USBC may be commenced:

1. Constructing, enlarging, altering, repairing, or demolishing a building or structure.
2. Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.
3. Installing or altering any equipment which is regulated by this code.
4. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation or additions to buildings or structures.

Exceptions:

1. Ordinary repairs which do not involve any violation of the USBC shall be exempt from this provision. Ordinary repairs shall not include the removal, addition or relocation of any wall or partition, or the removal or cutting of any structural beam or bearing support, or the removal, addition or relocation of any parts of a building affecting the means of egress or exit requirements. Ordinary repairs shall not include the removal, disturbance, encapsulation, or enclosure of any asbestos containing material. Ordinary repairs shall not include additions, alterations, replacement or relocation of the plumbing, mechanical, or electrical systems, or other work affecting public health or general safety. The term "ordinary repairs" shall mean the replacement of the following materials with like materials:

Final Regulations

- a. Painting.
- b. Roofing when not exceeding 100 square feet of roof area.
- c. Glass when not located within specific hazardous locations as defined in Section 2405.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.
- d. Doors, except those in fire-rated wall assemblies or exitways.
- e. Floor coverings and porch flooring.
- f. Repairs to plaster, interior tile work, and other wall coverings.
- g. Cabinets installed in residential occupancies.
- h. Wiring and equipment operating at less than 50 volts.

2. A permit is not required to install wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum, or is not penetrating a fire resistance rated assembly.

3. Detached utility sheds 150 square feet or less in area and eight feet six inches or less in wall height when accessory to any Use Group building except Use Groups H and F.

4. Tents and air-support structures covering an area 900 square feet (84 m²), or less, including all connecting areas and spaces with a common means of egress, or entrance, and having an occupant load of 50 or less.

105.1.1. Authorization of work. The building official may authorize work to commence pending receipt of written application.

13 VAC 5-60-170. Appeals.

116.5. Application for appeal. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of the building or structure may appeal a decision of the building official concerning the application of the USBC or his refusal to grant a modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that building or structure. The applicant shall submit a written request for appeal to the BBCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the building or structure and the person appealing if not the owner. A copy of the written decision of the building official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the building official's decision.

116.9. Appeal to the TRB. After final determination by the BBCA, any person who was a party to the local appeal may

appeal to the TRB. Appeals by an involved state agency from the decision of the building official for state-owned buildings shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution or building official's decision.

13 VAC 5-61-80. BNBC Section 107.0 Application for Permit.

A. *(Editor's Note: Regulatory process suspended. See 105.1 and 105.1.1 of 13 VAC 5-60-60 for currently effective language.)*

B. Delete subsection 107.1.1.

C. Change subsection 107.3 to read:

107.3. By whom application is made: Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the registered design professional employed in connection with the proposed work. The full names and addresses of the owner, lessee, applicant, and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application. The code official shall accept and process permit applications through the mail.

D. Add subsection 107.3.1 to read:

107.3.1. Application by contractors: The code official shall require the applicant for a permit to furnish, prior to the issuance of the permit, that person's license or certification number issued pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or evidence of being exempt from the provisions of that chapter.

E. Add exception to subsection 107.6 to read:

Exception: The code official is permitted to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

F. Delete subsection 107.6.1.

G. Change subsection 107.7 to read:

107.7. Engineering details: The code official shall require to be filed adequate details of structural, mechanical, plumbing, and electrical work, which may include computations, stress diagrams and other essential technical data. All engineering plans and computations shall bear the signature and seal of the engineer or architect responsible for the design as required by Section 114.1.

13 VAC 5-61-140. BNBC Section 116.0 Violations.

A. Change subsection 116.2 to read:

116.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 116.1 if the violation has not been remedied within a reasonable time. The notice shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. The notice shall be in writing and be served by either delivering a copy to the responsible party by mail to the last known address or

delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by reference to Section 121.1.

B. *(Editor's Note: Regulatory process suspended.)*

C. Change subsection 116.4 to read:

116.4. Violation penalties: Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia.

13 VAC 5-61-190. BNBC Section 121.0 Means of Appeal.

A. *(Editor's Note: Regulatory process suspended. See 116.5 and 116.9 of 13 VAC 5-60-170 for currently effective language.)*

B. Change subsection 121.2 to read:

121.2. Board of appeals: There shall be established within each department of building inspection a board of appeals. A separate board of appeals may be established for different areas of enforcement of this code provided each board of appeals complies with this section. The board of appeals shall consist of at least five members appointed by the chief appointing authority. Whenever a county or a municipality does not have a board of building code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such appeals.

C. Change subsection 121.2.1 to read:

121.2.1. Qualifications: To the extent such persons may be available, the board of appeals shall consist of individuals from each of the following professions or disciplines.

1. Registered design professional who is a registered architect, or a builder or superintendent of building construction with at least 10 years experience, five of which shall have been in responsible charge of work.
2. Registered design professional with structural engineering or architectural experience.
3. Registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least 10 years experience, five of which shall have been in responsible charge of work.
4. Registered design professional with electrical engineering experience, or an electrical contractor with at least 10 years experience, five of which shall have been in responsible charge of work.
5. Registered design professional with fire protection engineering experience, or a fire protection contractor with at least 10 years experience, five of which shall have been in responsible charge of work.

The code official, technical assistants, inspectors or other employees of the department of building inspection shall not serve as members of the board of appeals.

D. Change subsection 121.2.2 to read:

121.2.2. Alternate members: The chief appointing authority shall be permitted to appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

E. Delete subsection 121.2.6.

F. Change subsection 121.3 to read:

121.3. Notice of meeting: The board shall meet upon notice from the chairman, within 30 days of the filing of an appeal, or at stated periodic meetings.

G. Change subsection 121.5 to read:

121.5. Postponed hearing: When a quorum of the board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

H. Change subsection 121.6 to read:

121.6. Board decision: The board shall rule by a concurring vote of a majority of members present.

I. Change subsection 121.6.1 to read:

121.6.1. Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official. The resolution shall contain a statement indicating that if further appeal is sought, application shall be made to the TRB within 21 days of receipt of the resolution.

J. Change subsection 121.7 to read:

121.7. Appeal to the TRB: No appeal to the TRB shall lie prior to a final determination by the board of appeals. Application shall be made to the TRB within 21 days of receipt of the resolution of the board of appeals.

Exception: Appeals by the involved state agency from the decision of the code official for state-owned buildings shall be made directly to the TRB within 21 days of the application of this code or the refusal to grant a modification to the provisions of this code.

13 VAC 5-61-220. BNBC Section 310.0 Residential Use Groups.

A. Change subsection 310.1 to read:

310.1. General: All structures in which sleeping accommodations are provided, excluding those that are classified as institutional occupancies, shall be classified as Use Group R-1, R-2, R-3 or R-4. The term "Use Group R" shall include Use Groups R-1, R-2, and R-3. Family day homes licensed or certified by the Virginia Department of Social Services shall be permitted to accommodate the numbers of children permitted under the licensing restrictions and shall be classified as a residential use group.

B. Change subsection 310.6 to read:

310.6. Use Group R-4 structures: This use group shall include all detached one- or two-family dwellings and one-

Final Regulations

family townhouses not more than three stories in height, and the accessory structures as indicated in the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code. All such structures shall be designed in accordance with the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code or in accordance with the requirements of this code applicable to Use Group R-3.

Exceptions:

1. Structures classified as Use Group R-4 shall comply with applicable requirements of Section 3107.0 of this code.
2. Structures classified as Use Group R-4 shall comply with the requirements of Section 1214.4 of this code, when applicable.

C. Add subsection 310.6.1 to read:

310.6.1. Amendments to the CABO Code: The following changes shall be made to the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code:

1. Delete the note in CABO subsection 114.1.
2. Change CABO subsection 115.1 to read:

115.1. General. Swimming pools, spas and hot tubs shall comply with the provisions in Appendix D.

3. Change CABO subsection 119.1 to read:

119.1. General. The provisions for energy conservation contained in Appendix E shall be part of this code.

4. Add exception to CABO subsection 301.2 to read:

Exception: Heating facilities shall be required in accordance with Section 303.6. The winter design temperature for heating facilities required or provided shall be established by the jurisdiction in accordance with this section.

5. Change CABO subsection 303.6 to read:

303.6. Required heating. Every dwelling unit or portion thereof which is to be rented, leased or let on terms either expressed or implied to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperatures at 65°F (18°C) during the period from October 1 to May 15 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the winter design temperature for heating facilities established by the jurisdiction.

6. Add CABO subsection 303.7 to read:

303.7. Insect screens. Every door, window and other outside opening required for ventilation purposes shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

7. Add CABO subsection 306.5 to read:

306.5. Approval. Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health.

8. Change CABO subsection 310.4 to read:

310.4. Type of lock or latch. All egress doors shall be readily openable from the inside without the use of a key unless the key cannot be removed from the lock when the door is locked from the inside.

9. Change CABO subsection 314.2 to read:

314.2. Treads and risers. The maximum riser height shall be 8¼ inches (210 mm) and the minimum tread depth shall be nine inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2.0% slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

10. Change CABO subsection 314.4 to read:

314.4. Winders. Winders are permitted, provided that the width of the tread at a point not more than 12 inches (305 mm) from the side where the treads are narrower is not less than nine inches (229 mm) and the minimum width of any tread is not less than six inches (153 mm). The continuous handrail required by Section 314.1 shall be located on the side where the tread is narrower.

11. Change CABO subsection 314.6 to read:

314.6. Circular stairways. Circular stairways shall have a minimum tread depth and a maximum riser height in accordance with Section 314.2 and the smaller radius shall not be less than twice the width of the stairway. The minimum tread depth of nine inches (229 mm) shall be measured from the narrower end.

12. *(Editor's Note: Regulatory process suspended. See 13 VAC 5-60-20, CABO One and Two Family Dwelling Code/1992 Edition, Section R-214.1, paragraph 2, for currently effective language.)*

13. Delete CABO subsection 316.1.1.

14. Delete CABO Section 324 Protection Against Radon.

15. Change subsection 401.4 to read:

401.4. Soil tests: Localities having 20% and greater moderate and high shrink/swell potential of the jurisdictional land area shall implement an expansive soil test policy. Localities having less than 20% moderate and high shrink/swell potential of the jurisdictional land area may adopt a soil test policy. The policy shall establish minimum criteria to determine the circumstances which require testing for expansive soils and the minimum testing requirements. The

policy shall be established in a manner selected by the local government having jurisdiction. All localities shall obtain and retain as a reference guide a copy of the applicable National Cooperative Soil Survey produced cooperatively by the Natural Resources Conservation Service and the Virginia Polytechnic Institute and State University, where this survey is available. Figures 401.4a and 401.4b shall be used to determine the percentage of jurisdictional land area which has moderate or high shrink/swell potential.

VA.R. Doc. No. R97-372; Filed March 26, 1997, 10:25 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-100-250 et seq. Part III: HIV Premium Assistance Program.

Statutory Authority: §§ 32.1-325 and 32.1-330.1 of the Code of Virginia.

Effective Date: June 1, 1997.

Summary:

The purpose of this action is to promulgate permanent regulations which provide for the administration of the agency's HIV Premium Assistance Program, pursuant to § 32.1-330.1 of the Code of Virginia, consistent with actions taken by the 1996 General Assembly. Without these regulations, the agency will lack the eligibility criteria which are necessary to determine applicants' eligibility for the services by which to operate the program once the emergency regulation expires in June, 1997.

Section 32.1-324 of the Code of Virginia authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the board's requirements. The director approved, on October 17, 1996, the initiation of a public comment period for the proposed regulations. Section 9-6.14.7.1 et seq. of the Code of Virginia requires agencies to adopt and amend regulations subject to public notice and comment when the action being taken does not meet one of the statutory exemptions.

Section 32.1-330.1 of the Code of Virginia requires DMAS to implement a premium assistance program for HIV-positive individuals and permits the promulgation of any regulations necessary. The Code also specifies the minimum characteristics the program is to have. With the elimination by the 1996 General Assembly of this program's sunset provision, DMAS has determined that its previous board approved operating policies were no longer sufficient and that duly promulgated regulations were indicated.

These regulations provide the policies for the administration of the HIV Premium Assistance Program. The program was mandated by legislation passed by the 1994 General Assembly and was originally set to expire on July 1, 1996. Because of this temporary nature of the program, the Board of Medical Assistance Services

approved operating policies by which the daily administrative decisions could be made. When the 1996 General Assembly removed the expiration date from the law, thereby making this program a permanent administrative responsibility of this agency, DMAS determined that its board policies were no longer adequate.

The program, to date, has used Ryan White CARE Act federal grant funds. The 1996 law change by the General Assembly permitted the use of other funds which may be appropriated or made available for this program. The 1997 General Assembly changed the program, effective July 1, 1997, to use solely state general funds. The authorizing statute requires that DMAS administer the program, which provides premium payments for group health insurance obtained pursuant to insurance continuation under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA 1985). Eligibility criteria including income and assets limits are specified in the statute. These regulations define how eligibility will be determined and address other programmatic issues including appeal rights and responsibilities of the applicants and program participants and of DMAS.

The HIV Premium Assistance Program, funded through the federal Ryan White CARE Act, has served slightly more than 90 individuals in the Commonwealth who suffered with HIV/AIDS related conditions. Lengths of enrollment typically range from six months to one year due to the nature of these individuals' illnesses. The program has allowed these individuals to retain the private insurance they had through their employers. Considering the nature of their illnesses and their qualifying incomes, the clients would very likely have become Medicaid eligible if it were not for the intervention of the HIV Premium Assistance Program.

These proposed permanent regulations are necessary to ensure DMAS' long-term compliance with the statutory requirements. Action by the 1996 General Assembly (in House Bill 1148) eliminated the sunset provision for this program thereby eliminating the pilot program status. Consequently, DMAS requires duly promulgated regulations under which to operate this program to replace the temporary Board of Medical Assistance Services' policies. There are no differences in this suggested final regulation over the previous proposed regulation and the emergency regulation.

Some citizens may object to an assistance program which has been targeted to a disease-specific population. In the past, a few employers have been able to drop HIV positive former employees from their group health coverage due to such employees inability to meet total COBRA premium payments. The HIV Premium Assistance Program may enable some of these former employees to make their COBRA premium payments and, therefore, retain their health insurance coverage through their former employers. Such affected employers, who may have an incomplete understanding of COBRA law, may object to this program. Otherwise,

Final Regulations

the agency projects no negative issues involved in implementing this change.

No providers will be affected by this regulation. Program recipients will be a small number (less than 100) of low income Virginia residents who meet financial and other eligibility criteria.

To date, program funds have been derived solely from federal Ryan White CARE Act grant funds awarded to the Commonwealth and limited to HIV/AIDS-related uses. The average monthly Virginia Medicaid cost for an HIV/AIDS patient (not eligible for these Ryan White funds) in FY95 was approximately \$2,136*. (*Medicaid HIV/AIDS cost figures come from the 1994 HCFA AIDS Waiver renewal, Department of Medical Assistance Services claims analysis, Patients in mid stage of AIDS.) The referenced 1996 legislation permits funds from other sources to be used for this programmatic purpose but no appropriations were specified.

In the HIV Premium Assistance Program, the average premium assistance payment was \$196 per month (October 95) or \$2,352 per person per year. For each case diverted from Medicaid, the Commonwealth is saving approximately \$970 (GF and NGF) per month or \$23,280 GF per year. The total amount of premium assistance paid between October 1995 and September 1996 was \$140,891. Several applicants for this assistance voluntarily submitted verification of medical expenses ranging from \$35,000 to about \$90,000. Payment of the small average premium amounts represents considerable savings over the low end of this range of potential medical expenses. There are no localities which are uniquely affected by these regulations as they apply statewide.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

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

PART III.

HIV PREMIUM ASSISTANCE PROGRAM.

12 VAC 30-100-250. Definitions.

"Appeal" means the process by which an applicant or enrollee in the HIV Premium Assistance Program can obtain a review of a decision, action, or failure to act on the part of the program.

"Applicant" means an individual who has applied for or is in the process of applying for HIV Premium Assistance Program benefits.

"Applicant's representative" means a person who, because of the applicant's or enrollee's mental or physical incapacity or standing as a child, is permitted to act, complete, sign, or withdraw an application for the benefits of the program; activate the appeal process; and otherwise supply any

information requested by the program on behalf of the applicant or enrollee.

"Child" means an unmarried person younger than 18 years of age and who lives with a parent or legal guardian.

"Date of application" means the date that an application is officially received by the program.

"Department" or "DMAS" means the Virginia Department of Medical Assistance Services which has administrative authority and responsibility for the program.

"Enrollee" means an individual who has been determined to be eligible for and is receiving assistance from the program.

"Family" means:

1. The applicant or enrollee,
2. The applicant or enrollee's spouse,
3. The applicant's or enrollee's children who are under 21 years if the children live with the applicant,
4. When the applicant or enrollee is a child:
 - a. The applicant's parent or parents,
 - b. The minor applicant's unmarried siblings under 21 years, at the option of the applicant's or enrollee's parents.

"Group health insurance plan" means a plan which meets § 5000(b)(1) of the Internal Revenue Code of 1986, as amended, includes continuation coverage pursuant to Title XXII of the Public Health Services Act, § 4980B of the Internal Revenue Code of 1986, or Title VI of the Employee Retirement Income Security Act of 1974, and is consistent with the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272 and any subsequent modifications to the Act. Section 5000(b)(1) of the Internal Revenue Code provides that a group health plan is any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.

"Health insurance premiums" or "premiums" means the health insurance premiums paid by or on behalf of an individual in order to obtain or maintain health insurance plan benefits.

"HIV positive" means a positive diagnosis of infection with the human immune deficiency virus (HIV) as determined by the enzyme-linked immunosorbent assay (ELISA) and confirmed by the Western Blot, or another generally accepted diagnostic test for HIV infection.

"HIV Premium Assistance Program" or "the program" means the Virginia program that provides payment of health insurance premiums under certain circumstances to individuals who are HIV positive, in accordance with the provision of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272 and any subsequent modifications to the Act and as authorized by § 32.1-330.1 of the Code of Virginia.

"Medicaid" means the state-federal medical assistance program of comprehensive medical and other health-related care for indigent and medically indigent persons authorized by Title XIX of the Social Security Act and administered by the Virginia Department of Medical Assistance Services.

"Nongroup health insurance plan" means a health insurance plan that is offered to an individual or an individual family unit without being tied to an employer.

"Physician verification" means certification by a licensed physician of medical information regarding an applicant's or enrollee's HIV positive status and inability to work due to the disease or the substantial likelihood that within three months the individual will be too ill to continue working.

"Poverty level" means the official federal poverty income level, as revised annually.

12 VAC 30-100-260. Eligibility requirements.

An applicant will be determined to be eligible for the HIV Premium Assistance Program if the individual:

1. Is a Virginia resident at the time of application and is:
 - a. A citizen of the United States;
 - b. An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, including an alien who is lawfully present in the United States pursuant to 8 USC § 1101 et seq.; or
 - c. An alien lawfully admitted under authority of the Indochina Migration and Refugee Assistance Act of 1975, 22 USC § 2601 et seq.;
2. Is certified by a licensed physician to be HIV positive;
3. Is certified by a licensed physician to be unable to work or to have a substantial likelihood of being unable to work within three months of the date of the physician's certification due to the HIV infection;
4. Is eligible for continuation of group health insurance plan benefits through the employer and the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, or for continuation of benefits under any type of health insurance plan unless DMAS has reason to believe it is not cost effective;
5. Has family income no greater than 200% of the poverty level;
6. Has countable liquid assets no more than \$10,000 in value; and
7. Is not eligible for Medicaid.

12 VAC 30-100-270. Determination of countable income and liquid assets.

When determining eligibility for the HIV Premium Assistance Program, the countable income and assets of each applicant shall be determined as follows:

1. Income shall include total projected family income for the year beginning with the month of application to the program, including but not limited to:

- a. Wages;
- b. Commissions and fees;
- c. Salaries and tips;
- d. Profit from self-employment;
- e. Dividends or interest income;
- f. Disability benefits;
- g. Unemployment;
- h. Pension or retirement.

2. Countable liquid assets shall include assets available as of the date of the application which are convertible to cash. The following liquid assets shall be counted when determining eligibility:

- a. Savings accounts;
- b. Checking accounts;
- c. Money market certificates;
- d. Certificates of deposit;
- e. Mutual funds; [or]
- f. Stocks and bonds.

12 VAC 30-100-280. Program application and enrollment.

A. Any person requesting participation in the program shall be given the opportunity to file an application and, if determined eligible by the program, shall be enrolled in accordance with the provisions of this part within established funding constraints.

B. An applicant or applicant's representative shall complete an application on the form designated by the program. The program may request additional documentation for eligibility determination purposes as it deems necessary.

C. An unmarried child younger than 18 years old shall have a representative complete and sign the application.

D. Applications shall conform with the requirements of this part and those set forth by the program. Applicants shall be determined ineligible without prejudice when they fail to provide information sufficient for the determination of eligibility.

E. An applicant or applicant's representative shall sign a statement authorizing the program to verify from any source, including banks and public or private agencies providing monetary benefits, qualifying information submitted to the program as part of the application process. Refusal to sign an authorization shall be considered failure to provide sufficient information, and applicants shall be determined ineligible in accordance with the provisions of this policy.

Final Regulations

F. Eligibility determination shall be made promptly, not later than 30 days from the date of receipt of the completed application by the program.

G. An applicant or applicant's representative may voluntarily withdraw the application at any time without prejudice.

H. An individual previously determined ineligible for program benefits may submit a new application at any time.

I. Program enrollment shall be effective on the day eligibility is approved. Premium payments for health insurance coverage beginning on the first day of the month following eligibility shall start as long as there is available funding.

12 VAC 30-100-290. Changes in eligibility.

A. The program will promptly redetermine eligibility when it receives information concerning an enrollee's circumstances that may affect eligibility.

B. The enrollee or representative shall notify the program within 10 working days of any changes in circumstances which would affect continuing eligibility, including but not limited to:

1. Sale, transfer or change of the value of assets;
2. Change in income;
3. Change in name or address;
4. Change in COBRA eligibility.

C. If any changes in status result in an enrollee no longer qualifying for the program, the enrollee shall be considered ineligible for program benefits and enrollment shall be canceled. The cancellation shall be effective on the last day of the month in which notice has been given consistent with 12 VAC 30-100-320. The program shall notify the enrollee of its determination in writing, and inform the enrollee of any legal rights to appeal the decision pursuant to the notification requirements of this policy.

D. Failure to make such required notification may be considered to be fraudulent and may be addressed pursuant to the department's fraud prevention and control policies (12 VAC 30-100-360).

12 VAC 30-100-300. Enrollee openings.

A. The number of enrollees in the program shall be limited to the number that can be covered by the program's available funding as reflected in available openings. DMAS shall project the expenditures for the current and expected enrollees and funding levels for the program to determine the number of available enrollee openings.

B. Initial available openings in the program shall be filled based on the applicant's date of completed application. In the event that more than one application is received on any one day, applicants shall be considered based on the order of the day and month of the applicant's birth, with January being month one.

C. Should the number of applications exceed available funding at any time, a waiting list shall be maintained by the

program of applicants who are determined to be eligible for the program but for whom openings are not available when the eligibility determinations are made.

1. Available openings shall be filled from the waiting list on a first come, first served basis, using the same criteria defined in 12 VAC 30-100-300.

2. If an opening becomes available, the applicant shall be notified in writing by the program. The applicant must provide any necessary information to the program to verify that he is still eligible within 10 days of receiving such notification. The 10-day period may be extended by the program for just cause. If determined to be still eligible, the applicant shall be enrolled.

3. At the end of three months from the date of application, and every three months thereafter, if an opening has not yet become available, each applicant may be contacted by DMAS to verify the applicant's interest in remaining on the waiting list. At these contacts, applicants may be requested to inform the program of changes in the contents of their applications. At such time as funding becomes available for waiting list applicants, DMAS shall reexamine the applications for program qualifications.

12 VAC 30-100-310. Authorization for benefits.

Authorization for benefits under this program shall be granted until program termination, unless the recipient's status changes so that he no longer meets the eligibility criteria.

12 VAC 30-100-320. Notification.

The program shall inform an applicant, enrollee or the representative of the individual's legal rights and obligations and give written notice of the following:

1. The final determination on an application, which shall include the reason or reasons if an applicant is found ineligible;
2. The imminent expiration of program authority and funding;
3. A notice of action to deny, cancel, or suspend program benefits which shall:

- a. Include a statement of the proposed action, the reason for the action, and the regulatory authority for the action;
- b. Include notification of the right to appeal the action;
- c. Be mailed at least 15 calendar days before the effective date of the action.

12 VAC 30-100-330. Appeals.

A. An applicant, enrollee, or representative who is dissatisfied with a decision, action, or inaction of the program may request and shall be granted an opportunity to appeal, as provided for under the department's Client Appeals Regulations (12 VAC 30-110-10 through 12 VAC 30-110-380).

B. The applicant or enrollee shall request in writing reconsideration from the HIV Premium Assistance Program within 15 days of the denial notice. DMAS will respond within five days to this request for reconsideration. If the applicant or enrollee still disagrees with DMAS' decision, he shall have the right to file an appeal in accordance with the department's Client Appeals Regulations.

C. An enrollee shall be notified in writing by the program that the program shall be responsible for the payment of health insurance premiums until the appeal process is concluded. If the appeal results in the enrollee being found ineligible for the program, the program shall seek recovery in accordance with the department's recovery policies.

D. If an applicant is found eligible for the program as a result of an appeal, the program shall reimburse the applicant directly for premiums which were paid, beginning with a premium payment for the month following the decision that was the subject of appeal. The applicant shall provide proof of payment of premiums.

E. Cases on appeal which are in current payment status shall be considered filled enrollee openings until the appeal process has been completed.

12 VAC 30-100-340. Health insurance premium payments.

A. Premium payments shall be made to the employer, the insurer, or the enrollee, according to procedures established by the program.

B. Applicants and enrollees shall provide information as may be necessary for the payment of health insurance premiums by the program, including but not limited to the name and address of the employer or health insurance company, the last day of employment, the type of policy, the amount of the premium, and the date by which the premium must be paid.

C. Payments under this program are limited to the cost of the health insurance premium currently in effect and shall not include copayments, deductibles, or any other costs incurred by the enrollees.

12 VAC 30-200-350. Recovery.

In all cases in which program benefits have been incorrectly paid or paid during an appeal in which the program action was upheld, the program shall seek recovery from the payee, according to the department's recovery policies.

12 VAC 30-100-360. Fraud.

Cases of suspected misrepresentation or fraud shall be investigated according to the department's fraud prevention and control policies and any other applicable statutory provision.

12 VAC 30-100-370. Confidentiality.

All information maintained by the program containing personal data including name, address, employer, insurance company, HIV status, application to or enrollment in the program, and any other information which could identify or reasonably be used to identify any applicant or enrollee in the

program shall be maintained in confidence according to all applicable DMAS policies and procedures and any other applicable laws or regulations. Such information shall not be disclosed to any individual or organization without the written and dated consent of the applicant, enrollee, or representative.



Department of Medical Assistance Services
 HIPP Unit, Division of Client Services
 600 E. Broad Street, Suite 1300
 Richmond, VA 23219
 (804) 225-4236

HIV PREMIUM ASSISTANCE PROGRAM APPLICATION

The information on this form will be used in determining eligibility for the HIV Health Insurance Premium Assistance Program. All questions must be completed, and the form must be signed by the applicant or the applicant's representative.

All information on this form will be maintained in the strictest confidence. It will not be disclosed without written consent from you or your representative.

To help us process the application as quickly as possible and avoid a break in coverage under your insurance plan, the following information *must* be submitted with the completed application form:

- Physician's Verification Form
- a copy of your insurance card
- a copy of your most recent pay stub or tax return

If you wish to enroll or are currently enrolled in a COBRA plan, you are responsible for any premium payments until eligibility is determined.

PART A - APPLICANT				
Last Name		First Name		MI
<input type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms.				
Your Address		City	State	ZIP
Telephone Number	Date of Birth	Sex	Currently Enrolled in Medicaid	
Home: ()		<input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Work: ()				
Number of Dependents in Household		Virginia Resident		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		

PART B - INSURANCE				
Name of Insurance Company		Policyholder Name		
Address of Insurance Company		City	State	ZIP
Effective Date of policy	Type of Coverage	Copy of insurance card attached?		
	<input type="checkbox"/> Employee Only <input type="checkbox"/> Family <input type="checkbox"/> Other (explain)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Monthly Premiums under COBRA	Date COBRA eligibility began, or will become effective: _____ Date COBRA eligibility will end (should be 18 or 29 months after above date): _____			

PART C - EMPLOYER INFORMATION	
Employer providing coverage:	Contact (Group Administrator):
Address:	Phone #:
	()

PART D - INCOME AND ASSET STATEMENT	
INCOME	ASSETS
Please list the following family sources of income on an annual basis:	Total family assets
Wages	Savings accounts
Commissions and fees	Checking accounts
Salaries and tips	Money market certificates
Profit from self-employment	Certificates of deposit
Dividends or interest income	Mutual funds
Disability benefits	Stocks and bonds
Unemployment	
Pension or retirement	
Other (describe)	
Total: (cannot exceed 200% of federal poverty guidelines)	Total: (cannot exceed \$10,000)

Please note: all income and asset information is subject to further verification.

PART E - PAYMENT INFORMATION			
Please indicate the address to which your COBRA payments should be mailed. If there is a particular account number or person involved, please indicate that.			
Name of Company			
Address	City	State	ZIP
Telephone Number	Account #		
()			
Attention to: (person and department)			

READ CAREFULLY BEFORE SIGNING

- I assume full responsibility for the accuracy of the statements on this form. I understand that the Department of Medical Assistance Services will use these statements to determine my eligibility for the HIV Health Insurance Premium Assistance Program.
- I understand that I am to reimburse the Department for any money received by me or paid on my behalf to which I was not entitled.
- I understand that if available funds is exhausted, my name will be placed on a waiting list for three months. If I am still uninterested in the program after that time, it is my responsibility to reapply to the program.
- I agree to report any changes in my circumstances to the HIV Health Insurance Premium Assistance Program within 10 days, including changes in income, resources, employment, coverage, premium amount, and my address.
- I am aware that Virginia Law provides that anyone who obtains or tries to obtain or who helps any person to obtain public assistance to which the person is not entitled is guilty of violating the laws of the State of Virginia, including the Code of Virginia Sections 32.1-321.2 through 321.4 and 63.1-124.
- A copy of the HIV Health Insurance Premium Assistance Program policies has been provided to me. By my signature below, I certify I have read and understand these policies and agree to be bound by them for purposes of my application for and/or receipt of benefits under this program.

SIGNATURES

Under penalty of perjury, I certify that the statements I have made are true and correct to the best of my knowledge and belief.

Signature of the Applicant: _____ Date: _____

If the Applicant was assisted in filling out this application, name of preparer: _____

Relationship to Applicant: _____ Organization: _____



Department of Medical Assistance Services
 HIPP Unit, Division of Client Services
 600 E. Broad Street
 Richmond, VA 23219
 (804) 225-4236

**HIV PREMIUM PAYMENT PROGRAM
 PHYSICIAN'S VERIFICATION FORM**

Please complete this section and give this form to your physician. Once the form is completed you should then mail it, along with your application, to the address below. If the form must be left with your physician, either you or your physician must submit it within ten days to the address below:

**HIPP UNIT
 DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
 600 E. BROAD STREET, SUITE 1300
 RICHMOND, VA 23219
 (804) 225-4236**

To Be Completed by the Applicant			
Patient Last Name:	First Name:	MI	
<input type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms.			
Address:	City:	State:	Zip:
Social Security Number:		Date of Birth:	

Authorization for Release of Information

I hereby authorize my physician named below to furnish the Virginia Department of Medical Assistance confidential medical information for the purpose of determining my eligibility for the HIV Health Insurance Premium Payment Program.

Patient's Name: _____ Date: _____

To Be Completed by the Applicant's Physician			
The applicant has tested positive for Human Immunodeficiency Virus (HIV):		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is the applicant still working:		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If the applicant is still working, it is my judgment that there is a substantial likelihood that within approximately three months this patient will be unable to work because of HIV-related disease.		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Physician's Name:		Telephone Number:	
Office Address:	City:	State:	Zip:
Signature:		Date:	

J:\HIPPHIV\CORR\HIV\VERIF.DOT

GENERAL NOTICES/ERRATA

Symbol Key

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

STATE AIR POLLUTION CONTROL BOARD

† Notice of Extended Public Comment Period

The State Air Pollution Control Board has extended the previously advertised public comment period relating to the issuance of a general variance to Merck & Co., Inc. for the operation of Merck's Stonewall plant. The general variance would be issued in compliance with a Project XL agreement standing in lieu of applicable state air pollution control regulations, and in relation to the intent to issue a Prevention of Significant Deterioration (PSD) permit to the facility.

The deadline for comments on the proposal is 5 p.m. on May 30, 1997. Written comments should be addressed to Larry Simmons, Department of Environmental Quality, Valley Regional Office, P.O. Box 1129, Harrisonburg, VA 22801.

1902(a)(10)(E)(iii)	Special Low Income Medicare Beneficiaries	120%
1902(l)	Pregnant Women and Children Under Age 6	133%
1902(l)(1)(D)	Children born after 9/30/83 who have attained age 6 but have not attained age 19	100%
1902(m)	Qualified Medicare Beneficiaries	100%
1905(s)	Qualified Disabled and Working Individuals	200%

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Changes to the Virginia Medicaid Income Eligibility Levels

The Department of Medical Assistance Services hereby publishes notice of changes to the Virginia Medicaid Income Eligibility Levels as defined in Attachment 2.6 A Supplement 1 of the State Plan for Medical Assistance (12 VAC 30-40-220). These changes are effective April 1, 1997.

Section 430.12 of the Code of Federal Regulations requires that state plans for medical assistance be kept up to date with federal requirements, as in the new Federal Poverty Income Guidelines. The Health Care Financing Administration (HCFA) published its 1997 guidelines in the Federal Register (Vol. 62, No. 46, page 10856) on March 10, 1997.

Sections 1902(l), 1902(l)(1)(D), 1902(m), and 1905(s) of the Social Security Act require states to base Medicaid eligibility on percentages of the Federal Poverty Income Guidelines for certain categories of eligible individuals. The Federal Register notice provided updated guidelines which are effective on the date of the register publication.

This notice identifies those categories of eligible individuals whose eligibility must be based on a percentage of the Federal Poverty Income Guidelines, and the percentages required.

Each year when the annual Federal Poverty Income Guidelines (FPIGs) are published, states must revise the financial eligibility income standards for the affected categories. The standards must be effective no later than April 1 each year.

Family Size	Income Level			
	Based on 100% of FPIGs	Based on 120% of FPIGs	Based on 133% of FPIGs	Based on 200% of FPIGs
1	\$7,890	\$9,468	\$10,494	\$15,780
2	\$10,610	\$12,732	\$14,111	\$21,220
3	\$13,330	\$15,996	\$17,729	\$26,660
4	\$16,050	\$19,260	\$21,347	\$32,100
5	\$18,770	\$22,524	\$24,964	\$37,540

DEPARTMENT OF SOCIAL SERVICES

† Child Care and Development Fund

Virginia is in the process of developing its Child Care and Development Fund (CCDF) plan in conjunction with the State Board of Social Services. The CCDF plan will govern the way in which Virginia expends child care funds over the next

two years. A series of public work sessions and hearings are being held across the state. The Department of Social Services invites all interested parties to attend.

Saturday, April 5, 1997

9 a.m. - Noon -- Work Session

12:30 p.m. - 2:30 p.m. -- Public Hearing

Jefferson Madison Regional Library, McIntire Room, 201 E. Market Street, Charlottesville, VA 23902.

Saturday, April 12, 1997

9 a.m. - Noon -- Work Session

12:30 p.m. - 2:30 p.m. -- Public Hearing

Department of Social Services, Room 849, 6060 Jefferson Avenue, Newport News, VA 23605.

Thursday, April 17, 1997

7 p.m. - 9 p.m. -- Public Hearing

Holiday Inn Fair Oaks, 11787 Lee Jackson Memorial Highway, Fairfax, VA 22033.

Saturday, April 26, 1997

9 a.m. - Noon -- Work Session

12:30 p.m. - 2:30 p.m. -- Public Hearing

Western Regional Office, Department of Social Services, 190 Patton Street, Abingdon, VA 24210.

For more information or to receive a copy of the draft CCDF plan, please call Kristi Potts, Department of Social Services, telephone (804) 692-1859.

If you plan to speak at the public hearings, a written copy of your comments is appreciated.

STATE WATER CONTROL BOARD

† Notice of Additional Comment Period on Proposed Amendments to Virginia's Water Quality Standards

Notice is hereby given that the State Water Control Board is seeking additional comment on the proposed amendment to 9 VAC 25-260-00 et seq., Water Quality Standards. A notice for public hearing and comment period on proposed amendments to this regulation was last published in the Virginia Register on February 5, 1996. Staff have completed their review of comments received from that comment period and have revised the proposed amendments. This revised proposal is the subject of this additional comment period. Information on the proposal as well as copies of the revised regulation and the staff response to comments are available from the contact listed below.

As part of this comment period, public meetings are being held to receive additional oral and written comments which the State Water Control Board will consider before final adoption of these standards. In order to be considered, comments must be received by June 14, 1997.

The board will hold two public meetings to receive oral and written comments and to answer questions of the public. The meeting will be held at the following dates and location:

May 20, 1997 - 7 p.m.

Brookneal Elementary School, 133 Charlotte Street, Brookneal, Virginia 24528.

May 22, 1997 - 7 p.m.

Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia 23220.

Written comments should be submitted to Dr. Alan J. Anthony, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009.

For information on the proposal, contact Eleanore Daub at the Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, or call (804) 698-4111, toll-free 1-800-592-5482, or via e-mail at emdaub@deq.state.va.us.

The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Daub. Persons needing interpreter services for the deaf must notify Ms. Daub no later than May 9, 1997.

Enforcement Action Proposed Consent Special Order C & M Oil Distributors, Inc. Prillaman Chemical Corporation Tarmac Mid-Atlantic, Inc.

The State Water Control Board proposes to take enforcement actions against C & M Oil Distributors, Inc. in Norfolk, Virginia, Prillaman Chemical Corporation in Suffolk, Virginia, and Tarmac Mid-Atlantic, Inc., in Norfolk, Virginia. The enforcement actions will be Consent Special Orders that will require the facilities to come into compliance with appropriate Virginia laws and regulations. The order for C & M Oil Distributors, Inc. contains a civil charge of \$12,000 and the order for Tarmac Mid-Atlantic, Inc. contains a civil charge of \$3,000.

The Department of Environmental Quality will receive written comments relating to the board's proposed Consent Special Orders until April 30, 1997. Comments should be addressed to David S. Gussman, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia 23462, and should refer to the specific Consent Special Order. The proposed orders may be examined at the above address and copies of the orders may be obtained in person or by mail.

Enforcement Action Proposed Consent Decree District of Columbia Lorton Reformatory Sewage Treatment Plant

The State Water Control Board proposes to execute a Consent Decree to be entered by the Circuit Court of Fairfax County with the District of Columbia (District) regarding the Lorton Reformatory Sewage Treatment Plant (Lorton STP) and sewage collection system located in Fairfax County, Virginia.

General Notices/Errata

The Lorton STP is subject to VPDES Permit No. VA0030163. The Consent Decree provides, among other things, that the District comply with its permit and applicable orders issued by the board, complete rehabilitation and repairs to the STP and sewage collection system by July 1, 1998, eliminate overflows from the STP and collection system, provide for line cleaning equipment and monitors at the facility, and implement specified operational changes. The District has agreed that the decree be entered by the court and to payment of a \$175,000 civil penalty with \$150,000 suspended pending the District's compliance with certain terms of the decree.

Pursuant to 9 VAC 25-30-500, on behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the decree through April 30, 1997. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Woodbridge, Virginia 22193. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to examine or to obtain a copy of the Consent Decree.

† Enforcement Action

Proposed Amendments to Consent Special Orders Erath Veneer Corporation of Virginia Ronile, Incorporated Montgomery County Public Service Authority

The State Water Control Board and the Department of Environmental Quality propose to amend Consent Special Orders for:

1. Erath Veneer Corporation of Virginia for its Rocky Mount plant, VPA Permit No. VPA02064. The amendment revises the schedule to close a wastewater treatment lagoon and the requirements for monitoring groundwater.
2. Ronile, Incorporated, for its Rocky Mount plant, VPDES Permit No. VA0079015. The amendment revises the construction completion and final compliance dates for upgrading Ronile's wastewater treatment plant. It also adjusts the toxicity management program biological and chemical test schedule to allow for plant reconstruction.
3. Montgomery County Public Service Authority for its Shawsville sewage treatment plant, VPDES Permit No. VA0024031. The amendment extends the construction schedule and interim limits for a plant expansion.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed action until May 14, 1997. Comments should be addressed to James F. Smith, West Central Regional Office, Department of Environmental Quality, 3019 Peters Creek Road, N.W., Roanoke, VA 24019, or FAX 540-562-6725, and refer to Erath, Ronile, or Shawsville Special Consent Order.

The proposed order may be examined at the Department of Environmental Quality, Office of Enforcement, 629 East Main Street, P.O. Box 10009, Richmond, VA 23240-0009 or at the Department of Environmental Quality, West Central Regional

Office, 3019 Peters Creek Road, N.W., Roanoke, VA 24019. Copies of the orders and amendments may be obtained in person or by mail from these offices.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: 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

ERRATA

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Title of Regulation: 8 VAC 105-10-10 et seq. Traffic and Parking Regulations.

Publication: 13:12 VA.R. 1382-1390 March 3, 1997.

Corrections to Final Regulation:

Page 1383, 8 VAC 105-10-60 C, line 1, strike "that cannot be locked"

Page 1389, 8 VAC 105-10-520 A, line 4, unstrike "(Bicycles may be kept in a residence hall room with the agreement of the roommate. Bicycles may not be kept in any other areas of a residence hall."

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

April 16, 1997 - 9 a.m. -- Open Meeting

April 22, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review. This is a work session for the Regulatory Review Committee which consists of three members. No other business will be discussed. All meetings are subject to cancellation. The time of the meeting is subject to change. Call the board 24 hours prior to the meeting. No public comment period will be held. 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 ☎

April 21, 1997 - 10 a.m. -- CANCELLED

NOTE: CHANGE IN MEETING TIME

April 22, 1997 - 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)

An open meeting to discuss regulatory review, committee reports, disciplinary cases, 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, F AX (804) 367-2474 or (804) 367-9753/TDD ☎

GOVERNOR'S ADVISORY BOARD ON AGING

April 21, 1997 - Noon -- Open Meeting

April 22, 1997 - 8 a.m. -- Open Meeting

Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to conduct board business.

Contact: Kimlah Hyatt, Staff to the Board, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2801, FAX (804) 371-8381, toll-free 1-800-552-3402, or (804) 225-2271/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Board of Agriculture and Consumer Services

† May 14, 1997 - 9 a.m. -- Open Meeting

Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿

The board will hold an orientation for new members.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 211, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3535.

† May 15, 1997 - 9 a.m. -- Open Meeting

Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿

A regular meeting of the board. The board will entertain public comment for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Calendar of Events

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 211, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3535.

Virginia Aquaculture Advisory Board

† **May 8, 1997 - 9 a.m.** -- Open Meeting
Virginia Institute of Marine Science, Waterman's Hall, Director's Conference Room, Gloucester Point, Virginia. ☎

A regular meeting of the board. The board will entertain public comment 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 to the Board, Virginia Aquaculture Advisory Board, Washington Bldg., 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 371-6094.

Virginia Horse Industry Board

April 15, 1997 - 10 a.m. -- Open Meeting
Virginia Cooperative Extension--Charlottesville/Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ☎

A meeting to review grant proposals for the current fiscal year and to discuss the status of marketing plans and projects. 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 Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 786-5842 or FAX (804) 371-7788.

Pesticide Control Board

† **April 17, 1997 - 9 a.m.** -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Board Room, Room 204, Richmond, Virginia. ☎

Committee meetings and a general business meeting. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda beginning at 9 a.m. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558 or toll-free 1-800-552-9963.

Virginia Sweet Potato Board

April 17, 1997 - 2:30 p.m. -- Open Meeting
Eastern Shore Agricultural Center, 33446 Research Drive, Painter, Virginia. (Interpreter for the deaf provided upon request)

A meeting to approve minutes of the last meeting and hear the financial status of the board. The meeting will include discussion of the board's annual budget; status reports of programs regarding promotion, research and education; 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 Manager, Virginia Sweet Potato Board, P.O. Box 26, Onley, VA 22418, telephone (757) 787-5867 or FAX (757) 787-1041.

STATE AIR POLLUTION CONTROL BOARD

† **April 17, 1997 - 7 p.m.** -- Public Hearing
Fairview Elementary School, Route 821, Gymnasium, Grayson County, Virginia.

A public hearing to consider comments about a permit application from Cardinal Stone Company. The source proposes to construct and operate a rotary drum asphaltic concrete plant rated at a maximum throughput of 300 tons per hour produced.

Contact: Larry K. Owens, Regional Permit Manager, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (540) 676-4800.

April 24, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

April 15, 1997 - 1 p.m. -- Open Meeting

May 6, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☎

A meeting to (i) conduct routine business, (ii) receive a committee report recommending regulation revisions, and (iii) consider proposing amendments to the Lead-Based Paint Activities Regulations. The board will also hear a report from the Department of Professional and Occupational Regulation staff concerning the comment received on the Virginia Asbestos Licensing Program Regulations in response to a Notice of Intended Regulatory Action published in the Virginia Register on February 3, 1997. At this meeting the board will provide the opportunity for public hearing and receive public comment on its intent to seek authorization from the U. S. Environmental Protection Agency (EPA) to administer and enforce the existing Virginia Lead-Based Paint Activities Regulations. If this approval is not received from EPA by August 31, 1998, EPA's final regulations (40 CFR Part 745) will become effective in Virginia; EPA will administer and enforce said regulations, thereby preempting the board's Lead-Based Paint Activities Regulations. Written comments concerning this intent to seek authorization, received on or before the close of business on May 2, 1997, will be presented and read during the board meeting. 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: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

AUCTIONEERS BOARD

April 16, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. 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, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

April 18, 1997 - 10 a.m. -- CANCELLED

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

The Legislative Committee meeting to discuss changes to regulations has been cancelled.

Contact: Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† April 18, 1997 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A meeting to conduct regulatory review in accordance with Executive Order 15(94). Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VIRGINIA AVIATION BOARD

April 22, 1997 - 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 Road, Richmond International Airport, Sandston, VA 23250-2422, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

April 23, 1997 - 9 a.m. -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bimonthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, Richmond International Airport, Sandston, VA 23250-2422, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

Calendar of Events

BOARD FOR BARBERS

April 14, 1997 - 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 the department at least two weeks prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Regulatory Committee and Regulation Advisory Committee

† **April 23, 1997 - 10 a.m.** -- Open Meeting
† **May 21, 1997 - 10 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level, Conference Room 3, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A joint meeting of the board's Regulatory Committee and Regulation Advisory Committee, composed of stakeholders, to discuss amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 et seq.).

Contact: Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219-1924, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

COMPENSATION BOARD

April 24, 1997 - 11 a.m. -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine business meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 710, Richmond, VA 23218-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

COMMONWEALTH COMPETITION COUNCIL

April 14, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss the employee stock ownership plan.

Contact: Peggy Robertson, Commonwealth Competition Council, James Monroe Bldg., 101 N. 14th St., 5th Floor, P.O. Box 1475, Richmond, VA 23218-1475, telephone (804) 786-0240 or FAX (804) 786-1594.

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

May 1, 1997 - Noon -- Open Meeting
June 5, 1997 - Noon -- Open Meeting
City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

Rappahannock Scenic River Advisory Board

May 21, 1997 - 7 p.m. -- Open Meeting
Virginia Deli, 101 William Street, Fredericksburg, Virginia..

A meeting to review river issues.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

BOARD OF CORRECTIONAL EDUCATION

† **April 14, 1997 - 10 a.m.** -- Open Meeting
Department of Correctional Education, James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting to discuss general business.

Contact: Patty Ennis, Administrative Assistant, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314, FAX (804) 225-3255, or (804) 371-8467/TDD ☎

STATE BOARD OF CORRECTIONS

† April 16, 1997 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia. ☎

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.

Administration Committee

† April 16, 1997 - 8:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room,
Richmond, Virginia. ☎

A meeting to discuss administrative 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

† April 15, 1997 - 9:30 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.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

† May 7, 1997 - 10 a.m. -- Open Meeting
Koger Center, 1602 Rolling Hills Drive, Ratcliffe Building,
Suite 203, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular quarterly 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 (V/TTY) or FAX (804) 371-7882.

BOARD OF DENTISTRY

April 18, 1997 - 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 of the informal conference committee to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

DISABILITY SERVICES COUNCIL

† May 6, 1997 - 1 p.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review the FY 1998 Rehabilitative Services Incentive Fund proposals for approval.

Contact: Kathryn Hayfield, Chief of Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134 (Voice/TTY), toll-free 1-800-552-5019 or 1-800-464-9950/TDD ☎

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† April 15, 1997 - 10 a.m. -- Open Meeting
Virginia Economic Development Partnership, 901 East Byrd Street, 19th Floor, Richmond, Virginia. ☎

A meeting of the Board of Directors of the Virginia Tourism Corporation.

Contact: Judy Bulls, Assistant to the President and CEO, Virginia Economic Development Partnership, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8174 or FAX (804) 786-1919.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

April 15, 1997 - 7 p.m. -- Public Hearing
Highland Springs High School, 15 South Oak Avenue,
Highland Springs, Virginia.

† April 16, 1997 - 7 p.m. -- Public Hearing
Falls Church High School, 7521 Jaguar Trail, Falls Church,
Virginia.

April 16, 1997 - 7 p.m. -- Public Hearing
Loudoun County High School, 340 North Maple Avenue,
Leesburg, Virginia.

† April 30, 1997 - 7 p.m. -- Public Hearing
Abingdon High School, 705 Thompson Drive, Abingdon,
Virginia.

Calendar of Events

May 17, 1997 -- 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 State Board of Education intends to repeal regulations entitled: **8 VAC 20-130-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia** and adopt regulations entitled: **8 VAC 20-131-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia**. The proposed regulations establish standards for accreditation of public schools to ensure an effective educational program is maintained in Virginia's public schools. Registration for those wishing to speak at a public hearing begins at 6:30 p.m. Speakers are requested to limit their remarks to three minutes each. In the event of a large number of persons signing up to speak, the hearing chairman may request that the time limit for each speaker be shortened to less than three minutes. A written copy of remarks is requested, but not required.

Statutory Authority: §§ 22.1-16, 22.1-19 and 22.1-353.13:3 of the Code of Virginia.

Contact: Charles W. Finley, Policy Analyst, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2092, toll-free 1-800-292-3820, or e-mail cfinley@pen.k12.va.us

† **April 23, 1997 - 9 a.m.** -- Open Meeting

† **April 24, 1997 - 9 a.m.** -- Open Meeting

Ramada Plaza Resort, Oceanfront at 57th Street, Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold its annual planning retreat. 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 Relations, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Virginia Ground Water Protection Steering Committee

† **May 20, 1997 - 9 a.m.** -- Open Meeting

State Corporation Commission, 1300 East Main Street, 8th Floor Conference Room, Richmond, Virginia. ♿

A regularly scheduled meeting. Anyone interested in ground water protection issues is encouraged to attend. To obtain a meeting agenda contact Mary Ann Massie at (804) 698-4042.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

STATE EXECUTIVE COUNCIL

† **April 25, 1997 - 9 a.m.** -- Open Meeting

Department of Social Services, 730 East Broad Street, Lower Level, Room 2, Richmond, Virginia.

The council is established under § 2.1-746 of the Code of Virginia. The monthly meeting is to discuss and make decisions; set policies; and review and act appropriately on Comprehensive Services Act related issues as they pertain to at-risk youth and their families. The council provides interagency programmatic and fiscal policies, oversees the administration of funds appropriated under the Comprehensive Service Act, and advises the Governor.

Contact: Alan G. Saunders, Director, State Executive Council, 730 E. Broad St., 5th Floor, Richmond, VA 23219, telephone (804) 786-5394.

VIRGINIA FIRE SERVICES BOARD

April 18, 1997 - 9 a.m. -- Open Meeting

Gloucester Volunteer Fire Department, 6595 Main Street, Gloucester, Virginia.

A meeting to discuss training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire/EMS Education and Training Committee

April 17, 1997 - 10:30 a.m. -- Open Meeting

Gloucester Volunteer Fire Department, 6595 Main Street, Gloucester, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire Prevention and Control Committee

April 17, 1997 - 8:30 a.m. -- Open Meeting

Gloucester Volunteer Fire Department, 6595 Main Street, Gloucester, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Legislative/Liaison Committee

April 17, 1997 - 2 p.m. -- Open Meeting
Gloucester Volunteer Fire Department, 6595 Main Street,
Gloucester, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Residential Sprinkler Committee

April 16, 1997 - 2 p.m. -- Open Meeting
Gloucester Volunteer Fire Department, 6595 Main Street,
Gloucester, Virginia.

A meeting to discuss residential sprinklers. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

BOARD OF FORESTRY

April 21, 1997 - 1 p.m. -- Open Meeting
Sheldon's Motor Court, Highway 15, Route 2, Box 189,
Keysville, Virginia. (Interpreter for the deaf provided upon request)

A tour of forest products facilities.

Contact: Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or (804) 977-6555/TDD

April 22, 1997 - 8:30 a.m. -- Open Meeting
Sheldon's Motor Court, Highway 15, Route 2, Box 189,
Keysville, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or (804) 977-6555/TDD

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Legislative Committee

† April 28, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting. Public comments will be received at the beginning of the meeting for 15 minutes.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9943 or (804) 662-7197/TDD

BOARD OF GAME AND INLAND FISHERIES

† May 5, 1997 - 9 a.m. -- Open Meeting
† May 6, 1997 - 8 a.m. -- Open Meeting
3200 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board will consider for final adoption wildlife regulations to be effective from July 1997 through June 1999. Under board procedures, regulatory actions occur over two sequential board meetings. At the May 5-6, 1997 meeting, the board will determine whether the amendments to regulations for game, nonreptilian terrestrial and avian nongame wildlife, hunting and trapping, including the length of seasons, bag limits and methods of take for game, which were proposed at its March 20-21, 1997, board meeting, will be adopted as final regulations. The board will solicit comments from the public during the public hearing portion of the board meeting; the board's procedure is to solicit public comment on the first day of the board meeting (Monday, May 5, 1997), at which time any interested citizen present shall be heard. The board reserves the right to adopt final amendments which may be more liberal than, or more stringent than the regulations currently in effect, or the regulation amendments proposed at the March 20-21, 1997, board meeting, as necessary for the proper management of wildlife resources.

The board also intends to reexamine the regulation restricting a certain portion of the Jackson River to a catch and release, artificial lure only trout stream (4 VAC 15-330-150 and 4 VAC 15-330-170) which was amended at the October 24 and 25, 1996, board meeting and which went into effect January 1, 1997. The board will solicit and hear comments from the public in a public hearing after which it may propose changes to this regulation. Any amendment which the board proposes for this regulation (or an informative summary) will subsequently be published in the Virginia Register and advertised in newspapers. Adoption of any amendment of this regulation as final will take place at the subsequent board meeting to be held July 17 and 18, 1997.

General and administrative issues may be discussed by the board at the May 5-6 meeting. The board may hold an executive session before the public session begins on May 5. If the board completes its entire agenda on May 5, it may not convene on May 6.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

Calendar of Events

DEPARTMENT OF GENERAL SERVICES

Design/Build Construction Management Review Board

April 18, 1997 - 10 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

May 16, 1997 - 10 a.m. -- Open Meeting
Department of General Services, 805 East Broad Street, Room 116, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the board to continue development of guidelines/procedures and review any requests which may have been submitted. The board meets the third Friday of each month.

Contact: Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD

GEORGE MASON UNIVERSITY

Board of Visitors

† **May 14, 1997 - 4:30 p.m.** -- Open Meeting
George Mason University, Mason Hall, Room D23, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to hear reports of the standing committees, 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 or organizations who request it.

Contact: Ann Wingblade, Administrative Assistant, or Carole Richardson, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701 or FAX (703) 993-8707.

DEPARTMENT OF HEALTH (STATE BOARD OF)

April 17, 1997 - 10 a.m. -- Open Meeting
University of Virginia Health Sciences Center, Jordan Hall Conference Center, 1340 Jefferson Park Avenue, Conference Room 1, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

A work session of the board.

Contact: Paul W. Matthias, Staff to the Board of Health, Department of Health, P.O. Box 2448, Suite 227, Richmond, VA 23218, telephone (804) 371-2902 or FAX (804) 786-4616.

April 17, 1997 - 2 p.m. -- Open Meeting
Thomas Jefferson Health District, 1138 Rose Hill Drive, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

A work session of the board. An informal dinner will be held at 7 p.m. at the South Street Restaurant, 106 South Street, Charlottesville.

Contact: Paul W. Matthias, Staff to the Board of Health, Department of Health, P.O. Box 2448, Suite 227, Richmond, VA 23218, telephone (804) 371-2902 or FAX (804) 786-4616.

April 18, 1997 - 9 a.m. -- Open Meeting
Sheraton Inn Charlottesville, Route 29 North, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Paul W. Matthias, Staff to the Board of Health, Department of Health, P.O. Box 2448, Suite 227, Richmond, VA 23218, telephone (804) 371-2902 or FAX (804) 787-4616.

BOARD OF HEALTH PROFESSIONS

† **April 15, 1997 - Noon** -- 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 full board meeting to receive consultant's report on the progress of the Ad Hoc Committee on Criteria's study pursuant to House Bill 1439 (1996), and to receive reports from the following committees: Administration and Budget Committee on its review of the agency and board's budget; Regulatory Research Committee on its workplan to conduct the funeral industry study pursuant to HB 553 (1997); Compliance and Discipline Committee regarding its study on the agency's enforcement activities and its revision of the timetable to complete the board's study on criminal background checks; Practitioner Self-Referral Committee on its activities since the last board meeting; Ad Hoc on Utilization Review Committee to discuss its study goals in light of HB 2785 (1997). There will be briefing regarding the status of the study mandated by § 54.1-2409.2 of the Code of Virginia.

Contact: Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD

Compliance and Discipline Committee

† **April 15, 1997 - 10:30 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 meeting to review the study of the agency's enforcement activities and its revision of the timetable to complete the board's study on criminal background checks for licensed providers. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond,

VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Ad Hoc Committee on Criteria

† April 14, 1997 - 2 p.m. -- Open Meeting

† May 2, 1997 - 1 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

† June 2, 1997 - 1 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to review the material gathered to date pursuant to § 54.1-2409.2 of the Code of Virginia and to formulate recommendations regarding criteria for the regulation of health care providers. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Practitioner Self-Referral Committee

† April 15, 1997 - 11 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 meeting to review committee activities since the last board meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Regulatory Research Committee

† April 15, 1997 - 10 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 meeting to review the funeral industry study workplan pursuant to House Bill 553 (1997). Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Ad Hoc on Utilization Review Committee

† April 15, 1997 - 11:15 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 meeting to discuss study goals in light of House Bill 2785 (1997). Public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD FOR HEARING AID SPECIALISTS

May 12, 1997 - 8:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☎

A routine business meeting. 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 David Dick 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: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

April 14, 1997 - 8 a.m. -- Open Meeting

Shenandoah University, Winchester, Virginia.

At 8 a.m., a meeting of the Resources Committee; at 10 a.m., a meeting of the Planning Committee; at 1 p.m., a meeting of the Outreach Committee; and at 2 p.m., a joint meeting with the Council of Independent Colleges will be held.

Contact: Michael McDowell, Public Relations Director, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

April 15, 1997 - 9 a.m. -- Open Meeting

Shenandoah University, Winchester, Virginia.

A regular business meeting immediately followed by a meeting of the Executive Committee.

Calendar of Events

Contact: Michael McDowell, Public Relations Director, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

Executive Committee

† **April 15, 1997 - Noon** -- Open Meeting
Shenandoah University, Mary Henkel Hall, Winchester, Virginia.

† **May 12, 1997 - 9 a.m.** -- Open Meeting
State Council of Higher Education, James Monroe Building, 101 North 14th Street, Council Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. For more information contact the council.

Contact: Michael McDowell, Director of Public Information, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

† **April 21, 1997 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Diana F. Cantor, Executive Director, Virginia Higher Education Tuition Trust Fund, James Monroe Building, 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 786-0719, toll-free 1-888-567-0540 or 1-800-253-0737/TDD

HOPEWELL INDUSTRIAL SAFETY COUNCIL

May 6, 1997 - 9 a.m. -- Open Meeting
June 3, 1997 - 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.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **April 28, 1997 - 10 a.m.** -- Public Hearing
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public hearing to receive additional public comment regarding the following: 13 VAC 5-61-80 A, 13 VAC 5-61-140 B, 13 VAC 5-61-190 A, and 13 VAC 5-61-220 C 12 of the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) as published on March 3, 1997, in the Virginia Register of Regulations.

Contact: Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170, FAX (804) 371-7092, or (804) 371-7089.

† **April 28, 1997 - Immediately following 10 a.m. public hearing** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular monthly business meeting of the Board of Housing and Community Development. Public comment will be received on amendments to the Virginia Enterprise Zone Regulation amendments, the Uniform Statewide Building Code and on other topics.

Contact: Stephen W. Calhoun, CPA, Manager, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7092, or (804) 371-7089/TDD

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

April 15, 1997 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

April 15, 1997 - 10 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level, Rooms 1 and 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting of the council to discuss annual goals and objectives, federal waivers, and other issues related to the federal Job Training Partnership Act and Workforce Training.

Contact: Gail Nottingham, Senior Policy Analyst, Governor's Employment and Training Department, 730 E. Broad St., 9th Floor, Richmond, VA 23219, telephone (804) 786-2511, FAX (804) 786-2310, or (804) 786-2315/TDD ☎

STATE BOARD OF JUVENILE JUSTICE

† **May 14, 1997 - 10 a.m.** -- Public Hearing

† **June 11, 1997 - 10 a.m.** -- Public Hearing

Department of Juvenile Justice, 700 East Franklin Street, Board Room, Richmond, Virginia.

† **June 13, 1997** -- 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 Board of Juvenile Justice intends to **repeal** regulations entitled: **6 VAC 35-40-10 et seq. Pre-Dispositional and Post-Dispositional Group Home Standards; 6 VAC 35-70-10 et seq. Standards for Juvenile Correctional Centers; 6 VAC 35-90-10 et seq. Standards for Post-Dispositional Confinement for Secure Detention and Court Service Units; 6 VAC 35-100-10 et seq. Standards for Secure Detention; and 6 VAC 35-120-10 et seq. Standards for Family Group Homes; and adopt** regulations entitled: **6 VAC 35-140-10 et seq. Standards for Juvenile Residential Facilities.** The proposed regulation revises and replaces existing regulations governing secure detention homes, post-dispositional confinement in secure detention, pre-dispositional and post-dispositional group home, family group homes and juvenile correctional centers. Additional new standards in the proposed regulation address juvenile boot camps, work camps, independent living programs and juvenile industries projects.

Statutory Authority: §§ 16.1-309.9 and 66-10 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

† **June 13, 1997** -- 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 Board of Juvenile Justice intends to **amend** regulations entitled: **6 VAC 35-60-10 et seq. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** The proposed amendments will simplify and streamline operating requirements for Virginia's offices on youth, reducing mandates to encourage local

autonomy and flexibility, and defining a closer working relationship between offices on youth and court service units.

Statutory Authority: §§ 66-10, 66-27 and 66.28 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

† **May 14, 1997 - 10 a.m.** -- Public Hearing

† **June 11, 1997 - 10 a.m.** -- Public Hearing

Department of Juvenile Justice, 700 East Franklin Street, Board Room, Richmond, Virginia.

† **June 13, 1997** -- 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 Board of Juvenile Justice intends to **repeal** regulations entitled: **6 VAC 35-80-10 et seq. Holdover Standards; 6 VAC 35-110-10 et seq. Standards for Court Services in Juvenile and Domestic Relations Courts; and 6 VAC 35-130-10 et seq. Standards for Outreach Detention; and adopt** regulations entitled: **6 VAC 35-150-10 et seq. Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts.** The proposed regulation replaces existing standards for court service units, standards for outreach detention, and holdover standards. In addition, this regulation and the proposed Consolidated Standards for Juvenile Residential Facilities will replace standards for post-dispositional confinement for secure detention and court service units.

Statutory Authority: §§ 16.1-233, 16.1-309.9 and 66-10 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

May 14, 1997 - 9 a.m. -- Open Meeting

June 11, 1997 - 9 a.m. -- Open Meeting

700 Centre Building, 700 East Franklin Street, 4th Floor, Richmond, Virginia. ☎

Board committees meet at 9 a.m. to hear reports on secure and nonsecure programs. The full board meets at 10 a.m. to approve certifications of residential programs and nonresidential services, receive public comments on proposed regulations, and take up such other matters as are brought before it.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

Calendar of Events

THE LIBRARY OF VIRGINIA

State Networking Users Advisory Board

† **May 8, 1997 - 10 a.m.** -- Open Meeting
Jefferson-Madison Regional Library, Main Branch, 201 East Market Street, Charlottesville, Virginia. 

A meeting to discuss administrative matters.

Contact: Jean Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

COMMISSION ON LOCAL GOVERNMENT

May 5, 1997 - 10 a.m. -- Open Meeting
702 Eighth Street Office Building, 805 East Broad Street, Richmond, Virginia.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD 

June 2, 1997 - 10:30 a.m. -- Open Meeting
Pearisburg Town Hall, 112 Tazewell Street, Pearisburg, Virginia.

Oral presentations regarding the Town of Pearisburg - Giles County amended Voluntary Settlement Agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD 

June 2, 1997 - 7 p.m. -- Public Hearing
Giles County High School, Route 460, Auditorium, Pearisburg, Virginia.

A public hearing regarding the Town of Pearisburg - Giles County amended Voluntary Settlement Agreement. Persons desiring to participate in the proceedings and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD 

LONGWOOD COLLEGE

Board of Visitors

April 18, 1997 - 8:30 a.m. -- Open Meeting
Longwood College, Lancaster Building, Room 215, Farmville, Virginia. 

A meeting to conduct routine business of the Facilities and Services Committee and Finance Committee of the Longwood Board of Visitors.

Contact: Patricia P. Cormier, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2004 or FAX (804) 395-2821.

April 18, 1997 - 11 a.m. -- Open Meeting
Longwood College, Lancaster Building, Room 215, Farmville, Virginia. 

A meeting of the Academic Affairs/Student Affairs Committees to conduct routine business.

Contact: Patricia P. Cormier, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001 or FAX (804) 395-2821.

April 18, 1997 - 2:30 p.m. -- Open Meeting
Longwood College, Lancaster Building, Room 215, Farmville, Virginia. 

A meeting to conduct routine business.

Contact: Patricia P. Cormier, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2004 or FAX (804) 395-2821.

VIRGINIA MANUFACTURED HOUSING BOARD

† **May 21, 1997 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North 2nd 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, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD 

MARINE RESOURCES COMMISSION

† **April 22, 1997 - 9:30 am.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia.  (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at

approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be 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: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TDD

MATERNAL AND CHILD HEALTH COUNCIL

School Health Subcommittee

April 15, 1997 - 10 a.m. -- Open Meeting
American Cancer Society, 4240 Park Place Court, Glen Allen, Virginia.

The March 18, 1997, meeting has been rescheduled to April 15, 1997. The meeting focuses on improving the health of the Commonwealth's children and adolescents by promoting and improving programs and service delivery systems related to school health programs.

Contact: Nancy Ford, School Health Nurse Consultant, Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Suite 137, Richmond, VA 23219, telephone (804) 786-7367.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

May 30, 1997 -- 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 30-70-10 et seq. Methods and Standards for Establishing Payment Rates for Inpatient Hospital Care, and 12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care**, relating to specialized care services payment methodology. The purpose of this proposal is to implement the reimbursement changes recommended in the study of specialized care services as directed by the 1996 General Assembly. The remainder of the recommendations of the study will be implemented through a separate regulatory package. The purpose of the proposed changes in cost report filing requirements is to conform the Department of Medical Assistance Services' filing time frames to those recently instituted by the Health Care Financing Administration for Medicare cost reports. Some additional technical

changes are being made to correct the names of specific divisions within the department.

Statutory Authority: § 32.1-325 of the Code of Virginia and Item 322(D)(2) of Chapter 912 of the 1996 Acts of Assembly.

Public comments may be submitted until May 30, 1997, to Scott Crawford, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

† June 17, 1997 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting of the board to discuss medical assistance services policy and to take action on issues pertinent to the board.

Contact: Cynthia Klisz, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or FAX (804) 371-4981.

Virginia Medicaid Drug Utilization Review Board

May 15, 1997 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting to conduct routine business including the amendment of bylaws.

Contact: Marianne R. Rollings, Registered Pharmacist, Pharmacy Services Unit, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8057 or FAX (804) 786-0414.

Virginia Medicaid Prior Authorization Advisory Committee

May 15, 1997 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting to conduct routine business including the adoption of bylaws.

Contact: Marianne R. Rollings, Registered Pharmacist, Pharmacy Services Unit, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8057 or FAX (804) 786-0414.

BOARD OF MEDICINE

May 2, 1997 -- 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 Board of Medicine intends to repeal regulations entitled: **18 VAC 85-30-10 et seq.**

Calendar of Events

Regulations for Practice of Physical Therapy, and adopt regulations entitled: 18 VAC 85-31-10 et seq. Regulations for Practice of Physical Therapy. Since revisions recommended as a result of the Executive Order 15(94) review were extensive, 18 VAC 85-30-10 et seq. is being repealed and replaced by new regulations which establish the criteria for licensure, a process for applicants to follow, requirements for renewal and fees, and practice standards appropriate to the type of licensure and statutory mandates for these professions. Regulations are clarified and simplified and the application fee has been reduced.

Statutory Authority: §§ 54.1-2400 and 54.1-2943 of the Code of Virginia.

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 or FAX (804) 662-9943.

May 2, 1997 -- 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 Board of Medicine intends to amend regulations entitled: **18 VAC 85-50-10 et seq. Regulations for Practice of Physicians' Assistants.** The purpose of the proposed amendments is to clarify and simplify regulations; to reduce the burdensome requirements of reporting recordkeeping of invasive procedures; and to reduce the application and renewal fee for physicians' assistants who work in more than one setting.

Statutory Authority: §§ 54.1-2400 and 54.1-2949 through 54.1-2953 of the Code of Virginia.

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 or FAX (804) 662-9943.

Informal Conference Committee

April 16, 1997 - 9 a.m. -- Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

April 17, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

April 25, 1997 - 9:30 a.m. -- Open Meeting
Fort Magruder Inn, Route 60, Conference Center, Route 60, Williamsburg, Virginia.

† May 13, 1997 - 9 a.m. -- Open Meeting
Sheraton Inn, 2801 Plank Road, Fredericksburg, 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, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† April 17, 1997 - Noon -- Open Meeting
Hyatt Richmond, 6624 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The fourteenth annual statewide volunteer recognition luncheon.

Contact: Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945 or FAX (804) 371-0238.

April 22, 1997 - 10 a.m. -- Open Meeting
Henrico Area Community Services Board, 10299 Woodman Road, Glen Allen, Virginia.

The Facility Work Group will continue the development of models for the future structure and function of state operated mental health and mental retardation facilities.

Contact: Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-6431 or FAX (804) 786-0092.

State Human Rights Committee

April 29, 1997 - 9 a.m. - Open Meeting
Southside Community Services Board, South Boston, 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: Kli Kinzie, State Human Rights Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, FAX (804) 371-2308, toll-free 1-800-451-5544 or (804) 371-8977/TDD

Pilot Leadership Team

† May 22, 1997 - 10:30 a.m. -- Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Library, Richmond, Virginia.

A meeting to continue the development of plans for mental health, mental retardation and substance abuse system reform pilot projects. The team will hear the reports of the Priority Populations/Case Rate Funding Subcommittee; the Consumer and Family Involvement Subcommittee; and the POMS Subcommittee.

Contact: Cheryl Crawford, Administrative Staff Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-5682 or FAX (804) 371-6638.

POMS Subcommittee

† **April 24, 1997 - 10:30 a.m.** -- Open Meeting
Henrico Area Community Services Board, 10299 Woodman Road, Glen Allen, Virginia.

A meeting to implement a pilot project testing the cost and utility of a performance and outcome measurement system for public mental health, mental retardation and substance abuse services.

Contact: J. Randy Koch, Ph.D., Director, Research and Evaluation, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23236, telephone (804) 225-3394 or FAX (804) 786-9248.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **April 16, 1997 - 9 a.m.** -- Open Meeting
† **April 17, 1997 - 9 a.m.** -- Open Meeting
Holiday Inn, 6531 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The regular convening of the board to discuss business and promulgate policy and regulations. The agenda will include a public comment period at the beginning of the meeting on April 16. The agenda will be available one week in advance of the meeting.

Contact: Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945 or FAX (804) 371-2308.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **May 14, 1997 - 8:30 a.m.** -- Open Meeting
Virginia Military Institute, Smith Hall Board Room, Lexington, Virginia.

The finals meeting of the Board of Visitors to (i) hear committee reports; (ii) approve the budget; (iii) approve awards, distinctions, and diplomas; (iv) discuss personnel changes; and (v) elect president pro tem. There will not be an opportunity for public comment at this meeting.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or FAX (540) 464-7600.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Coal Mining Examiners

May 2, 1997 -- 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 Board of Coal Mining Examiners intends to amend regulations entitled: **4 VAC 25-20-10 et seq. Board of Coal Mining Examiners Certification Requirements.** The Board of Coal Mining Examiners is promulgating amendments to its certification requirements to ensure that miners are certified to perform specialized tasks required to mine coal. The amendments incorporate new requirements under the Mine Safety Act, revise and clarify requirements for individual certifications, and add several certifications needed by industry.

Statutory Authority: §§ 45.1-161.28, 45.1-161.29, 45.1-161.34 and 45.1-161.35 of the Code of Virginia.

Contact: Frank Linkous, Chair, Board of Coal Mining Examiners, Buchanan-Smith Bldg., Big Stone Gap, VA, telephone (540) 523-8100, FAX (540) 523-8239, or 1-800-828-1120 (VA Relay Center).

Coal Surface Mining Reclamation Fund Advisory Board

April 23, 1997 - 10 a.m. -- Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review and discuss the current status and administration of the reclamation fund.

Contact: Danny R. Brown, Division Director, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

Virginia Gas and Oil Board

April 15, 1997 - 9 a.m. -- Public Hearing
Southwest Virginia 4-H Center, Hillman Highway, Abingdon, Virginia.

May 2, 1997 -- 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 Gas and Oil Board intends to amend regulations entitled: **4 VAC 25-160-10 et seq. Virginia Gas and Oil Board Regulations** The

Calendar of Events

purpose of the proposed amendments is to enhance the conservation and use of the Commonwealth's gas and oil resources and protect the correlative rights of gas and oil resource owners.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

Contact: B. Thomas Fulmer, Division Director, Department of Mines, Minerals and Energy, P.O. Box 1416, Abingdon, VA 24212, telephone (540) 676-5423, FAX (540) 676-5459, or 1-800-828-1120 (VA Relay Center).

DEPARTMENT OF MOTOR VEHICLES

May 19, 1997 -- 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 Motor Vehicles intends to repeal regulations entitled: **24 VAC 20-20-10 et seq. Privacy Protection Act Rules and Regulations**. The purpose of the proposed action is to repeal the existing regulation, which was originally promulgated in 1977 and last amended in 1984. Changes adopted by the 1994 Session of the General Assembly to §§ 46.2-204 through 46.2-210 have made these regulations obsolete. The Department of Motor Vehicles does not intend to hold a public hearing on the proposed repeal of these regulations. The purpose of this notice is to solicit input and comments from the public and any other interested parties. The Department of Motor Vehicles encourages you to share this information with others you feel may have an interest in this action. Any industry or professional association or other group receiving this notice is requested to publish this information in newsletters or journals or use any other means available to them to disseminate this notice to their memberships.

Statutory Authority: §§ 46.2-203 and 46.2-208 of the Code of Virginia.

Public comments may be submitted until May 19, 1997, to Marc Copeland, Legislative Analyst, Department of Motor Vehicles, Room 724, P. O. Box 34712, Richmond, Virginia 23269-0001.

Contact: Karen Chappell, Administrator, Motorist Record Services, Department of Motor Vehicles, Room 311, P.O. Box 24712, Richmond, VA 23269-0001, telephone (804) 367-0146, FAX (804) 367-6631, or toll-free 1-800-272-9268/TDD ☎

May 19, 1997 -- 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 Motor Vehicles intends to repeal regulations entitled: **24 VAC 20-130-10 et seq. International Registration Plan Virginia Rules and Regulations**. The purpose of the proposed action is to repeal the regulation. This

regulation was first published in 1975 when Virginia and 13 other jurisdictions were members of the International Registration Plan (Plan). The regulation was used by Virginia primarily as a tool to educate the motor carrier industry to the workings of the plan. Today, there are 49 jurisdictions that are members of the International Registration Plan. The plan has been changed many times in the intervening years, making the regulation published in 1975 obsolete. The current plan, along with various other related national policies and procedures, provides the necessary guidance to the member jurisdictions and the motor carrier industry alike. The agency does not intend to hold a public hearing on the proposed regulation after publication. The purpose of this notice is to solicit input and comments from the public and any other interested parties. The Department of Motor Vehicles encourages you to share this information with others you feel may have an interest in this action. Any industry or professional association or other group receiving this notice is requested to publish this information in newsletters or journals or use any other means available to them to disseminate this notice to their memberships.

Statutory Authority: §§ 46.2-203 and 46.2-703 of the Code of Virginia.

Public comments may be submitted until May 19, 1997, to Marc Copeland, Legislative Analyst, Department of Motor Vehicles, Room 724, P. O. Box 34712, Richmond, Virginia 23269-0001.

Contact: Jerry Fern, Manager, IRP and Tax Licensing, Department of Motor Vehicles, Room 607, P.O. Box 24712, Richmond, VA 23269-0001, telephone (804) 367-8487, FAX (804) 367-6631, or toll-free 1-800-272-9268/TDD ☎

May 19, 1997 -- 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 Motor Vehicles intends to repeal regulations entitled: **24 VAC 20-30-10 et seq. Virginia Driver Improvement Rules and Regulations**. The purpose of the proposed action is to repeal the existing regulation, which was originally promulgated in 1975 and last amended in 1978. As such, the regulation has no substantive relationship to either the current statute or program. The Department of Motor Vehicles does not intend to hold a public hearing on the proposed repeal of these regulations. The purpose of this notice is to solicit input and comments from the public and any other interested parties. The Department of Motor Vehicles encourages you to share this information with others you feel may have an interest in this action. Any industry or professional association or other group receiving this notice is requested to publish this information in newsletters or journals or use any other means available to them to disseminate this notice to their memberships.

Statutory Authority: §§ 46.2-203 and 46.2-489 of the Code of Virginia.

Contact: Marc Copeland, Legislative Analyst, Department of Motor Vehicles, Room 724, P.O. Box 24712, Richmond, VA 23269-0001, telephone (804) 367-1875, FAX (804) 367-6631, or toll-free 1-800-272-9268.

VIRGINIA MUSEUM OF FINE ARTS

Buildings and Grounds Committee

† **May 1, 1997 - Noon** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to receive an update on the renovation of the Center for Education and Outreach. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Collections Committee

† **May 13, 1997 - 11 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to consider gift offers, purchase consideration and loans of art works. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Education and Programs Committee

† **May 6, 1997 - 3:30 p.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Richmond, Virginia. ☎

A meeting to review educational activities and programs for the 1996-1997 year. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Executive Committee

† **June 19, 1997 - Noon** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to ratify the 1997-1998 budget recommended by the Finance Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Exhibitions Committee

† **April 30, 1997 - 3 p.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to review the current exhibition schedule and budget and to consider proposed exhibitions. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

† **May 15, 1997 - 11 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to review the budget. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

† **June 19, 1997 - 11 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to consider and approve the 1997-1998 budget. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Board of Trustees

† **May 6, 1997 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A briefing with the director and deputy director on current and upcoming museum activities. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

† **May 15, 1997 - Noon** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to review staff activities and to receive committee reports and a budget update. Public comment will not be received.

Calendar of Events

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

† **June 3, 1997 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ♿

A briefing of the president and vice president of the Board of Trustees by the director and deputy director. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

April 26, 1997 - 9 a.m. -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, N.W., Blacksburg, Virginia. ♿

A meeting to include reports from the development, executive, finance, legislative, marketing, nominating, outreach, personnel, planning and facilities, and research and collections committees. Public comment will be received following approval of the minutes of the January meeting.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ♿

Development Committee

April 26, 1997 - 8 a.m. -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ♿

A meeting to discuss development issues.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ♿

Marketing Committee

April 26, 1997 - Noon -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ♿

A meeting to discuss marketing issues.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ♿

Outreach Committee

April 26, 1997 - 8:30 a.m. -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ♿

A meeting to discuss redesign of the museum's newsletter.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ♿

Research and Collections Committee

April 26, 1997 - 7:30 a.m. -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ♿

A meeting to discuss appointment of research associates, revision of research policies, and recommendations for the museum.

Contact: Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ♿

BOARD OF NURSING

† **May 20, 1997 - 1 p.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

† **June 13, 1997** - 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 Board of Nursing intends to adopt regulations entitled: **18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists.** The proposed regulations establish an application process and requirements for certification in accordance with provisions of § 54.1-3029 of the Code of Virginia, fees for administration of the regulatory program, a schedule of renewal and reinstatement, and standards of conduct, which will protect the health, welfare and safety of the citizens of the Commonwealth.

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

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 or FAX (804) 662-9943.

Special Conference Committee

† April 16, 1997 - 9 a.m. -- Open Meeting

† April 17, 1997 - 9 a.m. -- Open Meeting

† April 22, 1997 - 9 a.m. -- Open Meeting

† April 23, 1997 - 9 a.m. -- Open Meeting

† April 29, 1997 - 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 will conduct informal conferences with licensees or certificate holders or both. 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

VIRGINIA OUTDOORS FOUNDATION

Board of Trustees

† April 17, 1997 - 10 a.m. -- Open Meeting

State Capitol, Capitol Square, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Trustees to discuss business and acceptance of conservation easements.

Contact: Tamara A. Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Room 420, Richmond, VA 23219, telephone (804) 225-2147 or FAX (804) 371-4810.

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

April 18, 1997 -- 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 Board of Professional Counselors and Marriage and Family Therapists intends to adopt regulations entitled: **18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapy.** The purpose of the proposed regulation is to comply with statutory requirements to establish standards of ethics, fees and criteria for licensure of marriage and family therapists.

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD

† May 15, 1997 - 1 p.m. -- Open Meeting

The Hotel Roanoke, 110 Shenandoah Avenue, Roanoke, Virginia.

A meeting to plan and set goals and objectives for future activities of the board. Public comments will be received at the beginning of the meeting.

Contact: Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

† May 16, 1997 - 9 a.m. -- Open Meeting

The Hotel Roanoke, 110 Shenandoah Avenue, Roanoke, Virginia.

A continuation of the May 15 meeting. The board will conduct general business, consider committee reports and correspondence, conduct regulatory review, and discuss any other matters under the jurisdiction of the board. The board will adopt the final Regulations Governing the Practice of Marriage and Family Therapists. Public comments will be received at the beginning of the meeting.

Contact: Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943

BOARD OF PROFESSIONAL AND OCCUPATIONAL REGULATION

† May 19, 1997 - 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 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: Debra L. Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

BOARD OF PSYCHOLOGY

June 10, 1997 - 10 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to conduct general board business. Public comment will be received.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

Calendar of Events

May 12, 1997-- 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 Board of Psychology intends to amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed amendments is to replace emergency regulations which were necessary to conform regulations to 1996 statutory changes requiring the transfer of licensure of clinical psychologists to the Board of Psychology and establishment of three types of psychology licensure. Fees and renewal schedules have been amended to be less burdensome for licensees.

Statutory Authority: §§ 54.1-2400 and 54.1-3600 et seq. of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

May 2, 1997-- 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 Board of Psychology intends to adopt regulations entitled: **18 VAC 125-30-10 et seq. Regulations Governing the Certification of Sex Offender Treatment Providers.** The purpose of the proposed regulations is to establish requirements for education and supervised training, endorsement, renewal of certification, standards of practice, and fees for the certification of sex offender treatment providers.

Statutory Authority: §§ 54.1-2400 and 54.1-3605 of the Code of Virginia.

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

April 14, 1997 - 10 a.m. -- Open Meeting

April 15, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. No public comment will be received.

Contact: Arnice N. Covington, Staff Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9914, FAX (804) 662-9943.

Credentials Committee

April 18, 1997 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A meeting to conduct an informal hearing regarding a practitioner's academic and experience credentials. Public comment will be received at the beginning of the meeting.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

April 17, 1997 - 10 a.m. -- Open Meeting
Department of Information Technology, Richmond Plaza Building, 110 South 7th Street, 1st Floor East Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting. The agenda will include (i) an update on actions of the 1997 General Assembly; (ii) the process for allocation of contracts and grants for FY98, (iii) a review of the planning process for biennial budget, and (iv) other items of interest.

Contact: Suzanne J. Piland, Department of Information Technology, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5544 or FAX (804) 371-5556.

REAL ESTATE APPRAISER BOARD

May 13, 1997 - 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 the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

April 25, 1997 - 10 a.m. -- Open Meeting
University Center, College of William and Mary, Chesapeake C, Williamsburg, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting with neighboring states. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact

the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

May 1, 1997 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

Education Committee

May 1, 1997 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting of the committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

Fair Housing Subcommittee

May 1, 1997 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general business meeting of the subcommittee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VIRGINIA RESOURCES AUTHORITY

April 15, 1997 - 9:30 a.m. -- Open Meeting
May 13, 1997 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, 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 month, 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, Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† April 24, 1997 - 5 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, 700 E. Main St., Suite 904, Richmond, VA 23219-0548, telephone (804) 782-1938.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† April 23, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ♿

A meeting to hear all appeals of health department denials of septic tank permits.

Contact: Gary L. Hagy, Acting Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, P. O. Box 2448, Room 115, Richmond, VA 23218, telephone (804) 225-4022 or FAX (804) 225-4003.

VIRGINIA SMALL BUSINESS ADVISORY BOARD

† April 28, 1997 - 10 a.m. -- Open Meeting
Department of Business Assistance, 901 East Byrd Street, 19th Floor, Main Board Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to advise the Department of Business Assistance, the Secretary of Commerce and Trade, and the Governor on small business issues. Members will discuss current concerns of small businesses in their

Calendar of Events

districts; the board develops clear statements of these concerns and makes recommendations for resolving them.

Contact: Anne Godfrey, Administrative Assistant, Virginia Small Business Advisory Board, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8253, FAX (804) 225-3384, or (804) 371-0327/TDD ☎

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

Loan Committee

† April 22, 1997 - 10 a.m. -- Open Meeting

† May 27, 1997 - 10 a.m. -- Open Meeting

Department of Business Assistance, 901 East Byrd Street, 19th Floor, Main Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review applications for loans submitted to the authority for approval. Contact the authority for possible change in meeting time.

Contact: Cathleen Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8256, FAX (804) 225-3384, or (804) 371-0327/TDD ☎

STATE BOARD OF SOCIAL SERVICES

† April 16, 1997 - 9 a.m. -- Open Meeting

† April 17, 1997 - 9 a.m. (if necessary) -- Open Meeting

Holiday Inn-Fair Oaks, 11787 Lee Jackson Highway, Fairfax, Virginia. ☎

A work session and formal business meeting of the board.

Contact: Pat Rengnerth, Administrative Staff Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900 or (804) 692-1906, FAX (804) 692-1949, toll-free: 1-800-552-3431, or toll-free 1-800-552-7096/TDD ☎

BOARD OF SOCIAL WORK

† April 30, 1997 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be received.

Contact: Arnice N. Covington, Administrative Assistant, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7328 or FAX (804) 662-9943.

COMMONWEALTH TRANSPORTATION BOARD

April 16, 1997 - 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.

April 17, 1997 - 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.

TREASURY BOARD

April 16, 1997 - 9 a.m. -- Open Meeting

May 21, 1997 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A regular business meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

VIRGINIA RACING COMMISSION

April 16, 1997 - 9:30 a.m. -- Open Meeting

New Kent County Administration Building, 12007 Courthouse Circle, New Kent, Virginia. ☎

A monthly meeting to include discussion of proposed amendments to regulations pertaining to participants and pari-mutuel wagering.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218,

telephone (804) 371-7363, FAX (804) 371-6127 or toll-free 1-800-371-7363.

**DEPARTMENT FOR THE VISUALLY HANDICAPPED
(BOARD FOR THE)**

Vocational Rehabilitation Advisory Council

May 17, 1997 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD

VIRGINIA VOLUNTARY FORMULARY BOARD

April 23, 1997 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add drugs and drug products to the formulary that became effective on January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the formulary are available for inspection at the Department of Health, Bureau of Pharmacy Services, James Monroe Building, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on April 23, 1997, will be made part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

May 29, 1997 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to review the public hearing record and product data for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

April 18, 1997 -- Public comments may be submitted until 5 p.m. on this date to the address listed below or by hand delivery to 629 East Main Street, Richmond, VA.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **9 VAC 20-160-10 et seq. Voluntary Remediation Regulations.** The purpose of the proposed regulation is to govern voluntary remediation of releases of hazardous substance, hazardous waste, solid waste, or petroleum.

Statutory Authority: § 10.1-1429.1 of the Code of Virginia.

Contact: Robert G. Wickline, P.E., Office of Technical Assistance, Waste Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX (804) 698-4327, toll-free 1-800-592-5482, or (804) 698-4021/TDD

May 5, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

† May 19, 1997 - 10 a.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

† May 22, 1997 - 1 p.m. -- Public Hearing
Roanoke County Administration Center, 5204 Bernard Drive, Board Meeting Room, Roanoke, Virginia.

June 16, 1997 - 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 Waste Management Board intends to amend regulations entitled: **9 VAC 20-70-10 et seq. Financial Assurance Regulations for Solid Waste Facilities.** The proposed amendment incorporates new regulatory requirements for financial assurance by the solid waste facilities owned or operated by the local governments as required by the 1993 amendment to § 10.1-1410 of the Code of Virginia. Extensive changes are also proposed to conform the Virginia requirements to the federal requirements of 40 CFR Part 258. These changes include elimination of the third-party liability requirements.

Statutory Authority: § 10.1-1400 et seq. of the Code of Virginia.

Contact: Wladimir Gulevich, Assistant Division Director, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218, FAX (804)

Calendar of Events

698-4327, toll-free 1-800-592-5482, or (804) 698-4021/TDD

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† April 24, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. 

A meeting to conduct routine 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: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595, FAX (804) 367-2474 or (804) 367-9753/TDD 

STATE WATER CONTROL BOARD

† April 14, 1997 - 7 p.m. -- Public Hearing

Eastern Henrico Government Center, 201 East Nine Mile Road, Richmond, Virginia.

A public hearing on the proposed issuance of a Virginia Pollutant Discharge Elimination System Permit for Newstead Landing Sewage Treatment Plant in Henrico County.

Contact: J. R. Bell, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5027.

April 18, 1997 - 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: **9 VAC 25-194-10 et. seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities.** The purpose of the proposed regulation is to establish a general permit to cover the car wash facility category of point source discharges to surface waters.

Request for Comments: The board is giving notice on the proposed adoption of 9 VAC 25-194-10 et seq. and the issuance of the General VPDES Permit (VAG75) to discharge to state waters and state certification under the State Water Control Law. The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit, and also comments regarding the cost and benefits of the stated alternative or any other alternatives. 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 within this period will be considered by the board.

Other Information: The Department of Environmental has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Cosby at the address below.

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 George Cosby. Persons needing interpreter services for the deaf should notify Mr. Cosby no later than March 7, 1997.

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

Contact: George Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067.

April 29, 1997 - 10 a.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

Technical Advisory Committee

April 15, 1997 - 9 a.m. -- CANCELLED

Department of Environmental Quality, 629 East Main Street, First Floor Training Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The meeting to discuss the reissuance of the board's general permit regulation governing discharges from the cleanup of petroleum from underground storage tanks (9 VAC 25-120-10 et seq.) has been cancelled.

Contact: Richard Ayers, Technical Services Administrator, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4075 or FAX (804) 698-4032.

COLLEGE OF WILLIAM AND MARY

Board of Visitors

† April 24, 1997 - 12:45 p.m. -- Open Meeting

† April 25, 1997 - 7:45 a.m. -- Open Meeting

Blow Memorial Hall, Richmond Road, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

A regularly scheduled meeting of the Board of Visitors to approve the budgets and fees 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 resolutions 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: William T. Walker, Jr., Director, Office of University Relations, College of William and Mary, 312 Jamestown Rd., P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2624.

INDEPENDENT

STATE LOTTERY BOARD

April 23, 1997 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, Richmond, Virginia (♿) (Interpreter for the deaf provided upon request)

A regular meeting of the board. A period for public comment is scheduled at the beginning of the meeting. The Audit Committee will meet at 8:30 a.m.; the Compensation and Personnel Committee will meet at 9 a.m.

Contact: Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

LEGISLATIVE

VIRGINIA CODE COMMISSION

† May 16, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia (♿)

A regular meeting.

Contact: E. M. Miller, Jr., Director, or Jane D. Chaffin, Deputy Registrar, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

April 14, 1997 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

Staff briefings on the 1997 JLARC workplan and the 1997 Auditor of Public Accounts Workplan.

Contact: Phillip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

CHRONOLOGICAL LIST

OPEN MEETINGS

April 14

Barbers, Board for
Competition Council, Commonwealth
† Correctional Education, Board of
† Health Professions, Board of
- Ad Hoc Committee on Criteria
Higher Education for Virginia, State Council of
Legislative Audit and Review Commission, Joint
Psychology, Board of

April 15

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Asbestos Licensing and Lead Certification, Board for
† Corrections, Board of
- Correctional Services Committee
† Economic Development Partnership, Virginia
† Health Professions, Board of
- Compliance and Discipline Committee
- Practitioner Self-Referral Committee
- Regulatory Research Committee
- Ad Hoc Committee on Utilization Review
† Higher Education for Virginia, State Council of
- Executive Committee
Housing Development Authority, Virginia
Job Training Coordinating Council, Governor's
Maternal and Child Health Council
- School Health Subcommittee
Psychology, Board of
Resources Authority, Virginia

April 16

Accountancy, Board for
Auctioneers Board
† Corrections, Board of
- Administration Committee
Fire Services Board, Virginia
- Residential Sprinkler Committee
Medicine, Board of
- Informal Conference Committee
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
† Nursing, Board of
† Social Services, State Board of
Transportation Board, Commonwealth
Treasury Board
Virginia Racing Commission

April 17

† Agriculture and Consumer Services, Department of
- Pesticide Control Board
- Virginia Sweet Potato Board
Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
Health, State Board of
Medicine, Board of
- Informal Conference Committee

Calendar of Events

† Mental Health, Mental Retardation and Substance Abuse Services, Department of
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
† Nursing, Board of
† Outdoors Foundation, Virginia
Public Telecommunications Board, Virginia
† Social Services, State Board of
Transportation Board, Commonwealth

April 18

† Audiology and Speech-Language Pathology, Board of
Dentistry, Board of
Fire Services Board, Virginia
General Services, Department of
- Design Build/Construction Management Review Board
Health, State Board of
Longwood College
- Board of Visitors
Psychology, Board of
- Credentials Committee

April 21

Aging, Governor's Advisory Board on
Forestry, Board of
† Higher Education Tuition Trust Fund, Virginia

April 22

Accountancy, Board for
Aviation Board, Virginia
Aging, Governor's Advisory Board on
Forestry, Board of
† Marine Resources Commission
Mental Health, Mental Retardation and Substance Abuse Services, Department of
† Nursing, Board of
† Small Business Financing Authority, Virginia
- Loan Committee

April 23

Aviation Board, Virginia
† Chesapeake Bay Local Assistance Board
- Regulatory and Regulation Committees
† Education, Board of
Lottery Board, State
Mines, Minerals and Energy, Department of
- Coal Surface Mining Reclamation Fund Advisory Board
† Nursing, Board of
† Sewage Handling and Disposal Appeals Review Board

April 24

Air Pollution Control Board, State
Compensation Board
† Education, Board of
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- POMS Subcommittee
† Richmond Hospital Authority
- Board of Commissioners
† Waste Management Facility Operators, Board for
† William and Mary, College of
- Board of Visitors

April 25

† Executive Council, State
Medicine, Board of
- Informal Conference Committee
Real Estate Board
† William and Mary, College of
- Board of Visitors

April 26

Museum of Natural History, Virginia
- Board of Trustees
- Development Committee
- Marketing Committee
- Outreach Committee
- Research and Collections Committee

April 28

† Funeral Directors and Embalmers, Board of
† Housing and Community Development, Board of
† Small Business Advisory Board, Virginia

April 29

Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee
† Nursing, Board of
Water Control Board, State

April 30

† Museum of Fine Arts, Virginia
- Exhibitions Committee
† Social Work, Board of

May 1

Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Museum of Fine Arts, Virginia
- Buildings and Grounds Committee
Real Estate Board
- Education Committee
- Fair Housing Subcommittee

May 2

† Health Professions, Board of
- Ad Hoc Committee on Criteria

May 5

† Game and Inland Fisheries, Board of
Local Government, Commission on
Waste Management Board, Virginia

May 6

Asbestos Licensing and Lead Certification, Board for
† Disability Services Council
† Game and Inland Fisheries, Board of
Hopewell Industrial Safety Council
† Museum of Fine Arts, Virginia
- Education and Programs Committee
- Board of Trustees

May 7

† Deaf and Hard-of-Hearing, Department for the
- Advisory Board

Calendar of Events

May 8

- † Agriculture and Consumer Services, Department of
 - Virginia Aquaculture Advisory Board
- † The Library of Virginia
 - State Networking Users Advisory Board

May 12

- Hearing Aid Specialists, Board for
- † Higher Education, State Council of
 - Executive Committee

May 13

- † Medicine, Board of
 - Informal Conference Committee
- † Museum of Fine Arts, Virginia
 - Collections Committee
- Real Estate Appraiser Board
- Resources Authority, Virginia

May 14

- † Agriculture and Consumer Services, Board of
- † George Mason University
 - Board of Visitors
- Juvenile Justice, State Board of
- † Military Institute, Virginia
 - Board of Visitors

May 15

- † Agriculture and Consumer Services, Board of
- Medical Assistance Services, Department of
 - Virginia Medicaid Drug Utilization Review Board
 - Virginia Medicaid Prior Authorization Advisory Committee
- † Museum of Fine Arts, Virginia
 - Finance Committee
 - Board of Trustees
- † Professional Counselors and Marriage and Family Therapists, Board of

May 16

- † Code Commission, Virginia
- General Services, Department of
 - Design Build/Construction Management Review Board
- † Professional Counselors and Marriage and Family Therapists, Board of

May 17

- Visually Handicapped (Board for the), Department for the
 - Vocational Rehabilitation Advisory Council

May 19

- † Professional and Occupational Regulation, Board for

May 20

- † Environmental Quality, Department of
 - Virginia Groundwater Protection Steering Committee

May 21

- † Chesapeake Bay Local Assistance Board
 - Regulatory and Regulation Committees
- Conservation and Recreation, Department of
 - Rappahannock Scenic River Advisory Board
- † Manufactured Housing Board, Virginia
- Treasury Board

May 22

- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Pilot Leadership Team

May 27

- † Small Business Financing Authority, Virginia
 - Loan Committee

May 29

- Voluntary Formulary Board, Virginia

June 2

- † Health Professions, Board of
 - Ad Hoc Committee on Criteria
- Local Government, Commission on

June 3

- Hopewell Industrial Safety Council
- † Museum of Fine Arts, Virginia
 - Board of Trustees

June 5

- Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board

June 10

- Psychology, Board of

June 11

- Juvenile Justice, State Board of

June 17

- † Medical Assistance Services, Board of

June 19

- † Museum of Fine Arts, Virginia
 - Executive Committee
 - Finance Committee

PUBLIC HEARINGS

April 14

- † Water Control Board, State

April 15

- Education, Board of
- Mines, Minerals and Energy, Department of
 - Virginia Gas and Oil Board

April 16

- † Education, Board of

April 17

- † Air Pollution Control Board, State

April 23

- Voluntary Formulary Board, Virginia

April 28

- † Housing and Community Development, Board of

April 30

- † Education, Board of

May 14

- † Juvenile Justice, Board of

Calendar of Events

May 19

† Waste Management Board, Virginia

May 20

† Nursing, Board of

May 22

† Waste Management Board, Virginia

June 2

Local Government, Commission on

June 11

† Juvenile Justice, Board of