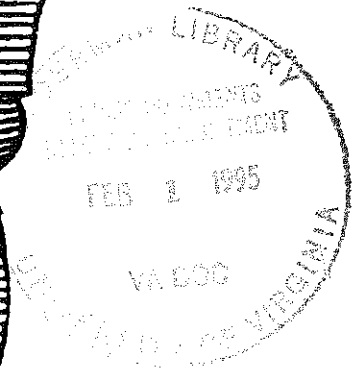
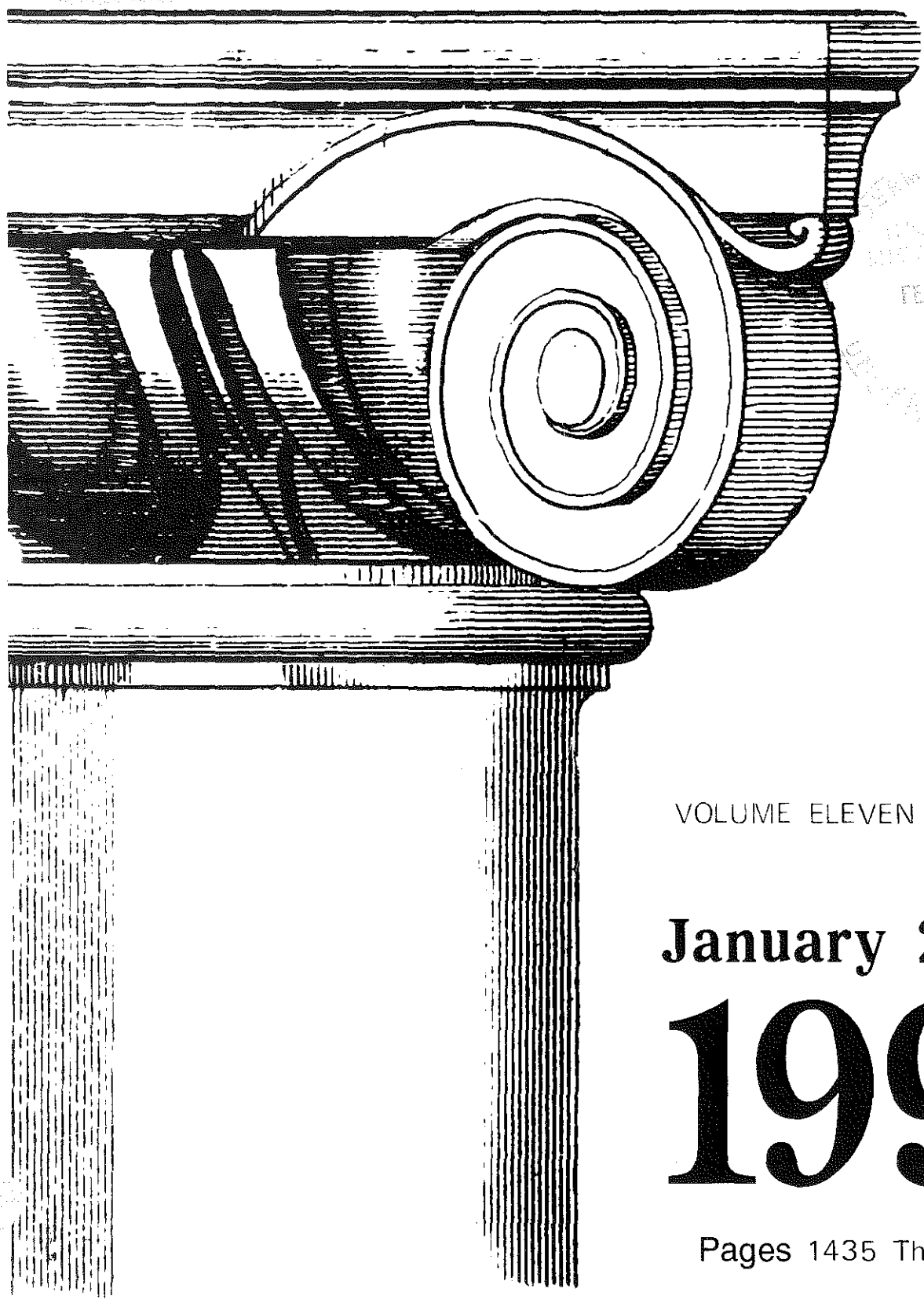


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THE VIRGINIA REGISTER

OF REGULATIONS

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January 23, 1995

1995

Pages 1435 Through 1534

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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January 1995 through March 1996

<u>Material Submitted</u>	<u>Will Be Published On</u>
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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-50-04. Regulations for Emissions Trading and Banking.** The purpose of the proposed action is to develop the regulatory basis for a program under which the creation, trading (buying and selling) and banking of emission reduction credits can occur.

Public Meeting: A public meeting will be held by the department in the Board Room, Department of Environmental Quality Office Building, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, at 1:30 p.m. on January 25, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Deborah Pegram at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4041 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Pegram no later than January 18, 1995.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. on January 26, 1995, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above.

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

Need: Among the primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient

Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS. The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. The EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (i.e., attainment). Once the pollution levels are within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (i.e., maintenance). The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations. Mobile source control measures are directed at limiting tail pipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering program, and inspection and maintenance program. Transportation source control measures are directed at limiting the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

The Clean Air Act requires that states include a New Source Review (NSR) program in the SIP as a control strategy. NSR requires owners of new sources and existing sources which modify their operations to obtain a preconstruction permit. In areas not in compliance with the National Ambient Air Quality Standards (i.e., nonattainment areas), one of the NSR requirements is that the source obtain sufficient surplus emissions reductions to more than "offset" their new emissions. Depending on the nonattainment classification of the area, these "offsets" must be secured at a minimum ratio of 1.1 to 1. Offsets are also required in attainment areas if the new emissions would create a nonattainment situation. The amount of offset would be that necessary to correct the nonattainment situation. These requirements are designed to allow industrial growth without interfering with attainment and maintenance of NAAQS. Emissions trading would facilitate new sources in obtaining these offsets.

The Act requires that states include RACT in the SIP as a

Notices of Intended Regulatory Action

control strategy for existing sources. RACT, or Reasonably Available Control Technology, is a type and level of emissions control, currently technologically and economically feasible, which is required to meet a specific emission limit and which will assist in meeting the air quality standards. Sources required to meet RACT emission limits may install certain control technologies in order to comply. Another method for sources to meet emission limits is bubbling. Bubbling, which allows existing sources to increase emissions at one or more emission sources in exchange for decreases in emissions at other emission sources, can be done through emissions trading. Bubbling gives facilities the ability to implement less costly ways of meeting air pollution control requirements. To be approved, each bubble must achieve an emission level equivalent to or better than the total emission level of the facility prior to the bubble.

Emissions trading and banking can be used to meet the above requirements, as well as additional future requirements. Trading can also be used by sources for exemption from NSR or other process; this is known as netting. Trading and banking involves the creation of surplus emissions reduction credits at sources of air pollution for use to meet SIP air pollution control requirements by the same or other sources. The source creating the emission reduction credit could either sell (trade) the credit to another source or store (bank) the credit for later use or sale. Such a program can provide more flexibility to meet environmental requirements, thus reducing costs and encouraging faster compliance.

Moreover, the development of generic trading rules enables states to expedite the attainment of SIP goals and eliminates the need for case-by-case review of emission trading projects. Credits can be created by both stationary and mobile sources. New and existing sources can take advantage of emissions trading.

Alternatives:

1. Draft a regulation which will provide for the implementation of an emissions trading and banking program for mobile and stationary sources which meets the provisions of the state code, the Clean Air Act and associated EPA policies and guidance.
2. Take no action to implement a trading and banking program. Failure to develop an emissions trading program would create less opportunity for the creation and trade of credits and no banking could occur. In addition, the requirements of the state code would not be met.

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

Applicable statutory requirements: Section 10.1-1322.3 of the Virginia Air Pollution Control Law states that the State Air Pollution Control Board shall promulgate regulations to

create a voluntary air emissions trading and banking program for the Commonwealth. The regulations are to provide for market-based programs to achieve and maintain the NAAQS. The regulations are to create an emissions banking and trading program, to the full extent not prohibited by federal law, that results in net air emission reductions, creates an economic incentive for reducing air emissions, and allows for continued economic growth through a voluntary program of banking and trading credits. In promulgating the regulations consideration shall be given, but not be limited to, the inclusion of provisions concerning: (i) the definition and use of emissions reduction credits from mobile and stationary sources, (ii) the role of offsets in emissions trading, (iii) interstate or regional emissions trading, and (iv) the mechanisms needed to facilitate voluntary emissions trading and banking. The regulations are not to prohibit the direct trading of air emissions credits between private industries.

The 1990 Amendments to the Clean Air Act represent the most comprehensive piece of clean air legislation ever enacted and for the first time delineates nonattainment areas as to the severity of the pollution problem. Nonattainment areas are now classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification is subject to successively more stringent control measures. Areas with higher classification of nonattainment must meet the requirements of all the areas in lower classifications plus the additional, more stringent requirements of their class. The classifications for Virginia's nonattainment areas are marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area. Section 110(a)(2)(A) of the Act requires that State Implementation Plans contain enforceable emission limitations and other control measures or techniques, including economic incentives such as fees, marketable permits, and auctions of emission rights as well as schedules and timetables for compliance.

Section 182(a)(2)(C) of the Act sets out the general requirements for new source review programs in all nonattainment areas and mandates a new and modified major stationary source permit program that meets the requirements of Sections 172 and 173 of the Act. Section 172 contains the basic requirement for a permit program, while Section 173 contains the specifics, some of which cover emissions trading and are summarized below.

Section 173(a) provides that a permit may be issued if offsets have been obtained for the new or expanding sources from existing sources so that total allowable emissions (i) from existing sources in the region, (ii) from new or modified sources which are not major emitting facilities, and (iii) from the proposed new source will be sufficiently less than total emissions from existing sources prior to the application for the permit so as to represent reasonable further progress.

Notices of Intended Regulatory Action

Section 173(c) provides that the owner of the proposed new or modified source may obtain offsets only from the nonattainment area in which the proposed source is to be located. However, the permit program may provide that offsets may be obtained from other nonattainment areas whose emissions impact in the area where the proposed source is to be located, provided the other nonattainment area has an equal or higher classification and the offsets are based on actual emissions.

Section 173(e) provides that the permit program must allow the use of alternative or innovative means to achieve offsets for emission increases due to rocket engine and motor firing and cleaning related to the firing.

A major stationary source is defined for general application in Section 302 of the Act as "any facility or source of air pollutants which directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant." For nonattainment areas defined as serious or worse, Section 182(c) specifically defines a major stationary source as a facility emitting 50 tons per year or more. Section 182(f) provides that requirements which apply to major stationary sources of volatile organic compounds (VOCs) under the Act shall also apply to major stationary sources of nitrogen oxides (NOX).

Section 182(a)(4) of the Act sets out the requirements for marginal areas (Hampton Roads) with respect to offset ratios, providing for a minimum ratio of total emissions reduction of VOCs to total increased emissions of VOCs of 1.1 to 1. Likewise Section 182(b)(5) sets out the offset requirements for moderate nonattainment areas (Richmond), specifying the ratio to be at least 1.15 to 1. Finally, Section 182(c)(10) sets out the offset requirements for serious nonattainment areas (Northern Virginia), specifying the ratio to be at least 1.2 to 1.

Sections 182(c)(6) through (c)(8) contain some additional specifics for serious or worse nonattainment areas concerning the establishment of a de minimis level for expanding existing sources and the allowance of internal offsets as an alternative to the permit requirements. New source permit programs must include provisions to require permits for modifications of all existing sources unless the increase in net emissions from the source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years, including the calendar year in which the increase occurs. The program must also include provisions concerning internal offsets as alternatives to the permit requirements. For sources emitting less than 100 tons per year and applying for a permit to expand, a permit will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner does not choose the option of an internal offset, a permit will be required but the control technology level required will be best available control technology (BACT) instead of lowest achievable emission

rate (LAER). For sources emitting 100 tons or more per year and applying for a permit to expand, control technology requirements which constitute LAER will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

Section 182(g)(4) of the Act sets out the requirements for economic incentive programs. If a state fails to meet a milestone as required for serious and severe nonattainment areas in Section 182(g), it must adopt an economic incentive program. This applies to extreme areas as set forth in Section 182(g)(5). States may also adopt an economic incentive program on a voluntary basis. Economic incentive programs must meet guidelines as established in the Economic Incentive Program Rules and in Section 182(g)(4). A state program may include emissions fees, marketable permits, a system of state fees on sale or manufacture of products the use of which contributes to ozone formation or any combination. The program may also include incentives to reduce vehicle miles traveled, consistent with Section 108(f). Any revenues generated by such a program can be used by states to (i) provide incentives for achieving emission reductions, (ii) provide assistance for the development of innovation technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings but not more than 75% of costs for the development of technology and (iii) fund not more than 50% of administrative costs of the program.

To provide guidance in the development of emissions trading and banking programs, EPA has promulgated the following:

1. Economic Incentive Program Rules (59 FR 16690, April 7, 1994).
2. Interim Guidance on the Generation of Mobile Source Emission Reduction Credits (58 FR 11134, February 23, 1993).
3. Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits; Final Policy Statement and Accompanying Technical Issues Document (51 FR 43814, December 4, 1986).
4. Emission Offset Interpretive Ruling (40 CFR, Part 51, Appendix S).
5. NOX Supplement to the General Preamble Providing EPA Policy Concerning Air Quality Planning Under the Act (57 FR 55620, November 25, 1992).

Written comments may be submitted until 4:30 p.m. January 26, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Notices of Intended Regulatory Action

Statutory Authority: § 10.1-1322.3 of the Code of Virginia.

VA.R. Doc. No. R95-168; Filed December 5, 1994, 3:18 p.m.

Contact: Shawn S. King, Environmental Engineer Senior, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4433.

VA.R. Doc. No. R95-173; Filed December 6, 1994, 10:12 a.m.

DEPARTMENT OF CORRECTIONS (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 Corrections intends to consider promulgating regulations entitled: **VR 230-01-06. Regulations for Private Management and Operation of Prison Facilities.** The purpose of the proposed action is to establish minimum standards for the administration and operation of private prisons. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 53.1-266 of the Code of Virginia.

Written comments may be submitted until February 24, 1995.

Contact: Amy Miller, Regulatory Coordinator, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3119.

VA.R. Doc. No. R95-224; Filed January 4, 1995, 12:05 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.5. Home and Community Based Care Services for Technology Assisted Individuals.** The purpose of the proposed action is to revise the regulations to reflect recent changes in HCFA's interpretation of federal guidelines. The agency does not intend to conduct public hearings regarding this regulatory change.

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

Written comments may be submitted until January 25, 1995, to Michelle Baker, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

DEPARTMENT OF STATE POLICE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.** The purpose of the proposed regulation is to replace emergency regulations currently in effect. The Department of State Police is required to govern the operation and maintenance of the Sex Offender Registry as required by § 19.2-390.1 of the Code of Virginia. No public hearing is planned after publication of the proposed regulation.

Statutory Authority: § 19.2-390.1 of the Code of Virginia.

Written comments may be submitted until February 23, 1995.

Contact: Lieutenant John G. Weakley, Assistant Records Management Officer, P.O. Box 27472, Richmond, VA 23261, telephone (804) 674-2022.

VA.R. Doc. No. R95-223; Filed January 4, 1995, 12:22 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 regulations.



DEPARTMENT FOR THE AGING

Title of Regulation: VR 110-01-01. Public Participation Guidelines (REPEALED).

Title of Regulation: VR 110-01-01:1. Public Participation Guidelines.

Statutory Authority: §§ 2.1-373 and 9-6.14:7.1 of the Code of Virginia.

Effective Date: February 23, 1995.

Summary:

The final regulation establishes guidelines which the Department for the Aging will use to seek input from the public into the process of developing other regulations. Under the guidelines, the department (i) will maintain a list of persons and organizations which have requested notification of proposed regulatory action, (ii) will respond to requests from persons and organizations to develop new regulations or to amend existing regulations, (iii) will give the public adequate notice of intended regulatory action and of the opportunity to submit data, views, and arguments relating to the regulatory action, and (iv) request the assistance of standing and ad hoc advisory groups, when appropriate, in developing or revising regulations. The guidelines are not applicable to the development of regulations which are exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

The regulation replaces Public Participation Guidelines issued in 1984 as VR 110-01-01. Such action is necessary to bring the guidelines into compliance with the Administrative Process Act, as amended. The department has determined that it will be simpler and clearer to promulgate a new regulation than to revise the 1984 regulation.

The regulation makes permanent the emergency regulation which was published in Volume 9, Issue 25

of The Virginia Register (9:25 VA.R. 5062-5064 September 6, 1993). The final regulation makes no substantive changes to the emergency regulation.

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 Bill Fascitelli, Agency Regulatory Coordinator, Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2852 or toll-free in Virginia 1-800-552-3402. There may be a charge for multiple copies.

VR 110-01-01:1. Public Participation Guidelines.

PART I. DEFINITIONS AND PURPOSE.

§ 1.1. Definitions.

[The following words and terms, when used in this regulation, shall have the following meanings unless the context indicates otherwise:]

"Board" means the Governor's Advisory Board on Aging.

"Department" means the Department for the Aging.

§ 1.2. Purpose.

This regulation is being promulgated [pursuant in response] to the applicable provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The regulation provides guidelines for the involvement of the public in the development and promulgation of regulations. The guidelines are not applicable to regulations exempted or excluded from the provisions of the Administrative Process Act.

PART II. MAILING LIST.

§ 2.1. Composition of the mailing list.

A. The Department for the Aging shall maintain a list of persons and organizations who have requested notification of the development and promulgation of regulations.

B. Any person or organization in Virginia may request in writing that he be placed on the mailing list.

C. The department may add to the list a person or organization which it believes will serve the purpose of

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increasing participation in the regulatory process.

D. The department may supplement the mailing list with persons and organizations who have expressed an interest in specific regulatory issues, proposals, or actions.

E. When mail to a person or organization is returned to the department as undeliverable, the department shall delete such person or organization from the mailing list.

§ 2.2. Documents to be sent to persons and organizations on the mailing list.

The department shall mail to persons and organizations on the mailing list the following documents related to the development and promulgation of regulations:

1. Notice of Intended Regulatory Action.
2. Notice of Comment Period.
3. A copy of any final regulation issued by the department.
4. Notice that the comment period on a final regulation has been extended beyond the period specified in the Notice of Comment Period.

PART III. PUBLIC PARTICIPATION PROCEDURES.

§ 3.1. Petition for rulemaking.

A. Any person or organization may petition the department to develop a new regulation or to amend an existing regulation.

B. The petition shall include, but is not limited to, the following:

1. The name, mailing address, and telephone number of the petitioner.
2. The number and title of the regulation to be addressed.
3. A description of the issue to be addressed.
4. A recommendation to develop a new regulation, delete a current regulation, or amend a current regulation.

C. The department shall respond to the petition within 180 days of receipt of the petition.

§ 3.2. Notice of Intended Regulatory Action.

A. The Notice of Intended Regulatory Action shall describe the subject matter and intent of the proposed regulation.

B. The Notice of Intended Regulatory Action shall indicate whether the department will hold a public hearing on the proposed regulation after it is published. The department shall state the reason in the Notice of Intended Regulatory Action if it does not intend to hold a public hearing.

C. If the department states in the Notice of Intended Regulatory Action that it does not plan to hold a public hearing, then no public hearing is required unless, during the 30-day comment period following publication of the Notice of Intended Regulatory Action in The Virginia Register, the Governor directs the department to hold a public hearing or the department receives requests for a public hearing from at least 25 persons.

§ 3.3. Notice of Comment Period.

A. The Notice of Comment Period shall indicate that any person or organization may request a copy of the proposed regulation by writing to the contact person specified in the Notice of Comment Period.

B. The Notice of Comment Period shall indicate that any person or organization may request in writing a copy of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation.

C. The Notice of Comment Period shall make provision for either oral or written comments on the proposed regulation.

D. The Notice of Comment Period shall specify the last date for receiving comments. The comment period shall be open for a minimum of 60 days from publication of the proposed regulation in The Virginia Register.

E. The Notice of Comment Period shall include the date, time, and location of the public hearing, if a public hearing is scheduled.

§ 3.4. Public hearings on regulations.

A. If the department holds a public hearing, it shall be held during the 60-day comment period following publication of the proposed regulation or the amendment to a current regulation. The department shall state the reason in the Notice of Intended Regulatory Action if it does not intend to hold a public hearing.

B. The public hearing will be held in a building accessible to persons with disabilities. If requested, a sign language interpreter will be made available for persons with a hearing impairment.

§ 3.5. Review of regulations.

The department shall review all regulations periodically to determine whether new regulations should be adopted and current regulations should be amended or repealed.

PART IV.
ADVISORY COMMITTEES.

§ 4.1. Governor's Advisory Board on Aging.

A. The department shall solicit comments from the Governor's Advisory Board on Aging on any new regulations or changes to current regulations.

B. Whenever the board intends to discuss at a regular or special meeting any regulatory action by the department, the Notice of Meeting published in The Virginia Register shall include such intent in the description of the nature of the meeting and the business to be conducted.

C. Whenever the board intends to discuss at a regular or special meeting any regulatory action by the department, a copy of the regulation under consideration shall be made available upon request to interested persons at least two days prior the meeting. A copy of the regulation under consideration shall be made available to persons attending the meeting.

D. The board shall hold its meetings in a location accessible to the persons with disabilities. If requested, a sign language interpreter will be made available for persons with a hearing impairment.

§ 4.2. Ad hoc committees.

A. The department may appoint an ad hoc advisory committee to assist it in the development of regulations.

B. The department may appoint an ad hoc advisory committee to provide technical expertise and assistance when the department determines that such expertise is necessary to address a specific regulatory issue or when a group of individuals expresses an interest, during the 30-day period following publication of the Notice of Intended Regulatory Action, in working with the department around a specific regulatory issue.

C. An ad hoc committee shall remain in existence no longer than 12 months from its initial appointment, unless the department determines that the specific regulatory need continues to exist beyond that time.

V.A.R. Doc. Nos. R95-217 and R95-225; Filed January 3, 1995, 3:37 p.m.

BOARD OF DENTISTRY

REGISTRAR'S NOTICE: On December 2, 1994, the Board of Dentistry reconsidered § 5.3 4 of its final regulations as published in 11:3 V.A.R. 321-332 October 31, 1994. The amendments published October 31, 1994, are scheduled to become effective April 1, 1995, or at the conclusion of the 1995 General Assembly session, whichever occurs last; therefore, the amendments published in October are still

shown in italicized and stricken language. The bracketed amendments to § 5.3 4 of the regulation are exempt from the Administrative Process Act in accordance with (i) § 9-6.14:4.1 C 4(a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved, and (ii) § 9-6.14:4.1 C 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Board of Dentistry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 255-01-1. Virginia Board of Dentistry Regulations.

Statutory Authority: § 54.1-2400 and Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 of the Code of Virginia.

Effective Date: April 1, 1995, or the conclusion of the 1995 General Assembly session, whichever occurs last.

Summary:

The amendment to § 5.3 4 is in response to further define delegable duties for a dental hygienist. The board took action to adopt technical, nonsubstantive amendments to that section. Section 5.3 4 now reads in accordance with § 54.1-3408 of the Code of Virginia.

Agency Contact: Copies of the regulation may be obtained from Marcia J. Miller, Executive Director, Board of Dentistry, 6606 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9904.

VR 255-01-1. Virginia Board of Dentistry Regulations

PART I.
GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Advertising" means a representation or other notice given to the public or members thereof, directly or indirectly, by a dentist on behalf of himself, his facility, his partner or associate, or any dentist affiliated with the dentist or his facility by any means or method for the purpose of inducing purchase, sale or use of dental methods, services, treatments, operations, procedures or products or to promote continued or increased use of such dental methods, treatments, operations, procedures or products.

"Analgesia" means the diminution or elimination of pain in the conscious patient.

"Approved schools" means those dental schools, colleges,

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departments of universities or colleges or schools of dental hygiene currently accredited by the Commission on Dental Accreditation of the American Dental Association, which is hereby incorporated by reference.

"Competent instructor" means any person appointed to the faculty of a dental school, college or department or a university or a college who holds a license or teacher's license to practice dentistry or dental hygiene in the Commonwealth.

"Conscious sedation" means a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal commands, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

"Dental assistant" means any unlicensed person under the supervision of a dentist who renders assistance for services provided to the patient as authorized under these regulations but shall not include an individual serving in purely a secretarial or clerical capacity.

"Dental hygiene student" means any person currently enrolled and attending an approved school/program of dental hygiene. No person shall be deemed to be a dental hygiene student who has not begun the first year of enrollment in the school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled.

"Dental student" means any person currently enrolled and attending an approved school of dentistry but shall not include persons enrolled in schools/programs of dental hygiene. No person shall be deemed to be a dental student who has not begun the first year of enrollment in school; nor a person who is not attending the regularly scheduled sessions of the school in which he is enrolled.

"Diagnosis" means an opinion of findings in an examination.

"Direction" means the presence of the dentist for the evaluation, observation, advice, and control over the performance of dental services.

"Examination of patient" means a study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting of caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions.

"General anesthesia" means a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

"Local anesthesia" means the loss of sensation or pain in the oral cavity or its contiguous structures generally produced by a topically applied agent or injected agent without causing the loss of consciousness.

"Monitoring general anesthesia and conscious sedation" includes the following: recording and reporting of blood pressure, pulse, respiration and other vital signs to the attending dentist during the conduct of these procedures and after the dentist has induced a patient and established a maintenance level.

"Monitoring nitrous oxide oxygen inhalation analgesia" means making the proper adjustments of nitrous oxide machines at the request of the dentist during the administration of the sedation and observing the patient's vital signs.

"Nitrous oxide oxygen inhalation analgesia" means the utilization of nitrous oxide and oxygen to produce a state of reduced sensibility to pain designating particularly the relief of pain without the loss of consciousness.

"Radiographs" means intraoral and extraoral x-rays of the hard and soft oral structures to be used for purposes of diagnosis.

"Recognized governmental clinic" means any clinic operated or funded by any agency of state or local government which provides dental services to the public, the dental services of which shall be provided by a licensed dentist or by persons who may be authorized herein to provide dental services under the direction of a dentist.

§ 1-2. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Dentistry will maintain a list of persons and organizations who will be mailed the following documents as they become available:

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

B. Being placed on list and deletion.

Any person wishing to be placed on the mailing list may have his or her name added by writing the board. In addition, the agency or board may, in its discretion, add to the list any person, organization, or publication whose inclusion it believes will further the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in subsection A of this section.

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Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

C. Notice of intent.

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

D. Informational proceedings or public hearings for existing rules.

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

E. Petition of rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

When a proposed regulation is formulated at any meeting of the board or of a board subcommittee, or when any regulation is adopted by the board, the subject matter shall be transmitted to The Registrar of Regulations for inclusion in The Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it deems necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.

§ 1-3. 1.2. License renewal and reinstatement.

The board shall forward a renewal notice to each licensee at the address of record (§ 4.2 B) prior to the expiration of the license. Failure to receive such notice

shall not relieve the licensee of the responsibility to renew the license.

A. Dental renewal fees. Every person licensed to practice dentistry shall, on or before March 31, renew their license to practice dentistry and pay an annual renewal fee of \$65 except as otherwise provided in § 1-4 1.3 of these regulations.

B. Dental hygiene renewal fees. Every person licensed to practice dental hygiene by this board shall, on or before March 31, renew their license to practice dental hygiene and pay an annual renewal fee of \$25 except as otherwise provided in § 1-4 1.3 of these regulations.

C. Penalty fees. Any person who does not return the completed form and fee by March 31 shall be required to pay an additional \$35 penalty fee. The board shall renew a license when the renewal form is received by the following April 30, along with the completed form, the annual registration fee, and the penalty fee.

D. Reinstatement fees and procedures. The license of any person who does not return the completed renewal form and fees by April 30 shall automatically expire and become invalid and their practice of dentistry/dental hygiene shall be illegal. Upon such expiration, the board shall immediately notify the affected person of the expiration and the reinstatement procedures. Any person whose license has expired who wishes to reinstate such license shall submit to the board a reinstatement form, the application fee, the penalty fee, renewal fee and an assessment of \$50 per month for each month or part of a month the individual has practiced in Virginia without a valid license. The board may reinstate the license of an applicant who satisfactorily completes the board-approved examinations unless the applicant demonstrates that he has maintained continuous ethical, legal and clinical practice during the period of licensure expiration or demonstrates that the lapse was due to factors beyond the applicant's control or was other than voluntary. The executive director shall reinstate such expired license provided that the applicant can demonstrate continuing competence, that no grounds exist pursuant to § 54.1-2706 of the Code of Virginia and § 4.3 of these regulations to deny said reinstatement, and that the applicant has paid all unpaid renewal fees and assessments.

E. Reinstatement of a license previously revoked or indefinitely suspended. Any person whose license has been revoked shall submit to the board for its approval a reinstatement form and an application fee of \$750. Any person whose license has been indefinitely suspended shall submit to the board for its approval a reinstatement form and an application fee of \$300.

§ 1-4. 1.3. Other fees.

A. Dental licensure application fees. The application for a dental license shall be accompanied by a check or money order for \$220, which includes a \$155 application

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fee and a \$65 initial licensure fee.

B. Dental hygiene licensure application fees. The application for a dental hygiene license shall be accompanied by a check or money order for \$155, which includes a \$130 application fee and a \$25 initial licensure fee.

C. Duplicate wall certificate. Licensees desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of \$15. A duplicate certificate may be issued for any of the following reasons: replacing certificate that has been lost, stolen, misplaced, destroyed or is otherwise irretrievable; recording the new name of a registrant whose name has been changed by court order or by marriage; or for multiple offices.

D. Duplicate license. Licensees desiring duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of \$10. A duplicate license may be issued for any of the following reasons: maintaining more than one office (notarized photocopy may be used); replacing license that has been lost, stolen, misplaced, destroyed or is otherwise irretrievable; and recording the new name of a licensee whose name has been changed by court order or by marriage.

E. Licensure certification. Licensees requesting endorsement or certification by this board shall pay a fee of \$25 for each endorsement or certification.

F. Restricted license. Restricted license issued in accordance with § 54.1-2714 of the Code of Virginia shall be at a fee of \$100.

G. Teacher's license. License to teach dentistry and dental hygiene issued in accordance with §§ 54.1-2713 and 54.1-2725 of the Code of Virginia shall be at a fee of \$220 and \$155, respectively. The renewal fee shall be \$65 and \$25, respectively.

H. Temporary permit. Temporary permit for dentists and dental hygienists issued in accordance with §§ 54.1-2715 and 54.1-2726 of the Code of Virginia shall be at a fee of \$220 and \$155, respectively. The renewal fee shall be \$65 and \$25, respectively.

I. Radiology safety examination. Each examination administered in accordance with § 4.5 (A)(11) of these regulations shall be at a fee of \$25.

J. Jurisprudence examination. Each examination administered by the board outside the scheduled clinical examination site in accordance with §§ 2.2 A 3 and 2.2 B 3 shall be at a fee of \$25.

K. Full-time faculty license. Full-time faculty license for dentists issued in accordance with § 54.1-2714.1 of the Code of Virginia, shall be at a fee of \$220. The renewal

fee shall be \$65.

L. Endorsement license. License by endorsement issued in accordance with § 2.3 for dental hygienists shall be at a fee of \$200 (\$175 application and \$25 initial licensure fee). The renewal fee shall be \$25. License by endorsement issued in accordance with § 2.3 for dentists shall be at a fee of \$565 (\$500 application fee and \$65 initial licensure fee).

M. Schedule VI topical medicinal agents certification. Certifications issued in accordance with subdivision 1 of § 5.4 A 4 shall be at a fee of \$15.

§ 1.5. 1.4. Refunds.

No fee will be refunded or applied for any purpose other than the purpose for which the fee is submitted.

§ 1.5. Requirements for continuing education (CE)

A. After April 1, 1995, a dentist shall be required to have completed a minimum of 15 hours and a dental hygienist shall be required to have completed a minimum of 15 hours of approved continuing dental education in an approved program for each annual renewal of licensure.

Continuing education hours in excess of the number required for renewal may not be transferred or credited to another year.

B. An approved continuing dental education program shall be relevant to the treatment and care of patients and shall be:

1. Clinical courses in dentistry and dental hygiene; or
2. Nonclinical subjects that relate to the skills necessary to provide dental or dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, stress management). Courses not acceptable for the purpose of this subsection include, but are not limited to, estate planning, financial planning, investments, and personal health.

C. Continuing education credit may be earned for verifiable attendance at or participation in any courses, to include audio and video presentations, which meet the requirements in § 1.6 B 1 and which are given by one of the following sponsors:

1. American Dental Association and National Dental Association, their constituent and component/branch associations;
2. American Dental Hygienists Association and National Dental Hygienists Association, their constituent and component/branch associations;
3. American Dental Association specialty organizations,

their constituent and component/branch associations;

4. American Medical Association and National Medical Association, their specialty organizations, constituent and component/branch associations;

5. Academy of General Dentistry, its constituent and component/branch associations;

6. Community colleges with an ~~approved~~ accredited dental hygiene program if offered under the auspices of the dental hygienist program;

7. A college, university or hospital service which is accredited by an accrediting agency approved by the U.S. Office of Education;

8. The American Heart Association and the American Cancer Society;

9. A medical school which is accredited by the American Medical Association's Liaison Committee for Medical Education; or

10. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.) ; ; or

11. Any other board approved programs.

D. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following his initial licensure.

E. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

F. A licensee is required to provide information on compliance with continuing education requirements in his annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. Licensees selected for audit must provide original documents certifying that they have fulfilled their continuing education requirements by the deadline date as specified by the board.

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity. Documentation must be maintained for a period of five four years following renewal. Dental hygiene documentation shall evidence satisfactory completion of a post course examination.

H. A licensee who has allowed his license to lapse, or who has had his license suspended or revoked, must submit evidence of completion of continuing education equal to the requirements for the number of years in which his license has not been active.

I. Continuing education hours required by disciplinary order shall not be used to satisfy the continuing education requirement for license renewal.

J. Penalty for noncompliance of continuing education for dentists and dental hygienists is \$1,000 per violation.

PART II. ENTRY AND LICENSURE REQUIREMENTS.

§ 2.1. Education.

A. Dental licensure. An applicant for dental licensure shall be a graduate and a holder of a diploma from an accredited or approved dental school recognized by the Commission on Dental Accreditation of the American Dental Association, be of good moral character, and provide proof that the individual has not committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia.

B. Dental hygiene licensure. An applicant for dental hygiene licensure shall have graduated from or be issued a certificate by an accredited school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association, be of good moral character, and provide proof that the individual has not committed any act which would constitute a violation of § 54.1-2728 of the Code of Virginia.

§ 2.2. Licensure examinations.

A. Dental examinations.

1. All applicants shall have successfully completed Part I and Part II of the examinations of the Joint Commission on National Dental Examinations prior to making application to this board.

2. For the purpose of § 54.1-2709 of the Code of Virginia, all persons desiring to practice dentistry in the Commonwealth of Virginia will be required to satisfactorily pass the complete board-approved examinations in dentistry as a precondition for licensure, except those persons eligible for licensure pursuant to § 54.1-103 of the Code of Virginia and subsection A of § 2.3 of these regulations. Applicants who successfully completed the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board will may be required to retake the examinations unless they demonstrate that they have maintained continuous clinical, ethical and legal practice since passing the board-approved examinations.

B. Dental hygiene examinations.

1. All applicants are required to successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to

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making application to this board for licensure.

2. For the purpose of § 54.1-2722 of the Code of Virginia, all persons desiring to practice dental hygiene in the Commonwealth of Virginia shall be required to successfully complete the board-approved examinations in dental hygiene as a precondition for licensure, except those persons eligible for licensure pursuant to § 54.1-103 of the Code of Virginia and subsection B of § 2.3 of these regulations. Applicants who successfully complete the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board will ~~may~~ be required to retake the board-approved examinations unless they demonstrate that they have maintained continuous clinical, ethical and legal practice since passing the board-approved examinations.

C. All applicants for dental/dental hygiene licensure by examination shall be required to pass an examination on the Virginia dental hygiene laws and the regulations of this board.

§ 2.3. Reciprocal licensure for dentists and licensure by endorsement for dental hygienists.

A. Dental reciprocal licensure.

An applicant for dental reciprocal licensure must:

1. Be a graduate of an accredited dental school recognized by the Commission on Dental Accreditation of the American Dental Association; and

2. Be currently licensed and engaged in the active, legal and ethical practice of dentistry in a state having licensure requirements comparable to those established by the Code of Virginia with which the Virginia Board of Dentistry has established reciprocity.

§ 2.3. Licensure by endorsement for dentists and dental hygienists.

A. Licensure by endorsement for the practice of dentistry. An applicant for dental licensure by endorsement shall:

No applicant for licensure to practice dentistry by endorsement will be considered for licensure unless the applicant has met all of the following requirements:

1. Is Be a graduate and holder of a diploma from an accredited or approved dental school recognized by the Commission on Dental Accreditation of the American Dental Association;

2. Has Have successfully completed a clinical licensing examination substantially equivalent to that required by Virginia;

3. ~~Hold~~ Hold a current, unrestricted license to practice dentistry in another state, territory, District of Columbia or possession of the United States and has continuous clinical, ethical, and legal practice for five out of the past six years immediately preceding application for licensure. Active patient care in armed forces dental corps, state or federal agency, and intern or residency programs may substitute for required clinical practice;

4. Is Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;

5. Has Have not failed any clinical examination accepted by the board, pursuant to § 54.1-2709 of the Code of Virginia, within the last five years;

6. Is Be of good moral character;

7. Has Have successfully completed Part I and Part II of the examinations of the Joint Commission on National Dental Examinations prior to making application to this board;

8. Has passed Pass an examination on the laws and the regulations governing the practice of dentistry in Virginia; and

9. Has Have not committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia and is not the respondent in any pending or unresolved board action or malpractice claim.

B. Dental hygiene endorsement .

An applicant for dental hygiene endorsement licensure shall:

1. Be a graduate or be issued a certificate from an accredited dental hygiene school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association;

2. Be currently licensed to practice dental hygiene in another state, territory, District of Columbia or possession of the U.S., and have continuous clinical, ethical and legal practice for two out of the past four years immediately preceding application for licensure. Active patient care in armed forces dental corps, state and or federal agency , and intern and or residency programs, may substitute for required clinical practice;

3. Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;

4. Have successfully completed a clinical licensing examination substantially equivalent to that required by Virginia;

5. Not have failed the clinical examination accepted by the board, pursuant to § 54.1-2722 of the Code of Virginia, within the last five years;

6. Be of good moral character;

7. Provide proof of not having committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia;

8. Successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board; and

9. Pass an examination on the laws and the regulations governing the practice of dentistry in Virginia.

§ 2.4. Temporary permit, teacher's license and full-time faculty license.

A. A temporary permit shall be issued only for the purpose of allowing dental and dental hygiene practice as limited by §§ 54.1-2715 and 54.1-2726 of the Code of Virginia until the release of grades of the next licensure examination given in this Commonwealth, after the issuance of the temporary permit.

B. A temporary permit will not be renewed unless the permittee shows that extraordinary circumstances prevented the permittee from taking the first examination given immediately after the issuance of the permit. Such permit reissuance shall expire seven days after the release of grades of the next examination given.

C. A full-time faculty license shall be issued to any dentist who meets the entry requirements of § 54.1-2713 of the Code of Virginia, who is certified by the Dean of a dental school in the Commonwealth and who is serving full time on the faculty of a dental school or its affiliated clinics intramurally in the Commonwealth. A full-time faculty license shall remain valid only while the license holder is serving full time on the faculty of a dental school in the Commonwealth. When any such license holder ceases to continue serving full time on the faculty of the dental school for which the license was issued, the licensee shall surrender the license, which shall be null and void upon termination of full-time employment. The Dean of the dental school shall notify the board within five working days of such termination of full-time employment.

D. A temporary permit issued pursuant to § 54.1-2715, a teacher's license issued pursuant to §§ 54.1-2713, 54.1-2714 and 54.1-2725 and full-time faculty license issued pursuant to § 54.1-2714.1 of the Code of Virginia may be revoked for any grounds for which the license of a regularly licensed dentist or dental hygienist may be revoked and for any act, acts or actions indicating the inability of the permittee or licensee to practice dentistry that is

consistent with the protection of the public health and safety as determined by the generally accepted standards of dental practice in Virginia.

E. Applicants for a full-time faculty license or temporary permit shall be required to pass an examination on the laws and the regulations governing the practice of dentistry in Virginia.

§ 2.5. *Other application requirements.*

All applications for any license or permit issued by the board shall include:

1. A final certified transcript of the grades from the college from which the applicant received the dental degree, dental hygiene degree or certificate, or post-doctoral degree or certificate; and

2. An original grade card issued by the Joint Commission on National Dental Examinations.

PART III. GENERAL ANESTHESIA AND CONSCIOUS SEDATION.

§ 3.1. Requirements to administer general anesthesia.

A. Educational requirements. A dentist may employ or use general anesthesia on an outpatient basis by meeting one of the following educational criteria and by posting the educational certificate, in plain view of the patient, which verifies completion of the advanced training as required in § 3.1 A 1 or 2. The foregoing shall not apply nor interfere with requirements for obtaining hospital staff privileges.

1. Has completed a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry" as currently published by the American Dental Association; or

2. ~~Is board certified or ; board eligible ; or educationally qualified~~ Completion of an American Dental Association approved residency in any dental specialty which incorporates into its curriculum the standards of teaching comparable to those set forth in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry : " as currently published by the American Dental Association.

B. Exemptions. A dentist who has not meet the requirements specified in subsection A of this section may treat patients under general anesthesia in his practice if a qualified anesthesiologist, or a dentist who fulfills the requirements specified in subsection A of this section is

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present and is responsible for the administration of the anesthetic. If a dentist fulfills requirements himself to use general anesthesia and conscious sedation, he may employ the services of a certified nurse anesthetist.

§ 3.2. Conscious sedation; intravenous and intramuscular.

A. Automatic qualification. Dentists qualified to administer general anesthesia may administer conscious sedation.

B. Educational requirements. A dentist may administer conscious sedation upon completion of training in conformity with requirements for this treatment modality as published by the American Dental Association in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," while enrolled at an approved dental school or while enrolled in a post-doctoral university or teaching hospital program.

§ 3.3. General information.

A. Emergency equipment and techniques. A dentist who administers general anesthesia and conscious sedation (*excluding nitrous oxide*) shall be proficient in handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway and cardiopulmonary resuscitation, and shall maintain the following emergency airway equipment in the dental facility:

1. Full face mask for children or adults, or both;
2. Oral and nasopharyngeal airways;
3. Endotracheal tubes for children or adults, or both, with appropriate connectors;
4. A laryngoscope with reserve batteries and bulbs and appropriately sized laryngoscope blades for children or adults, or both;
5. Source of delivery of oxygen under controlled pressure; and
6. Mechanical (hand) respiratory bag.

B. Posting requirements. Any dentist who utilizes general anesthesia or conscious sedation shall post in each facility the certificate of education required under §§ 3.1 A and 3.2 B or the self-certification certificate issued by the board.

C. Other.

1. The team for general anesthesia shall consist of the operating dentist, a second person to monitor and observe the patient, and a third person to assist the operating dentist.

2. Person in charge of the anesthesia must remain on the premises of the dental facility until the patient has regained consciousness and is discharged.

D. Scope of regulation. Part III shall not apply to administration of General Anesthesia and Conscious Sedation in hospitals and surgi-centers.

§ 3.4. Report of adverse reactions.

A written report shall be submitted to the board by the treating dentist within 30 days following any mortality or morbidity that occurs in the facility or during the first 24 hours immediately following the patient's departure from the facility following and directly resulting from the administration of general anesthesia, conscious sedation, or nitrous oxide oxygen inhalation analgesia.

PART IV. RECORD KEEPING AND REPORTING.

§ 4.1. Records.

A. Laboratory work orders. Written work order forms and subwork order forms to employ or engage the services of any person, firm or corporation to construct or reproduce or repair, extraorally, prosthetic dentures, bridges or other replacements for a part of a tooth or teeth as required by § 54.1-2719 of the Code of Virginia shall include as a minimum the following information:

1. Patient name or case number, and date.
2. The signature, license number and address of the dentist.

B. Patient records. A dentist shall maintain patient records for not less than five years from the most recent date of service for purposes or review by the board to include the following:

1. Patient's name and date of treatment;
2. Updated health history;
3. Diagnosis and treatment rendered;
4. List of drugs prescribed, administered, dispensed and the quantity;
5. Radiographs;
6. Patient financial records and all insurance claim forms ; and
7. Name of dentist and dental hygienist providing service.

§ 4.2. Reporting.

- A. Dental students as hygienists. Prior to utilizing th

services of a senior dental student as a dental hygienist as provided in § 54.1-2712 of the Code of Virginia a dentist shall supply the board with the name and address of the student, the school in which the senior student is enrolled, the hours during which the student is expected to be employed as a hygienist, the expected period of employment (June and July, only) and verification that the employing dentist holds faculty appointment.

B. Current business addresses. Each licensee shall furnish the board at all times with his current primary Virginia business address (no P.O. Box accepted). If not practicing in Virginia, the primary out-of-state business address must be furnished (no P.O. Box accepted). Each dental hygienist shall furnish current resident address (no P.O. Box accepted). All notices required by law or by these regulations to be mailed by the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. All changes of address shall be furnished to the board in writing within 30 days of such changes.

§ 4.3. Unprofessional conduct.

The following practices shall constitute unprofessional conduct within the meaning of § 54.1-2706 of the Code of Virginia:

1. Fraudulently obtaining, attempting to obtain or cooperating with others in obtaining payment for services.
2. Performing services for a patient under terms or conditions which are unconscionable. The board shall not consider terms unconscionable where there has been a full and fair disclosure of all terms and where the patient entered the agreement without fraud or duress.
3. Misrepresenting to a patient and the public the materials or methods and techniques the licensee uses or intends to use.
4. Committing any act in violation of the Code of Virginia reasonably related to the practice of dentistry and dental hygiene.
5. Delegating any service or operation which requires the professional competence of a dentist or dental hygienist to any person who is not a dentist or dental hygienist except as otherwise authorized by these regulations.
6. Certifying completion of a dental procedure that has not actually been completed.
7. Knowingly or negligently violating any applicable statute or regulation governing ionizing radiation in the Commonwealth of Virginia, including, but not limited to, current regulations promulgated by the Virginia Department of Health.

8. Permitting or condoning the placement or exposure of dental x-ray film by an unlicensed person, except where the unlicensed person has complied with § 4.5 A 11 of these regulations.

§ 4.4. Advertising.

A. Practice limitation. A general dentist who limits his practice shall state in conjunction with his name that he is a general dentist providing only certain services, i.e., orthodontic services.

B. Fee disclosures. Any statement specifying a fee for a dental service which does not include the cost of all related procedures, services and products which, to a substantial likelihood will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person, shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

C. Discounts. Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.

D. Retention of broadcast advertising. A prerecorded copy of all advertisements on radio or television shall be retained for a six-month period following the final appearance of the advertisement. The advertising dentist is responsible for making prerecorded copies of the advertisement available to the board within five days following a request by the board.

E. Routine dental services. The purpose of this subsection is to delineate those routine dental services which may be advertised pursuant to § 54.1-2706(7) of the Code of Virginia and subsection F of § 4.4 of these regulations. The definitions as set out in Regulation I § 1.1 of these regulations are intended to set forth a minimum standard as to what constitutes such services for advertising purposes in order to allow the public to accurately compare the fees charged for a given service and to preclude potentially misleading advertisement of fees for a given service which may be delivered on a superficial or minimum basis. Advertising of fees pursuant to § 4.4 F 3 of these regulations is limited to the following routine dental services:

1. "Examination." A study of all the structures of the oral cavity, including the recording of the conditions of all such structures and an appropriate history thereof. As a minimum, such study shall include charting of caries, identification of periodontal disease, occlusal discrepancies, and the detection of oral lesions.
2. "Diagnosis." An opinion of findings in an

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examination.

3. "Treatment planning." A written statement of treatment recommendations following an examination and diagnosis. This statement shall include a written itemized treatment recommendation and written itemized fee statement.

4. "Radiographs." Shall document type and quantity. (See definitions).

5. "Complete or partial dentures and crowns." Any advertisement shall include full disclosure of all related fees and procedures.

6. "Prophylaxis." The removal of calculus, accretions and stains from exposed surfaces of the teeth and from the gingival sulcus.

7. "Simple extractions." A service for the removal of nonimpacted teeth, including a full disclosure of all related fees and procedures.

8. Other procedures which are determined by the board to be routine dental services are those services set forth in the American Dental Association's "Code on Dental Procedures and Nomenclature," as published in the Journal of the American Dental Association (JADA), as amended, which is hereby adopted and incorporated by reference.

F. The following practices shall constitute false, deceptive or misleading advertising within the meaning of § 54.1-2706(7) of the Code of Virginia.

1. Publishing an advertisement which contains a material misrepresentation or omission of facts.

2. Publishing an advertisement which contains a representation or implication that is likely to cause an ordinarily prudent person to misunderstand or be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive.

3. Publishing an advertisement which fails to include the information and disclaimers required by § 4.4 of these regulations.

4. *Publishing an advertisement which contains a claim of professional superiority, claims to be a specialist, or uses any of the terms to designate a dental specialty such as: (i) endodontist; (ii) oral or maxillofacial surgeon; (iii) oral pathologist; (iv) orthodontist; (v) pediatric dentist; (vi) periodontist; (vii) prosthodontist; (viii) public health or any derivation of these specialties unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the Commission on Dental Accreditation and the Council on Dental Education of the American Dental Association in effect on January*

1, 1988, or such guidelines or requirements as subsequently amended and approved by the dental disciplinary board, or other such organization recognized by the board.

5. A dentist not currently entitled to such specialty designation shall not represent that his practice is limited to providing services in a specialty area without clearly disclosing in the representation that he is a general dentist. A specialist who represents services in areas other than his specialty is considered to be practicing general dentistry.

G. Signage. Advertisements, including but not limited to signage, containing descriptions of the type of dentistry practiced or a specific geographic locator are permissible so long as the requirements of §§ 54.1-2718 and 54.1-2720 of the Code of Virginia are complied with.

§ 4.5. Nondelegable duties.

A. Nondentists. The following duties shall not be delegated to a nondentist:

1. Final diagnosis and treatment planning.

2. Performing surgical or cutting procedures on hard or soft tissue.

3. Prescribing drugs, medicaments and work authorizations.

4. Adjusting fixed or removable appliances or restorations in the oral cavity.

5. Making occlusal adjustments in the oral cavity.

6. Performing pulp capping and pulpotomy procedures.

7. Administering and monitoring local or general anesthetics, conscious sedation and administering nitrous oxide oxygen inhalation analgesia, except as provided for in § 54.1-2701 of the Code of Virginia and § 5.4 A 17 of these regulations.

8. Condensing and carving amalgam restorations.

9. Placing and contouring silicate cement and composite resin restorations.

10. Placement and fitting of orthodontic arch wire and making ligature adjustments creating active pressure on the teeth wires .

11. No person, not otherwise licensed by the board, shall place or expose dental x-ray film unless he has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, or (ii) been certified by the American Society of Radiological Technicians, (iii) satisfactorily completed a course and

passed an examination in compliance with guidelines provided by the board, or (iv) passed the board's examination in radiation safety and hygiene followed by on-the-job training. Any individual not able to successfully complete the board's examination after two attempts may be certified only by completing clause (i), (ii) or (iii) of this provision. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

12. Taking impressions for any working model except as provided in § 5.3 A 2 of these regulations.

PART V. DIRECTION AND UTILIZATION OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS.

§ 5.1. Employment of dental hygienists.

No dentist shall direct more than two dental hygienists at one and the same time.

§ 5.2. Required direction.

In all instances, a licensed dentist assumes ultimate responsibility for determining, on the basis of his diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with these regulations and the Code of Virginia.

Dental hygienists and assistants shall engage in their respective duties only while in the employment of a licensed dentist or governmental agency and under the direction and control of the employing dentist or the dentist in charge, or the dentist in charge or control of the governmental agency. The dentist shall be present and evaluate the patient during the time the patient is in the facility. Persons acting within the scope of a license issued to them by the board under § 54.1-2725 of the Code of Virginia to teach dental hygiene and those persons licensed pursuant to § 54.1-2722 of the Code of Virginia providing oral health education and preliminary dental screenings in any setting are exempt from this section.

§ 5.3. Dental hygienists.

A. The following duties may be delegated to dental hygienists under direction:

1. Scaling, root planing and polishing natural and restored teeth using hand instruments, rotary instruments, prophy-jets and ultrasonic devices.
2. Taking of working impressions for construction of athletic and fluoride guards.
3. Performing an original or clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.

4. *Subgingival irrigation or [subgingival] application of Schedule VI [topical] medicinal agents [in accordance with § 54.1-3408 of the Code of Virginia] .*

§ 5.4. Dental hygienists and dental assistants.

A. Only the following duties may be delegated to dental hygienists and dental assistants under direction:

1. No person not otherwise licensed by the board shall apply Schedule VI topical medicinal agents, including topical fluoride or desensitizing agents (aerosol topical anesthesia excluded), unless the individual has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association and been certified by the board, or (ii) satisfactorily completed a training program approved by the board and been certified by the board. This training program may be implemented by dentists and dental hygienists who are currently licensed to practice dentistry and dental hygiene in Virginia, and by certified dental assistants who are currently certified by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.
2. Acid etching in those instances where the procedure is reversible.
3. Application of sealants.
4. Serving as a chairside assistant aiding the dentist's treatment by concurrently performing supportive procedures for the dentist, including drawing up and compounding medications for administration by the dentist. The foregoing shall not prohibit the dentist from delegating to another licensed health care professional duties within the scope of their respective practice.
5. Placing and removing matrixes for restorations.
6. Placing and removing rubber dam.
7. Placing and removing periodontal packs.
8. Polishing natural and restored teeth by means of a rotary rubber cup or brush and appropriate polishing agent.
9. Holding and removing impression material for working models after placement in the patient's mouth by the dentist.
10. Taking nonworking impressions for diagnostic study models.
11. Placing of amalgam in prepared cavities with the carrier to be condensed and carved by the dentist.

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12. Placing and removing elastic orthodontic separators.
13. Checking for loose orthodontic bands.
14. Removing arch wires and ligature ties.
15. Placing ligatures to tie in orthodontic arch wire that has been fitted and placed by the dentist.
16. Selecting and prefitting of orthodontic bands for cementation by the dentist.
17. Monitoring of nitrous oxide oxygen inhalation analgesia.
18. Placing and exposing dental x-ray film. (No person who is not otherwise licensed by the board shall place or expose dental x-ray film unless the requirements of subsection A, paragraph 11, subdivision 11 of § 4.5 of these regulations have been fulfilled.)
19. Removing socket dressings.
20. Instructing patients in placement and removal of retainers and appliances after they have been completely fitted and adjusted in the patient's mouth by the dentist.
21. Removing sutures.
22. Removing supragingival cement on crowns, bands, and restorations.

Any procedure not listed above is prohibited.

§ 5.5. What does not constitute practice.

A. Oral health education and preliminary dental screenings in any setting are not considered the practice of dental hygiene and dentistry.

B. Recording a patient's pulse, blood pressure, temperature, and medical history.

V.A.R. Doc. No. R95-214; Filed December 27, 1994, 2:04 p.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-0002, Regulations Governing the Educational Programs Services for Gifted Students.

Statutory Authority: §§ 22.1-16 and 22.1-253.13:1 of the Code of Virginia.

Effective Date: February 22, 1995.

Summary:

The regulation amendments reflect recommended changes made by a team of experts and others with a vested interest in gifted education and others during the public comment period. The amendments:

- Change the title of the regulations to use the terminology "services" rather than "programs."

- Revise or define terminology relative to the identification of gifted students. In particular, the amendments call for three areas of giftedness rather than six areas and utilize the terminology "aptitude" rather than "ability." These changes reflect the most recent literature and research regarding giftedness and require school divisions to search for students who may not be utilizing their abilities but have the potential. Other additions define common terminology that is used in developing local plans for the education of gifted students.

- Revise identification criteria to require four or more categories rather than two or more categories. The categories also have been rearranged.

- Provide a greater emphasis on the provision of appropriate learning opportunities for gifted learners by defining "appropriately differentiated curricula." This addition responds to a requirement, established in Standard 5 of the Standards of Quality, which states that "...each school division shall offer appropriately differentiated instructional opportunities in accordance with guidelines of the Board of Education for identified gifted and talented students." The changes also call for the provision of varied "service options" to meet the individual needs of gifted students through both accelerative and enrichment opportunities.

- Require local school divisions to submit to the Department of Education for approval a plan for educating gifted students. While school divisions have been submitting plans to the Department of Education for approval, and state funding is tied to this process, the process has been implied rather than explicit. The change now defines this requirement. Other changes in this section reflect a realignment of the local plan requirements to respond to the proposed changes.

- Emphasize the role of the local gifted advisory committee and define the relationship of the committee to the division superintendent. This change responds to decentralization efforts at the Department of Education and allows greater local control in the development and implementation of programs to define and address the needs of gifted students. Also added was a requirement that the committee shall reflect the ethnic and geographical composition of the school division.

Preamble:

Article VIII, Section 1 of the Virginia Constitution

delineates the General Assembly's responsibility for education as follows:

"... shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth and shall seek to ensure that an educational program of high quality is established and continually maintained."

Section 2 of Article VIII requires the Board of Education to prescribe "... Standard of Quality for the several school divisions..." Standard 1 of such Standards of Quality, as enacted by the General Assembly, requires each school division to "... conduct a program acceptable to the Board of Education for the early identification of gifted and talented students." It is further stated that "... each school division shall offer appropriately differentiated instructional opportunities in accordance with guidelines of the Board of Education for identified gifted and talented students."

The requirements which follow set forth procedures for the development and operation of divisionwide special services for gifted students. These requirements, when coupled with the Virginia Plan for the Gifted, provide guidelines to meet the aforesaid statutory requirements.

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

Agency Contact: Copies of the regulation may be obtained from James E. Laws, Jr., Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2924. There may be a charge for copies.

VR 270-01-0002. Regulations Governing Educational Services for Gifted Students.

PART I. APPLICABILITY AND DEFINITIONS.

[Article] I [1]

[§ 1.1.] Applicability.

[§ 1.1.] These regulations shall apply to all local school divisions in the Commonwealth effective July 1, 1986 [July 1, 1993].

[Article] II [2]

[§ 1.2.] Definitions.

[§ 1.2.] The words and terms, when used in these regulations, shall have the following meaning, unless the content clearly indicates otherwise:

"Appropriately differentiated curricula" for gifted students refer to curricula designed in response to their cognitive and effective needs. Such curricula provide emphasis on both accelerative and enrichment opportunities for (i) advanced content and pacing of instruction, (ii) original research or production, (iii) problem finding and solving, (iv) higher level thinking that leads to the generation of products, and (v) a focus on issues, themes, and ideas within and across areas of study. [Curricular outcomes that specify expectations for advanced levels of performance shall be articulated at each grade level and within all program-relevant areas for gifted learners. Appropriate delivery systems shall support the differentiated curricula outcomes.]

"Gifted students" means those students in [kindergarten through grade 12 public elementary and secondary schools beginning with kindergarten through graduation] whose abilities and potential for accomplishment are so outstanding that they require special programs to meet their educational needs. These students will be identified by professionally qualified persons through the use of multiple criteria as having potential or demonstrated abilities and who have evidence of high performance [including leadership] capabilities, [which may include leadership,] in one or more of the areas as follows following areas :

1. General intellectual ability *Intellectual aptitude(s)* . Students with advanced general or specific information and an advanced aptitude for abstract reasoning and conceptualization, whose mental development is accelerated to the extent that they need and can benefit from specifically planned educational services differentiated from those generally provided by the general program experience. Students with advanced aptitude or conceptualization whose development is accelerated beyond their age peers as demonstrated by advanced skills, concepts, and creative expression in multiple general intellectual ability or in specific intellectual abilities.

2. Specific academic ability *aptitude* . Students who have aptitude in a specific area such as language arts or math, and who are consistently superior to the extent that they need and can benefit from specially planned educational services differentiated from those generally provided by the general program experience. Students with specific aptitudes in selected academic areas: mathematics; the sciences; or the humanities as demonstrated by advanced skills, concepts, and creative expression in those areas.

3. Visual or performing arts ability [*Technical and practical*] *arts aptitude*. Students who excel consistently in the development of a product or performance in any of the visual and performing arts to the extent that they need and can benefit from specifically planned educational services differentiated from those generally provided by the general program experience.

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[a. Students with specific aptitudes in selected performance areas, such as the visual arts, music, dance, or dramatic interpretation as demonstrated through advanced skills and creative expression in design, color kinesthetics, rhythm, tone or other aspects of expression.

b. Students with specific aptitudes in the technical or practical arts such as electronics, drafting, marketing, woodworking, and costuming as demonstrated by advanced skills and creative expression in those areas. Students with specific aptitudes in selected technical or practical arts as demonstrated by advanced skills and creative expression in those areas to the extent they need and can benefit from specifically planned educational services differentiated from those provided by the general program experience.]

4. Practical arts ability. Students who excel consistently in the development of a product or performance in any area of vocational education to the extent that they need and can benefit from specifically planned educational services differentiated from those generally provided by the general program experience.

[4. Visual or performing arts aptitude. Students with specific aptitudes in selected visual or performing arts as demonstrated by advanced skills and creative expression who excel consistently in the development of a product or performance in any of the visual and performing arts to the extent that they need and can benefit from specifically planned educational services differentiated from those generally provided by the general program experience.]

5. Psychosocial ability. Students who exhibit keen sensitivity to the needs of others and who not only assume leadership roles, but also are accepted by others as leaders to the extent that they need and can benefit from specially planned educational services differentiated from those generally provided by the general program experience.

6. Creative and productive thinking ability. Students who exhibit advanced insights, outstanding imagination, and innovation and who consistently engage in integrating seemingly unrelated information to formulate new and positive solutions to conventional tasks. Creativity refers to the students' ability to produce both tangible and intangible end products involving the use of divergent and convergent thinking and problem solving to the extent that they need and can benefit from specially planned educational services differentiated from those generally provided by the general program experience.

"Identification" is the process of reviewing student data collected at the screening level and conducting further evaluation of student potential to determine the most

qualified students for the specific gifted program available.

Identification/Placement Committee" means a standing committee appointed by the principal which is composed of the principal or his designee a professional who knows the child , the referring teachers classroom teacher(s), others representing assessment specialists, gifted program staff and school administration, and others deemed appropriate. This committee may [also] operate at the school or division level. In such case, a committee of like nature would be appointed by the superintendent or his designee. In either case, consistent criteria must be established for the division.

"Placement" means the determination of the appropriate educational option for each eligible student.

"Screening" is the process of creating the pool [or of] potential candidates using multiple criteria through the referral process, review of test data or from other sources. Screening is the active search for students who should be evaluated for identification.

[*"Service options" include the instructional approach(es), setting(s), and staffing selected for the delivery of appropriate service(s) that are based on student needs.*

"Student outcomes" are specified expectations based on the assessment of student cognitive and affective needs. Such outcomes should articulate expectations for advanced levels of performance for gifted learners.]

PART II. RESPONSIBILITIES OF THE LOCAL SCHOOL DIVISIONS.

§ 2.1. [*Applicability.*]

The requirements set forth in this section ~~part~~ are applicable to local school divisions providing educational services for gifted students in [*kindergarten through grade 12, elementary and secondary schools from kindergarten through graduation.*]

[*Article*] F [*F*].

[§ 2.2.] *Identification.*

[§ 2.2. A.] Each school division shall establish [~~and maintain~~] a uniform procedure *with common criteria* for screening and identification of gifted students. *If the school division elects to identify [and serve] students with specific academic aptitudes, they shall include procedures for identification [and service] in mathematics, science and humanities.* These procedures will permit referrals from school personnel, parents, or legal guardians, other persons of related expertise, *peer referral* and self-referral of those students believed to be gifted. Pertinent information, records, and other performance evidence of referred students will be examined by a building level or

division level identification committee. Further, the committee(s) will determine the eligibility of the referred students for differentiated programs. Students who are found to be eligible by the Identification/Placement Committee shall be offered a differentiated program by the school division.

[~~§ 2.2.~~ B.] Each school division shall maintain a division review procedure for students whose cases are appealed. This procedure shall involve individuals, the majority of whom did not serve on the Identification/Placement Committee.

[Article] II [~~2~~]

[§ 2.3.] Assessment Criteria for screening and identification .

[~~§ 2.4.~~] No single criterion shall be used in determining students who qualify for programs for the gifted. The eligibility of students for programs for the gifted shall be based on two or more of the following. Eligibility of students for programs for the gifted shall be based on multiple criteria for screening and identification established by the school division, and designed to seek out high aptitude in all populations. Multiple criteria shall include [~~three~~ four] or more of the following categories:

1. Individual or group IQ test Assessment of appropriate student products, performance, [~~and~~ or] portfolio ;
2. Individual or group achievement test in specific ability areas [Record of] observation of in-classroom behavior ;
3. Creativity test(s) by trained personnel Appropriate rating scales, checklists, or questionnaires ;
4. Appropriate rating scales, checklists, interest inventories or questionnaires Individual interview ;
5. Previous accomplishments Individual or group [ability aptitude] tests ;
6. Pupil products judged by an expert in the area of product being judged Individual or group achievement [~~aptitude~~] tests ;
7. Test(s) of special ability in the visual, performing, and practical arts Record of previous accomplishments (such as awards, honors, grades, etc.) ;
8. Additional valid and reliable measures or procedures.

If a program is designed to address general intellectual aptitude, [~~ability~~ aptitude] measures must be included as one of the categories in the division identification plan. If a program is designed to address specific academic aptitude, an achievement or an aptitude measure in the

specific academic area must be included as one of the categories in the division identification plan. [If a program is designed to address either the visual/performing arts or technical/practical arts aptitude, a performance measure in the specific aptitude area must be used.] Inclusion of a test score in a division identification plan does not indicate that an individual student must score at a prescribed level on the test(s) to be admitted to the program. No single criterion shall be used in determining students who qualify for [. or are denied access to,] programs for the gifted.

[Article] III [~~3~~]

[§ 2.4.] Local plan.

[~~§ 2.5.~~ A.] Each school division shall submit to the Department of Education for approval a plan for the education of gifted students. Modifications to the plan shall be reported to the Department of Education on dates specified by the agency department . The plan shall include the components as follow:

1. A statement of philosophy;
2. A statement of program goals and objectives;
3. Procedures for the early and on-going identification and placement of gifted students; [beginning with kindergarten through secondary graduation in at least one of the four defined areas of giftedness] ;
4. Program design which includes curriculum goals and differentiated instruction for kindergarten through grade 12 A procedure for notifying parents or legal guardians when additional testing or additional information is required during the identification process and for obtaining permission prior to placement of students in the appropriate program;
5. Procedures for the selection and training of personnel serving identified gifted students to include administrators/supervisors, pupil personnel specialists, and teachers A policy for notifying gifted students' change of placement within, and exit from the program, which includes an opportunity for parents who disagree with the committee(s) decision to meet and discuss their concern(s) with an appropriate administrator ;
6. Procedures for the evaluation of the effectiveness of the school division's program for gifted students; Assurances that records are maintained according to [VR 270-01-0014,] Management of Student's Scholastic Record in the Public Schools of Virginia;
7. A procedure for notifying parents/legal guardians when additional testing or additional information is required during the assessment process and for obtaining permission prior to placement of student in the program Assurances that (i) testing and evaluation

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materials selected and administered are sensitive to cultural, racial, and linguistic differences, (ii) identification procedures are constructed so that they [seek out identify] high potential/ability in all [underserved culturally diverse, low socio-economic, and disabled] populations; (iii) standardized tests have been validated for the specific purpose for which they are used; (iv) instruments are administered and interpreted by a trained personnel in conformity with the instructions of their producer ;

8. A policy for identified gifted students' entry into and exit from the program which includes an opportunity for levels of appeal with reasonable timelines and an opportunity for parents who disagree with the committee(s) decision to meet and discuss their concern(s) with an appropriate administrator; [A comprehensive program for gifted students in grades K-12 to include appropriately differentiated curricula designed in response to their cognitive and effective needs. Such curricula provide emphasis on both accelerative and enrichment opportunities for (i) advanced content and pacing of instruction, (ii) original research, (iii) problem finding and solving, (iv) higher level thinking that leads to the generation of products, and (v) a focus on issues, themes, and ideas within and across areas of study A procedure to identify and evaluate student outcomes based on the initial and ongoing assessment of their cognitive and affective needs] ;

9. Assurances that records are maintained according to "Management of Students Scholastic Record into Public Schools of Virginia" [Curricular outcomes that specify expectations for advanced levels of performance shall be articulated at each grade level and within all program-relevant areas for gifted learners. Appropriate delivery systems shall support the differentiated curricula outcomes A procedure to match service options, including instructional approaches, settings, and staffing, to designated student needs] ;

10. Assurances that testing and evaluative materials selected and administered (i) are neither culturally nor racially discriminatory; (ii) are sensitive to language differences; (iii) have been validated for the specific purpose for which they are used; and (iv) are administered and interpreted by trained personnel in conformance with the instructions by their producer [Procedures for the selection/evaluation of teachers and for the training of personnel to include administrator/supervisor, teachers and support staff A framework for appropriately differentiated curricula indicating accelerative and enrichment opportunities in content, process, and product] ;

11. Other information as required by the Department of Education. [Procedures for the appropriate evaluation of the effectiveness of the school divisions's program for gifted student Procedures for the

selection/evaluation of teachers and for the training of personnel to include administrators/supervisors, teachers, and support staff] ;

12. [~~Other information as required by the Department of Education.~~ Procedures for the appropriate evaluation of the effectiveness of the school division's program for gifted students;

13. Other information as required by the Department of Education.]

[§ 2.6. B.] Each school division shall provide establish a local advisory committee composed of parents, [teachers,] and community members, and others whose purpose is to advise the school board through the division superintendent on the educational needs of gifted students; and to review annually the local plan for the education of gifted students and the extent to which the plan for the previous year was implemented. [administrators, representatives of business and industry, school personnel and other community members. This committee shall reflect the ethnic and geographical composition of the school division.] The purpose of this committee shall be to advise the school board through the division superintendent of the educational needs of all gifted students in the division. As a part of this goal, the committee shall review annually the local plan for the education of gifted students, including revisions, and determine the extent to which the plan for the previous year was implemented. The recommendations of the advisory committee shall be submitted in writing [to through] the division superintendent [to the school board] .

[Article] IV [4.]

[§ 2.5.] Funding.

[§ 2.7.] State funds administered by the Department of Education for the education of gifted students shall be used to support only those activities identified in the school division's plan as approved by the Board of Education.

V.A.R. Doc. No. R95-210; Filed December 27, 1994, 10:46 a.m.

* * * * *

Title of Regulation: VR 270-01-0055. Regulations for the Protection of Students as Participants in Human Research.

Statutory Authority: § 22.1-16.1 of the Code of Virginia.

Effective Date: February 22, 1995.

Summary:

These regulations are designed to protect students who are under the authority of the Virginia State Board of

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Education who become involved in research activities. These regulations provide all of the protection provided by the Code of Federal Regulations (45 CFR 46) and § 32.1-162.17 of the Code of Virginia, as well as two additional provisions. These provisions are (i) informed written and witnessed informed consent must be given by the student's parent or guardian, and (ii) any research involving these students must be approved by a committee established by the school or agency authorizing the research.

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

Agency Contact: Copies of the regulation may be obtained from James E. Laws, Jr., Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2924. There may be a charge for copies.

VR 270-01-0055. Regulations for the Protection of Students as Participants in Human Research.

[§ 1. Applicability.

These regulations shall apply to the Virginia Department of Education or any public schools including the Virginia Schools for the Deaf and Blind or any proprietary schools certified by the Board of Education.

§ 2. Policy.

A. No human research may be conducted without informing the parent of the student in writing of the risks, procedures, and discomforts of the research. The consent of the parent of the student to participate in the research must be documented in writing and supported by the signature of a witness not involved in the conduct of the research, except as provided for in § 9 F of these regulations. Special arrangements shall be made for those who need special assistance in understanding the consequences of being a participant in human research.

B. Each human research activity shall be approved by a committee composed of representatives of varied backgrounds who shall assure the competent, complete, and professional review of human research activities.

C. The individual conducting the research shall be required to notify all parents of students who were participants in the research of the risks caused by the research which are discovered after the research has concluded.

§ 3. Definitions.

"Agency" means State Department of Education (state educational agency); local school divisions; Virginia Schools for the Deaf and Blind, or any proprietary school certified

by the Board of Education.

"Assent" means a student's and a parent's affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent.

"Board" means the State Board of Education.

"Department" means the State Department of Education.

"Human research" means any systematic investigation which utilizes human subjects who may be exposed to physical or psychological injury as a consequence of participation and which departs from the application of established and accepted therapeutic methods appropriate to meet the subject's needs.

"Human subject" means a living individual about whom an investigator (whether professional or student) conducting research obtains (i) data through intervention or interaction with the individual, or (ii) identifiable private information. Intervention includes both physical procedures by which data are gathered (for example, surveys, questionnaires) and manipulation of the subject or the subject's environment that are performed for research purposes. Interaction includes communication or interpersonal contact between investigator and subject. Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual, and which the individual can reasonably expect will not be made public, for example, a medical record. Private information must be personally identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or others associated with the investigation) in order for obtaining the information to constitute research involving human subjects.

For the purposes of these regulations, "human subject" refers to students.

"Informed consent" means the knowing and voluntary agreement, without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion, of a person who is capable of exercising free power of choice. For the purposes of research, the basic elements of information necessary to such consent shall include the following:

1. A reasonable and comprehensible explanation to the person of the proposed procedures or protocols to be followed, their purposes, including descriptions of any attendant discomforts, and risks and benefits reasonable to be expected;

2. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the person;

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3. An instruction that the person may withdraw his consent and discontinue participation in the human research at any time without prejudice to him;

4. An explanation of any costs or compensation which may accrue to the person and, if applicable, the availability of third party reimbursement for the proposed procedures or protocols; and

5. An offer to answer and answers to any inquiries by the person concerning the procedures and protocols.

"Local education agency" or "LEA" means the local school division responsible for providing educational services to students.

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

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

"Parent" means a parent, a guardian, or a person acting as a parent of a child. The term "parent" means either parent, unless the LEA or the department has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody which mother or father, the adoptive mother or father, or the legally appointed guardian or committee has custody of the child. The definition also includes persons acting in the place of a parent such as a grandparent or stepparent with whom the child lives, as well as the persons who are legally responsible for a child's welfare. The term also means a surrogate parent appointed pursuant to provisions set forth in Regulations Governing Special Education Programs for Children with Disabilities (VR 270-01-0007). A child 18 years or older, who has not been declared incompetent by a court, may assert any rights under these regulations in his own name.

"Permission" means the agreement of parent, guardian, or an individual acting as a parent of a student in the absence of a parent or guardian, to the participation of the student in research.

"Qualified review committee" means a group specifically formed to review research involving human subjects conducted or sponsored by an entity in order to protect the rights of the human subjects of such research.

"Student" means persons who have not attained the legal age for consent to treatments or procedures involved in the research under the applicable law of the jurisdiction in which the research will be conducted.

"Subject-at-risk" means any individual who may be

exposed to the possibility of injury including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity which departs from the application of those established and accepted methods necessary as to meet his needs, or which increases the ordinary risks of daily life.

"Superintendent" means the Superintendent of Public Instruction for the Department. "LEA superintendent" means the local school division superintendent.

§ 4. Exemptions.

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

1. Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies, the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods, or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that students cannot be identified directly or through identifiers linked to the students.

2. Research involving survey or interview procedures, unless responses are recorded in such a manner that the students can be identified directly or through identifiers linked to the students.

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

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

5. Research involving solely a combination of any of the activities described in this subsection.

B. Actions initiated by the board are exempt from these regulations.

§ 5. Certification process.

A. Agencies seeking to conduct or sponsor human research are required to submit statements to the department assuring that all human research activities will be reviewed and approved by a research review committee. The agency shall report annually to the

Superintendent giving assurance that a committee exists and is functioning. These reports shall include a list of committee members, their qualifications for service on the committee, and their school affiliation. A copy of the minutes of committee meetings shall be kept on file with the reporting agency.

B. Prior to the initiation of a human research project, the agency shall also send to the agency head a description of the research project to be undertaken, which shall include a statement of the criteria for inclusion of a student in the research project, a description of what will be done to the students, and a copy of the informed consent statement(s).

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

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

E. The chairperson of the committee shall report as soon as possible to the agency head and to the Superintendent any violation of the research protocol which led the committee to either suspend or terminate the research.

F. By definition, the agency seeking to conduct human research may be a local school division. In this instance, requirements set forth in these regulations are applicable to the LEA.

§ 6. Composition of research review committee.

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

B. No committee shall consist entirely of members of

one profession; and at least one member must be an individual whose primary concerns are in noneducation areas.

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

D. No member of a committee shall participate in the committee's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the committee. The committee has responsibility for determining whether a member has a conflicting interest. The committee's size shall be increased in the case of conflicting interests resulting in a decrease of the committee below five persons.

E. No member of the committee shall be directly involved in the proposed human research or have administrative approval authority over the proposed human research except in connection with his responsibilities as a member of the committee.

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

G. A quorum of the committee shall consist of a majority of its members.

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

§ 7. Elements of the committee's review process.

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

1. The adequacy of the description of potential benefits and risks involved and adequacy of the methodology of the research;
2. The degree of risk, and, if the research is nontherapeutic, whether it presents greater than minimal risk;
3. Whether the rights and welfare of the students are adequately protected;
4. Whether the risks to the students are outweighed by the potential benefits to them;
5. Whether the informed consent is to be obtained by

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methods that are adequate and appropriate and whether the written consent form is adequate and appropriate in both content and language for the particular research and for the particular students of the research;

6. Whether the persons proposing to supervise or conduct the particular human research are appropriately competent and qualified;

7. Whether criteria for selection of students are equitable;

8. Whether the research conforms with such other requirements as the board may establish; and

9. Whether appropriate studies in nonhuman systems have been conducted prior to the involvement of students;

B. Each committee shall review approved projects to ensure conformity with the approved proposal at least annually.

C. Research must be approved by the committee which has jurisdiction over the student. When cooperating agencies conduct some or all of the research involving some or all of the students, each cooperating agency is responsible for safeguarding the rights and welfare of students and for complying with these regulations, except that in complying with these regulations agencies may enter into joint review, rely upon the review of another qualified committee, or make similar arrangements aimed at avoiding duplication of effort. Such arrangements may be made by the committee chairperson with the approval of a majority of the members present at a meeting of the committee.

D. The committee shall consider research proposals within 30 calendar days after submission to the committee chairperson. In order for the research to be approved, it shall receive the approval of a majority of those members present at a meeting in which a quorum exists. The committee shall notify investigators and the agency in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure committee approval. Such notification shall be issued within five calendar days of the committee's decision.

E. The committee shall develop a written description of the procedure to be followed by a student or parent who has a complaint about a research project in which the student is participating or has participated.

F. Any student, or the parent of any student, who has a complaint about a research project in which the student is participating or has participated shall be referred to the committee chairperson who shall refer it to the committee to determine if there has been a violation of the protocol.

G. The committee shall require periodic reports. The frequency of such reports should reflect the nature and degree of risk of each research project.

§ 8. Abbreviated review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research:

A. The committee may review some or all of the research listed in subsection C of this section through an expedited review procedure, if the research involves no more than minimal risk as determined by the committee chairperson. The committee may also use the expedited review procedure to review minor changes in previously approved research during the period (of one year or less) for which approval is authorized. Under an expedited review procedure, the review may be carried out by the committee chairperson and one or more experienced reviewers designated by the chairperson from among members of the committee. In reviewing the research, the reviewers may exercise all of the authorities of the committee except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the nonexpedited procedure set forth in § 7 of these regulations.

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

C. Research activities involving no more than minimal risk and in which the only involvement of students will be in one or more of the following categories (carried out through standard methods) may be reviewed by the research review committee through the expedited review procedure:

1. Voice recordings made for research purposes such as investigations of speech defects;

2. Moderate exercise of healthy volunteers;

3. Research on individual or group behavior or characteristics of individuals, such as studies of perception, cognition, game theory, or test development; where the investigator does not manipulate students' behavior and the research will not involve stress to students;

§ 9. Informed consent.

A. No human research may be conducted in this Commonwealth in the absence of informed consent subscribed to in writing by the student, otherwise capable of rendering informed consent, and parent. An investigator shall seek such consent only under circumstances that provide the prospective student and parent sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence.

B. No individual shall participate in research unless this requirement is met for each individual. The giving of consent by a parent shall be subject to the provisions of subsection C of this section. No informed consent shall include any language through which the student or parent waives or appears to waive any of his legal rights, including any release of any individual or agency or any agents thereof from liability for negligence. Notwithstanding consent by a parent, no person shall be forced to participate in any human research. Each parent shall be given a copy of the signed consent form required by § 2 A of these regulations, except as provided for in subsection F of this section.

C. No parent may consent to nontherapeutic research unless it is determined by the committee that such nontherapeutic research will present no more than a minor increase over minimal risk to the student.

D. The committee may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent, or waive the requirements to obtain informed consent provided the committee finds and documents that:

1. The research involves no more than minimal risk to the students;
2. The waiver or alteration will not adversely affect the rights and welfare of the students; and
3. The research could not practicably be carried out if informing the student would compromise the validity of the study.

Whenever appropriate, the students and parents will be provided with additional pertinent information after participation.

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

1. A written consent document that embodies the elements of informed consent required by § 3 H of these regulations. This form may be read to the student and parent, but in any event, the investigator shall give the student and parent adequate opportunity to read it before it is signed; or
2. A short form written consent document stating that the elements of informed consent required by § 3 H of these regulations have been presented orally to the student and parent. When this method is used, there shall be a witness to the oral presentation. Also, the committee shall approve a written summary of what is to be said to the student or parent. Only the short form itself is to be signed by the student or parent. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary shall be given to the student or

parent in addition to a copy of the short form.

F. The committee may waive the requirement for the investigator to obtain a signed consent form for some or all students and parents if it finds that the only record linking the student and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. Each parent will be asked whether the parent wants documentation linking the student with the research, and the parent's wishes will govern. In cases where the documentation requirement is waived, the committee, whenever appropriate, shall require the investigator to provide parents with a written statement regarding the research.

G. Information regarding the human research and consent shall provide an instruction that the parent or student or both may withdraw his consent and discontinue participation in the human research at any time without prejudice to him.

H. Information relative to the consent and research that is given to the student and parent shall be in language understandable to the student and parent. This includes all instances wherein the primary or home language is anything other than English.

§ 10. Committee records.

A. An agency, or when appropriate a committee, shall prepare and maintain adequate documentation of committee activities, including the following:

1. Copies of all research proposals reviewed; scientific evaluations, if any, that accompany the proposals; approved sample consent documents; progress reports submitted by investigators; and reports of injuries to students.
2. Minutes of committee meetings which shall be in sufficient detail to show attendance at the meetings; actions taken by the committee; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or for disapproving research; and a written summary of the discussion of controverted issues and their resolution.
3. Records of continuing review activities.
4. Copies of all correspondence between the committee and the investigators.
5. A list of committee members.
6. Written procedures for the committee.
7. Statements of significant new findings provided to parents of students.

B. The records required by this regulation shall be

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retained for at least five years, and records relating to research which is conducted shall be retained for at least five years after completion of the research. All records shall be accessible for inspection and copying by the state Superintendent of Public Instruction or designated members of his staff at reasonable times and in a reasonable manner.

§ 11. Role of the department, Superintendent, and the board.

A. The Superintendent or his designee shall establish and maintain records of agency assurances, annual reports, and summary descriptions of research projects to be reviewed by the board.

B. The Superintendent or his designee shall review communications from committees reporting violations of research protocols which led to suspension or termination of the research to ensure that appropriate steps have been taken for the protection of the rights of students involved in human research. The board shall be kept informed.

C. The Superintendent or his designee shall arrange for the printing and dissemination of copies of these regulations.

D. Each committee shall submit to the Superintendent or his designee annually a report on the human research projects reviewed and approved by the committee and to report any significant deviations from the proposals as approved.

E. The Superintendent shall submit to the Governor and the General Assembly annually a report on the human research projects reviewed and approved by the committees and any significant deviations from the proposals as approved.

§ 12. Applicability of state policies.

Nothing in these regulations shall be construed as limiting in any way the rights of students in research under regulations promulgated by the board pursuant to Chapter 5-1 (§ 32.1-162.16 et seq.) of Title 32.1 and § 22.1-16.1 of the Code of Virginia.

§ 13. Applicability of federal policies.

Human research which is subject to policies and regulations for the protection of students promulgated by any agency of the federal government shall be exempt from these regulations. Agencies shall notify the Superintendent annually of their compliance with the policies and regulations of federal agencies.

§ 1. Definitions.

The terms in these regulations, except as otherwise defined herein, shall be in accord with the definitions contained in Chapter 5.1 (§ 32.1-162.16 et seq.) of Title

32.1 of the Code of Virginia entitled "Human Research."

§ 2. Scope.

No human research involving students shall be conducted or authorized by the Virginia Department of Education or any public school of the Commonwealth of Virginia, including the Virginia Schools for the Deaf and Blind, or any proprietary schools certified by the Board of Education, unless in compliance with these regulations and other applicable law, including 45 CFR 46.

§ 3. Informed consent.

No such research shall be conducted or authorized unless the student and the student's parents or legally authorized representative give their informed consent. Such informed consent shall be evidenced by a signed and witnessed informed consent form. Such form shall comply with § 32.1-162.18 A of the Code of Virginia.

§ 4. Research committee.

Any such research shall be approved and conducted under the review of a human research committee, which shall be established by the agency or school conducting or authorizing the research. Any such committee shall comply with the provisions of § 32.1-162.19 of the Code of Virginia. Each committee shall submit to the Governor, the General Assembly, and the Superintendent of Public Instruction or his designee at least annually a report on the student projects reviewed and approved by the committee, which shall state significant deviations from the proposals as approved.

§ 5. Exemptions.

There shall be excluded from the operation of these regulations those categories of research as set forth in § 32.1-162.17 of the Code of Virginia which exempts..."Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies, the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods, or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subjects..."]

VA.R. Doc. No. R95-158; Filed December 1, 1994, 10:51 a.m.

BOARD OF GAME AND INLAND FISHERIES

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

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

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

Effective Date: February 22, 1995.

Summary:

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

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

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

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

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

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

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

§ 3. Exclusions.

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

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

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

AMPHIBIANS:

Order	Family	Genus/Species	Common Name
Anura	Bufoiidae	Bufo marinus	Giant or marine toad*
	Pipidae	Xenopus spp.	Tongueless or African clawed Frog
Caudata	Ambystomatidae	Ambystoma tigrinum	Barred tiger salamander
		A. A. diaboli	Gray tiger salamander
		A. A. 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	Ictalobus bubalus	Smallmouth buffalo*	
		I. cyprinellus	Bigmouth buffalo*	
		I. niger	Black buffalo*	
	Characidae	Pygopristis spp.	Piranhas	
		Pygoconurus spp.		
		Rooseveltia spp.		
		Serrasalmo spp.		
	Cyprinidae	Taddeiella spp.	Aristichthys nobilis	Bighead carp*
			Ctenopharyngodon idella	Grass carp or white amur
			Hypophthalmichthys molitrix	Silver Carp*
Mylopharyngodon plicatus			Black carp	
Scardinius erythrophthalmus			Rudd	
Tinca tinca			Tench*	
Perciformes	Cichlidae	Tilapia spp.	Tilapia	
		Gymnocephalus cernuum	Ruffe*	
Siluriformes	Clariidae	All species	Air-breathing catfish	

MAMMALS:

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

MOLLUSKS:

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

REPTILES:

Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, Caimans*
	Colubridae	Boiga illegularis	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(s) acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tatoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

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

D. Exception for parts or products. A permit is not required for parts or products of those nonnative (exotic)

animals listed in subsection A that may be used in the manufacture of products or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving shall be kept by the person, business or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Game and Inland Fisheries.

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

F. Exemptions for hybrids between dogs (Canis familiaris) and wolves (Canis lupus). A permit will not be required to import, possess or sell hybrids between domestic dogs (Canis familiaris) and wolves (Canis lupus) until July 1, 1993.

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

[§] 5. *Possession, transportation, and release of wildlife by authorized persons.*

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

that the methods of and documentation for the capture, possession, transport, release and euthanasia shall be in accordance with board policy.

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

V.A.R. Doc. No. R95-215; Filed January 4, 1995. 11:15 a.m.

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

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

Effective Date: February 22, 1995.

Summary:

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

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

§ 1. Hunting in the snow.

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

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

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

B. Crossbows permitted for persons with permanent physical disabilities. For the purposes of this section any person, possessing a medical doctor's written statement based on a physical examination declaring that such person has a permanent physical disability that prohibits the person from holding the mass weight of a conventional bow and arrow at arm's length perpendicular to the body,

or drawing or pulling or releasing the bow string of a conventional bow, and thus prevents that person from hunting with conventional archery equipment, may hunt with a crossbow on his own property during established special archery seasons. The doctor's written statement must be carried by the person while hunting and a copy of the doctor's written statement must be provided to the department on a form provided by the department, prior to hunting with a crossbow and the department's verification form shall be presented upon demand to any officer whose duty it is to enforce the game and inland fish laws.

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

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

§ 4. Live birds or animals as decoys prohibited.

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

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

It shall be unlawful to put out poison at any time for the purpose of killing any wild birds and wild animals, provided that rats and mice may be poisoned on one's own property. The provisions of this section shall not apply to the Commissioner of Agriculture and Consumer Services, or his representatives or cooperators, and those being assisted in a control program following procedures developed under the "Virginia Nuisance Bird Law."

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

A. National forests and department-owned lands. It shall be unlawful to have in possession a bow or a gun which is not unloaded and cased or dismantled, in the national forests and on department-owned lands and on lands managed by the department under cooperative agreement except during the period when it is lawful to take bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, waterfowl, in all counties west of the Blue Ridge Mountains and on national forest lands east of the Blue Ridge Mountains and migratory game birds in all counties east of the Blue Ridge Mountains. The provisions of this section shall not prohibit the conduct of any activities authorized by the board or the establishment and operation of archery and shooting ranges on the above-mentioned lands. The use of firearms and bows in such ranges during the closed season period will be restricted to the area within established range boundaries.

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Such weapons shall be required to be unloaded and cased or dismantled in all areas other than the range boundaries. The use of firearms or bows during the closed hunting period in such ranges shall be restricted to target shooting only and no birds or animals shall be molested.

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

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

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

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

§ 6-1. Open dog training season.

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

B. Designated portions of certain department-owned lands. It shall be lawful to train dogs on quail on designated portions of the Amelia Wildlife Management Area, Chester F. Phelps Wildlife Management Area, Chickahominy Wildlife Management Area and Dick Cross Wildlife Management Area from September 1 to the day prior to the opening date of the quail hunting season, both dates inclusive. Participants in this dog training season shall not have any weapons other than starter pistols in their possession, shall not release pen-raised birds, must comply with all regulations and laws pertaining to hunting

and no game shall be taken.

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

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

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

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

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

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

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

It shall be unlawful to hunt, shoot, kill, trap or molest or attempt to hunt, shoot, kill, trap or molest at any time any waterfowl including ducks, geese, brant, or coot, or to hunt, shoot, kill, trap, molest, or attempt to hunt, shoot, kill, trap, or molest any other birds or animals on or in the area described in § 9 of this regulation, except at designated times from waterfowl blinds established by the department, provided that the department may, when deemed necessary for the better development of said refuge, remove by trapping or otherwise any birds or animals as would not be beneficial to the purposes for which such refuge is established.

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

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

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

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

adequate notice to the public.

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

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

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

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

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

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

§ 16. Marking of traps by person setting.

Any person setting or in possession of a steel leghold or body gripping trap or snare shall have it marked by means of nonferrous metal tag bearing his name and address. This requirement shall not apply to landowners on their own land, nor to a bona fide tenant or lessee within the bounds of land rented or leased by him, nor to anyone transporting any such trap from its place of purchase.

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

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

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

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

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

It shall be unlawful to set above the ground any body-gripping trap with a jaw spread in excess of five

inches baited with any lure or scent likely to attract a dog.

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

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

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

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

§ 22. Dates for setting traps in water.

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

§ 23. Animal population control.

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

§ 24. Wanton waste.

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

§ 25. Sunday hunting on controlled shooting areas.

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

B. It shall be unlawful to hunt pen-raised game birds on Sunday on controlled shooting areas in those counties having a population of not less than 54,000, nor more than

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55,000, or in any county or city which prohibits Sunday operation by ordinance.

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

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

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

If a mount or hide is not claimed after the return of a signed certified receipt and within the 15-day period, then the taxidermist may sell the mount for an amount not to exceed the remainder of the amount of the original invoice plus reasonable administrative and storage costs. Within seven days of the sale of any unclaimed mount the taxidermist shall notify the department in writing of the name and address of the purchaser, invoice price, species sold, taxidermist, and previous owners' name and address.

V.A.R. Doc. No. R95-216; Filed January 4, 1995, 11:16 a.m.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: VR 672-20-20. Regulation Governing Management of Coal Combustion By-Products.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Effective Date: February 22, 1995.

Summary:

This regulation provides for the use of coal combustion by-products and establishes standards for siting, design, construction, operation, and administrative procedures pertaining to their use, reuse, or reclamation.

The regulation allows for the use of by-products in structural fills and mine land reclamation projects. It applies to all persons who use, reuse, or reclaim the by-products by applying them to or placing them on land and to the owners or operators of the coal mining facilities that accept the by-products for mine land reclamation or mine refuse disposal on sites permitted by the Virginia Department of Mines, Minerals and Energy.

The regulation contains provisions regarding the siting of projects, the design and construction of runoff and cover systems, and closure of projects. It also provides minimum requirements for the operation of the site.

Preface:

This regulation provides for reasonable exemptions from the permitting requirements contained in Part VII of the Virginia Solid Waste Management Regulations (VR 672-20-10) and certain substantive facility standards contained in § 5.3 of VR 672-20-10, in order to promote the development of resource conservation and resource recovery systems as required by § 10.1-1402(5) of the Code of Virginia.

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

Agency Response: Copies of the regulation may be obtained from Cindy M. Berndt, Regulatory Coordinator, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 762-4378. There may be a charge for copies.

VR 672-20-20. Regulation Governing Management of Coal Combustion By-Products.

PART I. DEFINITIONS.

§ 1.1. *Definitions as established in VR 672-20-10, Virginia Solid Waste Management Regulations.*

The definitions set out in Part I of the Virginia Solid Waste Management Regulations (VR 672-20-10) are incorporated by reference.

§ 1.2. *Definitions.*

In addition to the definitions incorporated by reference, the following words and terms shall have, for the purpose of this regulation, the following meaning:

"ASTM" means the American Society for Testing and Materials.

"CCB" means coal combustion by-products.

"CCB site" means all land and structures, other appurtenances, and improvements thereon used to manage CCB by the methods included in either § [~~2.3 A~~ 2.2 A] or § [~~2.3 B~~ 2.2 B.]

"Closure" means the act of securing a CCB site pursuant to the requirements of this regulation.

"Director" means the Director of the Department of Environmental Quality or the Director of the Department of Mines, Minerals and Energy depending on the context.

"Perennial stream" means a stream or part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface runoff.

"Speculatively accumulated material" means any material that is accumulated before being used, reused, or reclaimed or in anticipation of potential use, reuse, or reclamation. CCB are not being accumulated speculatively when they can be used, reused, or reclaimed, have a feasible means of use, reuse, or reclamation available and 75% of the accumulated CCB are being removed from the storage annually.

"TCLP" means a chemical analytical procedure described in the Virginia Hazardous Waste Management Regulations (VR 672-10-1).

PART II. PURPOSE AND APPLICABILITY.

§ 2.1. Purpose.

The purpose of this regulation is to provide for the use of coal combustion by-products (CCB) and to establish appropriate standards for siting, design, construction, operation, and administrative procedures pertaining to their use, reuse, or reclamation.

§ 2.2. Applicability.

A. This regulation applies to all persons who use, reuse, or reclaim CCB by applying them to or placing them on land in a manner other than addressed in § 3.2 or § 3.3 of the Virginia Solid Waste Management Regulations (VR 672-20-10).

B. This regulation establishes minimum standards for the owners or operators of coal mining facilities that accept CCB for mine reclamation or mine refuse disposal on a mine site permitted by the Virginia Department of Mines, Minerals and Energy (DMME) unless otherwise exempt under § 3.3 B of the Solid Waste Management Regulations (VR 672-20-10). If the permit issued by the DMME in accordance with the Virginia Surface Mining Regulations (VR 480-03-19) specifies the applicable conditions set forth in Parts III and IV of this regulation, the permittee is exempt from this regulation.

C. Conditions of applicability are as follows.

1. Persons using CCB other than in a manner prescribed under this regulation [, or managing CCB containing any constituent at a level exceeding levels set forth in Table 1 in Part IV of this regulation,] shall manage their waste in accordance with all [applicable] provisions of the Virginia Solid Waste Management Regulations (VR 672-20-10);

2. Materials which are accumulated speculatively, materials which are not utilized in a manner described in the operation plan required by § 3.3 of this regulation, and off-specification materials which cannot be utilized or reprocessed to make them usable shall be managed in accordance with all appropriate provisions of the Virginia Solid Waste Management Regulations (VR 672-20-10); and

3. Storage, stockpiling, and other processing or handling of CCB, which may need to occur prior to their final placement or use, reuse, or reclamation, shall be in a manner necessary to protect human health and safety and the environment. For projects permitted by the DMME, the storage, stockpiling, or handling of CCB shall be managed in accordance with the Virginia Surface Mining Regulations (VR 480-03-19).

§ 2.3. Relationship to other regulations.

This regulation does not affect the Virginia Solid Waste Management Regulations (VR 672-20-10) or other pertinent regulations of the department or other agencies of the Commonwealth, except that persons subject to and in compliance with this regulation are exempt from the Virginia Solid Waste Management Regulations (VR 672-20-10) and the Financial Assurance Regulations for Solid Waste Facilities (VR 672-20-1) for those activities covered by this regulation.

§ 2.4. Enforcement and appeals.

A. All administrative enforcement and appeals taken from actions of the director relative to the provisions of this regulation shall be governed by the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

B. The owner or operator of the CCB site who violates any provision of this regulation will be considered to be operating an unpermitted facility as provided for in § 2.7 of the Solid Waste Management Regulations (VR 672-20-10) and shall be required to either obtain a permit as required by Part VII or close under Part V of those regulations.

C. The requirement to obtain a permit or to close the project shall not preclude additional action for remediation or enforcement, including (without limitations) the assessment of civil charges or civil penalties, as is

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otherwise authorized by law.

PART III. MANAGEMENT STANDARDS.

Article 1. Locational Restrictions.

§ 3.1. Locational restrictions.

Coal combustion by-products used, reused, or reclaimed on or below ground shall not be placed:

1. In areas subject to base floods unless it can be shown that CCB can be protected from inundation or washout and that flow of water is not restricted;
2. With the vertical separation between the CCB and the maximum seasonal water table or bedrock less than two feet;
3. Closer than:
 - a. 100 feet of any perennial stream,
 - b. 100 feet of any water well (other than a monitoring well) in existence at the onset of the project,
 - c. 25 feet of a bedrock outcrop, unless the outcrop is properly treated to minimize infiltration into fractured zones,
 - d. 100 feet of a sinkhole, or
 - e. 25 feet from any property boundary or, in the case of projects permitted by the DMME, 25 feet from the permit boundary.

(NOTE: All distances are to be measured in the horizontal plane.)

4. In wetlands, unless applicable federal, state and local permits are obtained;
5. On the site of an active or inactive dump, unpermitted landfill, lagoon, or similar facility, even if such facility is closed.

Article 2. Design and Construction.

§ 3.2. Design and construction.

This section prescribes design and construction standards for CCB sites. The owner or operator of such a site shall prepare appropriate design plans and a design report that address, at a minimum, the requirements contained in this section.

1. A survey benchmark shall be identified and its

location referenced on drawings and maps of the site.

2. During construction and filling, off-site runoff shall be diverted around the use, reuse or reclamation areas. The uncovered active CCB fill areas shall be graded to a maximum slope of 5.0% and a smooth surface maintained to provide for sheet flow runoff and to prevent dusting. Runoff from the use, reuse or reclamation area shall be controlled and contained by use of diversion ditches, sediment traps, berms or collection ponds in accordance with the site erosion control plan. The use, reuse, or reclamation projects shall be designed to divert surface water runoff from a 25-year, 24-hour storm event. For projects permitted by the DMME, the standards for runoff, grading, and runoff shall be in accordance with the Coal Surface Mining Reclamation Regulations (VR 480-03-19).

3. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Side slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper side slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management units shall be supported by necessary calculations and included in the design report.

4. The finished top slope shall be at least 2.0% to prevent ponding of water, except where covered by a building, a paved roadway, a paved parking surface, paved walkways or sidewalks, or similar structures.

5. Upon reaching the final grade, the placed material shall be covered in accordance with the requirements of Article 4 of this part.

Article 3. Operations.

§ 3.3. Operations.

The owner or operator of a CCB site shall prepare an operation plan. At a minimum, the plan shall address the requirements contained in this section.

1. Tracking of mud or CCB onto public roads from the site shall be controlled at all times to minimize nuisances.

2. The addition of any solid waste including but not limited to hazardous, infectious, construction, debris, demolition, industrial, petroleum-contaminated soil, or municipal solid waste to CCB is prohibited. This prohibition does not apply to solid wastes from the extraction, beneficiation and processing of ores and minerals conditionally exempted under § 3.3 A 2 of the Solid Waste Management Regulations.

3. Fugitive dust shall be controlled at the site so it does not constitute nuisances or hazards.

4. After preparing the subbase, CCB shall be placed in no greater than 12-inch layers. The CCB shall then be compacted to a minimum 95% of the maximum dry density achievable at its optimum moisture content in accordance with the Standard Proctor method, ASTM test designation D 698, or to a minimum of 80% relative density as determined by ASTM test designation D 4254 for coal combustion bottom ash and boiler slag. Field compaction tests shall be taken for each 5,000 cubic yards placed. The placement and compaction of CCB on coal mine sites shall be subject to the applicable requirements of the Coal Surface Mining Reclamation Regulations (VR 480-03-19).

5. A surface runoff and runoff control program shall be implemented to control and reduce the infiltration of surface water through the CCB and to control the runoff from the placement area to other areas and to surface waters.

6. Runoff shall not be permitted to drain or discharge into surface waters except when [~~authorized under a VPDES Permit issued pursuant to the~~ in accordance with] State Water Control Board regulation, VR 680-14-01, or otherwise approved by the department.

7. CCB site development shall be in accordance with the Virginia Erosion and Sediment Control Regulations (VR 625-02-00) or the Coal Surface Mining Reclamation Regulations (VR 480-03-19), as applicable.

Article 4. Closure.

§ 3.4. General.

Upon reaching the final grade, the owner or operator of a CCB site shall close his project in a manner that minimizes the need for further maintenance.

§ 3.5. Exemptions from the closure requirements.

A. An owner or operator of a site that constructs a building, a paved roadway, a paved parking surface, paved walkways and sidewalks, or other similar structures on top of the fill within a reasonable time period of reaching the final grade not to exceed 12 months shall be exempt from the requirements of this article for the portions of the CCB site directly under the construction area.

B. An operator of a coal mine site permitted by the DMME who is reclaiming a site in conformance with the Coal Surface Mining Reclamation Regulations (VR 480-03-19) shall be exempt from the closure requirements contained in the section.

§ 3.6. Closure criteria.

A. The owner or operator shall install a final cover system that is designed and constructed to:

1. Minimize infiltration through the closed CCB site by the use of an infiltration layer that contains a minimum 12 inches of earthen material, and

2. Minimize erosion of the final cover by the use of an erosion control layer that contains a minimum of six inches of earthen material and is capable of sustaining the growth of indigenous plant species or plant species adapted to the area.

B. The use of the property after closure shall not disturb the integrity of the final cover, unless the purpose of the disturbance is to construct buildings, paved roadways, paved parking surfaces, paved walkways and sidewalks, or other similar facilities.

C. Within 90 days after placement of the final cover is complete, the owner or operator shall submit:

1. To the local land recording authority, a survey plat prepared by a professional land surveyor registered by the Commonwealth, indicating the location and dimensions of the placement areas. The plat filed with the local land recording authority shall contain a note, prominently displayed, which states the owner's or operator's future obligation to restrict disturbance of the site.

2. To the department, a statement signed by a registered professional engineer that construction has been completed in accordance with the design plans and report prepared to satisfy the requirements of § 3.2 and closure has been performed in accordance with closure plan prepared under § 3.7.

§ 3.7. Closure plan and amendment of plan.

A. The owner or operator of the CCB site shall have a written closure plan. This plan shall identify the steps necessary to completely close the site. The plan shall include, at least, a schedule for final closure including, as a minimum, the anticipated date when CCB will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates.

B. The owner or operator may amend his plan at any time during the active life of the project. The owner or operator shall so amend his plan any time changes in operating plans or project design affect the closure plan.

C. At any time during the operating life of the project, the plan shall be made available to the department upon request of the director.

§ 3.8. Time allowed for closure.

The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of CCB. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned

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closure activities will, of necessity, take longer than six months to complete; and that he has taken all necessary steps to eliminate any significant threat to human health and the environment from the unclosed but inactive project.

PART IV. ADMINISTRATIVE REQUIREMENTS.

§ 4.1. General.

Notwithstanding any provisions of Part VII of the Virginia Solid Waste Management Regulations (VR 672-20-10), the owner or operator of a site which manages only CCB allowed under § [~~2-3~~ 2.2] of this regulation shall not be required to have a solid waste management facility permit, neither must a CCB facility operator certified by the Board for Waste Management Facility Operators directly supervise operations at the site, if the owner or operator at least 30 days prior to initial placement of CCB:

1. Provides the director a certification that he has legal control over the CCB site for the project life and the closure period. For the purposes of this section, on a coal mine site permitted by the DMME, demonstration of legal right to enter and begin surface coal mining and reclamation operations shall constitute compliance with the provisions of this section.

2. With the exception of projects permitted by the DMME, provides the director the certification from the governing body of the county, city, or town in which the CCB site is to be located that the location and operation of the CCB site are consistent with all applicable ordinances.

3. Provides the director with a general description of the intended use, reuse, or reclamation of CCB. Such description will include:

a. A description of the nature, purpose and location of the CCB site, including a topographic map showing the site area and available soils, and geological maps. The description shall include an explanation of how CCB will be stored prior to use, reuse or reclamation, if applicable.

b. The estimated beginning and ending dates for the operation.

c. An estimate of the volume of the CCB to be utilized.

d. A description of the proposed type of CCB to be used, reused or reclaimed, including physical and chemical characteristics of the CCB. The chemical description shall contain the results of TCLP analyses for the constituents shown in Table 1. The description shall also contain a statement that the

project will not manage CCB that contain any constituent at a level exceeding those shown in the table.

TABLE 1.
LIST OF CONSTITUENTS AND MAXIMUM LEVELS.

Constituent	Level, mg/lit
Arsenic	5.0
Barium	100
Cadmium	1.0
Chromium	5.0
Lead	5.0
Mercury	0.2
Selenium	1.0
Silver	5.0

4. Provides the director with a certification by a professional engineer licensed to practice by the Commonwealth that the project meets the locational restrictions of § 3.1 of this regulation. Such certificate shall contain no qualifications or exemptions from the requirements.

5. Furnishes to the director a certificate signed by a professional engineer licensed to practice by the Commonwealth that the project has been designed in accordance with the standards of § 3.2 of this regulation, if applicable. Such certificate shall contain no qualifications or exceptions from the requirements and plans.

6. Submits to the director an operational plan describing how the standards of § 3.3 will be met.

7. Submits to the director a closure plan describing how the standards of Article 4 of Part III will be met, if applicable.

8. Submits to the director a signed statement that the owner or operator shall allow authorized representatives of the Commonwealth, upon presentation of appropriate credentials, to have access to areas in which the activities covered by this regulation will be, are being, or have been conducted to ensure compliance.

§ 4.2. Project modifications.

The owner or operator of a CCB site may modify the design and operation of the project by furnishing the department a new certificate required by subdivision [6 5

] of § 4.1 and a new operational plan required by subdivision [7 6] of § 4.1. Whenever modifications in the design or operation of the project affect the provisions of the closure plan, the owner or operator shall prepare an amended plan in accordance with the requirements of Article 4 of Part III.

PART V. VARIANCES.

§ 5.1. Applicability.

The director may grant a variance from any requirement contained in Part III of this regulation to the owner or operator of the CCB site if he demonstrates to the satisfaction of the director that granting the variance will not result in an additional risk to the public health or the environment beyond the risk which would be imposed without the variance.

§ 5.2. Administrative procedures.

The administrative procedures associated with the submission of the variance petition, its processing and resolution will be accomplished in accordance with the requirements of § 9.6 of the Solid Waste Management Regulations (VR 672-20-10).

V.A.R. Doc. No. R95-213; Filed December 29, 1994, 5:14 p.m.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-01-66.2. Medicaid Reimbursement for Administration of Vaccines under the Pediatric Immunization Program (§ 4.19 m).

Statutory Authority: § 32.1-324 C of the Code of Virginia.

Effective Dates: December 31, 1994, through December 30, 1995.

SUMMARY

1. **REQUEST:** The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Vaccines Administration Fee. This regulation will incorporate into the State Plan for Medical Assistance the required administration fee for Vaccines for Children Program in conformance to federal requirements.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding Vaccines Administration Fee. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Robert C. Metcalf
Director
Date: November 18, 1994

3. CONCURRENCES:

/s/ Paul T. Conway
for Kay Coles James
Secretary of Health and Human Resources
Date: December 2, 1994

4. ACTION:

/s/ George Allen
Governor
Date: December 22, 1994

5. Filed with:

/s/ Joan W. Smith
Registrar of Regulations
Date: December 27, 1994

DISCUSSION

6. **BACKGROUND:** The section of the State Plan affected by this action is Attachment 4.19B, Supplement 1, Appendix I, Vaccines for Children Program, Vaccine Administration: Methodology and Fee (VR 460-03-4.19211).

The Omnibus Budget Reconciliation Act of 1993 (OBRA '93), Public Law 103-66, created the Pediatric Immunization Distribution Program (more commonly known and hereafter referred to as the Vaccines for

Children (VFC) Program), which took effect on October 1, 1994. Section 13631 of OBRA '93 added § 1902(a)(62) to the Social Security Act (the Act) to require that States provide for a program for the purchase and distribution of pediatric vaccines to program-registered providers for the immunization of vaccine-eligible children in accordance with § 1928 of the Act. Section 1928 requires each State, effective October 1, 1994, to establish a VFC Program (which may be administered by the State Department of Health) under which certain specified groups of children are entitled to receive qualified pediatric immunizations without charge for the cost of the vaccine. DMAS has complied with this requirement in its final, exempt regulation called Pediatric Immunization Program: Vaccines for Children Program. The purpose of this emergency regulation package is to propose the final component – the vaccine administration fee – needed to complete all the necessary program elements.

Federally purchased vaccines under the VFC Program will be made available to children who are 18 years of age or younger and are either –

- eligible for Medicaid;
- not insured under any form of health insurance;
- not insured with respect to the vaccine and are administered pediatric vaccines by a federally qualified health center (FQHC) or in a rural health clinic;
- Indians, as defined in the Indian Health Care Improvement Act.

Under the VFC Program, vaccines must be administered by program-registered providers. Section 1928(c) defines a program-registered provider as any health care provider that -

- is licensed or authorized to administer pediatric vaccines under the law of the State in which the administration occurs without regard to whether or not the provider is a Medicaid-participating provider;
- submits to the State an executed provider agreement in the form and manner specified by the Secretary of the U.S. Department of Health and Human Services (the Secretary); and
- has not been found by the Secretary or the State to have violated a provider agreement or other requirements that may apply that are established by the Secretary or the State.

Providers may participate in the VFC Program without participating in Medicaid if they are qualified to administer vaccines under applicable State law. However, such providers will not be reimbursed by Medicaid for their services in administering the vaccine.

Under the VFC Program a provider may impose a fee for the administration of a qualified pediatric vaccine as long as the fee, in the case of a Federally vaccine-eligible child, does not exceed the cost of such administration (as determined by the Secretary based on actual regional costs for such administration). However a provider may not deny administration of a qualified pediatric vaccine to a vaccine-eligible child due to the inability of the child's parents or legal guardian to pay the administration fee. The Secretary published a list of maximum charges for administration of such vaccines. Virginia's federal maximum is \$14.71.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Omnibus Budget Reconciliation Act of 1993 § 13631(f)(3) requires the amendment of the State Plan for Medical Assistance to incorporate the provision of childhood vaccines and a fee for their administration (§ 1928(c)(2)(C)(ii)). This is federally mandated to be effective October 1, 1994.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met, which is approximately one year. Therefore, an emergency regulation is needed to meet an effective date as soon as possible after the October 1st mandate established by federal law.

8. **NEED FOR EMERGENCY ACTION:** This regulation does not meet one of the exemptions permitted under the Code § 9-6.14:4.1(C)(4) because, as permitted by federal law, DMAS is setting a lower fee than the one contained in the list published by HCFA. The Code § 9-6.14:4.1(C)(5) does, however, provide for regulations which an agency finds are necessitated by an emergency situation. To enable the Director, in lieu of the BMAS, to comply with the mandatory implementation of the Vaccines for Children Program and pay providers a reasonable vaccine administration fee, he must adopt this emergency change to the State Plan. This issue qualifies as an emergency regulation as provided for in the Code § 9-6.14:4.1(C)(5)(ii), because Virginia statutory law or the appropriation act or federal law or regulation requires that this regulation be effective within 280 days from the enactment of the basic enabling law or regulation. As such, this regulation may be adopted without public comment with the prior approval of the Governor. Since this emergency regulation will be effective for no more than 12 months and the Director wishes to continue regulating the subject entities, the Department will be initiating the Administrative Process Act Article 2 procedures.

The Health Care Financing Administration (HCFA) issued a notice with comment period on September 30, 1994. This publication appeared in the October 3, 1994, Federal Register. The publication identified the federally required basic qualifications for both children and providers to participate as well as the federal dollar payment guideline established for each state. (The law required the Secretary to determine reasonable costs of vaccine administration based on actual regional costs for such administration (§ 1928(c)(2)(C)(ii).) Since the federally established dollar payment is only a guideline, the states are permitted (See IIA of the October 3rd Federal Register) to set lower rates provided they can assure HCFA of equal access to services.

An emergency regulation is the only way DMAS can comply with the mandates contained herein to amend the State Plan. As a companion to this emergency regulation, DMAS must submit a State Plan Amendment to HCFA for its approval, as required by § 1928(f)(3) of the law. See II(G) of the Federal Register. Such approval will secure Federal Financial Participation (federal matching dollars) for expenditures DMAS may make for the administration of such vaccines. Without federal approval of the companion State Plan Amendment, DMAS will be unable to claim such federal matching dollars resulting in payments of such administration fees with 100% General Funds.

9. **FISCAL/BUDGETARY IMPACT:** DMAS anticipates that the net effect of implementation of Vaccines for Children (reduced payments for vaccines and increased payments for vaccine administration) will be very close to budget neutral.

There are no localities which are uniquely affected by these regulations as they apply statewide.

10. **RECOMMENDATION:** Recommend approval of this request to adopt this emergency regulation to become effective upon its filing with the Registrar of Regulations. Pending the approval of the Health Care Financing Administration, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department lacks the authority to amend the State Plan to implement the administration fee for the Vaccines for Children Program.

11. **APPROVAL SOUGHT FOR VR 460-01-66.2.**

Approval of the Governor is sought for an emergency modification of the State Plan for Medical Assistance in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-01-66.2. Medicaid Reimbursement for Administration of Vaccines under the Pediatric Immunization Program.

Citation: § 1928(c)(2)(i)(C)(ii)

Emergency Regulations

§ 4.19(m) Medicaid Reimbursement for Administration of Vaccines under the Pediatric Immunization Program.

A provider may impose a charge for the administration of a qualified pediatric vaccine as stated in 1928(c)(2)(C)(ii) of the Act. Within this overall provision, Medicaid reimbursement to providers will be administered as follows:

(ii) The State:

sets a payment rate at the level of the regional maximum established by the DHHS Secretary.

is a Universal Purchase State and sets a payment rate at the level of the regional maximum established in accordance with State law.

sets a payment rate below the level of the regional maximum established by the DHHS Secretary.

is a Universal Purchase State and sets a payment rate below the level of the regional maximum established by the Universal Purchase State.

The State pays the following rate for the administration of a vaccine:

\$11.00 per vaccine administration

Citation: § 1926 of the Act

(iii) Medicaid beneficiary access to immunizations is assured through the following methodology:

The Commonwealth will demonstrate access to such services by the Commonwealth's fee per vaccine administration being higher than that of a major insurance company.

VA.R. Doc. No. R95-212; Filed December 27, 1994; 3:41 p.m.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

FINAL REGULATION

Title of Regulations: Rules for Enforcement of the Underground Utility Damage Prevention Act.

Statutory Authority: §§ 12.1-13 and 56-265.30 of the Code of Virginia.

Effective Date: December 30, 1994.

Agency Contact: Copies of the regulation may be obtained from Mr. Massoud Tahamtani, State Corporation Commission, Division of Energy Regulation, P.O. Box 1197, Richmond, VA 23209, telephone (804) 371-9611. Copying charges are \$1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, DECEMBER 20, 1994

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE940071

Ex Parte: In the matter of adopting rules necessary to implement the State Corporation Commission's authority to enforce the Underground Utility Damage Prevention Act

ORDER ADOPTING PROCEDURAL RULES FOR ENFORCEMENT OF THE UNDERGROUND UTILITY DAMAGE PREVENTION ACT

Section 56-265.30 of the Code of Virginia authorizes the State Corporation Commission ("Commission") to enforce the provisions of Chapter 10.3 of Title 56 of the Code of Virginia, also known as the Underground Utility Damage Prevention Act ("Act"). Section 56-265.30 also authorizes the Commission to promulgate any rules or regulations necessary to implement the Commission's authority to enforce the Act.

By Order For Notice and Comment ("Order") dated November 1, 1994, the Commission proposed to adopt the rules specified in Appendix A to the Order as the procedures to be used to enforce the provisions of the Act. The Order established notice requirements and dates for the submission of comments in support of or in opposition to the Commission's adoption of the proposed rules and provided procedures for requesting a hearing. In that regard, the Commission's Division of Energy Regulation was required to publish notice of the proposed rules in newspapers of general circulation in the Commonwealth and in the Virginia Register of Regulations. When the proposed rules were published in the November 28, 1994 issue of the Virginia Register of Regulations, the Staff of the Virginia Code Commission, pursuant to its authority

under Virginia Code §§ 9-77.7 and 9-77.10:1, made editorial changes which did not affect the substance of the proposed rules. Furthermore, the Staff of the Virginia Code Commission has stated that additional changes may be made prior to formal publication of Commission adopted rules in the Virginia Register of Regulations.

IT APPEARING from the record that the Commission's publication requirements were met and that no comments or requests for hearing were received, the Commission is of the opinion and finds that the proposed rules, as now or hereafter edited, pursuant to Virginia Code §§ 9-77.7 and 9-77.10:1, by the Staff of the Virginia Code Commission, should be adopted. Accordingly,

IT IS ORDERED:

(1) That the rules for enforcement of Underground Utility Damage Prevention Act ("Act") as they appear in Attachment A herein or as edited pursuant to Virginia Code §§ 9-77.7 and 9-77.10:1 by the Staff of the Virginia Code Commission for publication in the Virginia Register of Regulations are to be used for enforcement of the Underground Utility Damage Prevention Act; and

(2) That there be nothing further to be done herein, the same is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Commission's Division of Energy Regulation and the Office of General Counsel.

ATTACHMENT A

Rules for Enforcement of the Underground Utility Damage Prevention Act.

§ 1. Purpose.

These rules delineate procedures used by the State Corporation Commission (commission) to enforce the provisions of Chapter 10.3 (§ 56-265.15 et seq.) of Title 56 of the Code of Virginia, also known as the Underground Utility Damage Prevention Act (Act).

§ 2. Report of probable violations.

Any person, as defined in § 56-265.15 of the Code of Virginia, may report probable violations of Chapter 10.3 of Title 56 to the State Corporation Commission, Division of Energy Regulation (division). The reports of probable violations may be submitted to the division [~~in person,~~] in writing, by phone, or [~~by any other means of data transfer in person~~] . All written reports of probable violations shall include the information requested on SCC Form DPA-1, if available. All probable violations shall be reported to the division within 30 days of a person becoming aware of the circumstances constituting the probable violations.

§ 3. Commission staff investigation of probable violations.

State Corporation Commission

Upon receipt of a report of a probable violation, the commission staff (staff) shall conduct an investigation to examine all the relevant facts regarding the reported probable violation. The investigation may include, among other things, records verification, informal meetings, teleconferences, and photo-documentation. Upon completion of the investigation, the staff shall review its findings and recommendations with the Advisory Committee established in accordance with § 56-265.31 of the Act.

§ 4. Advisory Committee review of probable violations.

A. The Advisory Committee (committee), established by the commission, shall meet on a periodic basis to review probable violations of the Act and the staff's findings and recommendations relative to such violations. Upon determination of either the staff or the committee that a violation may have occurred, and that an enforcement action is required, the staff shall take one or more of the following actions:

1. Issue a warning letter to the person alleged to have committed the violation (respondent);
2. Enter settlement negotiations with the respondent. Upon reaching agreement on settlement terms, the division shall present the proposed settlement to the commission for final acceptance or rejection; or
3. Request the issuance of a "Rule to Show Cause" order pursuant to Rule 4:11 of the commission's Rules of Practice and Procedure.

B. In the event that the staff but not the committee recommends enforcement action, the staff shall report to the commission the committee's recommendation and reason(s) therefor.

C. As soon as practicable after its establishment, the committee shall develop and implement a set of bylaws. These bylaws shall delineate the committee's practice and procedures relative to performing the duties assigned by the commission, including the review of probable violations of the Act.

D. If deemed necessary, the committee shall establish one or more subcommittees of experts in the operations covered by the Act. These subcommittees shall assist the committee in performing its assigned duties.

§ 5. Commission action.

A. The commission may accept or reject a proposed settlement to resolve probable violations of the Act. If the commission rejects a proposed settlement, a public hearing will be scheduled to receive evidence and take appropriate enforcement action as provided by the commission's Rules of Practice and Procedure.

B. If the commission finds, after a hearing, that a violation has occurred or is continuing, it may issue a

remedial order. The remedial order may direct the party or parties to take any action which is consistent with such party's or parties' obligations under the Act, including the payment of a civil penalty as provided by § 56-265.32 of the Code of Virginia. A remedial order issued by the commission under this section shall be effective upon issuance, in accordance with its terms, unless stayed, suspended, modified or rescinded.

C. If the commission finds that a violation has occurred or is continuing and presents an immediate potential danger to life, health, property or essential public service, the commission may issue a temporary injunction and schedule a hearing and require the respondent to show cause why it should not be enjoined on account of the alleged violation(s) of the Act.

§ 6. Civil penalties.

A. In determining the amount of any civil penalty included in a settlement, the nature, circumstances and gravity of the violation; the degree of the respondent's culpability; the respondent's history of prior offenses; and such other factors as may be appropriate shall be considered.

B. The respondent shall pay a civil penalty that has been assessed or compromised by submitting to the division a certified check made payable to the Treasurer of Virginia in the correct amount. All such penalties shall be deposited in the Underground Utility Damage Prevention Special Fund and shall be used for administering the regulatory program authorized by the Act. Any excess funds shall be used for public awareness programs established pursuant to subsection B of § 56-265.16:1 of the Code of Virginia.

§ 7. Petition for reconsideration.

Any person subject to an order from the Virginia State Corporation Commission may petition the commission for reconsideration of its order under Rule 8:9 of the commission's Rules of Practice and Procedure.

§ 8. Appeals generally.

Any final finding, decision setting the substantive law, order or judgment of the commission may be appealed only to the Supreme Court of Virginia, subject to § 12.1-39 et seq. of the Code of Virginia, and to Rule 5:21 of that Court.

VA.R. Doc. No. R95-221; Filed December 30, 1994, 1:50 p.m.

MARINE RESOURCES COMMISSION

FINAL REGULATIONS

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all final regulations.

Title of Regulation: VR 450-01-0081. Pertaining to Summer Flounder.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 3, 1995.

Preamble:

This regulation establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota and trip limits, minimum size limits, and a recreational bag and season limit. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia and amends VR 450-01-0081, which was promulgated by the Marine Resources Commission and made effective October 28, 1994. The effective date of this regulation is January 3, 1995.

VR 450-01-0081. Pertaining to Summer Flounder.

§ 1. Purpose.

The purpose of this regulation is to reduce commercial and recreational fishing mortality in order to rebuild the severely depleted stocks of Summer Flounder.

§ 2. Definition.

A trip shall mean that period during which a vessel shall have left a dockside landing place, relocated to waters where trawling is legally permitted, and returned to a dockside landing place.

§ 2. 3. Commercial harvest quotas.

A. 1. During the period of ~~January 1, 1994, through December 31, 1994, each calendar year, commercial landings of Summer Flounder shall be limited to 3,411,000 pounds~~ the total pounds as determined and published annually by the National Marine Fisheries Service pursuant to the joint Mid-Atlantic Council/Atlantic States Marine Fisheries Commission Summer Flounder Fishery Management Plan, and shall be distributed as follows described in subdivisions 2 through 8 of this subsection :

1. 2. The commercial harvest of Summer Flounder from Virginia tidal waters for the period of ~~January 1,~~

~~1994, through December 31, 1994, each calendar year shall be limited to 300,000 pounds.~~

2. 3. During the period of January 1 ; ~~1994, through March 31 ; 1994~~ of each calendar year , landings of Summer Flounder harvested outside ~~the~~ of Virginia shall be limited to ~~2,000,000 pounds~~ an amount of pounds equal to 64.3% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection .

3. 4. During the period of April 1 ; ~~1994, through June 30 ; 1994, of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to 200,000 pounds~~ an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection .

4. 5. During the period of July 1 ; ~~1994, through September 30 ; 1994, of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to 200,000 pounds~~ an amount of pounds equal to 6.4% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection .

5. 6. During the period of October 1 ; ~~1994, through December 31 ; 1994, of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to 1,000,347 pounds~~ an amount of pounds equal to 22.9% of the total specified in subdivision 1 of this subsection after deducting the amount specified in subdivision 2 of this subsection and as may be further modified by subdivision 7 of this subsection .

7. a. During the periods set forth in subdivisions 3, 4, and 5 of this subsection, should landings exceed or fall short of the quota specified for that period any such excess shall be deducted from, and any such shortage shall be added to, the quota for the period set forth in subdivision 6 of this subsection.

b. During the period specified in subdivision 2 of this subsection, should landings be projected to fall short of the quota specified for that period, any such shortage shall be added to the quota for the period set forth in subdivision 6 of this subsection. A projection of harvest under this subdivision b will be made on or about November 1.

8. For each of the time periods and quotas set forth in subdivisions 3, 4, 5, 6 and 7 of this subsection, the Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments thereto.

B. It shall be unlawful for any person to harvest for commercial purposes or to land Summer Flounder for sale after the any commercial harvest or landing quota as

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described in ~~subsection A subdivision 1~~ of this section ~~subsection~~ has been attained and announced as such .

§ 3. 4. Commercial trip limitation.

A. During the ~~periods (quarters) period~~ of January 1 ; 1994, through March 31, 1994, and October 1, 1994, through December 31, 1994, a commercial trip limit of 2,500 pounds of Summer Flounder harvested outside of, and landed in, Virginia shall be imposed; when of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip after it is projected and announced that 85% of the quarterly quota has been taken.

B. During the period of April 1 ; 1994, through September 30 ; 1994, a commercial trip limit of 2,500 pounds of Summer Flounder harvested outside of, and landed in, Virginia is imposed. of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel trip.

C. During the above periods, as described in subsections A and B of this section, it shall be unlawful for any person, fishing outside of Virginia waters, to land from a vessel any amount of Summer Flounder exceeding 2,500 pounds.

D. C. The provisions of subsection A of this section relating to the period October 1, 1994, through December 31, 1994, are hereby superseded. During the period October 28, 1994, 1 through December 31 ; 1994, of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 12,000 pounds per vessel per trip, except that when it is projected and announced that 85% of the quota for the quarter October 1, 1994, through December 31, 1994, this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to land in Virginia any amount of Summer Flounder in excess of 2,500 pounds per vessel per trip.

The provisions of this subsection were approved by the Marine Resources Commission as an emergency regulation on October 25, 1994, and are effective on October 28, 1994, for a period of 30 days unless subsequently adopted as a permanent regulation.

D. For each of the time periods and trip limits set forth in subsections A and C of this section, the Marine Resources Commission will give timely notice of any changes in trip limits.

§ 4. 5. Minimum size limits.

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 13 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to, hook-and-line, rod-and-reel, spear and gig, shall be 14 inches, total length.

C. It shall be unlawful for any person to catch and retain possession of any Summer Flounder smaller than the designated minimum size limit. Length shall be measured in a straight line from tip of nose to tip of tail.

D. Length shall be measured in a straight line from tip of nose to tip of tail. It shall be unlawful for any person to catch and retain possession of any Summer Flounder smaller than the designated minimum size limit.

§ 5. 6. Daily bag Possession limit.

A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, spear, gig or other recreational gear, or licensed for with commercial hook-and-line fishing , to catch and retain possession of possess more than eight Summer Flounder per day . Any Summer Flounder taken after the daily possession limit has been reached shall be returned to the water immediately.

B. When fishing is from a boat, the daily bag possession limit of Summer Flounder when fishing from a boat shall be for the boat and shall be equal to the number of persons on board legally permitted to fish multiplied by eight.

C. Charter, party and head boat captains or operators are ultimately responsible for the retention of the legal number of Summer Flounder.

§ 6. 7. Recreational fishing season.

The open recreational fishing season shall be from May 1 through October 31, 1994. After October 31, 1994, it shall be unlawful for any person to harvest Summer Flounder unless that person possesses a commercial fisherman registration license and gear license. The recreational fishing season shall be from May 1 through October 31 for each calendar year. Prior to May 1 and after October 31 in any calendar year, it shall be unlawful for any person fishing pursuant to a recreational fishing license and using any of the gear permitted by that license to harvest or possess Summer Flounder.

§ 7. 8. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor. Pursuant to § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12

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months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-218; Filed January 3, 1995, 3:01 p.m.

* * * * *

Title of Regulation: VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

Statutory Authority: §§ 28.2-201 and 28.2-507 of the Code of Virginia.

Effective Date: December 27, 1994.

Preamble:

This regulation establishes restrictions on the harvest of oysters from all public oyster grounds in the Chesapeake Bay and its tributaries and on all oyster grounds on the seaside of Eastern Shore. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia. This regulation replaces previous VR 450-01-0095 which was promulgated by the Marine Resources Commission and made effective December 1, 1994. The effective date of this regulation is December 27, 1994.

VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

§ 1. Purpose.

The purpose of this regulation is to protect and conserve Virginia's oyster resource, which has been depleted by disease, harvesting, and natural disasters.

§ 2. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster rocks, beds and shoals are as follows:

1. James River Seed Area: October 1, 1994, through April 30, 1995.
2. Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through April 30, 1995.
3. Seaside of Eastern Shore: October 1, 1994, through December 31, 1994. Seed harvest shall require a permit from the commission as set forth in § 7 of this regulation.

§ 3. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds in the Chesapeake Bay and its tributaries, *including the tributaries of the Potomac River*, except the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas: October 1, 1994, through September 30, 1995.

2. James River Seed Area and Jail Island and Point of Shoals Clean Cull Areas: May 1, 1995, through September 30, 1995.

3. All oyster grounds on the Seaside of Eastern Shore: January 1, 1995, through September 30, 1995. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the commission as set forth in § 7 of this regulation.

§ 4. Time limit.

Harvest on public grounds in the James River Seed Area and the Jail Island and Point of Shoals Clean Cull Areas shall be from sunrise to noon, daily, except during the months of January and February when it shall be from sunrise to 2 p.m., daily. It shall be unlawful for any person to harvest oysters from the public grounds in the James River Seed Area or the Jail Island and Point of Shoals Clean Cull Areas prior to sunrise or after noon, daily, or after 2 p.m., daily, during the months of January and February, 1995.

§ 5. Gear restrictions.

It shall be unlawful for any person to harvest oysters from public oyster grounds with shaft tongs longer than 18 feet in total overall length.

§ 6. Quotas.

In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

§ 7. Harvest permit required.

A. It shall be unlawful for any person to harvest or attempt to harvest seed oysters from the public oyster grounds, leased oyster grounds, or for fee simple grounds on the Seaside of Eastern Shore during the open season (§ 2) without first obtaining a permit from the Marine Resources Commission.

B. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster grounds or fee simple ground *during the closed season* (§ 3) on the Seaside of Eastern Shore without first obtaining a permit from the Marine Resources Commission.

C. Applicants for the permit shall have paid all rent fees and shall specify the location of the lease of fee simple ground to be harvested and shall verify that the

Marine Resources Commission

ground is properly marked as specified by VR 450-01-0038.

D. No person shall hold more than two permits at any time.

§ 8. Seed oyster planting procedures.

Pursuant to the authority contained in § 28.2-210 of the Code of Virginia, the provisions in this section were approved by the Marine Resources Commission as an emergency regulation on November 22, 1994, and are effective on November 28, 1994, for a period of 30 days unless subsequently adopted as a permanent regulation.

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting the oysters loosely on the bottom.

§ 9. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor. In addition to the penalties prescribed by law, any person violating the provisions of this regulation shall return all oysters harvested to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-211; Filed December 27, 1994, 10:07 a.m.

EMERGENCY REGULATIONS

Title of Regulation: VR 450-01-0101. Pertaining to Summer Flounder Trip Limits.

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: December 20, 1994, to January 1, 1995.

Preamble:

This emergency regulation eliminates the trip limit of 2,500 pounds of summer flounder for the remainder of 1994, as specified in VR 450-01-0081. The provisions of this regulation were adopted by the Marine Resources

Commission pursuant to § 28.2-210 of the Code of Virginia as an emergency regulation on December 20, 1994, and are effective immediately. This regulation expires on January 1, 1995.

VR 450-01-0101. Pertaining to Summer Flounder Trip Limits.

§ 1. Purpose.

The purpose of this regulation is to allow for the full utilization of the commercial harvest quota of summer flounder during 1994.

§ 2. Trip limit eliminated.

Those provisions of VR 450-01-0081, § 3 A, which establish a commercial trip limit of 2,500 pounds of summer flounder are repealed.

VA.R. Doc. No. R95-219; Filed January 3, 1995, 3:01 p.m.

* * * * *

Title of Regulation: VR 450-01-0102. Pertaining to Importation of Fish, Shellfish or Crustacea into Virginia's Waters.

Statutory Authority: §§ 28.2-210 and 28.2-825 of the Code of Virginia.

Effective Dates: December 20, 1994, to January 19, 1995.

Preamble:

This emergency regulation establishes the list of approved states, waters, and species as required under § 28.2-825 of the Code of Virginia for the lawful importation of fish, shellfish or crustacea into the Commonwealth with the interest of placing such animal into the waters of the Commonwealth. This regulation is promulgated pursuant to the provisions of §§ 28.2-210 and 28.2-825 of the Code of Virginia. The provisions of this regulation were approved by the Marine Resources Commission as an emergency regulation on December 20, 1994, and are effective for a period of 30 days unless subsequently adopted as a permanent regulation.

VR 450-01-0102. Pertaining to Importation of Fish, Shellfish or Crustacea into Virginia's Waters.

§ 1. Purpose.

The purpose of this regulation is to establish the list of approved states, waters and species, and criteria necessary for the importation of fish, shellfish, and crustacea for the purpose of placing such animals into the waters of the Commonwealth.

§ 2. Approved species and criteria for importation.

A. Pursuant to the provisions of § 28.2-825 of the Code of Virginia, it shall be lawful to import into the Commonwealth, with the intent of placing such animal into the waters of the Commonwealth, any species listed below under the following conditions:

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R95-220; Filed January 3, 1995, 3:01 p.m.

1. Any hard clam of the species *Mercenaria mercenaria*, exported from any coastal area or state within the continental United States, absent of any known shellfish pathogen.

2. Any American oyster of the species *Crassostrea virginica* greater than 25mm in shell height exported from New England, Mid-Atlantic, or South Atlantic coastal areas or states, absent of any known shellfish pathogen.

3. Any American oyster of the species *Crassostrea virginica* less than 25mm shell height exported from any coastal area or state within the continental United States, absent of any known shellfish pathogen.

4. Any bay scallop of the species *Argopecten irradians* less than 25mm in shell height exported from any coastal area or state within the continental United States, absent of any known shellfish pathogen.

5. Any surf clam of the species *Spisula solidissima* less than 25mm shell in height exported from any coastal area or state within the continental United States, absent of any known shellfish pathogen.

6. Any soft shell clam of the species *Mya arenaria* less than 25mm in shell height exported from any coastal area or state within the United States, absent of any known shellfish pathogen.

7. Any pre-molt blue crab of the species *Callinectes sapidus* exported from the coastal area of the states of New Jersey, Delaware, Maryland, North Carolina, South Carolina, or Georgia.

B. Shipments of any shellfish specified above, upon entry into the Commonwealth of Virginia from introduction into the waters of the Commonwealth, shall be accompanied by a certified statement from a recognized shellfish pathologist as to the complete absence of known shellfish pathogens. A sample of 60 individuals from the shipment in question shall be examined by histology and fluid thioglycollate methods prior to each importation.

C. Shipments of any species under the provisions of this regulation shall be accompanied by documentation of the quantity imported.

§ 3. Penalty.

As set forth in § 28.2-825 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

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HJR 196: Joint Subcommittee Studying Early Intervention Services for Infants and Toddlers with Disabilities

October 28, 1994, Richmond

The joint subcommittee was established in 1990 to study the programmatic and fiscal impact of the Commonwealth's implementing Part H of what is now called the Individuals with Disabilities Education Act.

The subcommittee was continued to monitor the implementation of its recommendations and met again in December to receive implementation updates.

The October meeting was devoted to addressing shortages in personnel who deliver early intervention services, particularly physical therapists (PT), but also occupational therapists (OT) and speech-language pathologists (SLP). The subcommittee has repeatedly heard that personnel shortages are a concern and therefore devoted the entire meeting to hearing the issues related to personnel shortages, as well as strategies currently being implemented and explored to address the shortages.

Infants and children with disabilities often have neurologically based motor, speech, or language deficits or birth defects that prevent them from developing normally or interfere with their ability to benefit from educational opportunities. The Individuals with Disabilities Education Act (IDEA) requires that OT, PT, and SLP

be made available to these children through early intervention programs and local school divisions.

Qualified Personnel

Federal regulations require Virginia's Part H Program to determine early intervention disciplines and define standards that are based on "highest entry level academic degree needed for state

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approved or recognized certification, licensure, registration, or other comparable requirement" and to develop a comprehensive system of personnel development that supports preparation of qualified personnel through preservice and inservice training. Among the issues discussed:

1. A significant number of early intervention personnel currently employed in Virginia do not meet state certification, licensure, or registration requirements in an existing profession and therefore do not meet highest standards.
2. Localities are experiencing significant difficulty recruiting personnel with highest standards.
3. Personnel shortages are expected to increase in upcoming years.
4. Personnel who meet the highest professional standard may not have the knowledge, sensitivities, and skills needed to work with young children with disabilities and their families.
5. Early intervention personnel in the Commonwealth are not representative of the culturally diverse population being served.
6. Retention of personnel who are qualified or who meet the highest standard is problematic.

A survey on occupational and physical therapists conducted by the Departments of Education and Mental Health, Mental Retardation and Substance Abuse Services assessed the extent of shortages in early intervention and special education programs and examined the access to training for preservice OTs and PTs. Of the Part H programs that responded to the survey, 46 percent reported a shortage of OTs and 53 percent reported a shortage of PTs. There were regional variations in the shortages.

Part H Programs identified the following obstacles to locating qualified personnel: lack of pediatric/family experience among applicants, applicants not available, salaries not competitive with the private sector, applicants unwilling to work in rural localities, applicants want to work part-time but have benefits.

Applicants for training dramatically outnumber the training capacity in Virginia—only 6.5 percent of applicants for graduate PT programs were accepted, and 16 percent of applicants for the undergraduate OT program were accepted. Small numbers of graduates become available each year. The extent of the shortage of SLPs has not been studied systematically in Part H Programs or LEAs, but anecdotal information suggests that a large number of programs in both service systems are experiencing shortages or do not have a qualified SLP available. On July 1, 1993, the requirement for initial licensure was raised from a bachelor's degree to a master's degree, as required by IDEA. The demand for graduate training in SLP greatly exceeds the state's training capacity, and private employers offer higher salaries and lower caseloads than public employers.

Possible Solutions

Strategies implemented to address these issues include: (i) providing tuition assistance to current Part H employees who do not meet the highest standard and giving them until 2002 to obtain the highest standard, (ii) allowing localities that are unable

to hire individuals who meet the highest standard to hire others, (iii) coordinating Part H training needs with the Early Childhood Special Education Institute of Higher Education, (iv) establishing linkages between Part H and state institutions of higher education, and (v) establishing multicultural early childhood team training, a multicultural speakers bureau, and inservice training opportunities.

Educational Programs

Representatives of Old Dominion University and Virginia Commonwealth University explained some of the problems with OT and PT training programs. Among them:

1. PT programs, which require a high faculty-to-student ratio, high accreditation costs, and substantial clinical experience, are expensive to maintain or expand.
2. At ODU, PT graduate students pay more than other graduate students. PT students pay \$500 more per semester than other graduate students, making in-state tuition \$14,000 annually and out-of-state, \$35,000.
3. Because of these high costs, graduates seek high-paying positions, often to enable them to pay off large student loans.
4. Entry into graduate PT programs is extremely competitive. VCU, for example, had 1,028 applications for a class of 42.
5. Because of increasing demand for PT services, universities need increased funding to provide training for more students.

Paratherapists

A professor of speech pathology and audiology at Idaho State University discussed the use of paratherapists as one component of the strategy to address personnel shortages. Currently paraprofessionals make up 20 percent of early intervention personnel. There is a national movement to increase paraprofessional training programs, and there is increased acceptance of paraprofessional services by insurance companies, Medicaid, and Medicare, although reimbursement can still be a problem.

Increased numbers of paraprofessionals would not decrease the need for professionals; however, professionals would perform more executive and management functions and less direct service. Professionals would write, monitor and evaluate the treatment program. Therapies require a tremendous amount of paperwork and other routine tasks that can be done by paraprofessionals, who could also be used as service extenders, to make the services provided go further.

Studies have shown that parents are satisfied with well-trained and well-supervised paraprofessionals. When developing curriculums for paraprofessionals, "multi-skilling," or training in more than one specialty, should be included so that they can fulfill more than one job function. Paraprofessionalism also offers the advantage of getting more minorities into the field. Because training opportunities are more regionalized, it is more likely that students will train in rural areas and remain in those areas to work.

December 8, 1994, Richmond

Overview of Part H Program

The commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services reported that Virginia's sixth year of Part H Program participation runs from September 1994 to September 1995 and is funded at \$4,914,719, with \$125,000, or 2.5 percent, being state general funds and the remainder federal funds. Eighty-six percent of the total funding is allocated to localities. In 1993, 3,000 infants, toddlers, and families received early intervention services through Part H, a 22 percent increase over the previous year.

The department, which is the lead agency for the Part H Program, will review administrative and federally required program costs and continue to direct funds toward quality services at least expense to taxpayers and will continue to strongly support Part H as a prevention program that intervenes early to prevent future problems and to ensure that children and families remain participating members of the community.

Expansion of Medicaid

Because a significant proportion of persons eligible for Part H services are also eligible for Medicaid, the subcommittee previously recommended the expansion of Medicaid as a way to finance early intervention services and has encouraged all infant programs to become Medicaid certified. The Department of Medical Assistance Services reported that 19 of the 40 local early intervention councils have received Medicaid certification for occupational, physical, and speech-language pathology therapy for their infant programs, and the remaining 21 have negotiated agreements to refer persons needing those services to an already existing Medicaid-certified provider. Efforts are underway to obtain Medicaid funding for service coordination and case management.

Private Insurance

The Virginia Interagency Coordinating Council reported on its study of private health insurance and Part H. National research indicates that the majority of families qualified for early intervention services are covered by a private or public health insurance plan that provides for at least some of the services mandated by Part H. Private health insurance plans, while likely to offer some coverage of ancillary therapist services, frequently impose criteria that limit the usefulness of the benefit. Private plans often limit ancillary therapy to the provision of lost function, thereby precluding coverage of services that would improve or correct congenital conditions. Private plans often do not cover many of the basic services that infants and toddlers with disabilities require. Some insurers limit home-based services to those services provided in lieu of institutional care.

The utility of private health insurance for financing early intervention services is further limited by annual or lifetime caps

on the total amount of claims paid by the insurer. Although these limits appear liberal, often one million dollars or more, children with severe disabilities may reach their policy limits in just a few years, forcing parents to pay all of the medical expenses until the child qualifies for Medicaid. Anecdotal reports indicate that some employers will not hire individuals whose dependents have costly medical problems.

A survey in Virginia indicated a clear trend among private medical insurers to restrict coverage to accident, acute illness, and injury and to exclude coverage of developmental or chronic conditions present from birth or childhood. Most of the plans surveyed exclude many of the most common disabling conditions, such as developmental delays, mental retardation, and learning disabilities. Coverage for catastrophic disabling conditions, such as severe head injury, is typically limited to treatment of the initial acute or life-threatening phase. Speech, occupational, and physical therapy are regularly limited to the recovery period immediately following injury, accident, or trauma. The most common insurance concern of families who have a member with a disability is the limited and restricted scope of coverage.

Multi-cultural Training

The subcommittee received a report on the Multi-cultural Early Childhood Team Training Project, a collaborative effort between George Mason University and the Parent Education Advocacy Training Center in Fairfax. Research indicates that mismatched and ineffective service delivery occurs when early intervention staff are not trained to work with families whose backgrounds, language, and experiences are different from their own. A design team of 26 family members and professionals created a curriculum to train early interventionists to work with families from diverse backgrounds. Family-centered practices (families play a central role in the planning and implementation of the services that they and their children receive), collaboration (providers and parents work together to solve problems and assure that optimal services are received) and cultural competence (providers are aware of the different cultures and realize how they affect the provision of services and how services and providers are received by families) were crucial components of each training module.

Early interventionists learned how to adapt their policies, strategies, and interventions to increase the likelihood of effectively serving families of diverse backgrounds. Some of the family members who participated in the training were identified as potential staff members for early intervention programs, which is important because of the dearth of minority staff. The training modules will be disseminated to universities and other training centers for their use.

Personnel Shortages

The subcommittee discussed a list of recommendations regarding shortages of personnel who provide early intervention services, compiled after the October meeting. Upon learning that the Council of Higher Education holds regular meetings with

university presidents and academic and fiscal personnel and can present the subcommittee's recommendations regarding the expansion of physical therapy, occupational therapy, and speech-language pathology programs to those groups, the subcommittee decided to explore that option. A four-person subcommittee was appointed to thoroughly explore the recommendations and determine their feasibility. The subcommittee voted to introduce a resolution to continue its existence so that it can continue to monitor the Part H Program and to make recommendations regarding the personnel issue.



The Honorable Mary T. Christian, *Chairman*
Legislative Services contact: Jessica F. Bolecek

HJR 291: Task Force on Sustainable Development

November 23, 1994, Richmond

During its first meeting, the task force received a background presentation on sustainable development and heard from several organizations active in sustainability initiatives in the Commonwealth.

Sustainable Development

Sustainable development is described in HJR 291 as "economic development which protects environmental resources and which is characterized by local economies that are diverse, productive and adaptable." Characteristics of sustainable development include (i) economic diversity focusing on locally owned, value-adding industries, (ii) use of natural resources in a manner that does not compromise the ability of future generations to meet their own needs, and (iii) long-range strategic planning with input from a wide range of perspectives.

The concept was initially advocated by the World Commission on Environment and Development in its 1987 report, *Our Common Future*, which found that a healthy environment and sound economies are dependent on each other. Sustainable development was the focus of 1992's Earth Summit in Rio de Janeiro, at which the United States joined with over 170 other nations in pledging to implement the concept. The President's Council on Sustainable Development, established in June 1993, is in the process of developing a national strategy on sustainability for implementation by the public and private sectors.

Initiatives in Virginia

The 1993 Session of the General Assembly passed HJR 653, which encouraged the Governor, state and local officials, and the leaders of educational and civic groups to prepare a Virginia strategy for sustainable development. The Virginia Environmen-

tal Endowment launched a cooperative effort involving business, community, and academic leaders to lay the foundation for such a strategy. The effort produced *A Blueprint for Sustainable Development of Virginia*, released by the Environmental Law Institute in January 1994.

Groups around Virginia are working to implement sustainable development in their localities and regions. Among the local initiatives underway across the Commonwealth are:

- Northampton County Sustainable Development Initiative, which has been recognized by the National Association of Counties for its Sustainable Development Action Strategy;
- Virginia Coast Reserve, created in 1993 by Old Dominion University and The Nature Conservancy on the Eastern Shore to study and demonstrate ways for a community to preserve its ecosystem and promote sustainable development;
- Virginia Eastern Shore Sustainable Development Corporation, established with the assistance of The Nature Conservancy to implement the theories of sustainability by supporting business ventures that enhance the local community, achieve community goals, and preserve the environment;
- Clinch Powell Sustainable Development Forum, which has initiated several sustainable enterprises in Southwest Virginia in furtherance of the desire to forge strategies that help diversify the region's economies and communities;
- Thomas Jefferson Study to Preserve and Assess the Regional Economy (TJSPARE), founded by the Charlottesville-area planning district commission to determine how the region can maintain both a healthy environment and a healthy economy;
- Rappahannock River Valley Project, formed by the Chesapeake Bay Foundation, the Rappahannock River Valley Association, and the World Wildlife Fund to attempt to integrate environmental protection and economic development for the citizens and communities of the region;
- New Century Council, which is involving 900 volunteers in the facilitation of a long-range strategic plan for the Roanoke and New River Valleys; and
- University of Virginia's Sustainability Roundtable, organized by the Institute for Environmental Negotiation, to promote cross-departmental exchange and collaboration to foster sustainable development throughout the university.

Sustainability in Other States

Sustainable development initiatives are underway at state and local levels around the country. Kentucky, Minnesota, and Florida have instituted efforts to integrate economic, environmental, and social considerations in long-term strategic plans. Oregon and Minnesota have adopted benchmarking programs, whereby numerical indicators are identified for monitoring

efforts in meeting quantified goals relating to economic, environmental and other societal goals. All of the Canadian provinces have adopted, and several states are developing, strategic plans for sustainable development through the use of round table forums.

Next Meeting

The task force plans to hold its second meeting early in January. The focus of the meeting will be on developing any legislative initiatives for the 1995 Session.



The Honorable David G. Brickley, *Chairman*
Legislative Services contact: Franklin D. Munyan

HJR 9: Clean Fuels Study Subcommittee

November 9, 1994, Richmond

EPA and Virginia's Implementation Plan

A representative from the Department of Environmental Quality (DEQ) discussed with the subcommittee the status of Virginia's Clean Air Act state implementation plan, with focus on Northern Virginia's motor vehicle emissions inspection program. Virginia is currently awaiting a response from the EPA on its "hybrid" program, a proposal that (i) meets the federal Clean Air Act requirements, (ii) wed's EPA's and Virginia's ideas of test-and-repair and test-only emissions inspection facilities, and (iii) is cost-effective and consumer-friendly. Regulations for Northern Virginia's air quality plan have been drafted and are currently under review.

Scrappage Program

The subcommittee received a status report on the regulatory development of Virginia's Early Motor Vehicle Retirement Program. Salvage dealers have agreed to support a regulatory provision that all salvageable parts be saved for resale at the discretion of salvage yards, as is current practice. The proposed regulations differ from current practice in that any salvageable engine or fuel or emissions-management system from vehicles voluntarily submitted to the program be disassembled. Draft regulations are due in approximately two months for review.

Electric Vehicles

The Department of Economic Development (DED) briefed the subcommittee on the department's efforts to attract electric-vehicle-related industries to Virginia. DED, in a cooperative effort with Virginia Power, has developed a report that is being

used as a marketing tool to target industries. DED reported that Virginia is in a strong position, because of technological advancement and research and development efforts, to attract electric vehicle businesses and conversion companies.

Virginia Alternative Fuels Revolving Fund

The Virginia Department of Transportation (VDOT) reported to the subcommittee the results of evaluating the Virginia Alternative Fuels Revolving Fund. The report focused on program evaluation, study findings, and conclusions. The program's major statutory goals were to:

- improve air quality in Virginia,
- reduce dependence on imported oil,
- reduce operation and maintenance costs of publicly owned vehicles, and
- improve the economy of Virginia.

Study findings revealed that, after being in operation for two fiscal years, the program:

- awarded \$647,000 to 22 local governments and State agencies;
- provided funds for conversion of 101 cars, trucks, and buses and one ferry boat for alternative fuel use;
- reported that 87 percent of the conversions were to compressed natural gas, ten percent to liquid propane, and three percent to electricity; and
- leveraged \$1.6 million in matching public/private funding for alternative fuels projects.

The study concluded that the program:

- has been successful in providing assistance to meet clean air mandates and applying innovative technologies to air quality problems;
- is strongly supported by participants;
- requires \$750,000 to \$1 million per year to address identified needs;
- could be funded from either general or non-general fund sources;
- needs clarification of loan criteria for ease of implementation; and
- should be re-evaluated in five years after initial deadlines to meet federal requirements have passed.

Nonpetroleum Lubricants

The Department of Forestry made a presentation on its use of nonpetroleum-based lubricants. The department has been implementing a program using vegetable oils since January 1993, replacing standard hydraulic fluids used in heavy equipment and chainsaws with rape seed oil. Use of vegetable oil lubricants is an idea borrowed from Sweden, which has been using rape seed oil in its logging operations for some time. Through its use of vegetable oils, the department has found that (i) vegetable oil works (although there is a minor cost increase over hydraulic fluid); (ii) vegetable oil is both biodegradable and recyclable; and (iii) use of vegetable oil promotes good stewardship and helps to ensure improved water and air quality for Virginia.

December 6, 1994, Richmond

1995 Legislative Package

The subcommittee discussed the following proposals for inclusion in its legislative package to the 1995 Session of the General Assembly:

- Memorialize Congress to consider the cost effectiveness of Clean Air Act Amendment mandates;
- Repeal the Northern Virginia motor vehicle scrappage program;
- Provide for clean fuel vehicle job-creation credits;
- Commend the Department of Forestry on their vegetable oil lubricant program;
- Grant the Department of Forestry authority to continue and promote its vegetable oil lubricant program;
- Prohibit tampering with motor vehicle antipollution devices (including penalties); and
- Grant local governments authority to adopt "episodic" air pollution control ordinances.

The subcommittee requested staff to make technical and clarification changes in several of the draft proposals. The Chairman urged subcommittee members to notify staff of any additional changes in the drafts or legislative requests in a timely manner.

In addition to drafts discussed at the meeting, staff was asked to prepare legislation to:

- Eliminate or reduce the fee for clean fuel vehicle license plates;
- Continue the Clean Fuels Study Subcommittee for an additional year; and
- Provide clean fuel tax credits to qualifying natural gas utilities.

Next Meeting

The subcommittee will meet in early January 1995 to review and adopt the final 1995 legislative package.



The Honorable Arthur R. Geisen, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

Virginia Coal and Energy Commission

During the fall of 1994, three subcommittees of the Coal and Energy Commission met to consider issues of interest to the commission. Summaries of those meetings follow.

Coal Subcommittee

*November 15, 1994, Wytheville
December 13, 1994, Abingdon*

The Coal Subcommittee convened two meetings to focus on Southwest Virginia's declining coal industry, an issue the full commission has followed closely throughout 1994. The subcommittee received a report concerning a coal industry survey and analysis recently conducted by an independent energy consultant. A \$57 million tax credit package designed to stimulate Virginia coal production and employment was reviewed by the subcommittee. Its members also discussed the use of coal at state facilities and reviewed information about state agencies switching from coal to other fuels in their heating plants.

Coal Industry Study

An independent energy consultant recently conducted a comprehensive study of the Virginia coal industry for the Virginia Coal Association, a trade association representing Virginia's largest coal mine operators. Mine operators supplied detailed production, sales, and other economic data to Energy Ventures Analysis, Inc., for the purpose of preparing an in-depth analysis of Virginia coal mining operations that may yield clues to its future. Energy Ventures also examined incentives other states have furnished their native coal industries to determine whether any such programs could be adapted in Virginia.

The Energy Ventures study found that:

- The Virginia coal industry has suffered decreased production, closed mines, and increased layoffs over the past few years. Virginia coal production has dropped from 46 million tons in 1990 to 38 million tons in 1993—a decline of 16 percent in just four years.
- Full-time mining employment in Virginia's mining industry has dropped from 10,497 in 1990 to 8,249 in 1993. The number of man-hours worked has suffered a corresponding decline. If these production and employment trends persist, the Virginia Center for Coal and Energy Research (VCCER) estimates that by the year 2005, Virginia's annual coal production will be under 29 million tons and mining employment will be down to 5,000 employees.
- Year-to-date statistics support the projected declines. Energy Ventures' study showed that since January 1, 1994, survey respondents had closed 23 mines and laid off 796 workers. These

mine operators also said that by year's end they expect to close three more mines and two coal preparation plants, with 163 mine workers laid off. Adding to this pessimistic picture was the recent announcement by a major Virginia mine operator that it had filed a petition in federal bankruptcy court seeking reorganization under Chapter 11 of the bankruptcy laws.

■ Unemployment statistics obtained from the Virginia Employment Commission show that from January 1994 through September 1994, over 1,600 Virginia mine workers filed first-time claims for unemployment compensation benefits. During that same period, over \$2.8 million in unemployment benefits were paid to these workers, averaging over \$300,000 per month. Using an economic multiplier model developed by the VCCER, it is estimated that the loss of these 1,600 jobs resulted in the additional loss of (i) 149 railroad jobs, (ii) coal income of over \$38 million and (iii) railroad income of over \$12 million.

■ As a result of these coal production and employment reductions, the VCCER estimates that Southwest Virginia localities will lose \$2.6 million in severance taxes, and the state will lose \$2.7 million in personal income taxes, \$2 million in state sales taxes, and \$1.6 million in unemployment taxes. This results in a projected total state and local revenue loss of approximately \$10 million.

Coal Sales

The study also projects that utility purchases, Canadian purchases, and overseas sales will continue to decline. Ironically, this will occur as an increased demand for Central Appalachian coal is likely to occur. The 1990 Clean Air Act Amendment's implementation is likely to cause some utilities to switch from high-sulphur coal to the cleaner coal from Central Appalachia. However, Virginia's current production is out of synch with this emerging market: Virginia's coal production is 70 percent metallurgical coal, and 30 percent steam.

Important steam coal contracts between Virginia steam coal producers and utilities (representing six million tons in annual sales) will be expiring within the next three years. It is likely that many of these contracts—currently at above-market price—will not be renewed. Under current market conditions, these contracts will be picked up by mine operators in other lower-cost states. Additionally, demand for Virginia met coal is expected to decline by at least 16 percent before the year 2000, reflecting continuing declines in the international met coal market.

Virginia coal mine executives told the subcommittee that competition from lower-cost sources in West Virginia has had a considerable impact on the market for Virginia coal. One mine executive noted that in some instances West Virginia operations are producing coal at prices Virginia producers cannot compete with—up to 50 percent less at point of shipment, in one case. It was suggested that the price difference is attributable to West Virginia's extensive surface reserves, which can be mined at considerably less expense than deep-mine coal.

Much of Virginia's remaining reserves are in deep mines, resulting in high extraction costs. Only three percent of Virginia's reserves are recoverable surface mine reserves—a reserve base currently responsible for over 18 percent of current production, and one that is expected to be exhausted by the year 2000. It was also noted that Virginia's narrow seams result in less coal mined per production ton. According to one estimate, Virginia's average recovery rate (percent of coal per production ton) is less than 65 percent while West Virginia and Kentucky mines average over 75 percent.

State Incentives

The subcommittee learned that other coal-producing states have enacted legislation intended to promote the production and sale of native coal. Some of the recent legislation is specifically related to the implementation of the 1990 Clean Air Act Amendment's requirements for reduced emissions by electrical utilities' power plants. In Kentucky, for example, legislation was passed permitting utilities to pass through the capital and operating cost of scrubbers without the formality of a general rate case.

Virginia's current coal incentives include a \$3 per ton gross receipts tax credit given Virginia public utilities for each ton of Virginia coal purchased. That tax credit was phased in beginning in 1987 and is slated to expire in the year 2000. Additionally, a \$2 per ton state income tax credit is provided to cogenerators purchasing Virginia coal and selling power to a public utility in Virginia; it will continue through 1996.

An additional incentive is contained in Virginia's Public Procurement Act, which establishes a preference for Virginia-mined coal in state fuel purchasing contracts. State agencies and institutions are authorized to purchase Virginia coal at a price up to four percent above the lowest responsible bid for coal mined elsewhere. According to information from the Department of General Services, over 8,000 tons of "preference coal" were purchased by state facilities in fiscal year 1993-1994, with the same amount projected in fiscal year 1994-1995.

Proposed Incentives

The Virginia Coal Association proposed to the subcommittee a \$57 million tax credit package to help stabilize Virginia coal production and employment at their current levels. The package aims at increasing overseas metallurgical sales and domestic steam coal sales and at encouraging mining of marginal reserves by providing tax credits linked to coal seam thickness.

The package encourages overseas sales by providing a \$2 per ton tax credit for export coal. Additionally, the tax credit currently provided Virginia electrical cogenerators using Virginia-mined coal would increase from \$2 to \$3 per ton; the corresponding credit for utilities would remain unchanged at \$3 per ton. Each ton of coal from surface mines would produce a \$.40 per ton credit.

And, coalbed methane gas producers would receive a \$.05 per MCF (million cubic feet) tax credit as part of the package.

The thin seams in Virginia's deep mines make Virginia's coal less competitive. To compensate for that disadvantage, a tax credit scheme linked to seam thickness was also proposed. For example, coal mined from a seam with a thickness of 28 inches or less would generate a \$4.20 per ton tax credit. The tax credit would be reduced in proportion to increases in seam thickness: a seam of 42 inches or wider, for example, would create a \$.40 per ton credit. The proposal would not permit any doubling up of credits (e.g., seam thickness credits could not be coupled with export credits).

The coal incentives currently in place (mainly the utility/cogenerator tax credits) result in approximately \$12-14 million in credits against Virginia taxes. The tax credit package proposed by the Virginia Coal Association would result in approximately \$57 million in new tax credits. However, unless coal production is stabilized at its present level, the VCCER estimates that over 4,000 mine employees will lose their jobs in the next five years as annual production tonnage plummets to 30 million tons. If this occurs, it is estimated that the state would lose approximately \$20 million annually in sales, income, unemployment, property, corporate, and severance taxes.

If adopted by the General Assembly, the proposal would probably become effective January 1, 1996, and should probably be in place at least until the year 2005 to ensure maximum impact. The subcommittee has taken the proposal under advisement and will make a complete report to the full commission at its next meeting.

Coal In State Facilities

The heating plants in many of Virginia's state facilities have historically used coal as their primary fuel. However, information supplied by the Department of General Services (DGS) indicates that some agencies are converting some facilities' heating plants from coal to fuel oil or natural gas. Moreover, some new state facilities on the drawing boards will be constructed with heating plants that use natural gas or oil.

According to the VCCER, fuel switching by state agencies may be attributable to a number of causes, including agency efforts to reduce employment levels. As a general matter, operating a coal-fired boiler system is more labor intensive than operating one fueled by natural gas or fuel oil. Additionally, the capital costs of a coal-fired plant are generally higher than those associated with fuel oil or natural gas. However, the costs of a coal-fired facility may be measurably lower than a plant using other fuels over the life of a given facility's heating plant.

In reviewing plans for new heating plants at new or existing facilities, the key elements in fuel choice are economy and reliability. Coal's cost per BTU and per thousand pounds of steam is measurably lower than either gas or oil, exceeded in

economy only by sawdust. Moreover, coal's boiler efficiency is only slightly lower than that of gas and oil.

Two state facilities are converting their heating plants from coal to number two fuel oil. Four facilities' plants are being converted from coal to natural gas. The subcommittee also learned that the Department of Correction's Red Onion Mountain maximum security prison, to be constructed in Southwest Virginia, includes a natural-gas-fired heating plant in its current design.

The subcommittee requested that its chairman communicate with the Director of the Department of Corrections to express concern over this fuel choice for a facility being constructed in the heart of Virginia's coalfields. Additionally, the subcommittee plans to obtain additional information about fuel switching occurring at existing state facilities.



The Honorable Jackson F. Reaser, Jr., *Chairman*
Legislative Services contact: Arlen K. Bolstad

Energy Preparedness Subcommittee

November 18, 1994, Richmond

The Energy Preparedness Subcommittee met and heard reports on the Virginia Energy Plan, the Low Income Home Energy Assistance Program (LIHEAP), and the Weatherization Assistance Program (WAP).

Virginia Energy Plan

In Executive Order Number 27 (1994), Governor Allen directed state agencies to continue implementing the Virginia Energy Plan (which was due to expire June 30, 1994) for another year. During this time the plan will be evaluated by the Secretary of Commerce and Trade.

Implementation of the plan has achieved annual savings by state agencies of \$750,000 due to electrical rate adjustments and \$100,000 due to steam system upgrades. Institutional Conservation Program Grants have been used to create annual savings of \$550,000. Other plan programs include Alternative Fueled Vehicle Grants (alternative-fueled school buses in Northern Virginia, for example), agency solar power demonstration projects (such as the use of solar water heaters), transit fare discounts, and the creation and implementation of state agency energy management plans. In addition, 71 state agencies are implementing energy accounting systems, of which 45 are currently on-line.

Several 1994 General Assembly actions benefited state agency energy projects implemented pursuant to the plan. One example is that moneys spent on energy efficiency projects are now

considered operating costs rather than capital expenditures. The 1994 General Assembly also approved the use of two alternative financing mechanisms for agency energy projects. Master lease contracting allows the Virginia Department of the Treasury to lend money to agencies for energy projects, and agencies to pay the department back with energy cost savings. An agency step-by-step guide has recently been developed for master lease contracting. Performance contracting allows agencies to contract with private energy service companies for the design of energy improvements. The contracts provide that the companies are paid only if energy savings are in fact generated by the improvements. Emphasis has thus far been placed on implementing the master lease contracting program, but a significant number of energy service companies have expressed interest in performance contracting.

LIHEAP

LIHEAP is a three-component program administered by the Department of Social Services through local social services departments. The program provided over \$26 million in assistance during fiscal year 1994, of which \$22.3 million was provided as fuel assistance to 320,162 persons in 124,568 households. The Fuel Assistance Program component of LIHEAP helps eligible households to pay for residential heating costs. Incomes of less than \$6,000 were reported by 44 percent of fuel-assistance-eligible households.

The Crisis Assistance Program component of LIHEAP furnished \$3.2 million to 52,142 persons in 17,881 households with energy-related, weather-related, or supply-shortage emergencies that could not be met by the Fuel Assistance Program or other local sources. Services provided by the Crisis Assistance Program included equipment purchase and repair and payment for fuel, electricity, and security deposits. Income of less than \$6,000 was reported by 20.3 percent of eligible households.

The third component of LIHEAP, the Cooling Assistance Program, provided \$563,085 in fiscal year 1994.

Due to a reduction in the federal grant money that supports LIHEAP, it is estimated that in fiscal year 1995 only \$21.3 million will be provided through the Fuel Assistance Program and \$1.9 million through the Crisis Assistance Program. The Cooling Assistance Program will be eliminated. These estimates represent a five percent reduction in fuel dollars and a 40 percent reduction in crisis dollars. The number of households served by the Fuel Assistance Program is expected to remain the same. The Crisis Assistance Program will no longer pay for secondary electricity, for primary fuel in certain situations, or for security deposits for other than the primary fuel type. LIHEAP will be requesting legislation this year that would reassign unclaimed security deposits and utility refunds from the State Literary Fund to LIHEAP.

WAP

According to the 1990 census and the U.S. Department of Energy, 293,824 Virginia households were eligible for weatherization assistance between 1981 and June 1994. Of those eligible, 71,245, or 24 percent, have been served. Between July 1993 and June 1994, 1,973 dwellings were weatherized, 374.725 million BTUs were saved, \$228,868 were saved, 1,341 tons of carbon were not consumed, and between 95 and 175 job years were generated.

The increased cooperation now taking place between LIHEAP and WAP has added a quality control element to the Crisis Assistance Program, because the most efficient type of assistance was chosen for each household. When weatherization can avoid a fuel crisis, it is also provided (or, at least, the household is put on the weatherization waiting list). An indication that this coordinated effort has been effective is that only 4.5 percent of the requests for crisis assistance in the first part of November were from households that received assistance last year.



The Honorable James F. Almand, *Chairman*
Legislative Services contact: Nicole R. Beyer

Oil and Gas Subcommittee

October 20, 1994, Richmond

The subcommittee met to receive reports on natural gas exploration and production in Virginia. Production statistics through the end of 1993 show substantial increases in Virginia's overall natural gas production—especially in coalbed methane gas. The subcommittee also examined the issue of natural gas development as a resource in attracting economic development. Finally, the subcommittee discussed clarifying a sales and use tax exemption for natural gas production materials and equipment.

Production and Exploration Trends

The most recent production figures show that commercial natural gas production is a bright spot in Virginia's energy picture. Overall production increased from 24.7 BCF (billion cubic feet) in 1992 to 37 BCF in 1993. Leading the way was a tripling of coalbed methane (CBM) production. CBM output leaped from 6 BCF in 1992 to 19.9 BCF in 1993, making CBM the majority of natural gas produced that year.

Statistics for the first six months of 1994 show a production pace substantially ahead of the same period in 1993. Over 22 BCF were produced in this six-month period in contrast to slightly under 15 BCF one year earlier. Therefore, 60 percent of the total gas produced in 1993 has been produced in the first six months of 1994.

Four Southwest Virginia counties, Buchanan, Dickenson, Russell and Wise, are the primary natural gas well sites in the Commonwealth. Buchanan leads CBM production with 305 wells and 15.3 BCF production in 1993. Dickenson County produced the most conventional natural gas in 1993 with 423 wells producing 7.6 BCF.

The Department of Mines, Minerals and Energy (DMME) projects additional increases in natural gas production in 1994, particularly in the area of coalbed methane gas. A DMME survey of Virginia natural gas operators indicates that in excess of 160 well permits will be sought in 1994, and that over 50 pipeline permits will be sought as well. Over 152 wells were drilled in 1993 (including 86 CBM wells), and over 100 miles of gathering pipeline constructed. By the end of 1993, over 1,500 miles of gathering pipeline had been permitted in the Commonwealth.

Production Methods

Until 1988, most of the gas produced in Virginia was conventional natural gas coming out of sandstone, limestone, shales, and other conventional formations. These tight formations with low permeability must be stimulated with a pressurized combination of water, nitrogen, a type of soap, and sand. The typical conventional well is 5,000 feet deep and the cost of drilling such a well is approximately \$250,000-\$300,000.

Coalbed methane (CBM) wells are typically 2,500 feet deep. CBM gas is found as gas molecules on the face of fractures within coal seams, held in place by fluid under pressure within the fractures. Releasing the fluid releases the CBM gas, which then migrates to the well bore. The formations containing CBM gas are stimulated using virtually the same methods used for conventional gas.

CBM gas released must be "dewatered" to remove the brine accompanying the gas through the well bore. The brine level decreases as production increases. The brine removed is injected into underground disposal wells. One company is using an abandoned mine for this purpose; another is injecting the brine liquids back into the formations of depleted CBM wells. Permits for injection wells are issued by the U.S. Environmental Protection Agency. The life expectancy of a conventional well can be as long as 40 years, and it is hoped that CBM wells will have similar longevity.

Natural Gas and Economic Development

The subcommittee was told that Virginia's current tax and regulatory framework lends stability to the development of natural gas. Moreover, establishing natural gas service in communities within gas-rich Southwest Virginia communities is said to be an excellent business recruitment tool. Communities in Southwest Virginia have supported this idea in the issuance of tax-free industrial development bonds to help finance the installation of natural gas service.

In most industrial processes, natural gas is, according to one source, the fuel of choice, with significant cost, performance, and environmental advantages over other fuel alternatives. Consequently, adding natural gas service to communities' infrastructures can be extremely advantageous. Several of Virginia Natural Gas's current projects include establishing gas storage facilities to ensure adequate peak-period capacity—important to ensuring adequate service. One planned facility in Saltville, for example, will be capable of storing over 200,000 decatherms of gas. It will require an estimated \$100 million to complete these projects.

The gas industry reportedly invested \$30-35 million in capital in the Commonwealth in 1993 and has increased its production by 150 percent in the past three years. The counsel to the Virginia Oil and Gas Association told the subcommittee that the gas industry increased its sales by \$28 million in 1993 alone. For areas not served by a local natural gas distribution company, Virginia Code § 56-265.1 exempts from regulation as a public utility those natural gas providers providing service to 10 or fewer commercial or industrial customers. This exemption, she said, can be very beneficial to luring economic development prospects to natural-gas-rich Southwest Virginia.

Tax Exemption

During the 1994 Session of the Virginia General Assembly, legislation passed granting oil and gas producers an exemption from the Virginia Retail Sales and Use Tax for materials and equipment used directly in the exploration, production, and processing of natural gas (amending Code § 58.1-609.3). The Department of Taxation did not, however, grant an exemption for pit/pond liners and brine storage tanks, referring the taxpayer requesting the exemption to the Department of Environmental Quality (DEQ) to obtain a certification that these items are pollution control equipment under § 58.1-3660. DEQ declined to certify the equipment, asserting that it lacked jurisdiction to do so.

The subcommittee was asked to review this matter and to consider recommending to the full commission legislation clarifying this jurisdictional impasse. The president of the Virginia Oil and Gas Association (VOGA) suggested that legislation was probably appropriate since an opinion of the Attorney General concerning DEQ's jurisdiction had failed to resolve the issue.

The subcommittee requested that representatives of DMME, DEQ, Taxation, and VOGA coordinate amendments to Code § 58.1-3660, possibly providing DMME authority to determine, for coal, oil, and gas production, whether certain equipment is pollution control equipment and is therefore entitled to the sales and use tax exemption.



The Honorable William C. Wampler, Jr., *Chairman*
Legislative Services contact: Arlen K. Bolstad

HJR 353: A.L. Philpott Southside Economic Development Commission

November 10, 1994, South Boston

The November meeting of the A.L. Philpott Economic Development Commission focused on the development of criteria for grants from the commission's \$675,000 appropriation for economic development efforts (1994 *Acts of Assembly*, Chapter 966, § 1-35, Item 1031).

Commission members briefly discussed development initiatives such as a capital access program, a revolving loan fund, and the Opportunity Fund, presented at previous meetings as possible programs that might be funded by the commission's appropriation. Acknowledging local "ownership" of economic development projects and regional efforts as priorities for the application of these moneys, commission members then agreed on the following criteria for the grants:

Per capita awards. Grants will be awarded on a per capita basis. Awards, coupled with the match, cannot exceed the cost of the proposed project.

Regional emphasis. Priority will be given to joint proposals, although individual localities may apply for grants.

Eligible localities. Consistent with the original Philpott Commission reports designating Southside Virginia as a 20-county, 5-city region, eligible localities are those listed in Table 1.

Philpott Commission recommendations. Eligible projects must reflect a purpose consistent with the recommendations of the Philpott Commission reported in House Documents 67 (1993), 45 (1992), and 42 (1991).

Coordination with local development plan. Projects must complement any local strategic plan for economic development.

Creativity of proposal. Those proposals that not only stimulate growth but also reflect innovation will receive more favorable consideration.

Local approval. Express authorization for the project and approval of grant request by local governing body will be required to ensure project validity as well as public support.

Matching funds. Evidence of a cash match for the grant amount is required. The evidence might be in the form of bank statements showing available funding, a binding commitment from a lending institution, or evidence of funds from local or private sources. Matching funds should be available as cash-in-hand as soon as possible, but in no event later than June 30, 1995. While an equal match for grant moneys is required by the 1994-95 budget

language, those projects for which the greatest amount of matching funds is pledged should receive more favorable consideration.

Certification and accounting. Applicants must certify that grant moneys will not supplant existing funding for initiatives. Grant recipients will provide an accounting of the application of grant moneys for the commission's audit.

Deadline for proposals. To facilitate timely issuance of awards, all applications for grants must be received no later than January 5, 1995.

Commission members, designated by jurisdiction, will review applications and make recommendations to the full commission regarding awards. The full commission expects to meet in the second week of January to finalize its decisions and will then submit a list of selected projects to the Department of Housing and Community Development and request the release of funds to the successful applicants.



The Honorable Whittington W. Clement, *Chairman*
Legislative Services contact: Kathleen G. Harris

Table 1. Per Capita Allocation of Philpott Commission Economic Development Funds

County	Population (1990)	Allocation
Amelia	8,787	\$11,045.58
Appomattox	12,298	\$15,459.04
Brunswick	15,987	\$20,096.25
Buckingham	12,873	\$16,181.84
Campbell	47,572	\$59,799.77
Charlotte	11,688	\$14,692.25
Cumberland	7,825	\$ 9,836.32
Dinwiddie	22,319	\$28,055.81
Franklin	39,549	\$49,714.56
Greensville	8,630	\$10,848.23
Halifax	29,033	\$36,495.56
Henry	56,942	\$71,578.21
Lunenburg	11,419	\$14,354.11
Mecklenburg	29,241	\$36,757.02
Nottoway	14,993	\$18,846.76
Patrick	17,473	\$21,964.21
Pittsylvania	55,672	\$69,981.77
Prince Edward	17,320	\$21,771.88
Southampton	17,550	\$22,061.00
Sussex	10,248	\$12,882.12
City		
Danville	53,056	\$66,693.36
Emporia	5,479	\$ 6,887.31
Franklin	7,864	\$ 9,885.34
Martinsville	16,162	\$20,316.23
South Boston	6,997	\$ 8,795.49
Total	536,977	\$675,000.00

Source: UVA Center for Public Service

SJR 12: Joint Subcommittee Studying Virginia's Current Bingo and Raffle Statutes

November 15, 1994, Richmond

Focusing its attention on the desirability of state regulation of bingo and raffles, the joint subcommittee convened its second meeting of the 1994 interim. In response to complaints about inconsistent regulation and enforcement by localities throughout the state, the joint subcommittee solicited comment from bingo industry representatives, bingo operators, facility owners, and charitable organizations on their view of possible state control of the operation and conduct of bingo games and raffles.

NAFTM

Representatives from the National Association of Fundraising Ticket Manufacturers (NAFTM) reported that while NAFTM took no position of the question of state regulation of bingo, it could provide an overview of other state bingo regulatory models.

Bingo has been legalized in 46 states, with pull tabs legally played in 34 states. Twenty-three states reported 1993 gross revenues of \$7 billion, of which \$750 million was returned to charities, representing an average 11 percent return of gross receipts to charities. In 1993, bingo accounted for 44 percent of the gross receipts, pull tabs contributed 55 percent, with the remainder contributed through raffles. In Minnesota, for example, \$1.25 billion is wagered annually among 1,650 charitable organizations. Of that amount, \$200 million is attributable to the operation of bingo games.

With regard to the various regulatory structures employed by other states, it was pointed out that the model varies greatly.

- Six states regulate at the local level,
- Sixteen states regulate through the Department of Revenue,
- Nine states regulate through a Gaming Commission or Gaming Board,
- Three states regulate through the Attorney General's Office,
- Four states regulate through the State Police/Justice Department, and
- Three states regulate through the Lottery Board.

On a national average, state administration of bingo games and raffles requires funding for 30 staff positions with an annual budget of \$1.5 million, or 6.7 percent of gross revenues.

Advantages of state regulation include uniformity in the (i) type of games allowed, (ii) rules of play, (iii) participants, and (iv) enforcement. As a result, there is a single voice to develop charitable gaming policy for the state as well the ability to share

policy concerns and other related problems with sister states. Adding to state bureaucracy and the restriction of local government involvement in bingo regulation were identified as the disadvantages of state regulation. Additionally, it was noted that a state regulatory program under-funded and under-staffed is a formula for disaster.

Virginia Bingo Association

The Virginia Bingo Association, comprised of bingo operators, landlords, and charitable organizations, offered four regulatory options to the subcommittee. First, statewide licensing and enforcement of charitable gaming. Second, state regulation (i.e., the state sets up the minimum standards for the operation and conduct of bingo games and raffles) with local enforcement of such standards. It was noted that this option follows the administration of the Uniform Statewide Building Code as well as the Chesapeake Bay Preservation Act. Third, removal of all local option in the current statute. This method, it was noted, would do little to solve the problems that occasioned the creation of the joint subcommittee. Fourth, preservation of the status quo, which admittedly would do little to remedy problems already identified.

Legislation Carried Over

After discussing the merits of the three carry-over bingo bills, HBs 590, 758, and 884, the joint subcommittee recommended reporting HB 758 as amended to the House Committee on General Laws. The joint subcommittee recommended that HB 590 be passed by indefinitely. No action was taken on HB 884.

Other Issues

Other issues presented to the joint subcommittee for consideration included:

- Excluding prize payout from the calculation of the minimum percentage of the gross receipts required to be returned to a charitable organization;
- Changing the audit fee, which is currently based on a percentage of gross receipts to a percentage of gross receipts less prize payout;
- Removing the restriction on instant bingo proceeds;
- Increasing jackpot limits to \$5,000; and
- Strengthening enforcement procedures.

Next Meeting

Chairman Colgan requested the Virginia Municipal League and the Virginia Association of Counties to make presentations on their respective stands on state regulation at the joint subcommittee's December meeting.



The Honorable Charles J. Colgan, *Chairman*
Legislative Services contact: Maria J.K. Everett

HJR 100: Joint Subcommittee Studying the Commonwealth's Adoption Laws

December 2, 1994, Richmond

At its fourth meeting the subcommittee reviewed the draft of previously authorized legislation. The subcommittee approved the draft legislation with some changes and refinements and expects to introduce it during the 1995 General Assembly Session.

Summary of Legislation

The legislation makes a number of changes to Virginia's adoption laws, most of which are designed to make the adoption process run more smoothly.

Courts

The bill provides that jurisdiction for parental placement adoption consent hearings is in the juvenile and domestic relations district court (or family court if it comes into being) and gives such hearings docket preference, requiring the hearing to be advanced on the docket so as to be heard by the court within 10 days of filing the petition or as soon thereafter as possible. In some jurisdictions it takes months to get on the docket, which results in a period of uncertainty for the birth parents, the child, and the adoptive parents. The bill clarifies venue for adoption hearings and that parental placement consent petitions do not have to be verified but can be signed by the petitioner's counsel.

A recent amendment to § 16.1-241 provides that a person convicted of rape resulting in the birth of a child cannot be a party with a legitimate interest in determining the custody of the child. Throughout the draft bill amendments eliminate the need for consent or notice to such a birth father when the child is the subject of an adoption petition.

Birth Parents

A definition of "birth parent" is added, providing that a parent by a previous adoption is a birth parent so that an adoptive parent may place an adopted child for adoption. Throughout various *Code* sections, "birth" is added before "parent" for clarity. Specific requirements for revocation of consent in an agency adoption are added so that birth parents will know exactly how to revoke their consent and so that the agency will be clear on whether or not a revocation has occurred.

Parental Placement

A number of changes have been made to the *Code* section governing parental placement adoptions. The bill provides that

a birth parent who does not live in Virginia may execute consent in a court having jurisdiction of child custody matters in the jurisdiction where the birth parent resides. This will avoid the expense and inconvenience of having an out-of-state birth mother travel to Virginia. Birth parents must be informed that they may be represented by legal counsel. The bill specifically provides that the adoptive parents have custody of the child after the court's acceptance of the birth parents' consent. Currently there is no provision for legal custody of the child. Revocation procedures and the resultant effect upon the court order accepting consent and transferring custody to the prospective adoptive parents are specified. The timing for the execution of the out-of-court consent of a birth father is clarified.

Timely Consent

Under current law, there is no way to require birth parents to make a consent decision in a timely manner. This bill provides that if a birth parent does not come to court to consent or execute an out-of-court consent if allowed, he shall be given notice by personal service, or if personal service is unobtainable, by publication, and a hearing may be held 21 days after personal service or 10 days after publication. If the court finds that consent is withheld contrary to the best interests of the child or is unobtainable, it may grant the petition without consent. The standards for determining whether it is in the child's best interest to grant the adoption petition without the consent of a person who would otherwise be required to consent are set out and include: the birth parent(s)' efforts to obtain or maintain legal and physical custody of the child, whether the birth parent(s)' efforts to assert parental rights were thwarted by other people, the birth parent(s)' ability to care for the child, the age of the child, the quality of any previous relationship between the birth parent(s) and the child and between the birth parent(s) and any other minor children, the duration and suitability of the child's present custodial environment, and the effect of a change of physical custody on the child. Great aunts and uncles are added to the list of relatives that may adopt a child without meeting certain requirements.

Expenses

The bill broadens and clarifies what expenses may be paid for the adoption and on behalf of the birth parents. Insurance premiums directly related to the birth mother's pregnancy and hospitalization for the birth of the child, mental health counseling for the birth parents if related to the adoption, reasonable expenses (including but not limited to transportation, food, and lodging) incurred incident to any court appearance required for a parental placement adoption, and transportation for any of the services for which payment is allowed are added. The penalty for violating the section is reduced from a Class 5 to a Class 6 felony.

The status of the birth parent upon removal of a child placed by parental placement to permit the court to determine the appropriate custody of the child is clarified. Current statute conflicts with the consent and revocation provisions for the birth parent in § 63.1-220.3.

Penalty

The bill provides that it is a Class 6 felony for any person to knowingly and intentionally provide false information, in writing and under oath, which is material to an adoptive placement. The commissioner of Social Services is authorized to investigate such cases and refer them to the Commonwealth's attorney.

Other Issues

The bill provides that the consent of the birth mother's husband is not required when there is evidence that the husband is not the father of the child and clarifies that an additional court hearing after the order of publication is finished is not necessary to determine if the petition should be granted without consent and that the court may consider the evidence without holding a hearing. The bill clarifies that in step-parent adoptions an investigation by the local department of social services is undertaken only if the court determines that one is necessary.

Current law provides that in agency or foreign placements the three required agency visits must be within the six months immediately preceding the filing of the petition. This requirement to file the petition immediately upon the close of the six months may be waived by the court for good cause shown as long as the three visits were made in some six-month period preceding the filing. Because current law gives a very narrow window for filing unless good cause is shown, the bill provides that the visits must have occurred in the eight months immediately preceding the filing. The visits themselves must still occur within a six-month period.

The bill strengthens an existing section stating that a final order of adoption is not subject to attack after six months by stating that such an order is not subject to attack "for any reason."

The draft legislation will be circulated to subcommittee members for their review and refinement.



The Honorable Linda T. Puller, *Chairman*
Legislative Services contact: Jessica F. Bolecek

SJR 18: Joint Subcommittee Studying Funding For Soil and Water Conservation Districts

September 14, 1994, Richmond

The agenda for the initial meeting of the joint subcommittee was devoted to a discussion of the roles, responsibilities, and activities of conservation districts. The joint subcommittee was briefed on the powers and duties of conservation districts, the

sources of their current funding, and how other states finance the operation of conservation districts.

Soil and Water Conservation Board

Under the Soil and Water Conservation Districts Law, the Virginia Soil and Water Conservation Board is responsible for overseeing the state's soil and water conservation programs. The 12-member board is authorized to (i) give or loan money and provide other assistance to district directors, (ii) coordinate programs among districts, (iii) review and approve applications for carrying out works of improvement under the federal Watershed Protection and Flood Prevention Act, and (iv) provide for both the conservation of water resources and the control and prevention of soil erosion, flood control, and sediment damage.

The board also has the power to create new districts or change the configuration of existing districts. There are currently 45 districts, covering approximately 98 percent of Virginia's land area. Each district is governed by a board of elected and appointed directors, ranging in size from five to 12 members. In order to fulfill their responsibilities, districts have the statutory authority to (i) carry out preventive and control measures and works of improvement, (ii) give, lend or furnish financial aid, (iii) make available equipment, fertilizer and seeds that will assist land owners in conserving soil resources and preventing and controlling soil erosion, and (iv) develop comprehensive programs and plans.

District Activities

While district services and activities vary according to a community's need, most districts offer a range of programs that provide services in the areas of agricultural conservation, urban conservation, education, dam safety, flood plain management, rental of conservation equipment, and conservation promotion.

District services are financed through a combination of state, local, and federal funds. In FY 1994, about \$1.8 million in grants were awarded to districts to support administrative and technical staff operations. Of this total, \$1.6 million came from the state and \$200,000 from federal sources. Beginning in 1990, districts also received \$375,000 annually from the Chesapeake Bay Local Assistance Department to pay for 13 technical staff positions in those districts covered by the Chesapeake Bay Preservation Act. In addition to state and federal grants, districts received approximately \$1.6 million in local government appropriations, and generated about \$234,000 through district-sponsored services, such as the rental of conservation equipment.

Under the Virginia Best Management Practices (BMPs) Cost-Share Program, districts served as a pass-through agency for \$1.2 million in grants to encourage farmers to apply BMPs to their land. The vast majority of funding for these grants (over \$1 million) comes from the EPA Chesapeake Bay Program.

Districts have two statutory financial tools available to fund their activities. They may establish special watershed taxing

districts to pay for the construction of improvements to check erosion, provide drainage, collect sediment, or stabilize stream runoff. Only one such district has been created (Lake Barcroft). It generates \$550,000 annually through the imposition of a real estate tax on 1,000 property owners in the designated small watershed improvement district. A second source of financing is the Virginia Soil and Water Conservation Board's revolving loan fund, which affords districts the opportunity to borrow money at a six percent interest rate. The money is to be used to purchase machinery and equipment for the district.

Funding of District Activities In Other States

The funding of soil and water conservation programs varies widely in other states. The programs of a number of states, including New Jersey, Nebraska, Missouri, Minnesota, South Dakota, and Washington, were reviewed for the joint subcommittee, with emphasis on the funding sources, including tax revenues, in each state.

Virginia's Program

The Department of Conservation and Recreation is the lead coordinating agency for nonpoint source pollution (NPS) programs in Virginia. The Board of Soil and Water Conservation is responsible for oversight of district operations and performs such functions as (i) providing financial assistance to districts, (ii) serving as a conduit for the exchange of information among districts, (iii) coordinating district programs, (iv) securing cooperation of federal agencies in assisting districts in their conservation activities, (v) approving or disapproving flood prevention and watershed protection projects submitted by conservation agencies under PL-566, and (vi) creating district boundaries. In managing the state's NPS programs, the agency seeks to control the levels of sediment, nutrients, toxic materials, and pathogens that flow off the land into the water. Districts have been established as the mechanism to carry out this responsibility at the local level.

Funding

The Soil and Water Conservation Board establishes the financial policy by which districts receive funding. Currently, under this policy, districts are eligible to receive basic operations grants (\$5,800); matching grants (\$9,000); full-time technical employee (\$25,000); full-time technical employee operating grant (\$3,000); part-time administrative/clerk employee (\$5,000); and innovative water quality grant (\$5,000). Thus, the maximum annual grant each district could receive under the board's financial policy is \$52,800, which has been characterized as the amount necessary to administer the basic functions of a district.

This past year, the agency received \$4 million from the Chesapeake Bay Program and § 319 of the federal Clean Water Act (nonpoint source funding). Both federal allocations require a state match. In the case of the Bay Program, a 50/50 match is

required; under § 319, the federal/state match is 60/40. These federal dollars come with conditions and requirements, and the increased reliance on federal sources results in the state's having less flexibility to assess and address local problems. If the basic operating expenses of districts were paid for by increasing the amount of state funding, local, state, and federal matching dollars could then be redirected to address water quality problems.

Virginia Association of Soil and Water Conservation Districts

The president of the Association of Soil and Water Conservation Districts presented a statewide perspective of district activities, including the role of the association in Virginia's conservation effort, districts' roles as conservation partners with local government, the current situation (issues and finances), and what districts are doing to meet the challenges resulting from a decline in funding and an increase in responsibilities. He pointed out that districts see themselves less as a generic unit of state government and more as an autonomous organization having statutory authority to assist communities in the wise use and conservation of natural resources. The association (i) provides districts with representation on a statewide level, (ii) represents districts' interests to state and federal conservation partners so as to ensure that conservation policies and programs are effective, (iii) serves as a forum for districts to discuss political issues in conservation and to promote policy positions to legislative bodies, and (iv) provides leadership training to district directors.

Local Soil and Water Conservation Districts

The vice chairperson of the Northern Virginia Soil and Water Conservation District discussed the activities of the district, whose boundaries are Fairfax County, with a population of 800,000. The district's programs, which emphasize protection of watersheds, were described, along with such issues as local support, declining state funding, and the benefits of the small watershed district legislation.

Next Meeting

At its next meeting, the joint subcommittee will be briefed on the results of a survey of the staffing and financial needs of the soil and water conservation districts in Virginia. The agenda will also include a presentation by local government officials and district directors regarding possible options for stable long-term funding, including any additional authority that might be given to local governments enabling them to generate more revenue for district activities.



The Honorable Joseph V. Gartlan, Jr., *Chairman*
Legislative Services contact: Martin G. Farber

Commission on Early Childhood and Child Day Care Programs

December 16, 1994, Richmond

Centers for Families That Work

At its October meeting the commission heard about problems with the release of funds from the Council on Child Day Care and Early Childhood Programs to the three pilot regional Centers for Families That Work. The centers were established in 1993 to perform the following activities:

- Consultation and referral services to assist parents in locating, selecting, and maintaining child care arrangements;
- Development of community resources to provide child care programs to meet a wide range of needs;
- Creation and maintenance of a comprehensive child care provider database;
- Automated management of the collection, organization, and dissemination of child care demographics to be made available to employers, public and private agencies and organizations, and the general public for planning and development; and
- Administration of a pilot automated voucher subsidy program for child care.

The three centers, located in Norfolk, Fairfax, and Roanoke, were awarded three-year contracts by the Council on Child Day Care and Early Childhood Programs in 1993, renewable each year. On September 30, 1994, the end of the first year of the contract, the centers were told that the program would be extended only until June 30, 1995, and that the subsidy portion would be eliminated immediately. Parent consultation and referrals and resource development would continue, but no funds were provided for the planned expansion into unserved areas for years two and three. The centers were asked to reapply for the second-year funding and asked to respond to additional questions about their renewal applications.

All three centers have continued to provide services without second-year contracts and without funding since October 1, 1994. Second-year subsidy money was turned over to the State Department of Social Services for redistribution. The centers are concerned about the status of a statewide education campaign and a software program developed to maintain referral data and administer the voucher program, because substantial time and money were invested in both projects.

The director of the Council on Child Day Care and Early Childhood Programs explained that some of the centers' subsidy

money has been distributed to localities and that a very serious review of the contract procurement process is under way and expected to be completed within two weeks. Copies of the review report will be distributed to the commission as soon as it is available.

Welfare Reform

The commission asked the administration to discuss how child day care will be affected by welfare reform proposals, including the relationship between anticipated demand and currently available slots for children who will be entering day care, anticipated day care arrangements, and how training will be provided to day care providers. The commission is particularly concerned about day care for infants, in rural areas, and for children whose parents work nights and weekends. The Empowerment Commission found that people want day care that is affordable, accessible, healthy, and safe, according to the commission's director. The Empowerment Commission looked at ways to provide more child care in housing projects and businesses and found that there are regulatory barriers and that potential day care providers lack the resources to understand how to go about providing day care. The Empowerment Commission concluded that there is a wealth of untapped resources in communities.

The commission also asked to be updated on the recommendation of the Governor's Commission on Government Reform regarding the proposal to consolidate the functions of the Council on Child Day Care and Early Childhood Programs in the Department of Social Services and was informed that the Secretary of Health and Human Resources has no position until the Governor makes his decision.

The commission also inquired about the status of licensing regulations for child day centers and family day homes and whether any of the regulations are currently under revision or will be in the near future. The commission was told that the secretary is committed to the health and safety of children, to increasing the number of providers, to stimulating competition among providers to lower rates and that review of regulations will continue.

Commission Recommendations

The commission agreed to introduce a resolution strongly supporting continuing and increasing the funding for at-risk four-year-olds that was in the 1994 Appropriation Act. The commission will monitor the formula by which these at-risk funds are allocated, because those localities that participated in federal funding and developed creative and innovative programs are not eligible for state funds, even though their programs need to be expanded.

The commission discussed a draft bill that removes the July 1, 1996, sunset date for the commission, clarifies and modifies its duties, revises the membership to remove the state agency representatives and replaces them with the Secretaries of Health and Human Resources and Education as non-voting members, and reduces the number of citizen members from three to two, with one appointed by each house of the General Assembly. It was noted that because day care is crucial to economic development, the commission should be permanent, perhaps with independent staff. The bill will be revised

to require the commission to determine the availability of day care slots for children with special needs and whether and how providers should receive training that will encourage them to care for special needs children.

The commission determined that its 1995 work plan should include:

- Asking VML and VACO to work with localities to generate ideas on how to deal with zoning problems experienced by family day homes;
- Determining how restrictive covenants affect family day homes;
- Determining whether obtaining homeowner's insurance is a widespread or isolated problem for family day homes;
- Monitoring fire safety and building code requirements for family day homes; and
- Determining what barriers exist for the establishment of employer-sponsored or employer-site day care and how to make such day care more available.

The commission will meet immediately before the 1995 General Assembly Session to review the resolution and the bill and to further refine its recommendations.



The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Jessica F. Bolecek

HJR 283: Blue Ridge Economic Development Commission

October 13, 1994, Lexington

At its second 1994 meeting, the commission heard from seven non-profit/private economic development organizations in the Blue Ridge, five of the Governor's regional economic development advisory councils that serve the region, and the state director of the Governor's regional councils. In addition to providing an opportunity to "meet and greet" the commission and each other, the meeting provided a forum to exchange relevant, helpful, and timely information. Chairman Deeds emphasized that such an exchange helps to foster a spirit of cooperation and coordination and avoids the time and expense of duplicative effort. Consequently, significant contributions are made towards everyone's goal of enhancing both the quality and quantity of economic development in the Blue Ridge.

November 14, 1994, The Homestead

The commission held its third meeting in conjunction with the 60th Annual Meeting of the Virginia Association of Counties. Presentations were made by representatives from the Virginia Port Authority, the Homestead, and the Hotel Roanoke and Conference Center. In addition, the commission heard from or on behalf of three of the four entities that it helped to establish: the World Trade Alliance of the Blue Ridge, the Blue Ridge Regional Educational and Training Council, and the Blue Ridge Regional Tourism Council. In a brief working session after the formal agenda, the commission discussed a number of legislative proposals.

Virginia Port Authority

Virginia's Inland Port (VIP) at Front Royal opened in 1989 after the General Assembly appropriated approximately \$10.1 million to the project. Preliminary studies, which began on the project in 1987, focused on the goal of the VIP as providing transportation, not economic development.

The design of the VIP is that of a major rail yard—the Norfolk-Southern—with enhanced tractor-trailer truck access. The purpose of the VIP is to transport goods and products on a west-east route to Virginia's seaports. In planning the VIP, the Virginia Port Authority targeted the business in a specific market—West Virginia and the Eastern Ohio Valley. The success of that marketing plan is evident in the increasing number of containers that are annually shipped through the VIP: three in 1989; 16,000 by the end of this year. Excluding coal, which has its own transportation system, 80 percent of the VIP's business is from outside the Commonwealth.

A number of issues should be explored prior to conducting an initial feasibility study of establishing an inland port in the Blue Ridge Region. First, where will such an inland port be located? Wytheville and Roanoke have been suggested. Second, what is the targeted market? If it is primarily comprised of southwest Virginia businesses, the level of interest and ability to use such an inland port must be determined. Third, what clearances will be needed? Fourth, will Norfolk-Southern, a major investor in the VIP, make such an investment in a second inland port?

Tourism

The sale of the Homestead by the Ingalls family to Club Resorts, a subsidiary of Club Corp. International, was reported. Since the sale, Club Resorts has invested \$6 million in capital improvements to the 15,000-acre site, with the emphasis on the hotel and golf courses.

The Hotel Roanoke and Conference Center is scheduled to open on April 3, 1995. The hotel represents a true model of "partnership" and involved the City of Roanoke and its citizens,

Virginia Tech, several financial institutions, the General Assembly, and the Hotel Commission. The commission is making every effort to purchase Virginia products to furnish and supply the hotel and has employed about 75 percent local and 15 percent minority contractors.

Status Reports

The chair of the Blue Ridge Regional Education and Training Council updated the commission on the group's activities over the past year, which include publishing an adult services directory and regional newsletter, sponsoring school-to-work transition workshops, and distributing information on the School-to-Work Opportunities Act and the Governor's Champion Schools.

The vice chairman of the Blue Ridge Regional Tourism Council reported that the council has met two of its four statutory goals—networking and distributing information. Two additional goals—creating a regional marketing plan and scheduling quarterly meetings—cannot be achieved until funding is available.

The Virginia Department of Economic Development has hired staff for its Roanoke office, which provides staff support to the World Trade Alliance of the Blue Ridge. The position had been vacant for the past several months.

Final Meeting of 1994

The commission will hold its fourth and final meeting of the year on Thursday, December 29, 1994, at 10:30 a.m. in the Knicely Center of Virginia Western Community College in Roanoke. In lieu of a prepared agenda, the commission will conduct a work session to discuss, propose, and adopt its legislative recommendations for the 1995 Session.



The Honorable R. Creigh Deeds, *Chairman*
Legislative Services contact: Diane E. Horvath

Commission on Virginia Alcohol Safety Action Programs

October 14, 1994, Richmond

At its final quarterly meeting of 1994, the VASAP Commission approved its legislative package for the 1995 Session, which consists of the following measures:

- Mandated entry into an ASAP program for first DUI offenses (HB 48, carried over to 1995 Session).

- Judges authorized, as a condition of probation following conviction of an offender for a first or subsequent DUI violation, to prohibit the offender from operating any motor vehicle not equipped with an ignition interlock system for any period not to exceed three years. Installation of an interlock system may also be required for persons who are issued a restricted license under the Habitual Offender Act or pursuant to § 46.2-391, during the term of license restriction (HB 768, carried over to 1995 Session).

- Clarification that judges may refer persons under the first offender statute to ASAP programs for evaluation, education, and/or referral. Many judges are already doing so without specific statutory authority.

- Clarification that a person under age 21 convicted of driving after having illegally consumed alcohol under Virginia's new "zero tolerance" law must attend an ASAP program to be eligible for a restricted license during the term of license suspension.

- Provision that all intervention services under § 46.2-351.1 (pre-habitual offender intervention) are to be provided by ASAP programs. Previously, an offender who had nonalcohol- or nondrug-related offenses was referred to the Department of Motor Vehicles. This amendment was requested by DMV.

The commission also voted to support a carryover bill that would make the habitual offender process administrative rather than judicial, placing administrative responsibility under the Department of Motor Vehicles Commissioner.



The Honorable William P. Robinson, Jr., *Chairman*
Legislative Services contact: Oscar R. Brinson

SJR 96: Joint Subcommittee Studying the Reorganization of the State Library and Archives

November 30, 1994, Richmond

The second meeting of the joint subcommittee focused primarily on the Library's budget, the new Library facility, preservation needs, and new technology. The acting state librarian also briefly updated the committee on issues raised at the October meeting.

A library board member noted that the funding deficiencies prompting the committee's study exist throughout the agency. Acknowledging the increased funding demands that the new Library facilities will bring, he stated that budget constraints hamper the Library's ability to preserve its collections and to advance new technologies that increase accessibility for citizens throughout Virginia.

Annual Budget

The Library's appropriation for fiscal year 1995, from all sources, totaled \$22.5 million. Of this amount, \$17.8 million, or 79 percent, consisted of general funds. Comprising the next largest portion were \$3 million in federal funds (13 percent), while the preservation of circuit court records and special revenues stood at \$1.3 million (six percent) and \$400,000 (two percent), respectively. Nearly two-thirds of the Library's general fund moneys, or \$11.4 million, is directed to aid for public and institutional libraries. The Library's remaining general fund dollars—\$6.4 million—support its operating budget.

Employment Levels

The current budget authorizes the 154 full-time Library staff, the largest portion of these positions—54—is devoted to the Archives Division, followed by the General Library Division, with 37 positions. A full-time staff of 209 has been recommended for the new Library facility.

Proposed Budget Amendments

The Library's budget amendment package includes six recommendations, addressing a wide variety of issues. A total of \$826,869 has been requested to support transition expenses for the new Library and Records Center facilities. The restoration of nine positions in four Library divisions will require a \$503,307 appropriation, while \$1,312,269 in collections management moneys will support the purchase of books, serials, and archival materials as well as retrospective acquisitions and three staff positions.

The Library will also request \$365,000 in basic support for library services to replace obsolete or broken equipment; the current operating budget allocates less than \$50,000 for equipment replacement. Conservation and preservation of collections will be supported by a proposed budget amendment of \$972,932. Incorporated in this request will be the microfilming of 18th and 19th century records; nine positions, including a conservation lab director and eight wage positions; and equipment. This request does not, however, address the preservation of the Library's picture collection or state documents. Finally, the Library will propose a \$3,920,738 budget amendment to fully fund state grants for public libraries.

Since July 1990, the Library's budget has witnessed a reduction of 27 percent, or \$6.4 million. Thirty-one percent of the Library's budget is directed to the Archives Division for the preservation of circuit court records, salaries, and archival duties.

New Facilities

The new five-floor facility at 8th and Broad Streets will provide approximately 316,500 square feet of space, at an estimated total construction cost of \$43 million. The building will

be home to more than one million books, documents, and historical artifacts, including one of only 12 surviving original copies of the U.S. Bill of Rights. Free parking will be available to Library patrons.

The new Records Center, planned for the West Broad Street government complex near the Science Museum of Virginia, will provide 75,800 square feet for non-permanent, permanent, and security microfilm copies of Virginia's vital and historical records. Records now accessible to the public will remain open for research use at the new center. The building will also house various inactive records now held in off-site storage space. While plans are complete for this building, its construction has been placed on hold.

Preservation Techniques

The assistant state archivist reviewed document preservation, a complex and sometimes costly process that may include surface cleaning, paper mending, mylar encapsulation, acidity testing, and de-acidification. Preservation of a one-page manuscript may cost from \$200 to \$500, while the treatment of a large map may cost \$1,000 to \$2,000. The preservation of archival documents is governed by stringent guidelines. A conservation lab, planned for the new Library building, will handle document preservation.

Another preservation technique, reformatting, alters the particular medium or manner in which the archival information is stored. Examples of reformatting include microfilming and optical discs. Microfilming may cost two to five cents per image; properly stored, this media may provide quality records for 200 to 300 years. While national standards exist for microfilm, optical discs remain a relatively untested reformatting technique. Although vendors estimate disc longevity at 30 to 100 years, no definitive aging tests have been conducted to confirm this contention. The use of these discs has been suggested, however, for short-term purposes. Software compatibility also remains a concern in the use of optical disc systems for long-term document preservation.

Preservation Needs

Used more than any other state archives in America, the Virginia Archives are comprised primarily of state and local records. Accounting for over 60 percent of the Archives are state records reflecting government functions. Local records, constituting about 34 percent of the Archive collections, include deeds, wills, and other documents. The Archives also includes Bible and business records, personal papers, and maps. The preservation needs of these materials vary. While the total archival collection covers 54,474 cubic feet, the preservation of an 18,227 cubic foot backlog of local records may require 10 years and over \$2.7 million. Similarly, a backlog of state and other records may also require 10 years for refoldering and reboxing in acid-free boxes. This project may cost \$1.4 million, including materials and salaries. The Archives Division anticipates a need for additional

staff over the next six years to meet these challenges. Responding to inquiries from committee members, Library representatives expressed concern that privatizing these preservation activities might not only jeopardize document security but also result in higher costs for the Commonwealth. The Library has identified 23 items as "preservation priorities," based on their condition and frequency of use by the public.

Although only three to four percent of government papers are considered to be of an archival nature, the Virginia Public Records Act designates the Library as responsible for all such records. The Library also owns 152 paintings, displayed in the Capitol and other sites. The restoration of these pieces, which must be handled by third parties, is estimated at \$1,000 each. Maintenance of the U.S. serial set, consisting of federal documents and pamphlets, also demands attention, as the Library is one of the few libraries having a complete set.

The "Virtual Library" and Digitizing of Resources

The "Virtual Library" (VIVA) is a cooperative effort by the libraries of the Commonwealth's five doctoral institutions to provide digital or electronic access to information of historic value to a large audience. One VIVA subcommittee has explored the digitizing of collections, while the VIVA steering committee has approved the addition of a representative of the Library and the Virginia Historical Society to VIVA efforts. VIVA will identify collections digitized at the various institutions, compile guides for users to locate these collections, and ultimately, scan portions of the collections themselves.



The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Kathleen G. Harris

HJR 141: Joint Subcommittee Studying Marketing and Financing Practices Associated with the Sale of Preneed Funeral Contracts

*November 22, 1994,
December 22, 1994, Richmond*

The joint subcommittee met twice to conclude its examination of preneed financing and marketing practices. Its members received testimony from representatives of the Virginia Cemetery Association concerning the sale of preneed funeral and preneed cemetery contracts by funeral homes and cemeteries under common ownership. The joint subcommittee also heard testimony concerning the authority of the Department of Health Professions to intervene promptly when preneed funding pay-

ments are at risk. Finally, the joint subcommittee reviewed several legislative proposals concerning the preneed industry, approving two for submission to the 1995 General Assembly Session.

Sale of Preneed Cemetery Contracts

An issue discussed frequently by the joint subcommittee was the suggestion of improper linkage between the sale of preneed cemetery contracts and the sale of preneed funeral contracts. Under current law, only persons licensed by the Board of Funeral Directors and Embalmers may sell preneed funeral contracts. Moreover, in-person solicitation of preneed funeral contracts is expressly prohibited, although such solicitation is permitted for preneed cemetery sales. Members of the joint subcommittee had received anecdotal information suggesting that companies owning both funeral homes and cemeteries might be running afoul of these restrictions.

Representatives of the Virginia Cemetery Association and a cemetery in Hampton told the joint subcommittee that current preneed statutes and regulations provide a bright line separating permitted from prohibited preneed marketing activities. These clear-cut restrictions, combined with the low level of preneed-related complaints, suggested, they said, that the current framework is working. They also noted that the demographics of preneed funeral and preneed cemetery sales are quite different: a typical preneed funeral customer is between 65 and 75 years old, while preneed cemetery contract marketing targets a younger audience between the ages of 45 and 60—a less vulnerable purchasing group. The joint subcommittee made no legislative recommendations concerning preneed cemetery contracts.

Authority of the Department of Health Professions

The senior deputy director of the Department of Health Professions reviewed the disciplinary options available to the Board of Funeral Directors whenever preneed-related complaints are made. The complaints are first turned over to the department's investigators, then the complaints are processed by the board. The informal hearing, and subsequent formal hearing process that can be invoked, can take up to a year to complete. Ultimately, the strongest penalty available to the board is revocation of a funeral director's license.

Neither the department nor the board has any authority to direct the return of any missing preneed funds; neither has any authority to seek the aid of a court to seize misallocated preneed funds. It was suggested to the joint subcommittee that the department have authority to intervene more expeditiously in the extreme cases where preneed contract purchase money is in jeopardy. A proposal permitting the department to seek injunctive relief or the appointment of a receiver in such circumstances was made to the joint subcommittee. The proposal was discussed at the November meeting; draft language was reviewed and approved for recommendation to the General Assembly by the joint subcommittee at its December meeting.

Bonding of Preneed Operations

The joint subcommittee learned that in the 22 cases of preneed complaints adjudicated by the board since 1992, there were six founded violations involving licensee misappropriation of preneed funds; there are seven pending allegations. Additionally, it was noted that there are four pending allegations where licensees held preneed moneys beyond the 30 days permitted by law but eventually submitted it to the preneed funding destination.

A representative of the American Association of Retired Persons (AARP) told the subcommittee that the AARP supports the enactment of legislation aimed at protecting preneed funding from the time it leaves a purchaser's hands until it is deposited in a preneed trust account or is used to purchase a preneed insurance policy. He suggested that the joint subcommittee recommend legislation requiring fidelity bonding to cover these funds or, in the alternative, establishing a preneed guaranty fund created by nominal, per-contract payments by funeral licensees. In North Carolina, for example, licensees pay \$15 per preneed contract into a preneed guaranty fund. In the event a licensee misappropriates preneed funds and purchaser reimbursement cannot be obtained from the licensee or his business assets, the purchaser is paid from the guaranty fund. A former board member also recommended bonding or some form of mandatory errors and omissions insurance to address this issue. The joint subcommittee made no recommendations concerning bonding, a guaranty fund, or insurance.

Miscellaneous Issues

The joint subcommittee considered but did not recommend the following proposals: (i) requiring all sellers of preneed funding contracts or other financial instruments to provide periodic statements of account, (ii) rescinding the current provisions of the preneed statutes requiring preneed insurance policies to appreciate for the first 15 years at a rate of five percent or annual increases in the consumer price index (CPI), (iii) requiring *any* contract or financial instrument funding a preneed contract to appreciate at the rate of five percent or the CPI, (iv) prohibiting the sale of term life insurance policies labeled as "preneed insurance" absent underlying contracts for preneed services, and (v) requiring independent audits of all preneed trust funds to be submitted at least annually to a state enforcement authority.

House Bill 999, carried over from the 1994 Session in the House Corporations, Insurance and Banking Committee (CIB), was reviewed. The bill would have required that funds used to purchase any preneed funding contract or instrument incorporating the word "trust" be deposited in a Virginia financial institution. The joint subcommittee made an advisory recommendation that the bill not be recommended by House CIB.

Finally, the joint subcommittee reviewed and recommended a proposal to permit centralized preneed record-keeping by

funeral establishments in Virginia under common ownership, management, or control. The recommendation was intended to assist those companies with several chapels who must, under current board regulations, maintain preneed contracts and related records at the funeral establishments. A representative of a Roanoke funeral home told the subcommittee that this legislation will remove some administrative difficulties under the current scheme.



The Honorable Harvey B. Morgan, *Chairman*
Legislative Services contact: Arlen K. Bolstad

SJR 27: Joint Subcommittee Studying Ways to Reduce Emissions From Coal-Carrying Railroad Cars

December 8, 1994, Richmond

Noting that the joint subcommittee members had been anxiously awaiting the findings from Norfolk Southern's (NS) pilot project with Consolidation Coal Company (Consol) designed to reduce coal dust emissions, Chairman Schewel asked NS representatives to present the company's report to the panel.

Implementation of Control Strategies

The agreement between NS and Consol called for the companies to cooperate in deciding the frequency and types of coal load profiles to be used and bonding agents to be applied to the loaded coal. According to NS officials, approximately 10 percent of coal the company ships is considered to be dusty. This metallurgical coal is particularly dusty in hot and dry conditions. Commencing on July 27 of this year, a portion of Consol's coal was treated with selected encrusting agents. Of the over 100 such agents submitted for testing, three were selected by the coal producers for this project.

By the end of September, 11,500 of Consol's cars had been treated. This represented about 25 percent of the company's dusty coal during that period. An NS official reported that the project resulted in an overall 86 to 99 percent reduction in emissions for the tested cars, with 50 percent of the reduction attributable to lowering the load profiles of selected cars.

The subcommittee learned that 39 of 40 of Norfolk Southern's coal producers have recently responded favorably to the prospect of cooperating with NS in a manner similar to that agreed to by NS and Consol. NS and coal industry representatives stressed that a successful program must be tailored to address only dusty types of coal and urged the subcommittee to allow them to implement a self-imposed solution.

The panel was also informed of Norfolk Southern's efforts to examine coal dust emissions in the Hampton Roads area. Noting that emissions will be reduced at the port by treating the coal at the mines, NS officials described its consultant's testing at selected locations in Hampton Roads. Results showed that less than 10 percent of material contained in filters in July and September test dates came from coal or similar products, with less than 20 percent of that amount attributable only to coal.

Continued Concerns

Citizens from Southwest Virginia and Hampton Roads and an Altavista government official appeared before the subcommittee to express their concerns and frustration over continued occurrences of coal dust emissions.

A Bedford County resident stated that the only coal cars passing by that are not dusty are those that have been treated with the encrusting agent and questioned the NS finding that only 10 percent of coal shipped is dusty. He urged the subcommittee to recommend legislation to address the problem. Several Hampton Roads area residents similarly urged that a legislative solution be considered and expressed frustration that they have lived with the problem for too long already.

Subcommittee Action

Expressing optimism that increased implementation of emission-control strategies begun in 1994 will responsibly address a recognized problem, the joint subcommittee unanimously recommended that its study be continued in order to monitor industry actions.



The Honorable Elliot S. Schewel, *Chairman*
Legislative Services contact: Mark C. Pratt

HJR 110: Business, Professional and Occupational License Tax Study

December 7, 1994, Richmond

When the joint subcommittee studying the BPOL tax met in October, no one knew that by the December 7 meeting there would be a proposal from the Governor to phase out the tax. The Governor made the proposal on December 1 as part of a \$2.1 billion tax-cut plan, and the subcommittee was anxious to hear more about it.

Phase-out of the BPOL Tax

Virginia's tax commissioner briefed the subcommittee on the basics of the BPOL tax phase-out. Beginning in 1996, localities

would have to lower their BPOL tax rates and would continue to do so through the year 2000. By January 1, 2001, the BPOL tax would be eliminated. During that time, state appropriations would be made annually to localities that levy the tax to cover the reduction in BPOL tax revenues. Also, in order to provide uniformity during the phase-out period, the Governor supports the adoption of the model ordinance that the joint subcommittee has been developing.

Concern was expressed by some members of the subcommittee regarding the appropriations to be made annually to the localities. Would the localities be held harmless and receive the funds in addition to others they expect to receive or would their other appropriations be reduced in order for this BPOL revenue substitute to be funded? What will happen in the year 2001? Will localities be on their own to deal with the lost revenues? The subcommittee was told that answers to these types of questions will be provided on December 19 when the Governor presents his budget amendments.

Other subcommittee members welcomed the proposal, seeing it as a plus for economic development and, in particular, small business. The business community agreed with this evaluation, while local government was worried about what happens after the five year phase-out.

BPOL Model Ordinance

The assistant tax commissioner for tax policy reviewed the BPOL model ordinance. He emphasized the areas of disagreement between the business community and local government:

- nonprofit organizations exemption,
- professional services definition,
- investment income deduction,
- out-of-state businesses with no Virginia office,
- apportionment and situs rules,
- reasonable cause for waiving penalty,
- impact of taxpayer fault on interest,
- stay of collection during administrative appeal, and
- effective date.

The Tax Department and legislative staff will assist the advisory committee in trying to iron out as many of the differences as possible before the next meeting.

Subcommittee Actions

The joint subcommittee adopted the model ordinance in concept, with the understanding that changes discussed in the meeting would be made and a final vote taken at the next meeting on January 9, 1995. Also, by a vote of 7-6, it was decided to defer until the January meeting a vote on a recommendation to support the Governor's proposal to phase-out the BPOL tax. The majority wanted more information with regard to the funding of the lost revenues, which should be forthcoming on December 19th.



The Honorable David G. Brickley, *Chairman*
Legislative Services contact: Joan E. Putney

Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act

October 17, 1994, Richmond

The joint subcommittee received the Virginia Employment Commission's (VEC) annual unemployment insurance trust fund briefing. Additionally, the VEC presented its analysis of House Bill 765, carried over from the 1994 General Assembly Session, which proposed to change the employer responsible for paying benefits from the last 30-day employer to the last 60-day employer. The VEC also provided a trust fund impact assessment concerning a proposal to waive repayment of unemployment compensation benefit overpayments resulting from VEC administrative error.

Trust Fund Adequacy

The joint subcommittee was advised that as of June 30, 1994, the unemployment insurance trust fund (from which unemployment benefits are paid to unemployed Virginians) was at 68 percent of adequacy (in comparison to 64 percent one year ago) and that the VEC projects this figure will rise to approximately 81 percent by 1997 (assuming no significant changes in tax or benefit levels and a constant statewide unemployment rate of five percent or lower). An adequacy level of 50 percent or more is indicative of a relatively strong trust fund balance. No changes in compensation levels or employer tax rates were recommended by the joint subcommittee.

House Bill 765

The VEC also presented its analysis of HB 765, which proposes to change the method prescribed by current law for determining the employer responsible for paying unemployment compensation benefits. Under current law, the VEC examines a benefit claimant's employment history. It reviews the claimant's separation from the last employer employing him for more than 30 days (§ 60.2-528), together with separations from all subsequent employers. House Bill 765 proposed to change this requirement to begin this review with the last employer employing the claimant for more than 60 days.

Committee members familiar with the bill suggested that its likely purpose was to encourage new employment by providing an employer a 60-day "free look"; that is, a trial employment period of about two months without the risk of being charged for unemployment compensation benefits if the employer terminated the employment. The VEC noted that an employee otherwise eligible for benefits (one unemployed through no

fault of his own) will receive benefits, regardless of whether the employer chargeable for the benefits is the last 30-day employer or last 60-day employer.

Such a change (from 30 to 60 days) would, however, shift benefit responsibility among employers and would also increase the number of employers involved in a claim's administration, as more distant employers would be required to file separation reports. The VEC also noted that pool costs would increase where chargeable employers could not be located but was unable to estimate increased pool costs in the event HB 765 became law.

The joint subcommittee discussed and considered HB 765 following the VEC's presentation. Its members voted to recommend to the House Labor and Commerce Committee that HB 765 be passed by indefinitely.

Overpayments Due to Administrative Error

At the request of a Senate member, the joint subcommittee examined a suggestion that the VEC waive repayment of benefit overpayments resulting from administrative error. Under current law (§ 60.2-633), persons receiving overpayments for any reason are required to repay them. The VEC estimated that in fiscal year 1993-1994, total overpayments resulting from VEC administrative error totaled \$88,000. In making this calculation, the VEC assumed that "administrative error" meant a benefit miscalculation wholly internal to the VEC and not related in any way to a claimant's failure to provide timely, accurate, and adequate information about his claim.

In terms of the waiver proposal's likely impact on the trust fund, the VEC estimated that if the cost of waiving such overpayments were assigned to "pool costs" (costs that cannot be assigned to any employer), the cost would have to average at least \$800,000 for three years before requiring any increase in employer pool taxes. The VEC concluded that the effect of the proposal on the trust fund would be negligible.

The joint subcommittee discussed and considered the VEC's report on the overpayment waiver report. However, it made no recommendation for or against the proposal, noting for the record its receipt of the VEC report on the matter without further joint subcommittee action.



The Honorable Elliot S. Schewel, *Chairman*
Legislative Services contact: Arlen K. Bolstad

The Legislative Record summarizes the activities of Virginia legislative study commissions and joint subcommittees. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.



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The Legislative Record is also published in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.
Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations*.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in The Virginia Register of Regulations on July 11, 1994 (10:21 V.A.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in The Virginia Register of Regulations. This section of The Virginia Register has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

Group II December 1, 1994 June 1, 1995
 Group III July 15, 1995 January 15, 1996
 Group IV December 1, 1995 June 1, 1996

This schedule will facilitate staff compliance with the requirement that 1/2 of the regulations be evaluated by July 1, 1995, and the remaining by July 1, 1996.

The following table details the dates assigned to each of the regulations for completion of the comprehensive review. In addition, the VDH program area with primary responsibility for accomplishing the review is identified.

DEPARTMENT OF HEALTH

PLAN FOR THE COMPREHENSIVE REVIEW OF ALL EXISTING HEALTH REGULATIONS

Timetable for Review

The 66 regulations for the State Board of Health and the Virginia Health Planning Board are divided into four groups. Each group shall be reviewed within a period of six months. From the start date, review should comply with the following timetable:

First 2 Weeks: Staff develops written statement of regulation's statutory authority and intended purpose. Regulated parties are detailed. Existing advisory committee is notified of the review; or an ad hoc advisory group is formed to participate in the review, if appropriate.

By Week 2: Notification of review and public comment period is identified and filed with the Registrar for publication in the Register. Public comment period shall be no less than 60 days.

By Month 3: Review of regulation is begun with advisory groups. Public comment is received and analyzed; shared with advisory group. Development of report is under way.

End Month 5: Draft report with recommendation is presented to the Commissioner. If consensus on recommendation is not present, staff provides oral briefing to review unresolved issues. Revisions made to the report.

End Month 6: Final Report is presented to Secretary James and copied to members of the State Board of Health or Virginia Health Planning Board.

The review periods for the four groups are as follows:

	<u>Begin by</u>	<u>End</u>
Group I	Sept 15, 1994	March 15, 1995

VR NUMBER, REGULATION TITLE AND PROGRAM RESPONSIBLE

Group I - Due Date 3/15/95

VR 355-01-100. Public Participation Guidelines.
Office of Public Affairs

VR 355-12-01. Virginia's Hearing Impairment Identification and Monitoring System.
Office of Family Health Services

VR 355-19-02. Notices and Descriptions of Shellfish Area Condemnations. (Each Condemnation Notice is VR-numbered separately; review will occur for process of condemnation.)
Office of Water Programs

VR 355-19-07. Regulations Prohibiting the Taking of Fish for Human Consumption from the North Fork of the Holston River.
Office of Water Programs

VR 355-30-000. Virginia Medical Care Facilities Certificate of Public Need Regulations.
Office of Resources Development

VR 355-32-01. Rules and Regulations Governing Emergency Medical Services.
Office of Emergency Medical Services

VR 355-33-04. Rules and Regulations Governing the Practice of Midwifery.
Office of Family Health Services

VR 355-34-100. Private Well Regulations.
Office of Environmental Health

VR 355-35-01. Regulations Governing Restaurants.
Office of Environmental Health

VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Medical Care Services.
Office of Finance and General Services

VR 355-39-200. Charges Schedule.

Schedules for Comprehensive Review of Regulations

Office of Finance and General Services

VR 355-40-02. Guidelines for the General Assembly Nursing Scholarship Program.
Office of Public Health Nursing

VR 355-40-03. Regulations Governing the State Dental Scholarship Program.
Office of Dental Services

Group II - Due Date 6/1/95

VR 355-01-400. Human Research.
Office of Public Affairs

VR 355-12-02. Children's Specialty Services Program (Plan).
Office of Family Health Services

VR 355-17-01. Regulations for Marinas and Boat Moorings (4th Revision).
Office of Water Programs

VR 355-20-01. Virginia's Radiation Protection Regulations.
Office of Epidemiology

VR 355-20-02. Virginia's Radiation Protection Regulations Fee Schedule.
Office of Epidemiology

VR 355-32-02. Regulations Governing Financial Assistance for EMS.
Office of Emergency Medical Services

VR 355-33-02. Regulations for the Licensure of Home Health Agencies.
Office of Emergency Medical Services

VR 355-34-02. Regulations Governing Sewage Handling and Disposal.
Office of Environmental Health

VR 355-35-200. Transient Lodging and Hotel Sanitation in Virginia.
Office of Environmental Health

VR 355-35-06. Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps.
Office of Environmental Health

VR 355-40-400. Regulations Governing the Virginia Medical Scholarships Programs.
Office of Primary Care Development

Group III - Due Date 1/15/96

VR 355-05-01. Registration of Cremators.
Office of Vital Records and Health Statistics

VR 355-18-000. Waterworks Regulations.
Office of Water Programs

VR 355-18-014. Waterworks Operations Fee.
Office of Water Programs

VR 355-19-05. Rules and Regulations Governing the Sanitary Control of Oysters, Clams and Other Shellfish.
Office of Water Programs

VR 355-28-100. Rules and Regulations for the Reporting and Control of Diseases.
Office of Epidemiology

VR 355-28-300. Regulations Governing the Immunization of School Children.
Office of Epidemiology

VR 355-32-500. EMS-Do Not Resuscitate.
Office of Emergency Medical Services

VR 355-33-03. Regulations for the Licensure of Hospices.
Office of Emergency Medical Services

VR 355-33-500. Rules and Regulations for Licensure of Hospitals.
Office of Emergency Medical Services

VR 355-34-400. Alternative Discharging Sewage Treatment Services.
Office of Environmental Health

VR 355-35-300. Regulations Governing the Sanitation of Summer Camps.
Office of Environmental Health

VR 355-35-400. Rules and Regulations Governing Campgrounds.
Office of Environmental Health

VR 355-40-500. Regulations for the Identification of Medically Underserved Areas in Virginia.
Office of Primary Care Development

Group IV - Due Date 6/1/96

VR 355-11-200. Newborn Screening & Treatment.
Office of Family Health Services

VR 355-17-02. Sewerage Regulations.
Office of Water Programs

VR 355-19-04. Notices of Establishment and Description of Seasonally Condemned Areas at Marina Facilities.
Office of Water Programs

VR 355-19-06. Regulations Governing the Sanitary Control of the Picking, Packing and Marketing of Crab Meat.
Office of Water Programs

VR 355-28-02. Rules Governing Virginia Tumor Registry.
Office of Epidemiology

VR 355-29-01. Regulations Governing Vital Records and

Schedules for Comprehensive Review of Regulations

Health Statistics.

Office of Vital Records and Health Statistics

VR 355-33-01. Rules and Regulations for the Licensure of Convalescent and Nursing Homes.

Office of Emergency Medical Services

VR 355-34-03. Regulations Governing Application Fee for Construction Permits for Onsite Disposal Systems and Private Wells.

Office of Environmental Health

VR 355-35-500. Regulations Governing Tourist Establishment Swimming Pools and Other Public Pools.

Office of Environmental Health

VR 355-35-700. Public Swimming Pool Regulations.

Office of Environmental Health

VR 355-40-700. Regulations Governing Nurse Practitioner Scholarship Program.

Office of Public Health Nursing

Groups I through IV

Due Dates 3/15/95, 6/1/95, 1/15/96 and 6/1/96

VR 355-30-100 - VR 355-30-114. State Medical Facilities Plan. (The 13 sets of regulations will be divided among the 4 review groups.)

Office of Resources Development

VIRGINIA HEALTH PLANNING BOARD

Group I - Due Date 3/15/95

VR 359-01-01. Guidelines for Public Participation in Developing Regulations.

Health Policy

VR 359-02-01. Regulations for Designating Health Planning Regions.

Health Policy

VR 359-03-01. Administration of State Funding for Regional Health Planning.

Health Policy

Group II - Due Date 6/1/95

VR 359-02-02. Regulations Governing the Regional Health Planning Boards.

Health Policy

VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.

Health Policy

The public comment is being sought for the regulations assigned to Group II review from January 23, 1995, through March 24, 1995. Public comment periods for the remaining two review cycles will be published at the

beginning of each cycle. In addition, comment will be received on any of the regulations during the January 23 to March 24, 1995, period.

Comments should be sent to: Office of the Commissioner, Virginia Department of Health, P.O. Box 2448, Richmond, Virginia 23218, FAX (804) 786-4616.

Please indicate the name of the regulation and VR number on your correspondence.

DEPARTMENT OF YOUTH AND FAMILY SERVICES

The State Board of Youth and Family Services and the Department of Youth and Family Services announce a review of the following regulations, pursuant to Executive Order Number Fifteen (94):

VR 690-20-001. Pre- and Post-Dispositional Group Home Standards.

VR 690-20-005. Standards for Family Group Homes.

VR 690-50-001. Learning Center Standards.

VR 690-75-001. Holdover Standards.

Standards for Outreach Detention. (Promulgated by the State Board of Corrections on March 9, 1983, and adopted by the State Board of Youth and Family Services on July 12, 1990.)

The department anticipates completing its review of the stated regulations, and submitting a report of its findings to the Secretary of Public Safety, no later than March 31, 1995. The report will include the department's recommendations to retain the regulations in their current form, or to amend or terminate the regulations. If the Governor concurs in a recommendation to amend or terminate the regulation, the department will at that time submit the regulation for further comment pursuant to the Administrative Process Act.

The board and department invite public comment on any aspect of these regulations, but especially welcome specific suggestions for clarifying the language and simplifying the requirements imposed by the regulations. Public comments must be received no later than March 1, 1995. Send comments to: Mr. Donald Carignan, Department of Youth and Family Services, P.O. Box 1110, Richmond, Virginia, 23208-1110. For a copy of the regulations or more information about the review process, call (804) 371-0692. No public hearings are anticipated as part of this review.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

DEPARTMENT OF HEALTH

Waterworks Regulations

General Notice Requesting Comment on Recycle of Certain Drinking Water Plant Wastewaters

Recent concerns of health threats posed by *Cryptosporidium* and *Giardia* are among the issues of the recycled flow of certain drinking water treatment plant waste waters (not including sanitary wastewater). This recycled flow would be conveyed to the first step in the drinking water treatment process. Such flows may contain concentrated elements that may increase risks to the proper treatment of the drinking water.

Although recycle is not directly addressed under current regulation, the Department of Health's engineering staff make situation specific decisions in their review of proposed construction designs or modifications to existing drinking water treatment plants.

The Department of Health is determining the need to develop a regulation addressing this issue. The department is interested in your comments relative to the need for regulation and content of any such regulation or alternatives to the development of a regulation. If the comment is such as to merit proceeding with the regulatory process, the regulatory process will be initiated in compliance with the Administrative Process Act and Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, February 15, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Department of Health, P.O. Box 2448, Richmond, VA 23218, Voice (804) 786-5566; FAX (804) 786-5567.

General Notice Requesting Comment on Viability and Comprehensive Business Plan for Certain Drinking Water Systems

Concerns, both statewide and nationwide, have focused on certain owners of waterworks that do not have the financial, technical, managerial, and operational capabilities necessary for the long-term operation of this important health-related activity. Some waterworks are created in conjunction with some other business venture and are not given due planning consideration as a

waterworks. There are existing waterworks that, for various reasons, cannot maintain compliance with federal and state regulations.

During 1993, the State Water Commission heard testimony on this issue and the 1994 General Assembly enacted clarifying and mandatory statutory language directing the Department of Health to recognize these capabilities relative to an owner's ability to provide safe drinking water (§§ 32.1-169 and 32.1-172 of the Code of Virginia).

The Department of Health is determining the need to develop a regulation addressing this issue. The department is interested in your comments relative to the need for regulation and content of any such regulation or alternatives to the development of a regulation. If the comment is such as to merit proceeding with the regulatory process, the regulatory process will be initiated in compliance with the Administrative Process Act and Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, February 15, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Department of Health, P.O. Box 2448, Richmond, VA 23218, Voice (804) 786-5566; FAX (804) 786-5567.

COMMISSION ON LOCAL GOVERNMENT

Approved Modifications of Schedule of Local Mandate Assessments

Pursuant to the provisions of §§ 2.1-7.1 and 15.1-945.3(6) of the Code of Virginia and to Paragraph 7 of Executive Memorandum 5-94, notice is hereby given that the following modifications of the schedule of local mandate assessments have been approved by the Governor and the Secretary of Administration, effective September 22, 1994:

The commencement date for assessment of the Department of Environmental Quality mandate summarized as "Hazardous waste management: compliance with federal, state standards, regulations required" has been changed to June 1, 1995. The completion date for submission of the assessment has been changed to May 31, 1996.

The commencement date for assessment of the Department of Environmental Quality mandate summarized as "Above-ground storage tanks: approved contingency plan required to protect environment in event of oil discharge" has been changed to May 1, 1995. The completion date for submission of the

General Notices/Errata

assessment has been changed to February 28, 1995.

The completion date for submission of the assessment of the Department of Criminal Justice Services mandate summarized as "Court-appointed special advocates program participation: compliance with regulations required" has been postponed until 1996, after new rules have been promulgated.

The original schedule for the assessments of state and federal mandates on local governments was established by the Commission on Local Government and approved by Governor Allen. In conducting assessments, agencies will follow the process established by Executive Memorandum 5-94, which became effective April 22, 1994. For further information, call Adele MacLean, Policy Analyst, Commission on Local Government, telephone (804) 786-6508.

DEPARTMENT OF REHABILITATIVE SERVICES

Department of Rehabilitative Services Mailing List Update

Any individuals, groups, and organizations who are interested in (i) advising the department in developing or amending existing state regulations, (ii) participating in developing or amending the department's strategic plans and state plans for vocational rehabilitation, supported employment, and independent living services, and (iii) receiving notice of the department's public hearings, should contact the department to be added to the mailing list. Please include your name (and organization's name and your title), and mailing address. The deadline is January 31, 1995. Write to Ms. Dale Riley, Department of Rehabilitative Services, P.O. Box K300, Richmond, Virginia 23288-0300; or call 1-800-552-5019, ext. 7611, FAX (804) 662-9532.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied

by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and The Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

January 23, 1995 - 10 a.m. – Open Meeting
January 24, 1995 - 8 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

The following committees will meet on Sunday, January 22, 1995, on matters requiring committee action: Regulatory Review Committee - 2:30 p.m., CPE Committee - 4 p.m. A public hearing on proposed fees and education will be held, followed by a regular board meeting to review correspondence, applications, review and disposition of enforcement files and other routine board business. The Enforcement Committee will meet at 4 p.m. on Monday, January 23, 1995. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Persons desiring to participate in the public hearing or meetings and requiring special accommodations or interpreter services should contact Nancy Taylor Feldman, Assistant Director, or Les Newton, Administrative Assistant, 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.

VIRGINIA AGRICULTURAL COUNCIL

January 24, 1995 - 9:30 a.m. – Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A one-day orientation session for newly-appointed board members. The board will not entertain public comments at this session. Any person who needs special accommodations during the meeting should contact Thomas R. Yates at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Virginia Corn Board

February 15, 1995 - 9 a.m. – Open Meeting
February 16, 1995 - 9 a.m. – Open Meeting
Williamsburg Hilton and Conference Center, 50 Kingsmill Road, Williamsburg, Virginia. ♿

A meeting to review projects currently underway and to consider projects for FY 95-96. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate in the meeting should contact Rosser Cobb at least five days before the meeting date so that suitable arrangements can be made.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Horse Industry Board

February 9, 1995 - 10 a.m. – Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at

Calendar of Events

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, Virginia Horse Industry Board, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

Virginia Irish Potato Board

January 26, 1995 - 2 p.m. – Open Meeting
Eastern Shore Agricultural Research and Extension Center, Painter, Virginia. ☎

An organizational meeting of the board to (i) elect a chairman and a vice-chairman; (ii) discuss programs (promotion, research and education); and (iii) discuss 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 accommodation in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

January 23, 1995 - 9:30 a.m. – Open Meeting
February 6, 1995 - 9:30 a.m. – Open Meeting
February 22, 1995 - 9:30 a.m. – Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Virginia Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712.

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

Board for Interior Designers

January 31, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct applicant interviews and any board business. Persons desiring to participate in the

meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8514 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, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board of Land Surveyors

† **January 27, 1995 - 1 p.m. – Open Meeting**
Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia. ☎

A board training session. 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, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

AUCTIONEERS BOARD

February 12, 1995 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Auctioneers Board intends to **repeal** regulations entitled: **VR 150-01-2, Rules and Regulations for the Virginia Board of Auctioneers** and **adopt** regulations entitled: **VR 150-01-2:1, Rules and Regulations for the Virginia Board of Auctioneers**. The proposed regulations establish entry requirements for licensure of auctioneers and auction firms, examination for licensure, licensure by reciprocity, standards of practice regarding advertising, contracts, escrow accounts, records and standards of conduct for auctioneers. The proposed regulations are a result of legislative amendments enacted to § 54.1-603 of the Code of Virginia which repealed the registration and certification program for auctioneers and established a single licensure program.

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Contact: Mark N. Courtney, Assistant Director, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† February 23, 1995 - 9 a.m. - Open Meeting

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

A regularly scheduled board meeting. Agenda items include adoption of regulatory review analysis on public participation guidelines. Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARD FOR BARBERS

February 6, 1995 - 9 a.m. - Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

BOARD FOR BRANCH PILOTS

† February 3, 1995 - 9:30 a.m. - Open Meeting

Virginia Port Authority, 600 World Trade Center, 6th Floor, Norfolk, Virginia. ☎

A regularly scheduled board meeting. 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, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

February 16, 1995 - 2 p.m. - Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

February 16, 1995 - 10 a.m. - Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

January 25, 1995 - 10 a.m. - Open Meeting

Location to be announced.

February 22, 1995 - 10 a.m. - Open Meeting

Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Calendar of Events

BOARD OF CONSERVATION AND RECREATION

† **January 30, 1995 - 12:30 p.m.** – Open Meeting
203 Governor Street, Suite 302, Director's Conference Room, Richmond, Virginia.

A regular meeting of the board.

Contact: Bonnie Phillips, Policy Analyst, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219-2010, telephone (804) 786-2291.

BOARD OF CORRECTIONS

† **February 15, 1995 - 10 a.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Administration Committee

† **February 15, 1995 - 8:30 a.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ☎

A meeting to discuss administration matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Correctional Services Committee

† **February 14, 1995 - 1 p.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☎

A meeting to discuss criminal justice matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

January 30, 1995 - 10 a.m. – Open Meeting
March 27, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to

participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

† **February 1, 1995 - 11 a.m.** – Open Meeting
Richmond Police Training Academy, 1202 West Graham Road, Richmond, Virginia. ☎

A meeting to consider matters relating to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

Private Security Services Advisory Board

† **February 2, 1995 - 10 a.m.** – Open Meeting
Virginia State Policy Academy, 7700 Midlothian Turnpike, Richmond, Virginia. ☎

A meeting to discuss private security industry issues.

Contact: Roy Huhta, Assistant, Department of Criminal Justice Services, Private Security Section, P.O. Box 10110, Richmond, VA 23240-9998, telephone (804) 786-4700.

Committee on Training

† **February 1, 1995 - 9 a.m.** – Open Meeting
Richmond Police Training Academy, 1202 West Graham Road, Richmond, Virginia. ☎

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula Scott Dehetre, Chief, Resource Management, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

DEPARTMENT FOR THE DEAF AND
HARD-OF-HEARING

Advisory Board

† February 1, 1995 - 10 a.m. - Open Meeting
Department for the Deaf and Hard-of-Hearing, Washington
Building, 1100 Bank Street, 12th Floor, Richmond, Virginia.
☞ (Interpreter for the deaf provided upon request)

A regular quarterly business meeting. Public comments
will be received with advance notice.

Contact: Gloria L. Cathcart, Human Services Program
Specialist, Department for the Deaf and Hard-of-Hearing,
Washington Bldg., 1100 Bank St., 12th Floor, Richmond, VA
23219, telephone (804) 371-7892 (V/TTY), toll-free
1-800-552-7917 (V/TYY) or (804) 225-2570 (V/TTY)

DEPARTMENT OF EDUCATION (BOARD OF)

† January 31, 1995 - 8:30 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Richmond,
Virginia. ☞ (Interpreter for the deaf provided upon
request)

The board will hold a special work session to discuss
revisions to the Standards of Learning. Public
comment will not be received at the meeting.

Contact: James E. Laws, Jr., Administrative Assistant for
Board Relations, Department of Education, P.O. Box 2120,
Richmond, VA 23216-2120, telephone (804) 225-2924 or
toll-free 1-800-292-3820.

* * * * *

February 1, 1995 - 6 p.m. - Public Hearing
Richmond Technical Center, 2020 Westwood Avenue,
Richmond, Virginia.

March 10, 1995 - Written comments may be submitted
through this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board of Education
intends to amend regulations entitled: **VR 270-01-0014.
Management of the Student's Scholastic Record in
the Public Schools of Virginia.** The purpose of the
proposed amendment is to require adherence by local
education agencies to applicable state and federal laws
regarding the management of student records.

Statutory Authority: §§ 22.1-16, 22.1-287.1, 22.1-288.2, and
22.1-289 of the Code of Virginia and § 4 of Article VIII of
the Constitution of Virginia.

Contact: Thomas A. Elliott, Division Chief, Department of
Education, P.O. Box 2120, Richmond, VA 23216-2120,
telephone (804) 371-2522 or toll-free 1-800-292-3820.

STATE BOARD OF ELECTIONS

January 27, 1995 - 10 a.m. - Open Meeting
Ninth Street Office Building, 6th Floor Conference Room,
Richmond, Virginia. ☞

A meeting to review and discuss possible certification
of voting equipment.

Contact: Diane Anderson, Regulatory Coordinator, 200 N.
Ninth St., Room 101, Richmond, VA 23219, telephone (804)
786-6551 or toll-free 1-800-552-9745.

LOCAL EMERGENCY PLANNING COMMITTEE -
GLOUCESTER COUNTY

January 25, 1995 - 6:30 p.m. - Open Meeting
Gloucester Administration Building, Conference Room,
Gloucester, Virginia. ☞ (Interpreter for the deaf provided
upon request)

The winter quarterly meeting of the committee will
address election of officers, discuss membership
appointments, and review the proposed spring
exercise.

Contact: Georgette N. Hurley, Assistant County
Administrator, P.O. Box 329, Gloucester, VA 23061,
telephone (804) 693-4042 or (804) 693-1479/TDD ☞

LOCAL EMERGENCY PLANNING COMMITTEE -
ROANOKE VALLEY

January 25, 1995 - 9 a.m. - Open Meeting
Salem Civic Center, 1001 Roanoke Boulevard, Room C,
Salem, Virginia. ☞

A meeting to (i) receive public comment; (ii) receive
report from community coordinators; and (iii) receive
report from standing committee.

Contact: Chief Dan Hall, Fire Chief/Coordinator of
Emergency Services, Salem Fire Department, 105 S.
Market St., Salem, VA 24153, telephone (703) 375-3080.

LOCAL EMERGENCY PLANNING COMMITTEE -
WINCHESTER

† February 1, 1995 - 3 p.m. - Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard,
Winchester, Virginia.

A regular meeting.

Contact: L.A. Miller, Fire Chief, Winchester Fire and
Rescue Department, 126 N. Cameron St., Winchester, VA
22601, telephone (703) 662-2298 or (703) 665-5645/TDD ☞

Calendar of Events

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

January 31, 1995 - 8:30 a.m. – Open Meeting
Virginia Employment Commission, 703 East Main Street,
Richmond, Virginia. ⚠ (Interpreter for the deaf provided
upon request)

The first general meeting of the newly appointed State
Advisory Board.

Contact: Nancy L. Munnikhuisen, Manager, Employer
Relations and Customer Services, Virginia Employment
Commission, 703 E. Main St., Richmond, VA 23219,
telephone (804) 371-6004 or (804) 371-8050/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations

January 25, 1995 - 9 a.m. – Open Meeting
Department of Environmental Quality, Innsbrook Corporate
Center, 4900 Cox Road, Piedmont Room, No. 1275,
Richmond, Virginia. ⚠

A meeting to assist the Department of Environmental
Quality in formulation of the draft of the Vegetative
Waste Management and Yard Waste Composting
Regulations.

Contact: Robert G. Wickline, P.E., Department of
Environmental Quality, Waste Management Division, P.O.
Box 10009, Richmond, VA 23240-0009, telephone (804)
762-4213 or (804) 762-4021/TDD ☎

VIRGINIA FIRE SERVICES BOARD

† **February 17, 1995 - 9 a.m.** – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss training and policies. The
meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director,
Department of Fire Services, 2807 Parham Road, Suite
200, Richmond, VA 23294, telephone (804) 527-4236.

† **February 16, 1995 - 7:30 p.m.** – Public Hearing
Holiday Inn, Ashland, Virginia.

A public hearing to discuss fire training and policies.
The hearing is open to the public for input and
comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director,
Department of Fire Programs, 2807 Parham Rd., Suite 200,
Richmond, VA 23294, telephone (804) 527-4236.

Fire/EMS Education and Training Committee

† **February 16, 1995 - 10 a.m.** – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss fire training and policies. The
meeting is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director,
Department of Fire Programs, 2807 Parham Rd., Suite 200,
Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† **February 16, 1995 - 9 a.m.** – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss fire training and policies. The
meeting is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director,
Department of Fire Programs, 2807 Parham Rd., Suite 200,
Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† **February 16, 1995 - 1 p.m.** – Open Meeting
Holiday Inn, Ashland, Virginia.

A meeting to discuss fire training and policies. The
meeting is open to the public for input and comments.

Contact: Bobby L. Stanley, Jr., Acting Executive Director,
Department of Fire Programs, 2807 N. Parham Road.,
Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **February 7, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.

A regularly scheduled board meeting. Public comment
will be received at the beginning of the meeting for
15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of
Funeral Directors and Embalmers, 6606 W. Broad St.,
Richmond, VA 23230-1717, telephone (804) 662-9907 or
(804) 662-7197/TDD ☎

Legislative Committee

† **February 6, 1995 - 3 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.

A meeting to continue existing review of law and
regulations governing the funeral industry. Public
comment will be received at the beginning of the

meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD

DEPARTMENT OF HEALTH (STATE BOARD OF)

January 25, 1995 - 9:30 a.m. - Open Meeting Virginia Tech Seafood Experiment Station, 102 South King Street, Hampton, Virginia.

The Division of Shellfish Sanitation will hold a meeting with the Shellfish and Crustacea Advisory Committee to review regulations pertaining to the closure of shellfish growing areas.

Contact: B. Keith Skiles, Program Manager, Department of Health, Division of Shellfish Sanitation, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 786-7937.

January 25, 1995 - 1 p.m. - Open Meeting James Madison Building, 109 Governor Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A business meeting. An informal dinner will be held at 7 p.m. at the Radisson Hotel, 555 East Canal Street, Richmond.

Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

January 26, 1995 - 7:30 a.m. - Open Meeting General Assembly Building, 910 Capitol Square, House Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Public health awareness day.

Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

February 24, 1995 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: VR 355-28-300. Regulations for the Immunization of School Children. Chapter 62 of the 1994 Acts of the General Assembly (HB 1280) requires that children born on or after January 1, 1994, be immunized against hepatitis B before their first birthday. The regulations are being amended to add hepatitis B vaccine to the list of

vaccines already required for children to be admitted to day care centers and schools.

Statutory Authority: §§ 22.1-271.2 and 32.1-46 of the Code of Virginia.

Contact: Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261 or FAX (804) 786-1076.

February 10, 1995 - 9 a.m. - Public Hearing 3600 Centre, 3600 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

February 15, 1995 - 10 a.m. - Public Hearing NOTE: CHANGE IN LOCATION Holiday Inn Crowne Plaza, 601 Main Street, Lynchburg, Virginia.

February 27, 1995 - Written comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (Neonatal Services). Pursuant to the Commonwealth's commitment to reduce infant mortality, the proposed regulations establish a service level distinction based upon national standards to ensure treatment of a range of neonates from normal newborns to the sickest, high-risk newborns. The proposed regulations are the minimum quality assurance standards that must be uniformly met if hospitals want to provide neonatal services in the Commonwealth.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on February 27, 1995, to Nancy R. Hofheimer, Director of the Office of Health Facilities Regulation, Department of Health, 3600 W. Broad Street, Suite 216, Richmond, Virginia 23230.

Contact: Stephanie Sivert, Director, Acute Care Service, Department of Health, Office of Health Facilities Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2104 or FAX (804) 367-2149.

Food Service Advisory Committee

January 31, 1995 - 10 a.m. - Open Meeting Department of Housing and Community Development, Jackson Center, 501 North Second Street, Second Floor Conference Room, Richmond, Virginia.

Calendar of Events

Meetings to address the Governor's Executive Order Number 15 (Comprehensive Review of Regulations). Under discussion will be whether to amend, delete or keep in present form the Rules and Regulations of the Board of Health Governing Restaurants.

Contact: John E. Benko, Director, Division of Food and Environmental Services, Department of Health, 1500 E. Main St., Suite 115, Richmond, VA 23219, telephone (804) 786-3559.

Bureau of STD/AIDS

† **January 31, 1995 - 10 a.m.** – Public Hearing
Department of Health, Main Street Station, 1500 East Main Street, Richmond, Virginia. ☹

A public hearing to receive comment on the spending of Ryan White Title II Care Act moneys for grant year 1995.

Contact: Anne Elam, Nurse Educator, Bureau of STD/AIDS, Department of Health, Main Street Station, 1500 E. Main St., Room 112, P.O.Box 2448, Richmond, VA 23218, telephone (804) 371-8294.

Commissioner's Waterworks Advisory Committee

January 19, 1995 - 10 a.m. – Open Meeting
Sydnor Hydrodynamics, Inc., 2111 Magnolia Street, Richmond, Virginia.

A general business meeting. The committee meets the third Thursday of odd months. Future meetings are planned on March 16 and May 18, 1995. Locations will be announced.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

BOARD OF HEALTH PROFESSIONS

† **February 6, 1995 - 6 p.m.** – Open Meeting
Hyatt Hotel, 6624 West Broad Street, The Potomac Room, Richmond, Virginia. ☹ (Interpreter for the deaf provided upon request)

An Executive Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

† **February 7, 1995 - 8 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☹

(Interpreter for the deaf provided upon request)

Ad hoc Levels of Regulation Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

† **February 7, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☹ (Interpreter for the deaf provided upon request)

Compliance and Discipline Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

† **February 7, 1995 - 10:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☹ (Interpreter for the deaf provided upon request)

Practitioner Self-Referral Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

† **February 7, 1995 - 11 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 2, Richmond, Virginia. ☹ (Interpreter for the deaf provided upon request)

A full board meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

† **February 7, 1995 - Noon** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Conference Room 4, Richmond, Virginia. ☹ (Interpreter for the deaf provided upon request)

Professional Education and Public Affairs Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

January 24, 1994 - 9:30 a.m. - Open Meeting
† February 28, 1995 - 9:30 a.m. - Open Meeting
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road,
Richmond, Virginia. ☎

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator,
Virginia Health Services Cost Review Council, 805 E.
Broad St., 6th Floor, Richmond, VA 23219, telephone (804)
786-6371.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

February 21, 1995 - 10 a.m. - Open Meeting
Omni Hotel, Richmond, Virginia. ☎ (Interpreter for the
deaf provided upon request)

March 14, 1995 - 9:30 a.m. - Open Meeting
Council of Higher Education, 101 North 14th Street,
Council Conference Room, Richmond, Virginia. ☎

A general business meeting. Contact the council for
more information.

Contact: Anne M. Pratt, Associate Director, State Council
of Higher Education, 101 N. 14th St., 9th Floor, Richmond,
VA 23219, telephone (804) 225-2639.

VIRGINIA HISTORIC PRESERVATION FOUNDATION

† February 8, 1995 - 10:30 a.m. - Open Meeting
Virginia War Memorial, 621 South Belvidere Street,
Richmond, Virginia. ☎ (Interpreter for the deaf provided
upon request)

A general business meeting.

Contact: Margaret Peters, Information Director,
Department of Historic Resources, 221 Governor St.,
Richmond, VA 23219, telephone (804) 786-3143, FAX (804)
225-4261 or (804) 786-1934/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

Historic Resources Board

† February 15, 1995 - 10 a.m. - Open Meeting
Virginia War Memorial, 621 South Belvidere Street,
Richmond, Virginia. ☎ (Interpreter for the deaf provided
upon request)

A general business meeting.

Contact: Margaret Peters, Information Director,

Department of Historic Resources, 221 Governor St.,
Richmond, VA 23219, telephone (804) 786-3143, FAX (804)
225-4261 or (804) 786-1934/TDD ☎

State Review Board

† February 14, 1995 - 10 a.m. - Open Meeting
Virginia War Memorial, 621 South Belvidere Street,
Richmond, Virginia. ☎ (Interpreter for the deaf provided
upon request)

A meeting to consider the nomination of the following
properties to the Virginia Landmarks Register and to
the National Register of Historic Places:

1. Buffalo Church, Prince Edward County
2. Hunting Quarter, Sussex County
3. Malvern, Albemarle County
4. Robert Russa Moton High School, Prince Edward
County
5. Rockbridge Inn, Rockbridge County

Contact: Margaret Peters, Information Director,
Department of Historic Resources, 221 Governor St.,
Richmond, VA 23219, telephone (804) 786-3143, FAX (804)
225-4261 or (804) 786-1934/TDD ☎

VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

March 3, 1995 - 8 a.m. - Open Meeting
Holiday Inn Historic District, 301 West Franklin Street,
Richmond, Virginia. ☎ (Interpreter for the deaf provided
upon request)

The committee will continue its activities in planning
HIV prevention for Virginia. The committee will
discuss counseling and testing programs.

Contact: Elaine G. Martin, Coordinator AIDS Education,
Department of Health, P.O. Box 2448, Room 112,
Richmond, VA 23218, telephone (804) 786-0877, toll-free
1-800-533-4148/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

February 7, 1995 - 9 a.m. - Open Meeting
March 7, 1995 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road,
Hopewell, Virginia. ☎ (Interpreter for the deaf provided
upon request)

Local Emergency Preparedness Committee Meeting on
emergency preparedness as required by SARA Title
III.

Contact: Robert Brown, Emergency Service Coordinator,
300 North Main Street, Hopewell, VA 23860, telephone
(804) 541-2298.

Calendar of Events

COUNCIL ON INFORMATION MANAGEMENT

† **January 31, 1995 - 9 a.m.** – Open Meeting
Department of Information Technology, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. ☒

The council will conduct a short business meeting, followed by a meeting of the Technology Infrastructure Task Force '95, beginning at 10 a.m. State agencies and institutions of higher education have been invited to discuss their information technology applications requirements which will assist in the development of a comprehensive plan for telecommunications and information technology in the Commonwealth.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

STATE COUNCIL ON LOCAL DEBT

February 15, 1995 - 11 a.m. – Open Meeting
March 15, 1995 - 11 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting; subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

March 20, 1995 - 11 a.m. – Open Meeting
March 20, 1995 - 7:30 p.m. – Public Hearing
Ashland area; site to be determined.

A meeting and a public hearing regarding the proposed voluntary settlement between the Town of Ashland and Hanover County. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 8th Street Office Bldg., Room 702, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

March 21, 1995 - 9 a.m. – Open Meeting
Ashland area; site to be determined.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Finance/Facilities and Services Student/Academic Affairs

† **February 3, 1995 - 9 a.m.** – Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business of the Board of Visitors.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

Board of Visitors

† **February 4, 1995 - 9 a.m.** – Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

STATE LOTTERY DEPARTMENT

January 25, 1995 - 10 a.m. – Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or FAX (804) 367-3116.

MARINE RESOURCES COMMISSION

January 24, 1995 - 9:30 a.m. – Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

February 24, 1995 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-01-11 and VR 460-02-2.1100. Virginia Medicaid Qualifying Health Maintenance Organizations (HMOs).** The Appropriations Act, passed by the 1994 General Assembly, required the Department of Medical Assistance (DMAS) to implement a health maintenance organization contracting program effective May 1, 1994. Federal regulations at 42 CFR 434.20(c) require that the state define health maintenance organizations in the state plan prior to entering into risk contracts with entities that are not federally qualified health maintenance organizations and that are providing comprehensive services. The regulations define extensive requirements for health maintenance organizations, which the State Corporation Commission's Bureau of Insurance has promulgated as Regulation 28. Rather than promulgate a separate set of regulations, DMAS is incorporating by reference Regulation 28. A new Attachment (2.1 A) is being added to the state plan to define a Medicaid health maintenance organization as required.

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

Written comments may be submitted until February 24, 1995, to Susan Bareford, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator,

Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

BOARD OF MEDICINE

January 26, 1995 - 9:30 a.m. – Open Meeting
Virginia Employment Commission, 3501 Lafayette Boulevard, 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 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

February 9, 1995 - 8 a.m. – Open Meeting
February 10, 1995 - 8 a.m. – Open Meeting
February 11, 1995 - 8 a.m. – Open Meeting
February 12, 1995 - 8 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

The board will meet on February 9, 1995, in open session to conduct general board business, receive committee and board reports, nominate officers, and discuss any other items which may come before the board. The board will meet on February 9, 10, 11, and 12 to review reports, interview licensees, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comment during the first 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Credentials Committee

February 11, 1995 - 8:15 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☎

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Calendar of Events

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Legislative Committee

January 25, 1995 - 1:30 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss revenue sharing with the Board of Psychology and/or consider legislative amendments to resolve specific regulatory matters; approve regulatory review agenda for the public participation guidelines, physical therapy, physicians assistants, occupational therapy, and respiratory therapy; and discuss General Regulations 1.9(b), "Short Term Use of Pharmacotherapy for Weight Loss." The committee will entertain public comments during the first 15 minutes on any agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Licensure, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

January 27, 1995 - 9 a.m. – Open Meeting
Southside Complex, West Washington Street, Petersburg, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

February 11, 1995 - 8:30 a.m. – Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ☎

A meeting to receive committee reports and reports on visits to academic departments.

Contact: Col. Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office,

Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

February 1, 1995 - 1 p.m. – Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Coal Combustion By-Products/Biosolids Work Group to advise the agency on development of guidelines for the placement of coal combustion by-products and biosolids on Division of Mined Land Reclamation permitted sites. This work group is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

February 13, 1995 - 9:30 a.m. – Open Meeting
Department of Mines, Minerals and Energy Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the Permit Streamlining/Standardization Work Group to advise the agency on development of standardized, streamlined permit applications. This workgroup meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

VIRGINIA MUSEUM OF NATURAL HISTORY

Research and Collections Committee

February 3, 1995 - 7:30 a.m. – Open Meeting
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☎

A meeting to review year-end accessions and 1995 research acquisition plans.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8616

666-8638/TDD ☎

Board of Trustees

February 3, 1995 - 9 a.m. – Open Meeting
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☎

The meeting will include reports from the executive, finance, legislative, marketing, outreach, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the September meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8638/TDD ☎

BOARD OF NURSING

January 23, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor Conference Room, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

Two special conference committees will conduct informal conferences in the morning. A panel of the Board of Nursing will conduct formal hearings in the afternoon. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

January 24, 1995 - 9 a.m. – Open Meeting
January 25, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor Conference Room, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A regular meeting to consider matters relating to nursing education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. The board will consider a report of the comprehensive review of the Public Participation Guidelines at 1 p.m. on January 24, 1995. Public comment will be received during an open forum beginning at 11 a.m. on Tuesday, January 24, 1995.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

January 26, 1995 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor Conference Room, Richmond, Virginia. ☎

(Interpreter for the deaf provided upon request)

A panel of the Board of Nursing will conduct formal hearings. If the agenda for the panel is not filled with formal hearings, two special conference committees will conduct informal conferences as time permits. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Education Advisory Committee

† **February 17, 1995 - 9 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

The committee will meet to consider matters related to educational programs approved by the Board of Nursing and make recommendations to the board as needed. Public comment will be accepted at 1 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† **February 15, 1995 - 9 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A regularly scheduled board meeting. Agenda items include adoption of regulatory review analysis on Public Participation Guidelines, and adoption of the Notice of Intended Regulatory Action on fee reduction. Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

Regulatory Review Committee

† **January 25, 1995 - 10 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

† **February 1, 1995 - 10 a.m. – Open Meeting**
Holiday Inn, Woodrow Wilson Parkway, Suite 603, Staunton, Virginia.

A meeting to work on analysis of VR 500-01-4 as required by Executive Order 15(94).

Calendar of Events

Contact: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907.

BOARD FOR OPTICIANS

February 10, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A meeting to review new enforcement procedures and contact lens sales by pharmacies and mail-order houses, discuss apprenticeship training program and other matters requiring board action. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

BOARD OF OPTOMETRY

† **February 8, 1995 - 8:30 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street,
4th Floor, Conference Room 4, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A general board meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

† **February 8, 1995 - 3 p.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street,
4th Floor, Conference Room 4, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

Informal conference committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

BOARD OF PROFESSIONAL COUNSELORS

February 17, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street,

Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting to consider committee reports; consider recommendations on fees and standards of practice for Certified Rehabilitation Providers; consider comments on Regulations Governing the Certification of Substance Abuse Counselors; and respond to any correspondence and any other matters under the jurisdiction of the board. This is a public meeting and there will be a public comment period from 9:15 a.m. to 9:45 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† **March 6, 1995 - 10 a.m. – Open Meeting**
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A general business meeting.

Contact: Debra Vought, Agency Management Analyst
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-9142.

BOARD OF PSYCHOLOGY

January 24, 1995 - 10 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia. ☎

A meeting to conduct general board business. Public comment will be received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

Credentials Committee

January 24, 1995 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia. ☎

The Credentials Committee will conduct an informal credentials conference in accordance with §§ 9-6.14:11 and 54.1-2400(7) of the Code of Virginia to determine the eligibility of an applicant for licensure. No public comment will be received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn B.

Brown, Executive Director, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

REAL ESTATE APPRAISER BOARD

January 31, 1995 - 10 a.m. – Open Meeting

March 7, 1995 - 10 a.m. – Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

STATE REHABILITATION ADVISORY COUNCIL

† **February 13, 1995 - 10 a.m. – Open Meeting**

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A regular business meeting of the council.

Contact: Kathy Hayfield, State Rehabilitation Advisory Council Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD ☎ and Voice or (804) 662-9040/TDD ☎

BOARD OF REHABILITATIVE SERVICES

† **February 9, 1995 - 10 a.m. – Open Meeting**

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A special legislative business meeting of the board.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD ☎ and Voice or (804) 662-9040/TDD ☎

VIRGINIA RESOURCES AUTHORITY

February 14, 1995 - 9:30 a.m. – Open Meeting

Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to (i) approve minutes of its prior meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

SEWAGE HANDLING AND DISPOSAL ADVISORY COMMITTEE

† **February 9, 1995 - 10 a.m. – Open Meeting**

Department of Health, Main Street Station, 1500 East Main Street, Suite 115, Richmond, Virginia.

A regular meeting of the committee rescheduled from January 5, 1995.

Contact: Berly Nguyen, Secretary, Sewage Handling and Disposal Advisory Committee, 1500 E. Main St., Suite 115, P.O. Box 2448, Richmond, VA 23219, telephone (804) 786-1750.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

February 1, 1995 - 10 a.m. – Open Meeting

Ramada Inn, 1130 Motel Drive, Allegheny Room, Woodstock, Virginia. ☎

March 8, 1995 - 10 a.m. – Open Meeting

City Hall, Municipal Building, Patton Street, City Council Chambers, Danville, Virginia. ☎

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

VIRGINIA TRANSPORTATION SAFETY BOARD

February 2, 1995 - 9 a.m. – Open Meeting

NOTE: CHANGE IN LOCATION

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☒

A quarterly meeting of the board. The board will confer with the Secretary of Transportation and the

Calendar of Events

Commissioner of Motor Vehicles regarding transportation safety issues.

Contact: Angelisa Jennings, Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2026.

TREASURY BOARD

February 15, 1995 - 9 a.m. – Open Meeting
March 15, 1995 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

† **January 31, 1995 - 8 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A board meeting and a formal hearing.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

† **February 1, 1995 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Informal conferences.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

VIRGINIA RACING COMMISSION

† **February 15, 1995 - 9:30 a.m.** – Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia. ☒

A regular commission meeting including a review of agency regulations and a period for public participation.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208,

telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Council

February 25, 1995 - 10 a.m. – Open Meeting
State Library for the Visually and Physically Handicapped, 395 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the department on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is February 11, 1995, at 3:30 p.m.

Contact: James G. Taylor, Vocational Rehabilitation Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-662-2155 or (804) 371-3140/TDD ☎

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

February 2, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

An informal fact-finding conference in regard to the Board for Waterworks and Wastewater Works Operators v. Warren Hunter Martin. 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 for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Carol A. Mitchell, Assistant Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230-4917 or (804) 367-8524.

THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

† **February 2, 1995 - 10 a.m.** – Open Meeting
† **February 3, 1995 - 8 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 to review quarterly operations of the College of William and Mary and Richard Bland College, to receive reports from several committees of the board, and to act on those resolutions that are presented by th

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 or organizations who request it.

Contact: Ray L. Betzner, Director of Public Information, Office of University Relations, College of William and Mary, 312 Jamestown Rd., P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2628.

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February 26, 1995 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that The College of William and Mary intends to amend regulations entitled: **VR 187-01-02. Motor Vehicle Parking and Traffic Rules and Regulations.** The purpose of the proposed amendment is to make minor changes in fees and lot designations.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Written comments may be submitted until February 26, 1995, to Nancy S. Nash, Office of Administration and Finance, The College of William and Mary, P.O. Box 8795, Williamsburg, Virginia 23187-8795.

Contact: Mark Gettys, Associate Director, Auxiliary Services, The College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2435.

CHRONOLOGICAL LIST

OPEN MEETINGS

January 23

Accountancy, Board for
Alcoholic Beverage Control Board, Virginia
Nursing, Board of

January 24

Accountancy, Board for
Agricultural Council, Virginia
Health Services Cost Review Council, Virginia
Marine Resources Commission
Nursing, Board of

January 25

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Emergency Planning Committee, Local - Gloucester
Emergency Planning Committee, Local - Roanoke Valley

Environmental Quality, Department of
- Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations
Health, Board of
Lottery Department, State
Medicine, Board of
- Legislative Committee
Nursing, Board of
† Nursing Home Administrators, Board of
- Regulatory Review Committee
Psychology, Board of
- Credentials Committee

January 26

Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
Health, Board of
Medicine, Board of
Nursing, Board of

January 27

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors
Elections, State Board of
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee

January 30

† Conservation and Recreation, Board of
Cosmetology, Board for

January 31

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board of
- Board for Interior Designers
† Education, Board of
Employment Commission, Virginia
- State Advisory Board
Health, Department of
- Food Service Advisory Committee
† Information Management, Council on
Real Estate Appraiser Board
† Veterinary Medicine, Board of

February 1

† Criminal Justice Services Board
- Committee on Training
† Deaf and Hard-of-Hearing, Department of
- Advisory Board
† Emergency Planning Committee, Local - Winchester
Mines, Minerals and Energy, Department of
† Nursing Home Administrators, Board of
Sewage Handling and Disposal Appeals Review Board
† Veterinary Medicine, Board of

February 2

† Criminal Justice Services, Department of
- Private Security Services Advisory Board

Calendar of Events

Transportation Safety Board, Virginia
Waterworks and Wastewater Works Operators, Board
for
† William and Mary, The College of
- Board of Visitors

February 3

† Branch Pilots, Board for
† Longwood College
- Finance/Facilities and Services
- Student/Academic Affairs
Natural History, Virginia Museum of
- Board of Trustees
† William and Mary, The College of
- Board of Visitors

February 4

† Longwood College
- Board of Visitors

February 6

Alcoholic Beverage Control Board, Virginia
Barbers, Board for
† Funeral Directors and Embalmers, Board of
- Legislative Committee
† Health Professions, Board of

February 7

† Funeral Directors and Embalmers, Board of
† Health Professions, Board of
Hopewell Industrial Safety Council

February 8

† Historic Preservation Foundation, Virginia
† Optometry, Board of

February 9

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Medicine, Board of
† Rehabilitative Services, Board of
† Sewage Handling and Disposal Advisory Committee

February 10

Medicine, Board of
Opticians, Board for

February 11

Medicine, Board of
- Credentials Committee
Military Institute, Virginia

February 12

Medicine, Board of

February 13

Mines, Minerals and Energy, Department of
† Rehabilitation Advisory Council, State

February 14

† Corrections, Board of

- Correctional Services Committee
† Historic Resources, Department of
- State Review Board
Resources Authority, Virginia

February 15

Agriculture and Consumer Services, Department of
- Virginia Corn Board
† Corrections, Board of
- Administration Committee
† Historic Resources, Department of
- Historic Resources Board
Local Debt, State Council on
† Nursing Home Administrators, Board of
Treasury Board
† Virginia Racing Commission

February 16

Agriculture and Consumer Services, Department of
- Virginia Corn Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Northern Area Review Committee
† Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee

February 17

† Fire Services Board, Virginia
† Nursing, Board of
- Education Advisory Committee
Professional Counselors, Board of

February 22

Alcoholic Beverage Control Board, Virginia
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

February 23

† Audiology and Speech-Language Pathology, Board of

February 25

Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

February 28

† Health Services Cost Review Council, Virginia

March 3

HIV Prevention Community Planning Committee,
Virginia

March 6

† Professional and Occupational Regulation, Board for

March 7

Hopewell Industrial Safety Council
Real Estate Appraiser Board

March 8

Sewage Handling and Disposal Appeals Review Board

March 15

Local Debt, State Council on
Treasury Board

March 20

Local Government, Commission on

March 21

Local Government, Commission on

March 27

Cosmetology, Board for

PUBLIC HEARINGS

January 31

† Health, Department of
- Bureau of STD/AIDS

February 1

Education, Board of

February 10

Health, Board of

February 15

Health, Board of

February 16

† Fire Services Board, Virginia

March 20

Local Government, Commission on

Calendar of Events
