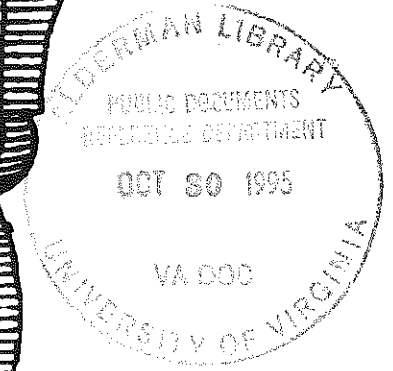
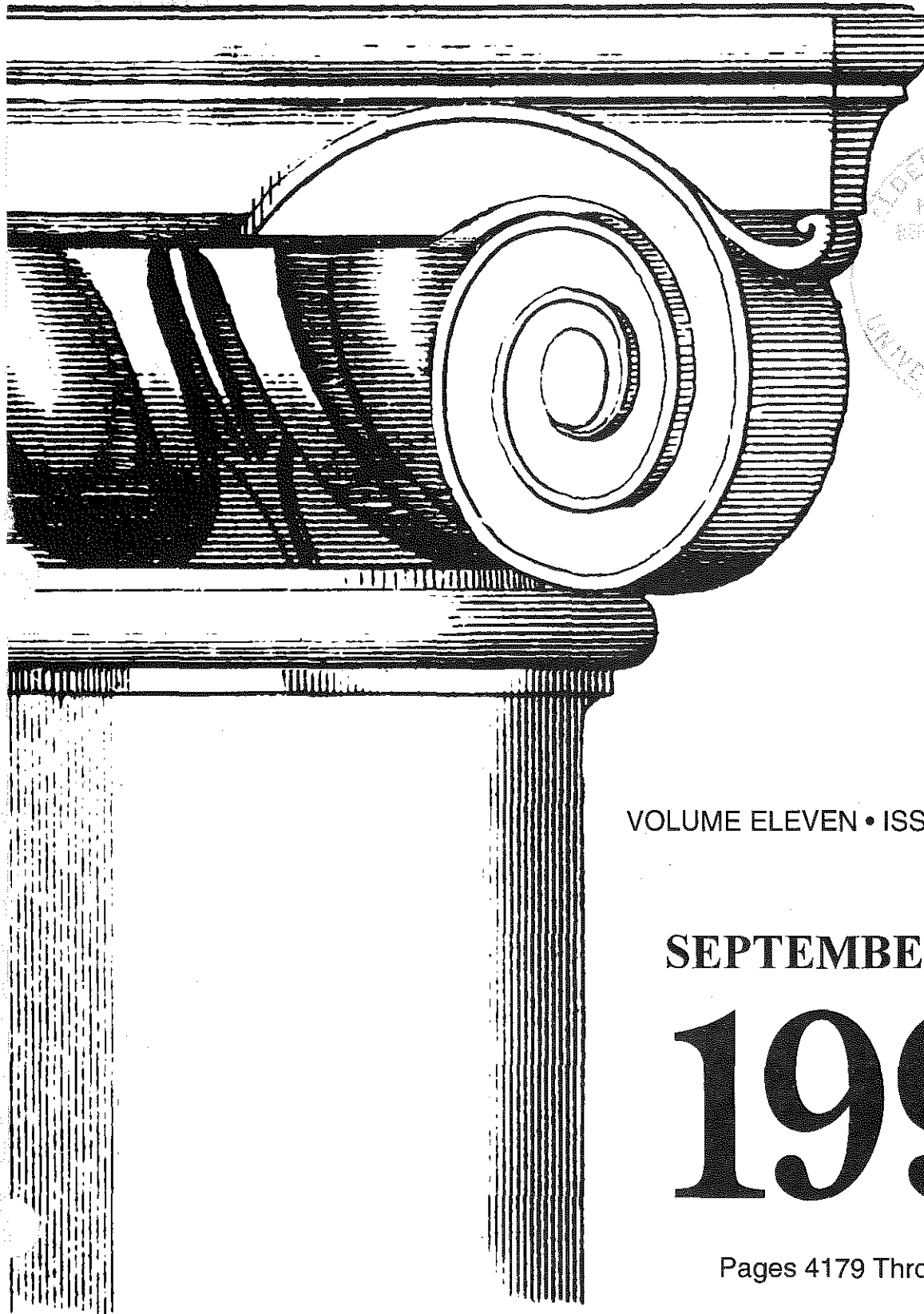


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THE VIRGINIA REGISTER

OF REGULATIONS

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SEPTEMBER 18, 1995

1995

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THE VIRGINIA REGISTER INFORMATION PAGE

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

The *Virginia Register* has several functions. The 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to consider amending regulations entitled: **VR 447-01-2 [11 VAC 5-20-10 et seq.] Administration Regulations**. The purpose of the proposed action is to clarify procurement exemptions and restrictions; conform to Code provisions; remove sections that are duplicative of Code provisions when practical; incorporate housekeeping changes; and conform to new numbering designations for the Virginia Administrative Code. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 A of the Code of Virginia.

Public comments may be submitted until October 15, 1995.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

VA.R. Doc. No. R95-683; Filed August 15, 1995, 3:45 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to consider amending regulations entitled: **VR 447-02-1 [11 VAC 5-30-10 et seq.] Instant Game Regulations**. The purpose of the proposed action is to clarify the revocation or suspension of a lottery retailer's license; cashing at lottery headquarters; elimination of claim form requirements; conform to Code provisions or delete sections when practical that are unnecessary or duplicative; conform to new numbering designations for the Virginia Administrative Code; and make housekeeping changes. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 A of the Code of Virginia.

Public comments may be submitted until October 15, 1995.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

VA.R. Doc. No. R95-684; Filed August 15, 1995, 3:45 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to

consider amending regulations entitled: **VR 447-02-2 [11 VAC 5-40-10 et seq.] On-Line Game Regulations**. The purpose of the proposed action is to clarify the revocation or suspension of a lottery retailer's license; cashing at lottery headquarters; elimination of claim form requirements; revise subscription plan; conform to new numbering designations for the Virginia Administrative Code; and make housekeeping changes. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 58.1-4007 A of the Code of Virginia.

Public comments may be submitted until October 15, 1995.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

VA.R. Doc. No. R95-682; Filed August 16, 1995, 10:29 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-3.1100. Narrative for the Amount, Duration and Scope of Services and VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care**. The purpose of the proposed action is to promulgate permanent regulations to supersede the existing emergency regulation providing for durable medical equipment. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Denise Turner, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R95-655; Filed August 2, 1995, 10:20 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-4.1940:1. Nursing Home Payment System**

Notices of Intended Regulatory Action

(Legal Fees for NF Appeals). The purpose of the proposed action is to amend the nursing home payment system to provide that nursing facilities which appeal their cost reimbursement settlement must substantially prevail in their appeal in order to have their legal fees reimbursed by the department. The regulation intends to provide for definition of "substantially prevail on the merits." The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Scott Crawford, Division of Financial Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R95-657; Filed August 2, 1995, 10:19 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **VR 460-04-2.2100. Medical Assistance Eligibility Resulting from Welfare Reform.** The purpose of the proposed action is to reflect the medical assistance transitional benefits mandated in Chapter 450 of the 1995 Acts of Assembly relating to individuals who lose Aid to Families with Dependent Children cash assistance. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Ann Cook or Pat Sykes, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R95-654; Filed August 2, 1995, 10:20 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.14. MEDALLION.** The purpose of the proposed action is to expand mandatory enrollment in the MEDALLION Program to aged, blind, and disabled recipients based on requirements in the 1995 Appropriations Act. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until September 20, 1995, to Kathy Thompson, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VA.R. Doc. No. R95-656; Filed August 2, 1995, 10:19 a.m.

BOARD OF NURSING

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14-14:7.1 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled: **VR 495-01-1 [18 VAC 90-20-10 et seq.] Board of Nursing Regulations.** The purpose of the proposed action is to replace an emergency regulation which established a fee of \$20 for renewal of nurse aide certification in order to provide sufficient funding for the investigation and adjudication of complaints. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 18, 1995.

Contact: Corinne Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R95-721; Filed August 30, 1995, 2:27 p.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider promulgating regulations entitled: **VR 615-01-57. The Virginia Independence Program** The purpose of the proposed action is to promulgate regulations required by Chapter 450 of the 1995 Acts of Assembly, relating to the Virginia Independence Program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public comments may be submitted until September 20, 1995.

Contact: David E. Olds, Employment Services Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1229 or FAX (804) 692-2209.

VIRGINIA WASTE MANAGEMENT BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-20-10. Solid Waste Management Regulations.** The purpose of the proposed action is to reconsider sections of the regulations that are not mandated by state or federal laws; are not essential to protect health, safety or welfare of citizens of the Commonwealth; or are not essential for efficient and economical performance of important government functions. The board also proposes to consider less burdensome or intrusive alternatives to sections associated with the groundwater monitoring requirements and to improve the clarity of the regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Need: The board has received petitions from the regulated community for rulemaking to amend the Solid Waste Management Regulation. The board agrees that the areas of concern to the petitioners, relating to groundwater monitoring requirements, should be reviewed. The board proposes to consider less burdensome or intrusive alternatives to the sections associated with the groundwater monitoring requirements.

For example, Amendment 1 to the Virginia Solid Waste Management Regulation sets forth certain procedures to be followed relating to groundwater monitoring during the transition period between the effective date of the current state requirements (1988) and the effective date of federal requirements (1996) -- §§ 5.1 D, 5.2 D, and 5.3 D of the current regulation. In retrospect, these transitional procedures have proven themselves to be unnecessarily cumbersome to the regulated community. In response to requests by the Municipal Landfill Group, composed of representatives of a number of local governments, the board is interested in reviewing the administrative and substantive requirements for the state's Interim Groundwater Detection Monitoring Program. Additionally, the board needs to establish simplified statistical procedures for the evaluation of the analytical results of groundwater monitoring obtained by the landfill operators.

In undertaking this regulatory action, the Department of Environmental Quality will also fulfill the requirements for regulatory review set forth in Executive Order 15 (94). Therefore, the board proposes to reconsider the existing regulations to ensure that the requirements are mandated by state or federal laws, are essential to protect the health, safety or welfare of the citizens of the Commonwealth, or are essential for efficient and economical performance of important government functions. The board also proposes to improve the overall clarity of the regulation.

Finally, the board will update numerous sections to reflect new, related regulations which it has promulgated and other regulations promulgated by the Air Pollution Control Board and the State Water Control Board.

Subject Matter and Intent: The board proposes to amend certain sections of the existing Solid Waste Management Regulations, VR 672-20-10. The existing regulations establish standards and procedures for the siting, design, construction, operation, maintenance, closure and post-closure care of solid waste management facilities in order to protect public health, safety, the environment and natural resources. Areas and actions to be considered include:

Updating Part II, Legislative Authority and General Information; updating Part III, Identification of Solid Wastes, to provide relief for properly managed waste tire processing facilities as is done for paper, glass and scrap metals; updating Part IV, Management of Open Dumps and Unpermitted Facilities, so that voluntary cleanup of sites is taken into account; such cleanups should be based on a risk-based standard concept; updating Part V by deleting sections dealing with interim detection phase monitoring of groundwater; updating § 5.4 dealing with landfill gas control to take into account Rule 4-43 - Sanitary Landfill Operations of the State Air Pollution Control Board; updating § 5.7 dealing with corrective action requirements to include risk-based standard concept; and adding a new Part X that would specify acceptable risk estimation methods to be used in connection with risk-based standards for voluntary cleanups and corrective action requirements.

Estimated Impacts: The intent of the proposed amendment is to substantially reduce procedural and substantive requirements of the current regulations. Because the department expects to receive and consider all comments from the public, it is difficult to estimate the extent of the possible cost savings to both the public and the department. However, the goal of the proposed rulemaking is to decrease the costs to the owners or operators of the solid waste management facilities and to the department while ensuring that the public health, safety and welfare, as well as the environment, is protected.

Alternatives: The board has so far considered two alternatives relative to amending the current regulation. First, is the "do nothing" alternative. The board believes this option is not practicable or feasible given the petition for rulemaking which has been received from the regulated community, the requirements for regulatory review as set forth in Executive Order 15(94) and other changes needed to update the current regulations.

The second alternative is to proceed as proposed. While the department is requesting comments on the regulation as a whole, there are several areas of particular interest. Specifically, the department would like to receive comments on alternatives and their costs and benefits on the above mentioned sections, on additional streamlining of the permitting process especially as it pertains to industrial waste facilities, and on alternatives and their costs and benefits relating to on-site ("captive") landfills owned and operated solely to manage wastes generated by the manufacturing plant.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or any other alternatives. Written comments should be submitted to Dr. Walt Gulevich, Waste Division, Department of Environmental

Notices of Intended Regulatory Action

Quality, P.O. Box 10009, Richmond, VA 23240, (804) 762-4218, TDD (804) 762-4021, no later than 4 p.m., on Monday, October 23, 1995.

In addition, the department will hold a public meeting to hear oral comments and to answer questions of the public on Thursday, October 19, 1995, at 10:30 a.m. in the Board Room, Department of Environmental Quality, 4900 Cox Road, Glen Allen, Virginia.

Accessibility to Persons With Disabilities: The meeting will be held at a public facility believed to be accessible to persons with disabilities. Any persons with questions on the accessibility of the facilities should contact Dr. Gulevich at the address above. Persons needing interpreter services for the deaf must notify Dr. Gulevich no later than Monday, October 2, 1995.

Advisory Committee/Group: The department invites comments on whether it should appoint an ad hoc advisory group, use a standing advisory committee or consult with groups or individuals to assist in the development of the proposed action. If comments are submitted regarding the appointment of an ad hoc advisory group or the consultation with groups or individuals, please include the names and addresses of persons or organizations who would be willing to participate in this process. Comments and names may be submitted to Dr. Gulevich at the address below.

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

Public comments may be submitted until October 23, 1995.

Contact: Dr. Walt Gulevich, Assistant Director of Waste Operations, Waste Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240 (804)762-4218, FAX (804) 762-4327 or (804)762-4021/TDD ☎

VA.R. Doc. No. R95-709; Filed August 30, 1995, 9:17 a.m.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **VR 680-01-01.**

Fees for Permits and Certifications. The purpose of the proposed action is to determine if the schedule of fees meets statutory requirements and to consider development of a schedule of reduced fees for facilities that comply with permit terms and conditions. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.15:6 of Article 2.1 of the State Water Control Law which requires that the State Water Control Board promulgate regulations establishing a fee assessment and collection system to recover a portion of the direct and indirect costs associated with processing applications to issue, reissue or modify a permit or certificate which the board has the authority to issue. This same section also exempts agricultural operations engaged in production for market from payment of permit fees and authorizes the board

to establish a schedule of reduced fees for facilities which comply with the terms and conditions of their permits.

Need: Fees for permits and certificates are authorized to recover, up to maximums specified in statute, the direct and indirect costs associated with application review and permit issuance. The fees currently assessed certain applicants for permits for VPDES industrial minor facilities are believed to be in excess of the costs of review and issuance. These fees, as well as those for other permits, need to be reviewed and, if necessary, reduced so that they reflect the time and complexity involved in permit review and issuance. Statutory changes which took effect after the adoption of VR 680-01-01 also need to be incorporated into the regulation. One of these changes exempts agricultural operations engaged in production for market from payment of fees. Another authorizes the board to establish a schedule of reduced fees for facilities which comply with the terms and conditions of their permits.

Subject and Intent: The purpose of the proposed changes to the schedule of fees contained in the permit fee regulation is to ensure that statutory requirements related to fee amounts are met. Specifically, fees must be reduced if they are in excess of the direct and indirect costs associated with reviewing permit applications and issuing permits are recovered. In addition, the development of a schedule of reduced fees for permit reissuances for facilities which comply with permit terms and conditions will also be considered.

Estimated Impact: Annually, an average of 850 applications for new and reissued permits and general permit registrations that are subject to fees are processed. During FY 94 \$2.2 million in fee payments were received. Payments through November, 1994, totalled \$474,330; if collections continue at this rate, FY 95 fee revenue would be about \$1.1 million. Analyses prepared during the initial development of the fee regulation indicated that revenue would average \$1.6 million annually. VPDES permits have the most effect on the amount of fees collected since a significant portion of the fees paid are associated with renewal of VPDES permits. Permits are generally issued for five-year terms. Thus, fees will need to be collected for five years in order to verify the accuracy of the initial annual estimate of fee revenue. Expenditures supported by fee revenues are budgeted at \$1.56 million annually for the 1994-96 biennium. Revenues in excess of appropriated amounts are carried forward to the next fiscal year. Amendments proposed in response to this notice would reduce individual fees and would probably reduce the amount of revenue generated. The impact cannot be determined more precisely, however, until a revised fee schedule is developed.

Alternative: Proposed changes could be limited to ones affecting fee amounts since the development of a schedule of reduced fees for compliant facilities is authorized but not required. However, the amendments will ensure that no applicant is charged a fee in excess of the costs associated with application review and permit issuance.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the alternative. Also, the board seeks comment on whether the agency should form an

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ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal.

Public Meeting: The board will hold a public meeting on Thursday, October 12, 1995, at 2 p.m. in the Board Room of the Department of Environmental Quality's offices at Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions from the public.

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 Mr. Ayers at the address above or by telephone at (804) 762-4075. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Thursday, September 21, 1995.

Public comment may be submitted until 4 p.m. on October 13, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-685; Filed August 16, 1995, 10:29 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-09, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposed action is to readopt a general permit for domestic sewage discharges less than or equal to 1,000 gallons per day. This action is necessary to continue the availability of the general permit to the approximately 800 treatment works currently covered by the general permit. The agency intends to hold a public hearing on the proposed regulation after publication.

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

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

Need: This proposed regulatory action is needed in order to continue the availability of the domestic sewage discharge general permit which was issued effective July 1, 1992, and which expires July 1, 1996. Unless this general permit regulation is readopted, the treatment works currently covered under the general permit will be required to apply for individual VPDES permits if they wish to continue to discharge to state waters.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to readopt a general permit for domestic sewage discharge of 1,000 gallons per day or less. This general permit will cover the category of small domestic sewage treatment plants which are designed to treat up to 1,000 gallons of wastewater per day. These treatment plants are typically installed at individual homes when central sewer is not available and the soil conditions prohibit the use of septic tanks and drainfields. They may also be installed to treat domestic sewage from duplexes, churches, gas stations, etc., where sewage flow is low and other treatment alternatives are not available. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. The conditions of the proposed general permit are the same as those in the current general permit for this category which expires July 1, 1996.

Estimated Impact: There are approximately 870 treatment works currently covered under the domestic sewage discharge general permit. There may be other facilities which are currently operating under individual permits which could be covered by this general permit. Readoption of this regulation will allow for the continued streamlining of the permit process as it relates to the covered category of discharges. Coverage under the earlier issuance of this general permit has significantly reduced the paper work, time and expense of obtaining a permit for the owners in this category. Readoption of the proposed regulation would continue these benefits. The current general permit has also allowed the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges from domestic sewage discharges less than or equal to 1,000 gallons per day. One is to issue individual VPDES permits to each treatment works. Prior to 1991 all of these discharges were permitted in this manner. The other alternative is to

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readopt and issue a general VPDES permit to cover this category of discharger. Because of the widespread acceptance of this general permit during its original term, the department believes that the general permit should be readopted.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal. To be considered, written comments should be directed to Mr. Richard Ayers at the address below and must be received by 4 p.m. on Monday, October 23, 1995.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The 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 Mr. Ayers at the address above or by telephone at (804) 762-4075. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

Public comment may be submitted until 4 p.m. on October 23, 1995.

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

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-710; Filed August 30, 1995, 9:16 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-24. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Car Washes.** The purpose of the proposed action is to establish appropriate and necessary permitting requirements for discharges of wastewater from car wash operations. The proposed regulation will set forth standard language for effluent limitations and monitoring requirements necessary to regulate this category of dischargers. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7)

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

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

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater from car wash operations. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. This general permit is being proposed in order to reduce the regulatory burden on these operations.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for the wastewater discharges from car washes. The intent of this proposed general permit regulation is to establish standard language for effluent limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are 56 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other facilities which are currently operating without a permit which would be covered by this general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. It is anticipated that the cost and amount of monitoring required under the general permit will be less than under individual permits. Adoption of the proposed regulation would also allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges from car

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washes. One is to continue to issue individual VPDES permits to each establishment. The other is to adopt and issue a general VPDES permit to cover this category of discharger.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal. To be considered, written comments should be directed to Mr. Richard Ayers at the address below and must be received by 4 p.m. on Monday, October 23, 1995.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The 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 Mr. Ayers at the address above or by telephone at (804) 762-4075. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-711; Filed August 30, 1995, 9:16 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-25. General Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Ready-Mixed Concrete Plants.** The purpose of the proposed action is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program and to accomplish this with the least regulatory burden on the dischargers. The agency intends to hold a public hearing on the proposed regulation after publication.

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

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

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

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete. This general permit is being proposed in order to reduce the regulatory burden on these operations.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. This proposed general permit will cover the category of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are approximately 45 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other establishments which are currently operating without a permit which would be covered by this general permit. Adoption of this proposed regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paperwork, time and expense of obtaining a permit for the owners in this category. Additionally, adoption of this proposed regulation would allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges of storm water and process wastewater from industrial activities

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associated with the manufacture of ready-mixed concrete. One is to issue individual VPDES permits to each treatment works. Prior to 1991 all of these discharges were permitted in this manner. The other alternative is to adopt and issue a general VPDES permit to cover this category of discharger.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The 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 facilities should contact Mr. Ayers at the address below or by telephone at (804) 762-4075 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

Ad Hoc Advisory Committee: The board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-712; Filed August 30, 1995, 9:16 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-26. General Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Fish Farms.** The purpose of the proposed action is to adopt a general permit for the wastewater discharges from fish farms. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the

right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

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

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater from fish farming operations. Aquaculture, the rearing of fish as an agricultural crop, is a growing industry in Virginia. The typical fish farm consists of either ponds or raceways in which fish are confined and fed until they reach market size. The raceway type operations usually maintain a continuous discharge of water which contains excess food, fish manure and other waste products. The pond type fish farms usually discharge during fish harvest, although some do discharge on a regular basis during the growing period. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. This general permit is being proposed in order to reduce the regulatory burden on these agricultural operations.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for the wastewater discharges from fish farms. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are 11 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other facilities which are currently operating without a permit which would be covered by this general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. It is anticipated that the cost and amount of monitoring required under the general permit will be less than under individual permits. Adoption of the proposed regulation would also allow the department to redirect staff resources to those discharges which would, due to size or complexity, not appropriately be covered by a general permit.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit discharges of storm water and process wastewater from industrial activities

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associated with the manufacture of ready-mixed concrete. One is to issue individual VPDES permits to each treatment works. Prior to 1991 all of these discharges were permitted in this manner. The other alternative is to adopt and issue a general VPDES permit to cover this category of discharger.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The 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 facilities should contact Mr. Ayers at the address below or by telephone at (804) 762-4075 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

Ad Hoc Advisory Committee: The board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist the drafting and formulation of a proposal.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-713; Filed August 30, 1995, 9:16 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-27. General Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Cooling Tower Discharges to Municipal Separate Storm Sewer Systems.** The purpose of the proposed action is to adopt a general permit for discharges from cooling towers to municipal separate storm sewer systems. The agency intends to hold a public hearing on the proposed regulation after publication.

Basis and Statutory Authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; §

62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

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

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting requirements for discharges of wastewater from cooling towers to municipal separate storm sewer systems. Section 402 (p)(3)(B) of the Clean Water Act requires that permits for discharges from municipal separate storm sewer systems "effectively prohibit" non-storm water discharges into the municipal separate storm sewer system. The federal regulations governing storm water discharges require the permit for a municipal separate storm sewer system to contain a program to detect and remove nonstorm water discharges into the municipal separate storm sewer system or require the discharger to the municipal separate storm sewer system to obtain a separate NPDES permit for the nonstorm water discharge. The federal regulation also requires that the owner of the municipal separate storm sewer system have the legal authority to "prohibit through ordinance, order or similar means, non-storm water discharges to the municipal separate storm sewer." A nonstorm water discharge is defined as "any discharge to a municipal separate storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit." Discharges from cooling towers to the municipal separate storm sewer system fall under this definition of non-storm water discharge. This proposed general permit will be required in order for operators of cooling towers to discharge to a municipal separate storm sewer system, once the department issues VPDES permits to the municipalities for the discharges from the municipal separate storm sewer system to state waters.

Subject and Intent: General permits may be issued for categories of dischargers that involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for the cooling tower discharges which are contributing to the dry weather flow from municipal separate storm sewer systems. The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program.

Estimated Impact: There are approximately 3,000 establishments currently discharging from cooling towers to municipal separate storm sewers which may qualify for this

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proposed general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulations would also allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Alternatives: For this category of discharges there are three alternatives for compliance with federal and state requirements for discharges from cooling towers to municipal separate storm sewer systems. The first is the issuance of an individual VPDES permit to each establishment. The second is to adopt and issue a general VPDES permit to cover this category of discharger and third is to not permit thus requiring the municipalities to prohibit the discharge.

Comments: The department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives. Also, the board seeks comment on whether the agency should form an ad hoc advisory group, utilize a standing advisory committee, or consult with groups or individuals to assist in the drafting and formulation of a proposal. To be considered, written comments should be directed to Mr. Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009 and must be received by 4:00 p.m. on Monday, October 23, 1995.

Public Meeting: The board intends to hold a public meeting at 2 p.m. on Wednesday, October 18, 1995, in the Board Room, Department of Environmental Quality's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to Persons with Disabilities: The 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 facilities should contact Mr. Ayers at the address below or by telephone at (804) 762-4075 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Mr. Ayers no later than Friday, October 6, 1995.

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

Public comment may be submitted until 4 p.m. on October 23, 1995.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

VA.R. Doc. No. R95-708; Filed August 30, 1995, 9:16 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

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

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

VIRGINIA WASTE MANAGEMENT BOARD

† **October 23, 1995 - 1 p.m.** -- Public Hearing
Norfolk City Council Chambers, City Hall Building, 810 Union Street, 11th Floor, Norfolk, Virginia.

† **October 24, 1995 - 2 p.m.** -- Public Hearing
War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

† **October 25, 1995 - 2 p.m.** -- Public Hearing
Roanoke County Board of Supervisors Room, 5204 Bernard Drive, Roanoke, Virginia.

† **November 20, 1995** -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed amendment is to incorporate recent changes to federal regulations governing hazardous materials transport and motor carrier safety and new state law requiring a register of shippers.

Statutory Authority: §§ 10.1-1402, 10.1-1450 and 44-146.30 of the Code of Virginia.

Contact: Julia King-Collins, Office of Enforcement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4247.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulation: VR 325-01-1. **Definitions and Miscellaneous: In General.**

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

Summary:

The proposed amendment adds the wolf hybrid to the definition of domestic dog thus making wolf hybrids domestic animals by definition. This removes wolf hybrids from the regulatory authority of the Department of Game and Inland Fisheries.

VR 325-01-1. Definitions and Miscellaneous: In General.

§ 1. Definitions; generally.

Words and phrases used in any regulations made by the board shall have the same meaning, unless the context clearly indicates otherwise, as is given for such words and phrases in the Virginia Game and Inland Fisheries laws contained in Title 29.1 of the Code of Virginia.

§ 2. Definitions; "Counties east of the Blue Ridge Mountains."

Whenever the words "counties east of the Blue Ridge Mountains," or language equivalent thereto, appear in a regulation of the board, such words shall apply to the following counties and cities:

Accomack	King and Queen
Albemarle	King George
Amelia	King William
Amherst	Lancaster
Appomattox	Loudoun
Arlington	Louisa
Bedford	Lunenburg
Brunswick	Madison
Buckingham	Mathews
Campbell	Mecklenburg
Caroline	Middlesex
Charles City	Nelson

Charlotte	New Kent
Chesapeake City	Newport News City
Chesterfield	Northampton
Culpeper	Northumberland
Cumberland	Nottoway
Dinwiddie	Orange
Essex	Patrick
Fairfax	Pittsylvania
Fauquier	Powhatan
Fluvanna	Prince Edward
Franklin	Prince George
Gloucester	Prince William
Goochland	Rappahannock
Greene	Richmond
Greensville	Southampton
Halifax	Spotsylvania
Hampton City	Stafford
Hanover	Suffolk City
Henrico	Surry
Henry	Sussex
Isle of Wight	Virginia Beach City
James City	Westmoreland
	York

§ 3. Definitions; "Counties west of the Blue Ridge Mountains."

Whenever the words "counties west of the Blue Ridge Mountains," or language equivalent thereto, appear in a regulation of the board, such words shall apply to the following counties:

Alleghany	Lee
Augusta	Montgomery
Bath	Page
Bland	Pulaski
Botetourt	Roanoke
Buchanan	Rockbridge
Carroll	Rockingham
Clarke	Russell

Craig	Scott
Dickenson	Shenandoah
Floyd	Smyth
Frederick	Tazewell
Giles	Warren
Grayson	Washington
Highland	Wise
	Wythe

- Domestic cat (*Felis catus*), including hybrids with wild felines.
- Domestic horse (*Equus caballus*), including hybrids with *Equus asinus*.
- Domestic ass, burro, and donkey (*Equus asinus*).
- Domestic cattle (*Bos taurus* and *Bos indicus*).
- Domestic sheep (*Ovis aries*), including hybrids with wild sheep.
- Domestic goat (*Capra hircus*).

§ 3-1. Definitions; Dismal Swamp Line.

Whenever the words "Dismal Swamp Line," or language equivalent thereto, appear in a regulation of the board, such words shall apply to a line: Beginning at a point on State Highway 10 where it intersects the Isle of Wight County line, thence along such highway to its intersection with the corporate limits of the City of Suffolk, thence through the corporate limits of the City of Suffolk to its intersection with State Secondary Highway 642, and thence along State Secondary Highway 642 (White Marsh Road) in a southerly and westerly direction to State Secondary Highway 604 (Desert Road), and thence southerly along State Secondary Highway 604 to the North Carolina line.

§ 4. (Repealed.)

§ 5. Definitions; "wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal" and "domestic animal."

In accordance with § 29.1-100 of the Code of Virginia, the following terms shall have the meanings ascribed to them by this section when used in regulations of the board:

"Wild animal" means any member of the animal kingdom, except domestic animals, including without limitation any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any hybrid thereof, except as otherwise specified in regulations of the board, or part, product, egg, or offspring thereof, or the dead body or parts thereof.

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia which have established wild, self-sustaining populations, as included in the department's 1991 official listing of "Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Nonnative (exotic) animal" means those species and subspecies of animals not naturally occurring in Virginia, excluding domestic and naturalized species.

The following animals are defined as domestic animals.

Domestic dog (*Canis familiaris*), including wolf hybrids.

Domestic swine (*Sus scrofa domestica*), including pot-bellied pig.

Llama (*Lama glama*).

Alpaca (*Lama pacos*).

Camels (*Camelus bactrianus* and *Camelus dromedarius*).

Domesticated races of hamsters (*Mesocricetus* spp.).

Domesticated races of mink (*Mustela vison*) where adults are heavier than 1.15 kg or their coat color can be distinguished from wild mink.

Domesticated races of red fox (*Vulpes*) where their coat color can be distinguished from wild red fox.

Domesticated races of guinea pigs (*Cavia porcellus*).

Domesticated races of gerbils (*Meriones unguiculatus*).

Domesticated races of chinchillas (*Chinchilla laniger*).

Domesticated races of rats (*Rattus norvegicus* and *Rattus rattus*).

Domesticated races of mice (*Mus musculus*).

Domesticated races of European rabbit (*Oryctolagus cuniculus*).

Domesticated races of chickens (*Gallus*).

Domesticated races of turkeys (*Meleagris gallopavo*).

Domesticated races of ducks and geese distinguishable morphologically from wild birds.

Feral pigeons (*Columba domestica* and *Columba livia*) and domesticated races of pigeons.

Domesticated races of guinea fowl (*Numida meleagris*).

Domesticated races of peafowl (*Pavo cristatus*).

§ 6. Definitions; "Person."

The word "person," when used in the regulations of the board, may extend and be applied to bodies politic and corporate as well as individuals.

§ 7. Violations of regulations.

Any violation of any regulation or part thereof of the board is made a misdemeanor by §§ 29.1-505 and 29.1-746 of the Code of Virginia and persons convicted of such violation will

Proposed Regulations

be punished as provided in said sections or other applicable provisions of the Code of Virginia.

§ 8. Certificate on hunting, trapping and fishing license to be executed by licensee.

No state or county resident license to hunt, trap or fish in or on the lands or inland waters of this Commonwealth shall be deemed to be issued until the certificate printed on the reverse side thereof shall have been executed by the named licensee.

§ 9. Permits for drilling, dredging and other operations in Back Bay area.

Drilling, dredging and any other operation designed to recover or obtain shell, minerals or any other substance shall be unlawful on lands owned by or under the control of the Commonwealth of Virginia under Back Bay, its tributaries and the North Landing River from the North Carolina line to North Landing Bridge unless a permit is first obtained from the board. Application for a permit under this section shall be made to the board in such form and substance as the board may require. Under the authority of § 29.1-103 of the Code of Virginia, the board shall grant or refuse such permits as conditions may require in order to prevent practices and operations which would harm the area for fish and wildlife.

§ 10. Prohibited use of vehicles on department-owned lands.

It shall be unlawful on department-owned lands to drive through or around gates designed to prevent entry with any type of motorized vehicle or to use such vehicles to travel anywhere on such lands except on roads open to vehicular traffic. Any motor-driven conveyance shall conform with all state laws for highway travel; provided, that this requirement shall not apply to the operation of motor vehicles for administrative purposes by department-authorized personnel on department-owned lands.

§ 11. Refusal to surrender licenses, permits, stamps or records to department representatives.

No agent, or any other person for him, in possession of issued or unissued hunting, fishing or trapping licenses, permits or stamps or records pertaining thereto, shall refuse to surrender upon demand such licenses, permits, stamps or records to department representatives authorized by the director to take such licenses, permits, stamps and records into custody.

§ 12. Appointment of new consignment agents for sale of hunting and fishing licenses.

A. Except as provided below, no person shall be appointed as a consignment agent for the sale of hunting and fishing licenses unless he first sells licenses on a cash basis for at least one year. In addition, the dollar volume of actual or projected sales must equal at least 90% of the average hunting and fishing license sales of consignment agents in the locality.

B. If the cash agent sells the required number of licenses, he may be appointed as a consignment agent, provided he is approved for a surety bond by the board's bonding company.

C. This regulation is applicable to new appointments and not to transfers of existing appointments; provided, that the

director may appoint consignment agents as needed to provide for a minimum of two consignment agents within a locality. In addition, the director may appoint consignment agents on state-owned or state-leased facilities.

§ 13. Endangered and threatened species. Adoption of federal list; additional species enumerated.

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 U.S.C. 1531-1543), as amended, and declares all species listed thereon to be endangered or threatened species in the Commonwealth.

B. In addition to the provisions of subsection A, the following species are declared endangered or threatened in this Commonwealth, and are afforded the protection provided by Article 6, Chapter 5, Title 29.1 of the Code of Virginia:

1. Fish:

Endangered:

Dace, Tennessee	Phoxinus Tennesseeensis
Darter, duskytail	Etheostoma sp
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon

Threatened:

Darter, Carolina	Etheostoma collis
Darter, Tippecanoe	Etheostoma tippecanoe
Darter, greenfin	Etheostoma chlorobranchium
Darter, longhead	Percina macrocephala
Darter, western sand	Ammocrypta clara
Madtom, orangefin	Noturus gilberti
Paddlefish	Polyodon spathula
Shiner, emerald	Notropis atherinoides
Shiner, steelcolor	Cyprinella whipplei
Shiner, whitemouth	Notropis alborus

2. Amphibians:

Endangered:

Salamander, eastern tiger	Ambystoma tigrinum
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Threatened:

Salamander, Mabee's	Ambystoma mabeei
Treefrog, barking	Hyla gratiosa

3. Reptiles:

Endangered:

Rattlesnake, canebrake	Crotalus horridus atricaudatus
Turtle, bog	Clemmys muhlenbergii
Turtle, chicken	Deirochelys reticularia

Threatened:

Lizard, eastern glass	Ophisaurus ventralis
Turtle, wood	Clemmys insculpta

4. Birds:

Endangered:

Plover, Wilson's	Charadrius wilsonia
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Wren, Bewick's	<i>Thryomanes bewicki</i>
Threatened:	
Sandpiper, upland	<i>Bartramia longicauda</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>
Sparrow, Bachman's	<i>Ammophila aestivalis</i>
Sparrow, Henslow's	<i>Ammodrammus henslowii</i>
Tern, gull-billed	<i>Sterna nilotica</i>

5. Mammals:

Endangered:	
Bat, eastern big-eared	<i>Plecotus rafinesquii macrotis</i>
Hare, snowshoe	<i>Lepus americanus</i>
Shrew, water	<i>Sorex palustris</i>
Vole, rock	<i>Microtus chrotorrhinus</i>

6. Molluscs:

Endangered:	
Bean, purple	<i>Villosa perpurpurea</i>
Cavesnail, Unthanks	<i>Holsingeria unthanksensis</i>
Coil, rubble	<i>Helicodiscus lirellus</i>
Coil, shaggy	<i>Helicodiscus diadema</i>
Combshell, Cumberland	<i>Epioblasma brevidens</i>
Deertoe	<i>Truncilla truncata</i>
Elephant-ear	<i>Elliptio crassidens</i>
Floater, brook	<i>Alasmidonta varicosa</i>
Heelsplitter, Tennessee	<i>Lasmigona holstonia</i>
Lilliput, purple	<i>Toxolasma lividus</i>
Mussel, oyster	<i>Epioblasma capsaeformis</i>
Mussel, slippershell	<i>Alasmidonta viridis</i>
Pigtoe, Ohio	<i>Pleurobema cordatum</i>
Pigtoe, pink	<i>Pleurobema rubrum</i>
Snuffbox	<i>Epioblasma triquetra</i>
Spectaclecase	<i>Cumberlandia monodonta</i>
Supercoil, spirit	<i>Paravitrea hera</i>

Threatened:

Papershell, fragile	<i>Leptodea fragilis</i>
Pearlymussel, slabside	<i>Lexingtonia dolabelloides</i>
Pigtoe, Atlantic	<i>Fusconaia masoni</i>
Pimpleback	<i>Quadrula pustulosa pustulosa</i>
Rabbitsfoot, rough	<i>Quadrula cylindrica strigillata</i>
Riversnail, spiny	<i>lo fluvialis</i>
Sandshell, black	<i>Ligumia recta</i>
Sheepnose	<i>Plethobasus cyphus</i>
Supercoil, brown	<i>Paravitrea septadens</i>

7. Arthropods:

Threatened:

Amphipod, Madison Cave	<i>Stygobromus stegerorum</i>
Pseudotremia, Ellett Valley	<i>Pseudotremia cavernarum</i>
Xystodesmid, Laurel Creek	<i>Sigmoria whiteheadi</i>

C. It shall be unlawful to take, transport, process, sell or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife.

§ 14. Endangered species; definitions.

For the purposes of §§ 29.1-564 through 29.1-570 of the Code of Virginia, § 13 of this regulation and this section:

1. "Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range within the Commonwealth, other than a species of the class Insecta deemed to be a pest whose protection would present an overriding risk to the health or economic welfare of the Commonwealth.

2. "Fish or wildlife" means any member of the animal kingdom, vertebrate or invertebrate, without limitation, and includes any part, products, egg or the dead body or parts thereof.

3. "Harass," in the definition of "take," means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

4. "Harm," in the definition of "take," means an act which actually kills or injures wildlife. Such act may include significant habitat modifications or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

5. "Person" means any individual, firm, corporation, association or partnership.

6. "Special concern" means any species, on a list maintained by the director, which is restricted in distribution, uncommon, ecologically specialized or threatened by other imminent factors.

7. "Species" includes any subspecies of fish or wildlife and any district population segment of any species or vertebrate fish or wildlife which interbreed when mature.

8. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess or collect, or to attempt to engage in any such conduct.

9. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the Commonwealth.

§ 15. Structures on department-owned lands and national forest lands.

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

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

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

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§ 16. Nuisance species designated.

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

1. Mammals:

- a. House mouse (*Mus musculus*).
- b. Norway rat (*Rattus norvegicus*).
- c. Black rat (*Rattus rattus*).
- d. Coyote (*Canis latrans*).

2. Birds:

- a. European starling (*Sturnus vulgaris*).
- b. English (house) sparrow (*Passer domesticus*).
- c. Pigeon (Rock Dove) (*Columba livia*).

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

§ 17. Taking and possession of certain rodents for private use.

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

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

§ 18. Taking of invertebrates.

A. Earthworms. Earthworms may be taken at any time for private or commercial use.

B. Other invertebrates. Except as otherwise provided for in §§ 3.1-1020 through 3.1-1030 and 29.1-418 of the Code of Virginia and in VR 325-01-1, § 13, VR 325-01-2 and VR 325-03-5, § 1 invertebrates, other than those listed in endangered or threatened, may be taken for private use.

§ 19. Definitions; "designated stocked trout waters."

When used in regulations of the board, "designated stocked trout waters" will include those waters that are stocked with harvestable-sized trout and are listed by the director in the annual Trout Stocking Plan. These waters will only be considered designated stocked trout waters from October 1 through June 15, both dates inclusive, except for fee fishing waters covered by VR 325-03-1, § 12, and urban fishing waters covered by VR 325-03-2, § 17. Designated stocked trout waters are either posted by the department with appropriate "stocked trout waters" signs or are posted as fee fishing areas under VR 325-03-1, § 12.

§ 20. Fees for miscellaneous permits.

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

Boat Ramp Special Use	
Nonprofit Public Use	\$10
Private/Commercial Use	\$50
Boat Regattas/Tournaments	\$50/day
Collect and Sell	\$50
Commercial Nuisance Animals	\$25
Deer Farming	\$350
Exhibitors	
Commercial Use	\$50
Educational/Scientific Use	\$20
Exotic Importation and Holding	\$10
Field Trial	\$25
Hold for Commercial Use	\$10
Propagation	
Commercial Use	\$50
Private Use	\$20
Licensed Shooting Preserves	\$20
Rehabilitation	\$10
Scientific Collection	\$20
Special Hunting Permit	\$10
Striped Bass Tournament	\$10
Threatened & Endangered Species	\$20
Trout Catch-Out Pond	\$50
Wolf Hybrid -- Individual	
Nonneutered	\$20/animal
Neutered	\$10/animal
Wolf Hybrid -- Kennel	\$100

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

VA.R. Doc. No. R95-717; Filed August 30, 1995, 11:32 a.m.

Proposed Regulations

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.

Summary:

The proposed amendments (i) remove wolf hybrids from the department's nonnative exotic animal list and remove the requirement for a department permit to possess, sell or import a wolf hybrid; (ii) clarify language in the regulation concerning the listing of coyote hybrids; and (iii) clarify language addressing exceptions in the mammalian listing of nonnative exotics.

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 prohibit the possession, importation, and sale of native or naturalized albino amphibians, native or naturalized albino reptiles, or those domestic animals as defined in VR 325-01-1, § 5.

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

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

that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:

AMPHIBIANS:

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

BIRDS:

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

FISH:

<u>Order</u>	<u>Family</u>	<u>Genus/Species</u>	<u>Common Name</u>
Cypriniformes	Catostomidae	Ictiobus bubalus	Smallmouth buffalo*
		I. cyprinellus	Bigmouth buffalo*
		I. niger	Black buffalo*
	Characidae	Pygopristis spp.	Piranhas
		Pygocentrus spp.	
		Rooseveltiella spp.	
		Serrasalmo spp.	
		Serrasalmus spp.	
		Taddyella spp.	
	Cyprinidae	Aristichthys nobilis	Bighead carp*
		Ctenopharyngodon idella	Grass carp or white amur
		Cyprinella lutrensis	Red shiner
		Hypophthalmichthys molitrix	Silver carp*
		Mylopharyngodon piceus	Black carp

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				REPTILES:			
		<u>Order</u>	<u>Family</u>	<u>Genus/Species</u>	<u>Common Name</u>		
		Scardinius erythro-phthalmus	Rudd	Squamata	Alligatoridae	All Species	Alligators, Caimans*
		Tinca tinca	Tench*		Colubridae	Boiga irregularis	Brown tree snake*
Perciformes	Cichlidae	Tilapia spp.	Tilapia		Crocodylidae	All Species	Crocodiles*
		Gymnocephalus cernuum	Ruffe*		Gavialidae	All Species	Gavials*
Siluriformes	Clariidae	All Species	Air-breathing catfish				

MAMMALS:

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

MOLLUSKS:

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

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, tattoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

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

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

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

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

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

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

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

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

VA.R. Doc. No. R95-718; Filed August 30, 1995, 11:32 a.m.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulations: VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

Statutory Authority: §§ 10.1-1402, 10.1-1450, and 44-146.30 of the Code of Virginia.

Public Hearing Dates: October 23, 1995 - 1 p.m. - Norfolk
October 24, 1995 - 2 p.m. - Richmond
October 25, 1995 - 2 p.m. - Roanoke

Written comments may be submitted until 4 p.m. on November 20, 1995.

(See Calendar of Events section for additional information)

Basis: Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia directs the Virginia Waste Management Board (board) to promulgate rules and regulations concerning the transportation of hazardous materials in the Commonwealth. In compliance with this

article, the board has promulgated VR 672-30-1, the Virginia Regulations Governing the Transportation of Hazardous Materials ("VRGTHM"). The VRGTHM incorporate federal regulations promulgated by the U.S. Department of Transportation ("USDOT"). The proposed amendment to the VRGTHM will incorporate recent changes to federal law, thus maintaining consistency between state and federal regulations. Changes in USDOT regulations promulgated from June 2, 1992, through March 18, 1994, necessitate this amendment to preclude conflicts between Virginia regulations and the federal regulations.

Section 44-146.30 of the Code of Virginia mandates the board to promulgate regulations by which the Coordinator of the Department of Emergency Services ("Coordinator") will maintain a register of shippers and monitor the transportation of hazardous radioactive materials in the Commonwealth. The proposed amendment to the VRGTHM will include a section on maintaining a register of shippers and a section on monitoring the transportation of hazardous radioactive materials in the Commonwealth.

Section 10.1-1450 B of the Code of Virginia authorizes the director to grant variances from the regulations with respect to the physical qualifications for drivers of commercial motor vehicles transporting hazardous materials if certain specified criteria are met. The proposed amendment provides additional information to the regulated community on how to apply for a variance.

Part IV of the current VRGTHM, Hauling Explosives in Passenger Type Vehicles, has been deleted because the requirements in the VRGTHM are more strict than federal regulations. The VRGTHM may not be more stringent than federal regulations as specified in § 10.1-1450 A of the Code of Virginia. Persons who transport explosives must still comply with applicable USDOT requirements, which are incorporated in Part III of the VRGTHM.

Purpose: The purpose of the proposed amendments is to change the VRGTHM in four ways. The first amendment will incorporate, at the state level, changes to USDOT regulations. The federal regulations incorporated by this proposed amendment ensure that hazardous materials transported within the Commonwealth are properly identified and packaged, and safely transported in a manner that protects human health and the environment.

The second amendment carries out the statutory mandate of § 44-146.30 of the Code of Virginia, that the board shall promulgate regulations by which the coordinator will maintain a register of shippers and monitor the transportation of hazardous radioactive materials in the Commonwealth. The proposed amendment will add a section to the VRGTHM on maintaining the register of shippers and a section on monitoring the transportation of hazardous materials.

The third amendment will provide additional information to the regulated community on obtaining a variance from the physical qualifications for drivers of commercial motor vehicles transporting hazardous materials. The proposed amendment describes what data the director needs to evaluate a request for a variance.

The fourth amendment will eliminate any conflict between federal and state regulations by deleting a portion of the

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VRGTHM that is more restrictive than the USDOT rules. As stated above, persons hauling explosives in Virginia, in passenger type vehicles, must still comply with USDOT regulations as incorporated in Part III of the VRGTHM.

Substance and Issues: The transportation of hazardous materials presents benefits and risks to the citizens of the Commonwealth. One benefit of transporting hazardous materials in Virginia is economic, by providing a material to operators of industrial and manufacturing concerns that enables a manufacturing process to occur. The process provides work for employees and provides a good for sale. Another benefit is the work provided to the companies in the business of transporting hazardous materials.

Notwithstanding the benefits, a serious risk accompanies the transportation of hazardous materials. These materials, due to their composition, have been identified as capable of posing a threat to human health and the environment if not handled properly and in a safe manner. The USDOT has devoted an entire volume of the Code of Federal Regulations ("CFR") to transportation issues and many chapters in particular to the transportation of hazardous materials. These chapters of the CFR prescribe how hazardous materials shall be identified, handled, packed, and transported. The purpose of the transportation rules found in the CFR is to ensure that the risks of transporting hazardous materials are minimized through precaution and preparation.

One proposed amendment to the VRGTHM incorporates, at the state level, the changes that have been promulgated in the CFR at the federal level. All transporters in interstate commerce must already comply with the USDOT rules, and the proposed amendment extends the USDOT rules to shipments of hazardous materials within or through the Commonwealth as authorized by § 10.1-1450 A of the Code of Virginia. The USDOT rules are amended almost weekly, and this amendment to the VRGTHM will incorporate the changes that have been promulgated from June 2, 1992, through March 18, 1994.

The second proposed amendment to the VRGTHM addresses hazardous radioactive materials. The General Assembly has directed the board, in § 44-146.30 of the Code of Virginia, to promulgate regulations by which the coordinator will register shippers of hazardous radioactive materials and monitor the transportation of hazardous radioactive materials in the Commonwealth. The General Assembly recognized that there are benefits and risks associated with the transportation of hazardous radioactive materials, and mandated that regulations be promulgated in order to protect citizens of the Commonwealth, while providing a benefit to the economy.

The third proposed amendment will provide the regulated community with additional information on how to obtain a variance from the physical qualifications for drivers of commercial motor vehicles transporting hazardous materials. The physical qualifications for drivers are found in 49 CFR Part 391, which is incorporated into the VRGTHM. Section 10.1-1450 B of the Code of Virginia provides limited instances where the director may grant a variance to the physical qualifications found in the CFR. The proposed amendment clarifies the process by which a driver submits documentation for a variance by listing what information,

including medical reports and drivers' records, must be submitted to the director in order to process a variance request.

The final amendment, deletion of Part IV of the current VRGTHM, will streamline the regulatory process by eliminating an area where Virginia is regulating an activity more stringently than the area is regulated under USDOT rules.

There are no perceived disadvantages to the public should the proposed amendments be adopted. The first proposed amendment will incorporate recent USDOT changes and maintain consistency between state and federal law, which provides an advantage to persons who transport, or offer for transportation, hazardous materials. The advantage to these persons is they do not have to comply with conflicting requirements at the state and federal levels. This amendment also provides additional protection to the public from the risks of transporting hazardous materials.

The second proposed amendment regarding maintaining the register and monitoring the transportation of hazardous radioactive materials also provides protection to the public. The coordinator will have access to the routes traveled by carriers of hazardous radioactive materials and will be able to take the necessary precautions to ensure safe transport. This proposed amendment is mandated by the Code of Virginia and, in adopting the amendment, the board is carrying out the mandate of the General Assembly.

The third proposed amendment will assist the regulated community by providing additional information on preparing a request for a variance from the physical qualifications for drivers of commercial motor vehicles transporting hazardous materials. Currently the Code describes who may be eligible to apply for a variance, but the application process is not detailed. The proposed amendment to the VRGTHM will provide details of how to prepare a variance request.

The final proposed amendment will delete Part IV because the requirements in the existing VRGTHM are more strict than federal regulations. Section 10.1-1450 A of the Code of Virginia precludes the VRGTHM from containing provisions that are more restrictive than any federal laws.

Impact: The proposed amendment to incorporate USDOT changes does not impose additional regulatory burdens on persons who transport, or offer for transportation, hazardous materials. These requirements have already been through the federal rulemaking process and are in force in the interstate, and, in some cases, intrastate transport of hazardous materials. For this reason, this amendment to incorporate USDOT changes is not expected to have a significant impact on the regulated community. This amendment is not expected to cause any disadvantages for the state or the Department of Environmental Quality, nor are additional funds needed as a result of the proposed amendments.

The proposed amendment to register and monitor shippers of hazardous radioactive materials is expected to have an administrative impact, but no economic impact on shippers of hazardous radioactive materials. In 1993, 17 shippers used six carriers to make 57 shipments of hazardous radioactive materials. Under the proposed regulation, the carriers would

register with the coordinator prior to the shipment and the coordinator would monitor the shipments. The coordinator already keeps a register of shippers and monitors shipments, so the proposed amendment will not require additional funds to administer the amendment.

The proposed amendment to detail the information necessary to prepare a request for a variance is not expected to pose a significant additional burden on the drivers because most of the information required under the amendment is already required under USDOT rules. The additional requirement in the proposed amendment is that the driver must reapply annually for a variance. This will entail the driver obtaining a physical and an eye examination, if necessary. Also, the person seeking a variance is required to submit a transcript of his driving record, which costs \$5.00 to obtain from the Department of Motor Vehicles. The purpose of this requirement to reapply annually for a variance is to ensure that a driver's condition has not changed to the extent that he is no longer eligible for the variance. The amendment will clarify the process by which a driver prepares his application for a variance.

The proposed amendment to delete Part IV of the VRGTHM is not expected to have an impact on the regulated community.

The proposed amendments to the VRGTHM will not have an adverse impact on the regulated community or the Commonwealth. In fact, the proposal to incorporate USDOT changes will eliminate conflicts with federal laws. The amendment to register and monitor shippers of hazardous radioactive materials should not affect the shippers as they have already been complying with a registering and monitoring program. Clarifying the variance request process assists the regulated community by providing additional information on how to obtain a variance. The proposed amendments provide for the continued efficient and economical performance of certain governmental functions.

The only anticipated costs for compliance and implementation result from the variance provisions of the proposed amendments. The department issues approximately 15 variances to drivers annually. The cost to the drivers of obtaining a variance ranges from \$10 to \$100, depending on insurance coverage, for the physical and an additional \$5.00 for a transcript of the driving record.

Federal Requirements: There are specific federal regulations governing the transportation of hazardous materials. The board proposes to incorporate, at the state level, recent changes that have occurred to the following federal rules:

1. Hazardous Materials Program Procedures in 49 CFR Part 107, Subpart B.
2. Hazardous Materials Regulations in 49 CFR Parts 171 through 177.
3. Shipping Container Specifications in 49 CFR Part 178.
4. Specifications for Tank Cars in 49 CFR Part 179.
5. Qualifications and Maintenance of Cargo Tanks in 49 CFR Part 180.

6. Commercial Licensing Requirements in 49 CFR Part 383.

7. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 397.

Localities Affected: No localities have been identified that will be particularly affected by the proposed amendments.

Summary:

The Virginia Waste Management Board (board) and the Director of the Department of Environmental Quality propose Amendment 12 to VR 672-30-1, Regulations Governing the Transportation of Hazardous Materials.

The board proposes four amendments to these regulations. The first proposed amendment incorporates recent changes to U.S. Department of Transportation ("USDOT") regulations governing hazardous materials transportation and motor carrier safety. The new provisions promulgated by USDOT from June 2, 1992, through March 18, 1994, necessitate that changes be made to the existing state regulations. The proposed changes maintain consistency with federal regulations.

The second proposed amendment complies with the statutory mandate of § 44-146.30 of the Code of Virginia by promulgating regulations by which the Coordinator of the Department of Emergency Services will maintain a register of shippers and monitor the transportation of hazardous radioactive materials in the Commonwealth.

The third proposed amendment provides additional information to members of the regulated community who may need to obtain a variance from the physical qualifications that pertain to persons who drive commercial motor vehicles transporting hazardous materials.

The final proposed amendment deletes Part IV of the current regulation entitled, "Hauling Explosives in Passenger Type Vehicles."

VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Board" means the Virginia Waste Management Board.

"Carrier" means a person engaged in the transportation of passengers or property by:

1. Land or water, as a common, contract, or private carrier; or
2. Civil aircraft.

"CFR" means the Code of Federal Regulations.

"Coordinator" means the Chief Executive Officer of the Virginia Department of Emergency Services.

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"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality.

~~"Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in 49 Code of Federal Regulations (CFR) Parts 170 through 177.~~

~~"Hazardous material" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so determined by regulation or order, has been incorporated under Part III.~~

~~"Hazardous radioactive materials" mean, for the purposes of this regulation, radioactive materials regulated by Title 10, Parts 20, 71, and 73 of the Code of Federal Regulations.~~

~~"Monitor" means to track the transportation of hazardous radioactive materials within the Commonwealth by:~~

- ~~1. Requiring transporters to notify the coordinator of shipments of hazardous radioactive materials within the Commonwealth; and~~
- ~~2. The coordinator's report prepared annually for the Governor and the director summarizing the hazardous radioactive materials transportation for the preceding year.~~

~~"Person" means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or agency or instrumentality of any government or Indian tribe, when it offers hazardous materials, or hazardous radioactive materials for transportation, or transports hazardous materials or hazardous radioactive materials, but such term does not include:~~

- ~~1. The United States Postal Service; or~~
- ~~2. For the purposes of §§ 110 and 111 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1809-1810), any agency or instrumentality of the federal government.~~

~~"Shipper" means a person who transfers possession of hazardous material or hazardous radioactive material to the carrier for transport through the Commonwealth.~~

~~"Transport" or "transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.~~

~~"Variance" means authorization, granted by the director, to engage in an activity covered by these regulations without following specific regulatory requirements.~~

PART II.

GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1. Authority for regulation.

A. These regulations are issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials, and Chapter 3.3 (§ 44-146.30) of Title 44 of the Code of Virginia.

B. Section 10.1-1450 of the Code of Virginia assigns the Virginia Waste Management Board the responsibility for promulgating regulations governing the transportation of hazardous materials. Section 44-146.30 of the Code of Virginia also assigns to the board the responsibility for promulgating regulations by which the coordinator will maintain a register of shippers of hazardous radioactive materials and monitor transportation of hazardous radioactive materials within the Commonwealth.

C. The board is authorized to promulgate rules and regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than any applicable federal laws or regulations.

§ 2.2. Purpose of regulations.

The purpose of these regulations is to regulate the transportation of hazardous materials and to maintain a register of shippers and monitor the transportation of hazardous radioactive materials in Virginia.

§ 2.3. Administration of regulations.

~~A. The director of the Department of Waste Management is designated by the Virginia Waste Management Board with the responsibility to carry out has the responsibility to administer these regulations. When used in this regulation in any such provisions as may be adopted from 49 CFR Parts 107, 171 through 180, 383, and 390 through 397, except in reference to regulations on international transportation, United States means the "Commonwealth of Virginia"; Environmental Protection Agency means the "Virginia Department of Environmental Quality"; and the Secretary of Transportation, regional director, and administrator mean the "Director," unless the context clearly indicates otherwise.~~

~~B. The department of Waste Management is responsible for the planning, development and implementation of programs to meet the requirements of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 and Chapter 3.3 (§ 44-146.30) of Title 44 of the Code of Virginia.~~

~~C. The coordinator is responsible for registering shippers and monitoring transportation of hazardous radioactive materials in accordance with these regulations.~~

~~D. The Radiation Advisory Board, established pursuant to § 32.1-233 of the Code of Virginia, shall make recommendations to the director and the board, furnishing such technical advice as may be required, on matters related to development, utilization, and regulations of sources of ionizing radiation.~~

§ 2.4. Application of regulations.

Notwithstanding the limitations contained in Title 49, Code of Federal Regulations, § 171.1(a)(3) 49 CFR § 171.1(a)(3), and subject to the exceptions set forth in § 2.5 below, these regulations apply to any person who transports hazardous materials or hazardous radioactive materials, or offers such materials for shipment.

§ 2.5. Exceptions.

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to the transportation of hazardous radioactive materials in accordance with § 44-146.30 of the Code of Virginia.

The shipment or transportation of hazardous radioactive materials by the U.S. Government, for military or national defense, that is specifically exempt from federal regulations is not subject to the requirements of these regulations. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 (68 Stat 919) or the Energy Reorganization Act of 1974 (42 USCS 5841), as amended.

§ 2.6. Regulations not to preclude exercise of certain regulatory powers.

Pursuant to § 10.1-1452 of the Code of Virginia, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions thereof.

§ 2.7. Transportation under United States Regulations.

Pursuant to § 10.1-1454 of the Code of Virginia, any person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations, except when such transportation is excluded from regulation under the laws or regulations of the United States.

§ 2.8. Enforcement.

A. Law-enforcement-officers. The Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Transportation, in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this article Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulation promulgated hereunder under such article, shall annually receive in-service training in current federal

safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials. Pursuant to § 10.1-1455 of the Code of Virginia, violation of these regulations is a Class 1 misdemeanor.

B. Civil Judicial enforcement of these regulations shall be governed by § 10.1-1455 of the Code of Virginia.

§ 2.9. Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act, codified as § 9-6.14:1 et seq. of the Code of Virginia, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all administrative proceedings hereunder.

PART III.
COMPLIANCE WITH FEDERAL REGULATIONS AND
VARIANCE FROM PHYSICAL QUALIFICATION
REQUIREMENTS FOR DRIVERS OF COMMERCIAL
MOTOR VEHICLES TRANSPORTING HAZARDOUS
MATERIALS.

§ 3.1. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated and in effect as of June 4, 1992 March 18, 1994 (except as otherwise specified below) pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations (CFR) as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. Hazardous Materials Program Procedures in 49 CFR, Part 107, Subpart B.
2. Hazardous Materials Regulations in 49 CFR, Parts 171 through 177.
3. Shipping Container Specifications in 49 CFR, Part 178.
4. Specifications for Tank Cars in 49 CFR, Part 179.
5. Qualifications and Maintenance of Cargo Tanks in 49 CFR, Part 180.
6. Commercial Licensing Requirements in 49 CFR, Part 383.
7. Motor Carrier Safety Regulations in 49 CFR, Parts 390 through 397.
8. 49 CFR, Parts 107, 171, 173, 174, 176, 177, 178, 179, and 180, Federal Register, Volume 57, Number 191, Thursday, October 1, 1992, Pages 45446-45466, Docket Numbers HM 181; HM 189, Amendment Numbers 107-23, 171-111, 172-123, 173-224, 174-53, 176-30, 77-78, 178-97, 179-45, and 180-3.

§ 3.2. Variance from physical qualification requirements for drivers of vehicles transporting hazardous materials.

The driver of a commercial motor vehicle transporting hazardous materials may apply to the director for a variance

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from the physical qualification requirements as specified in § 10.1-1450 B of the Code of Virginia. The driver or his employer shall submit the following information to the director:

1. A letter, showing the company name, address, and telephone number, that describes the driver's duties and years of service;
2. A copy of the driver's motor vehicle driving record obtained from the Department of Motor Vehicles;
3. A copy of the driver's physical examination on a form that meets the U.S. Department of Transportation requirements;
4. A copy of the Commercial Driver's License Physician's Report of Visual Acuity or a letter stating the operator's ability to operate a commercial motor vehicle safely, completed by the driver's ophthalmologist or optometrist, if the driver has either monocular vision or his visual acuity is not 20/40 or better;
5. A copy of a road test administered by the Virginia State Police to drivers who have use of only one arm, hand, foot, or leg along with a statement by the administering trooper that the driver is qualified to operate the vehicle;
6. For drivers who have diabetes, a copy of the physician's letter stating the driver is capable of operating a vehicle safely; and
7. Any other information bearing on the criteria requested in the statute.

PART IV.

~~HAULING EXPLOSIVES IN PASSENGER-TYPE VEHICLES.~~

~~§ 4.1. Hauling explosives in passenger-type vehicles.~~

~~Explosives shall not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except upon written permission of the State Police and under their direct supervision and only in the amount and between points authorized. If the movement is intracity, the permission of the properly designated authority of such city shall be secured. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger-type vehicles provided the maximum quantity transported does not exceed 100 pounds in weight. Such transportation shall not be subject to these rules.~~

PART IV.

HAZARDOUS RADIOACTIVE MATERIALS TRANSPORTATION.

§ 4.1. Register of shippers.

Every person, shipper or carrier transporting or proposing to transport within the Commonwealth hazardous radioactive materials shall register with the Department of Emergency Services at least 30 days prior to the initial transportation of such materials. Application for registration or renewal of registration shall be completed on forms furnished by the coordinator and shall contain all the information required by

the forms and accompanying instructions. Upon receipt of a complete application form and any other information required by the coordinator, the Department of Emergency Services shall issue a registration certificate. The certificate shall expire two years from the date of issue. Registration information shall be provided by the coordinator to the director upon request.

§ 4.2. Monitoring and transportation.

A. Notification. Prior to each shipment or series of shipments of hazardous radioactive materials by a registrant within the Commonwealth of Virginia, the registrant shall notify the coordinator in writing as required by the applicable federal regulations. The coordinator shall disseminate the notification to local law-enforcement agencies, local emergency services coordinators, local fire departments, or other designated local officials along the transportation route as requested by county or municipal authorities, or as determined by the coordinator to be necessary for effective implementation of these regulations.

B. Reports. At least annually, the coordinator shall submit to the director and the Governor's Office a report summarizing activities carried out under the provisions of these regulations pertaining to the transportation of hazardous radioactive materials.

PART V. OUT OF SERVICE.

§ 5.1. Out of service.

The Department of State Police and all other law-enforcement officers of the Commonwealth who have met the qualifications set forth in § 2.8, ~~above~~, shall be the agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR § 396.9.

VA.R. Doc. No. R95-706; Filed August 30, 1995, 9:16 a.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulation.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to OBRA '93 Estate Recoveries.

VR 460-01-53. Liens and Recoveries (§ 4.17).

VR 460-02-4.1710. Lien Recoveries (Attachment 4.17 A).

VR 460-02-4.1730. Estate Recoveries (Attachment 4.17 C).

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

Effective Date: October 18, 1995.

Summary:

Sections 32.1-326.1 and 32.1-327 of the Code of Virginia provide for the recovery, by the Title XIX agency, of expenditures for certain services from the estates of recipients. The Omnibus Budget Reconciliation Act of 1993 § 13612 (OBRA '93) permitted the recovery of Title XIX expended funds from the estates of individuals for all Medicaid covered services. The inclusion of states' estate recovery policies in their state plans for medical assistance was required by the cited OBRA section. Since 1984, DMAS has exercised its authority under state law and recovered expenditures for all Medicaid covered services. The new federal law makes recovery of institutional payments mandatory, but the recovery of all other services' payments optional. Since Virginia law considers recovery for all services to be mandatory and not optional, this regulatory action is subject to Article 2 requirements of the APA (state exercising discretion in complying with federal law).

The purpose of this action is to amend the Plan for Medical Assistance concerning estate recoveries consistent with the requirements of OBRA 93 § 13612 and §§ 32.1-326.1 and 32.1-327 of the Code of Virginia. The process of recovering funds when they have been expended for persons who had their own resources, but did not use them for their own medical care, returns General Fund dollars to the Commonwealth.

Prior to July 1984, the medical assistance program did not operate an estate recovery program because there was no state law that permitted the Department of Medical Assistance Services (DMAS) to recover payments from deceased eligibles' estates.

During the 1984 session, the General Assembly passed the law (§ 32.1-327 of the Code of Virginia) granting the medical assistance program authority to recover medical assistance payments from deceased eligibles' estates. As a result of this law, DMAS developed procedures in conjunction with the Attorney General's Office and pursued estate recoveries. DMAS pursued recovery of

estates for all medical assistance paid for deceased eligibles ages 65 or older.

During the 1993 session, the General Assembly passed the law mandating that DMAS recover from eligibles' estates assistance paid for nursing facility care. As a result, DMAS initiated a proactive investigation program that identifies nursing home care and other medical assistance paid for deceased eligibles with recoverable assets. The Estate Recovery Unit, which was initiated in 1993, performs all estate recovery activity.

Also, in 1993, OBRA '93 provided the federal mandate that all states' medical assistance programs must pursue, at minimum, recovery of payments for the following services: nursing facility, home- and community-based care, and related hospital and prescription drugs. States' medical assistance programs were also given the option to pursue recovery of medical assistance paid for any other items or services under the state plan. This OBRA section also required that state plans be amended to incorporate such estate recovery activities as the state elected to pursue.

DMAS was already fully in compliance with OBRA '93's estate recovery provisions when they were enacted. The implementation of this new state plan amendment will inform HCFA of the Commonwealth's program for recovering funds spent on long-term care and all other items or services paid under the state plan for deceased eligibles over the age of 55. DMAS, in conjunction with the Office of Attorney General, will continue to coordinate policies and procedures for evaluating the estates of deceased eligibles. As required by federal regulation, DMAS will send deceased eligibles' representatives a "Notice of Claim" specifying the medical assistance amount paid for long-term care and other items, and appeal contact information. In preparation for implementation, a general notice was sent out to the recipient population describing the Medicaid estate law and its provisions.

Adopting this regulation will incorporate the Commonwealth's process for implementing an estate recovery program into its state plan. By adopting this regulation, state funds required for the Medicaid Program should be reduced to the extent payments are recovered.

Because provisions in federal regulations restrict recovery or adjustments against deceased eligible individuals' estates in situations when there is (i) a surviving spouse, (ii) a surviving child under 21 or (iii) one who is blind or disabled, (iv) or a surviving sibling who has an equity interest in the deceased's home and such sibling has lived in this home for at least a year prior to the deceased's entering a nursing facility, the impact in cases of extreme hardship is minimized.

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Family members and other persons whose distribution from a deceased eligible's estate are not exempt may pursue legal action against the Commonwealth to seek their full distribution. Because DMAS has been pursuing these recoveries since 1984, no negative impact is anticipated as this regulatory action represents no actual policy or procedural changes.

DMAS's proposed regulations were initially published in the July 25, 1994, Virginia Register for their public comment period from July 25 through September 23, 1994. Comments after the first publication were received from two legal aid offices and from the Virginia Poverty Law Center, Inc. DMAS' review and consideration of the received comments indicated that there was considerable confusion and misunderstanding on the commenters' parts as to the substance of the regulatory package. In large measure, it is believed that the misunderstanding was due to mingling of two different types of policy statements on the preprinted pages issued by the Health Care Financing Administration (HCFA). In light of this assessment, DMAS, with HCFA approval, slightly modified the preprinted pages so as to separate the previously mingled policies on liens and estates, incorporated the legal aid comments where they pertained to estate recoveries, and repropose revised regulations for an additional 30 days of comment.

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 Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VR 460-01-53. Liens and Recoveries (§ 4.17).

Citation: 42 CFR 433.36(c); AT-78-90; 47 FR 43644

§ 4.17. Liens and Recoveries.

Liens are imposed against an individual's property.

No.

Yes.

(a) Liens are imposed against an individual's property before his death because of Medicaid claims paid or to be paid on behalf of that individual following a court judgment which determined that benefits were incorrectly paid for that individual.

Item (a) is not applicable. No such lien is imposed.

Item (a) applies only to an individual's real property.

Item (a) applies only to an individual's personal property.

Item (a) applies to both an individual's real and personal property.

(b) Liens are placed against the real property of an individual before his death because of Medicaid claims paid

or to be paid for that individual in accordance with 42 CFR 433.36(g)(1) and (g)(2).

Item (b) is not applicable. No such lien is imposed.

(c) Adjustments or recoveries for Medicaid claims correctly paid are imposed only in accordance with § 433.36(h) as follows: See [Attachment 4.17-G VR 460-02-4.1730].

(1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate ~~or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual.~~

(2) For any individual who received medical assistance at age 55 or older, recovery of payments are made for nursing facility services, home- and community-based services, and related hospital and prescription drug services.

(i) Payments are recovered for other Medicaid services provided to individuals at age 55.

All services covered under the plan.

(ii) Payments are recovered for other Medicaid services provided to individuals at age _____.

Not applicable.

(3) For any individual with long-term care insurance policies, if assets or resources are disregarded, recovery is made for all Medicaid costs for nursing facility and other long-term care services from the estate of persons who have such policies.

(d) No money payments under another program are reduced as a means of recovering Medicaid claims incorrectly paid.

(e) Liens. See [Attachment 4.17-A VR 460-02-4.1710].

(1) Specifies the process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the process meets the requirements of 42 CFR 433.36(d).

The Commonwealth does not impose liens therefore this section is not applicable.

~~(2) Defines the terms specified in 42 CFR 433.36(e).~~

(3) (2) Specifies the criteria by which a son or daughter can establish that he or she has been providing care under 42 CFR 433.36(f).

(3) Definitions: individual's home; equity interest in home; residing in home for at least 1 or 2 years, on a continuing basis; discharge from the medical institution and return home; and lawfully residing.

The Commonwealth does not impose liens therefore this section is not applicable.

(f) Estate recoveries.

(1) Definitions.

"Applicable medical assistance payments" means the amount of any medical assistance payments made on behalf of an individual under Title XIX of the Social Security Act.

"Estate" means with respect to a deceased individual, (i) all real and personal property and other assets held by the individual at the time of death and (ii) any other real and personal property and other assets in which the individual had any legal title or interest (to the extent of such interest) at the time of death.

(2) [Attachment 4.17-C VR 460-02-4.1730] further specifies the policy for estate recoveries.

VR 460-02-4.1710. Lien Recoveries (Attachment 4.17 A).

§ 1. Lien recoveries.

The Commonwealth does not recover, through the imposition of liens, funds expended for recipients.

VR 460-02-4.1730. Estate Recoveries (Attachment 4.17 C).

~~§ 1. Definitions.~~

~~The following words and terms, as used in this regulation, shall have the following meaning unless the context indicates otherwise:~~

~~"Applicable medical assistance payments" means the amount of any medical assistance payments made on behalf of an individual under Title XIX of the Social Security Act.~~

~~"Estate" means, with respect to a deceased individual, (i) all real and personal property and other assets held by the individual at the time of death, and (ii) any other real and personal property and other assets in which the individual had any legal title or interest (to the extent of such interest) at the time of death.~~

§ 1. General.

Under the authority and consistent with the requirements of the Social Security Act § 1917, the Commonwealth recovers certain Medicaid benefits when they have been correctly paid on behalf of certain individuals. The Commonwealth seeks recovery for all services which have been paid for consistent with the coverage and reimbursement policies in the State Plan for Medical Assistance.

§ 2. Identification of deceased recipients' estates.

The Medical Assistance Title XIX agency shall take all reasonable measures to determine the existence of deceased eligible individuals with recoverable estates.

§ 3. Initiation of claim and recovery.

A. The Medical Assistance Title XIX agency's estate recovery unit will review and initiate recovery activities for all deceased eligible individual's estates identified which meet agency minimum criteria defined in subsection B of this section. A review of all deceased eligible individuals' applicable medical assistance payments paid correctly must be performed to determine the amount of the Commonwealth's claim against the estate. A "Notice of Claim" shall be sent to the deceased eligible individual's

estate administrator or executor upon determination that estate recovery meets the minimum criteria. The "Notice of Claim" shall include, at minimum, (i) the deceased eligible individual's identification information, (ii) the claim amount, (iii) the agency contact, and (iv) the attached summary of applicable medical claims paid. The "Notice of Claim" shall also contain, but not necessarily be limited to, information regarding the exclusions identified below, the applicant's right to appeal, and the hardship rule.

B. The Medical Assistance Title XIX agency will, at a minimum, initiate recovery when the following conditions are met:

1. Legal estate administrator or executor has been verified.
2. Dollar amount of applicable medical assistance payments (claim amount) and estate meets agency cost effective threshold. The Title XIX agency will determine a cost effective threshold based on the administrative costs to pursue recovery from an estate. The Title XIX agency will adjust the cost effective threshold if as the agency's administrative costs change. Recovery shall not be initiated unless both the amount of the claim and the value of the estate at least exceed the administrative cost of recovery.
3. Deceased eligible was single or surviving spouse is deceased.
4. Deceased eligible has no surviving children under 21 or children who are blind or disabled.
5. Deceased eligible was 55 years of age or older when the individual received such medical assistance.
- [6. Deceased eligible had no surviving sibling who had an equity interest in the deceased's home and such sibling resided in the property for at least one year prior to the deceased's entering a nursing facility.]

C. Appeals related to the recovery of funds will be administered by the Medical Assistance Title XIX agency.

D. The Medical Assistance Title XIX agency will pursue recovery only to the extent that payments for applicable medical claims have been correctly made under the State Plan for Medical Assistance.

§ 4. Hardship clause.

The Medical Assistance Title XIX agency may, at its discretion, shall waive its claim if it determines that enforcement of the claim would result in substantial hardship to the devisees, legatees, and heirs or dependents of the individual against whose estate the claim exists. ~~Determinations of hardship will be based on criteria established by the Secretary of the U.S. Department of Health and Human Services. These criteria shall provide for special consideration of Special consideration shall be given to cases in which the estate subject to recovery is (i) the sole income-producing asset of survivors (where such income is limited), such as a family farm or other family business, or (ii) a homestead of modest value, or (iii) other compelling circumstances. In cases where recovery is not waived and beneficiaries of the estate from which recovery is sought wish~~

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to satisfy the Commonwealth's claim without selling a nonliquid asset which is subject to recovery, alternative methods of recovery may be considered.

VA.R. Doc. No. R95-701; Filed August 29, 1995, 11:05 a.m.

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

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

Effective Date: November 1, 1995.

Summary:

The purpose of this action is to promulgate permanent regulations for the payment of a fee for the administration of vaccines to children under the Vaccines for Children Program. The vaccines which are covered under this program are routine childhood immunizations which are given to prevent such childhood diseases as whooping cough, diphtheria, tetanus, polio, measles, mumps, and German measles.

DMAS's proposed regulations were published in the June 12, 1995, Virginia Register for their public comment period from June 13 through August 11, 1995.

Summary of Public Comment and Agency Response: No public comment was received by the promulgating agency.

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

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

Citation: § 1928(c)(2)(i)(C)(ii)

§ 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 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. R95-700; Filed August 28, 1995, 3:46 p.m.

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PLEASE
DO NOT
STAPLE
IN THIS
AREA

APPROVED OMB-0938-0028

HEALTH INSURANCE CLAIM FORM (FOR PROGRAM IN ITEM 1)

1. MEDICARE MEDICAID CHAMPUS CHAMPVA OTHER (Specify in Item 1)

2. PATIENT'S NAME (Last Name, First Name, Middle Initial) (Medicare #) (Medicaid #) (Sponsor's SSN) (VA File #) (FECA File #) (BLK/LUNG) (SSN) (ID)

3. PATIENT'S BIRTH DATE MM DD YY SEX M F

4. INSURED'S NAME (Last Name, First Name, Middle Initial)

5. PATIENT'S ADDRESS (No., Street) CITY STATE

6. PATIENT RELATIONSHIP TO INSURED Self Spouse Child Other

7. INSURED'S ADDRESS (No., Street) CITY STATE

8. PATIENT STATUS Single Married Other
Employed Full-Time Part-Time Student

9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial) TELEPHONE (Include Area Code) ZIP CODE

10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (CURRENT OR PREVIOUS) YES NO b. AUTO ACCIDENT? YES NO c. OTHER ACCIDENT? YES NO

11. INSURED'S POLICY OR FECA NUMBER a. INSURED'S DATE OF BIRTH MM DD YY SEX M F b. EMPLOYER'S NAME OR SCHOOL NAME c. INSURANCE PLAN NAME OR PROGRAM NAME

12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.

13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.

14. DATE OF CURRENT ILLNESS (First Symptom) OR INJURY (Accident) OR PREGNANCY(LMP) FROM MM DD YY TO MM DD YY

15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS, GIVE FIRST DATE MM DD YY

16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY

17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE 17a. I.D. NUMBER OF REFERRING PHYSICIAN

18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY

19. RESERVED FOR LOCAL USE

20. OUTSIDE LAB? \$ CHARGES YES NO

21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1, 2, 3 OR 4 TO ITEM 24E BY LINE)

LINE	DATE(S) OF SERVICE FROM MM DD YY TO MM DD YY	PLACE Type of Procedure, Service, or Supplies (Explain Unusual Circumstances) CPT/HCPCS MODIFIER	DIAGNOSIS CODE
1			
2			
3			
4			
5			
6			

22. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO.

23. PRIOR AUTHORIZATION NUMBER

24. A. DATE(S) OF SERVICE FROM MM DD YY TO MM DD YY B. PLACE Type of Procedure, Service, or Supplies (Explain Unusual Circumstances) CPT/HCPCS MODIFIER C. PROCEDURE, SERVICE, OR SUPPLIES D. DATE(S) OF SERVICE FROM MM DD YY TO MM DD YY E. DIAGNOSIS CODE

25. FEDERAL TAX I.D. NUMBER SSN EIN 26. PATIENT'S ACCOUNT NO. 27. ACCEPT ASSIGNMENT? (For gov't Claims, See 808A) YES NO

28. TOTAL CHARGE \$ 29. AMOUNT PAID \$ 30. BALANCE DUE \$

31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREE(S) OR CREDENTIALS (Apply to this tab and area made a part thereof)

32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office)

33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS ZIP CODE & PHONE #

SIGNED _____ DATE _____

SIGNED _____ DATE _____

APPROVED BY ACA COUNCIL ON MEDICAL SERVICE & RSI PLEASE PRINT OR TYPE FORM ICA 1500 -12 (93) FORM OWC/P 1520 FORM RRR-1535

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REGISTRAR'S NOTICE: The Department of Medical Assistance Services has claimed an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations which consist only of changes in style or form or corrections of technical errors. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 460-03-4.1921. Fees for Pediatric and Obstetric CPT Procedures.

~~VR 460-02-4.1924.~~ VR 460-03-4.1924. State Agency Fee Schedule.

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

Effective Date: October 18, 1995.

Summary:

The purpose of this action is to amend the Plan for Medical Assistance concerning the payment methodology for Resource Based Relative Value Scale and update the obstetric/pediatric fees due to action taken by the 1994 General Assembly in Chapter 965 of the Acts of the Assembly, item 313(W). This action makes no substantive change to any reimbursement policies or procedures of the department.

The sections of the State Plan affected by this action are Methods and Standards for Establishing Payment Rates (Attachment 4.19-B), Supplement 1 (VR 460-03-4.1921) and Supplement 4 (VR 460-03-4.1924).

DMAS promulgated the Resource Based Relative Value Scale (RBRVS) methodology as a method of calculating physician payments. RBRVS is a fee-for-service payment methodology that became effective July 1, 1995. The methodology was developed, as discussed at length in the previous regulatory package, on the advice and with the consensus of a special advisory group of physicians. In this previous regulatory package, it was discussed that the Health Care Financing Administration (HCFA) would annually publish revisions to its list of Relative Value Units and Conversion Factors and that DMAS would, in response, be required to update its fees while maintaining the budget neutrality required by the General Assembly.

In an effort to better inform interested citizens, this package adds additional explanatory language to the RBRVS supplement to better state the methodology that DMAS uses to determine the "additional factor." It also updates the fees paid for the specified obstetric and pediatric procedures based on the latest published update of HCFA of its Relative Value Units (RVUs) and Conversion Factors (CFs).

There are no advantages or disadvantages to the public in this action because this action is not effecting any substantive changes over the previously promulgated RBRVS final regulation. That previous regulation provided for the updating of the obstetric/pediatric fees

based on the newly published federal information and this action accomplishes that necessary updating. The agency projects no negative issues involved in implementing this regulatory change.

All physician providers and some nonphysician providers (such as nurse practitioners) throughout the state will be affected. Each provider will be affected differently based on the types of services he performs since the allowable fee will be raised for some services and lowered for others. Provided there are no changes in the types of services provided as a result of the new fee schedule, there should be no impact on Medicaid recipients and the implementation of the new fee schedule should be budget neutral. Medicaid spent approximately \$204 million (total funds) for these services in SFY95, and expects to spend \$196 million (total funds) in SFY96. This regulatory action is not intended to change these expenditures. There are no localities which are uniquely affected by these regulations as they apply.

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

VR 460-03-4.1921. Fees for Pediatric and Obstetric CPT Procedures.

PEDIATRIC SERVICES <i>(fee changes are subject to new federal Conversion Factors and Relative Value Units as shown in VR 460-03-4.1924)</i>		
CPT-4 Code	Description	Payment
	1. Evaluation and Management Services - Physician services performed in a physician's office or in an outpatient facility	
NEW PATIENT		
99201	Problem focused history, examination, and straightforward medical decision making	\$24.20-23.58
99202	Expanded problem focused history, examination, and straightforward medical decision making	34.90 30.66
99203	Detailed history, examination, and medical decision making of moderate complexity	40.00 38.50
99204	Comprehensive history, examination, and medical decision making of moderate complexity	57.75 55.82
99205	Comprehensive history, examination, and medical decision making of high complexity	66.60 64.22

ESTABLISHED PATIENT		
99211	Minimal presenting problems	\$10.65 \$10.31
99212	Problem focused history, or examination, and straightforward medical decision making	49.75 19.19
99213	Expanded problem focused history or examination, and medical decision making of low complexity	27.65 26.87
99214	Detailed history, or examination, and medical decision making of moderate complexity	38.85 37.53
99215	Comprehensive history, or examination and medical decision making of high complexity	54.30 52.44
2. Emergency Department Services - for emergency care		
NEW OR ESTABLISHED PATIENT		
99281	Problem focused history, examination, and straight forward medical decision making	\$23.75 \$23.20
99282	Expanded problem focused history, examination, and medical decision making of low complexity	40.35 39.51
99283	Expanded problem focused history, examination, and medical decision making of low to moderate complexity	49.75 48.41
99284	Detailed history, examination, and medical decision making of moderate complexity	\$63.50 61.60
99285	Comprehensive history, comprehensive examination, and medical decision making of high complexity	93.85 91.10
99295	Initial NICU care, per day, for the evaluation and management of a critically ill neonate or infant	650.00 587.00
99296	Subsequent NICU care, per day, for the evaluation and management of a critically ill and unstable neonate or infant	322.00 285.25
99297	Subsequent NICU care, per day, for the evaluation and management of a critically ill and stable neonate or infant	160.00 143.28
99431	History and examination of the normal newborn infant, initiation of diagnostic and treatment programs and preparation of hospital records	84.00 72.45
99432	Normal newborn care in other than hospital or birthing room setting, including physical examination of baby and conference(s) with parent(s)	35.60 46.18

99433	Subsequent hospital care, for the evaluation and management of a normal newborn, per day	28.30 29.36
99440	Newborn resuscitation; care of the high risk newborn at delivery, including, for example, inhalation therapy, aspiration, administration of medication for initial stabilization	108.00 122.88
3. Immunization Injections*		(no change)
90700	Immunization, active; diphtheria, tetanus toxoids, and acellular pertussis vaccine (DTaP)	\$ drug cost
90701	Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)	\$ drug cost
90702	Diphtheria and tetanus toxoids (DT)	\$ drug cost
90703	Tetanus toxoid	\$ drug cost
90704**	Mumps virus vaccine, live	\$ drug cost
90705**	Measles virus vaccine, live, attenuated	\$ drug cost
90706**	Rubella virus vaccine, live	\$ drug cost
90707**	Measles, mumps and rubella virus vaccine, live	\$ drug cost
90708	Measles and rubella virus vaccine, live	\$ drug cost
90709	Rubella and mumps virus vaccine, live	\$ drug cost
90710	Measles, mumps, rubella, and varicella vaccine	\$ drug cost
90711	Diphtheria, tetanus, and pertussis (DTP) and injectable poliomyelitis vaccine	\$ drug cost
90712	Poliovirus vaccine, live, oral (any type(s))	\$ drug cost
90713	Poliomyelitis vaccine	\$ drug cost
90720	Diphtheria, tetanus, and pertussis (DTP) and Hemophilus influenza B (HIB) vaccine	\$ drug cost
90731	Hepatitis B vaccine	\$ drug cost
90737	Hemophilus influenza B	\$ drug cost
<p>(Note: Appropriate office visit may be billed in addition to the above immunization injections. Payment for immunizations shall not exceed the Medicaid fee on file for the drug at time of service.</p>		<p><i>Upon implementation of the Vaccines for Children Program, reimbursement for vaccines will change to an administration fee for each vaccine administered. Providers will be supplied with vaccines free of charge.</i></p>

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**Vaccine supplied under contract with manufacturer.

***Medical justification will be required to demonstrate that use of a single-antigen vaccine is medically appropriate.

4. Preventive Medicine

NEW PATIENT

CPT-4 Code	Description	Payment
99381	Initial evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures; infant (age under 1 year)	\$35.90 \$47.31
99382	Early childhood (age 1 through 4 years)	40.00 53.43
99383	Late childhood (age 5 through 11 years)	40.00 53.43
99384	Adolescent (age 12 through 17 years)	35.90 54.22

ESTABLISHED PATIENT

99391	Periodic evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures; infant (age under 1 year)	\$35.00 43.95
99392	Early childhood (age 1 through 4 years)	36.00 47.98
99393	Late childhood (age 5 through 11 years)	36.00 47.98
99394	Adolescent (age 12 through 17 years)	34.00 48.10

OBSTETRICAL SERVICES

CPT-4 Code Description Payment

1. Maternity Care and Delivery

INCISION

59000	Amniocentesis, any method	\$76.68 \$105.48
59012	Cordocentesis (intrauterine), any method	187.80 139.68
59015	Chorionic villus sampling, any method	108.30 112.08
59020	Fetal oxytocin stress test	64.95 63.92
59025	Fetal nonstress test	46.50 46.44

59030	Fetal scalp blood sampling;	83.55 83.31
59050	Initiation and/or supervision of internal fetal monitoring during labor by consultant	59.50 52.57
59100	Hysterotomy, abdominal (eg. for hidatidiform mole, abortion)	343.20 325.02

EXCISION

59120	Surgical treatment of ectopic pregnancy, tubal or ovarian, requiring salpingectomy and/or oophorectomy, abdominal or vaginal approach	\$517.44 \$835.30
59121	Surgical treatment of ectopic pregnancy; tubal or ovarian, without salpingectomy and/or oophorectomy	422.00 361.10
59130	Abdominal pregnancy	457.00 511.21
59135	Interstitial, uterine pregnancy requiring total hysterectomy	753.00 982.93
59136	Interstitial, uterine pregnancy with partial resection of uterus	544.00 903.39
59140	Cervical, with evacuation	345.00 372.88
59150	Laparoscopic treatment of ectopic pregnancy; without salpingectomy and/or oophorectomy	374.00 677.31
59151	Laparoscopic treatment of ectopic pregnancy; with salpingectomy and/or oophorectomy	548.00 738.17
59160	Curettage, postpartum (separate procedure)	192.30 333.55
59200	Insertion of cervical dilator (eg. laminaria, prostaglandin)	45.40 61.54

REPAIR

59300	Episiotomy or vaginal repair, by other than attending physician	\$293.25 \$203.07
59320	Cerclage of cervix, during pregnancy; vaginal	146.60 258.57
59325	Cerclage of cervix, during pregnancy, abdominal	227.60 425.41

DELIVERY, ANTEPARTUM AND POSTPARTUM CARE

59400	Total obstetrical care (all-inclusive, "global" care) includes antepartum care, vaginal delivery (with or without episiotomy, and/or forceps or breech delivery) and postpartum care	\$1,478.60 \$1,210.30
59409	Vaginal delivery only (with or without episiotomy and/or	774.00 811.57

	forceps)	
59410	Vaginal delivery only (with or without episiotomy, forceps or breech delivery) including in-hospital postpartum care (separate procedure)	846.75 858.24
59412	External cephalic version, with or without tocolysis	466.65 200.16
59414	Delivery of placenta	95.00 193.52
59425	Antepartum care only; 4-6 visits	235.00 164.54
59426	7 or more visits	403.00 335.09
59430	Postpartum care only (separate procedure)	49.65 49.58
CAESAREAN SECTION		
59510	Routine obstetric care including antepartum care, caesarean delivery, and postpartum care	\$1,321.65 \$1,423.30
59514	Caesarean delivery only	897.00 1,032.90
59515	Caesarean delivery only including postpartum care	4,005.25 1,079.40
59525	Subtotal or total hysterectomy after caesarean delivery	393.85 392.92
ABORTION		
59812	Treatment of spontaneous abortion, any trimester, completed surgically	395.00 394.46
59820	Treatment of missed abortion, completed surgically; first trimester	384.05 380.47
59821	Treatment of missed abortion, completed surgically; second trimester	239.00 452.38
59830	Treatment of septic abortion, completed surgically	268.20 267.26
2. Diagnostic Ultrasound		
PELVIS		
74710	Pelvimetry, with or without placental localization	48.30 42.51
74775	Perineogram (eg, vaginogram, for sex determination or extent of anomalies)	74.70 42.17
76805	Echography, pregnant uterus, B-scan and/or real time with image documentation; complete (complete fetal and	97.48 93.22

	maternal evaluation)	
76810	Complete (complete fetal and maternal evaluation), multiple gestation, after the first trimester	493.85 185.98
76815	Limited gestational age, heart beat, placental location, fetal position, or emergency in the delivery room)	64.80 62.18
76816	Follow-up or repeat	50.40 48.25
76818	Fetal biophysical profile	78.70 75.64
76825	Echocardiography, fetal, real time with image documentation (2D) with or without M-mode recording	92.20 90.85
76826	Follow-up or repeat study	68.40 50.81
76827	Doppler echocardiography, fetal, cardiovascular system, pulsed wave and/or continuous wave with spectral display; complete	94.75 66.36
76828	Follow-up or repeat study	28.80 37.32

VR 460-03-4.1924. State Agency Fee Schedule.

§ 1. Reimbursement of fee-for-service providers.

Effective for dates of service on or after July 1, 1995, the Department of Medical Assistance Services (DMAS) shall reimburse fee-for-service providers, with the exception of home health services (see Supplement 3 VR 460-03-4.1923), using a fee schedule that is based on a Resource Based Relative Value Scale (RBRVS).

§ 2. Fee schedule.

A. For those services or procedures which are included in the RBRVS published by the Health Care Financing Administration (HCFA) as amended from time to time, DMAS' fee schedule shall employ the Relative Value Units (RVUs) developed by HCFA as periodically updated.

B. DMAS shall calculate the RBRVS-based fees using conversion factors (CFs) published from time to time by HCFA. DMAS shall adjust HCFA's CFs by an additional factor so that no change in expenditure will result solely from the implementation of the RBRVS-based fee schedule. DMAS may revise the additional factor when HCFA updates its RVUs or CFs so that no change in expenditure will result solely from such updates. Except for this adjustment, DMAS' CFs shall be the same as those published from time to time by HCFA. The calculation of the additional factor shall be based on the assumption that no change in services provided will occur as a result of these changes to the fee schedule. *The determination of the "additional factor" required above shall be accomplished by means of the following calculation:*

1. *The estimated amount of DMAS expenditures if DMAS were to use Medicare's RVUs and CFs without modification, is equal to the sum, across all procedure codes, of the RVU value published by HCFA, multiplied by the applicable conversion factor published by HCFA, multiplied by the number of occurrences of the procedure*

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code in DMAS patient claims in the most recent period of time (at least six months).

2. The estimated amount of DMAS expenditures, if DMAS were not to calculate new fees based on the new HCFA RVUs and CFs, is equal to the sum, across all procedure codes, of the existing DMAS fee multiplied by the number of occurrences of the procedures code in DMAS patient claims in the period of time used in subdivision 1 of this subsection.

3. The "additional factor" is equal to the ratio of the expenditure estimate (based on DMAS fees in subdivision 2 of this subsection) to the expenditure estimate based on unmodified HCFA values in subdivision 1 of this subsection.

C. For those services or procedures for which there are no established RVs, DMAS shall approximate a reasonable relative value payment level by looking to similar existing relative value fees. If DMAS is unable to establish a relative value payment level for any service or procedure, the fee shall not be based on a RBRVS, but shall instead be based on the previous fee-for-service methodology.

D. Fees shall not vary by geographic locality.

E. The RBRVS-based fees shall be phased in over three years. During the first 12 months of implementation, fees shall be based 1/3 on RBRVS-based fees and 2/3 on previously existing fees. During the second 12 months of implementation, fees shall be based 2/3 on RBRVS-based fees and 1/3 on previously existing fees. Thereafter, fees shall be based entirely on RBRVS-based fees.

VA.R. Doc. No. R95-698; Filed August 24, 1995, 9:14 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: VR 480-03-19. Coal Surface Mining Reclamation Regulation (VR 480-03-19.816.102 and VR 480-03-19.817.102. Backfilling and Grading: General Requirements).

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Effective Date: October 18, 1995.

Summary:

The department has amended its Coal Surface Mining Reclamation Regulation to allow Virginia coal surface mine operators to continue the practice of placing scalp rock and mine development rock in backfills along highwalls on surface coal mines. The amendment is necessary to avoid increased hazards to the public safety and environment which could result from application of federal refuse pile regulations to highwalls containing scalp and mine development rock. The final regulation is identical to, and will make permanent, the department's October 19, 1994, emergency regulation amendment.

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 Danny R. Brown, Division Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152.

VR 480-03-19. Coal Surface Mining Reclamation Regulations.

§ 480-03-19.816.102. Backfilling and grading: general requirements.

(a) Disturbed areas shall be backfilled and graded to:

(1) Achieve the approximate original contour, except as provided in paragraph subsection (k) of this section;

(2) Eliminate all highwalls, spoil piles, and depressions, except as provided in paragraph subsection (h) (small depressions) and in paragraph subdivision (k)(3)(iii) (previously mined highwalls) of this section;

(3) Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides;

(4) Minimize erosion and water pollution both on and off the site; and

(5) Support the approved postmining land use.

(b) Spoil, except excess spoil disposed of in accordance with §§ 480-03-19.816.71 through 480-03-19.816.75, shall be returned to the mined-out area.

(c) Spoil and waste materials shall be compacted where advisable to ensure stability or to prevent leaching of toxic materials.

(d) Spoil may be placed on the area outside the mined-out area in nonsteep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

(1) All vegetative and organic material shall be removed from the area.

(2) The topsoil on the area shall be removed, segregated, stored, and redistributed in accordance with § 480-03-19.816.22.

(3) The spoil shall be backfilled and graded on the area in accordance with the requirements of this section.

(e) Disposal of coal processing waste and underground development waste in the mined-out area shall be in accordance with §§ 480-03-19.816.81 and 480-03-19.816.83 as provided in subdivisions (1) and (2) of this subsection, except that a long-term static safety factor of 1.3 shall be achieved.

(1) Disposal of coal processing waste and underground development waste in the mined-out area to backfill disturbed areas shall be in accordance with § 480-03-19.816.81.

(2) Disposal of coal processing waste and underground development waste in the mined-out area as a refuse pile and not to backfill disturbed areas shall be in

accordance with §§ 480-03-19.816.81 and 480-03-19.816.83. The division may approve a variance to § 480-03-19.816.83(a)(2) if the applicant demonstrates that the area above the refuse pile is small and that appropriate measures will be taken to direct or convey runoff across the surface area of the pile in a controlled manner.

(f) Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be covered with a minimum of four feet of nontoxic and noncombustible material, or treated, to control the impact on surface and ground water in accordance with § 480-03-19.816.41, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use. Acid- and toxic-forming materials shall not be buried or stored in proximity to any drainage course.

(g) Cut-and-fill terraces may be allowed by the division where:

- (1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or
- (2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

(h) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation.

(i) Permanent impoundments may be approved if they meet the requirements of §§ 480-03-19.816.49 and 480-03-19.816.56 and if they are suitable for the approved postmining land use.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

(k) The postmining slope may vary from the approximate original contour when:

- (1) The standards for thin overburden in § 480-03-19.816.104 are met;
- (2) The standards for thick overburden in § 480-03-19.816.105 are met; or
- (3) Approval is obtained from the division for:
 - (i) Mountaintop removal operations in accordance with § 480-03-19.785.14;
 - (ii) A variance from approximate original contour requirements in accordance with § 480-03-19.785.16; or
 - (iii) Incomplete elimination of highwalls in previously mined areas in accordance with § 480-03-19.816.106.

§ 480-03-19.817.102. Backfilling and grading: general requirements.

(a) Disturbed areas shall be backfilled and graded to:

- (1) Achieve the approximate original contour, except as provided in paragraph subsection (k) of this section;
- (2) Eliminate all highwalls, spoil piles, and depressions, except as provided in paragraph subsection (h) (small depressions) and in paragraph subdivision (k)(2) (previously mined highwalls) of this section;
- (3) Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides;
- (4) Minimize erosion and water pollution both on and off the site; and
- (5) Support the approved postmining land use.

(b) Spoil, except as provided in paragraph subsection (l) of this section, and except excess spoil disposed of in accordance with §§ 480-03-19.817.71 through 480-03-19.817.75, shall be returned to the mined-out surface area.

(c) Spoil and waste materials shall be compacted where advisable to ensure stability or to prevent leaching of toxic materials.

(d) Spoil may be placed on the area outside the mined-out surface area in nonsteep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

- (1) All vegetative and organic material shall be removed from the area.
- (2) The topsoil on the area shall be removed, segregated, stored, and redistributed in accordance with § 480-03-19.817.22.
- (3) The spoil shall be backfilled and graded on the area in accordance with the requirements of this section.

(e) Disposal of coal processing waste and underground development waste in the mined-out area shall be in accordance with §§ 480-03-19.817.81 and 480-03-19.817.83 as provided in subdivisions (1) and (2) of this subsection, except that a long-term static safety factor of 1.3 shall be achieved.

(1) Disposal of coal processing waste and underground development waste in the mined-out area to backfill disturbed areas shall be in accordance with § 480-03-19.817.81.

(2) Disposal of coal processing waste and underground development waste in the mined-out area as a refuse pile and not to backfill disturbed areas shall be in accordance with §§ 480-03-19.817.81 and 480-03-19.817.83. The division may approve a variance to § 480-03-19.817.83(a)(2) if the applicant demonstrates that the area above the refuse pile is small and that appropriate measures will be taken to direct or

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convey runoff across the surface area of the pile in a controlled manner.

(f) Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be covered with a minimum of four feet of nontoxic and noncombustible materials, or treated, to control the impact on surface and ground water in accordance with § 480-03-19.817.41, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use. Acid- and toxic-forming materials shall not be buried or stored in proximity to any drainage course.

(g) Cut-and-fill terraces may be allowed by the division where:

(1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

(2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

(h) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation.

(i) Permanent impoundments may be approved if they meet the requirements of §§ 480-03-19.817.49 and 480-03-19.817.56 and if they are suitable for the approved postmining land use.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

(k) The postmining slope may vary from the approximate original contour when approval is obtained from the division for:

(1) A variance from approximate original contour requirements in accordance with § 480-03-19.785.16; or

(2) Incomplete elimination of highwalls in previously mined areas in accordance with § 480-03-19.817.106.

(l) Regrading of settled and revegetated fills to achieve approximate original contour at the conclusion of underground mining activities shall not be required if the conditions of paragraph subdivision (l)(1) or (l)(2) of this section are met.

(1) (i) Settled and revegetated fills shall be composed of spoil or nonacid- or nontoxic-forming underground development waste.

(ii) The spoil or underground development waste shall not be located so as to be detrimental to the environment, to the health and safety of the public, or to the approved postmining land use.

(iii) Stability of the spoil or underground development waste shall be demonstrated through standard

geotechnical analysis to be consistent with backfilling and grading requirements for material on the solid bench (1.3 static safety factor) or excess spoil requirements for material not placed on a solid bench (1.5 static safety factor).

(iv) The surface of the spoil or underground development waste shall be vegetated according to § 480-03-19.817.116, and surface runoff shall be controlled in accordance with § 480-03-19.817.43.

(2) If it is determined by the division that disturbance of the existing spoil or underground development waste would increase environmental harm or adversely affect the health and safety of the public, the division may allow the existing spoil or underground development waste pile to remain in place. The division may require stabilization of such spoil or underground development waste in accordance with the requirements of paragraphs subdivisions (l)(1)(i) through (l)(1)(iv) of this section.

VA.R. Doc. No. R95-720; Filed August 30, 1995, 12:20 p.m.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

REGISTRAR'S NOTICE: The following regulation filed by the Department of Transportation is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 1 and 2 of the Code of Virginia, which excludes orders or regulations fixing rates or prices and delegations of authority, respectively. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-68. Rules, Regulations, and Rates Concerning Toll and Bridge Facilities.

Statutory Authority: §§ 2.1-20.01:2, 33.1-8, 33.1-12, 33.1-252, 33.1-269(3), 33.1-285 and 33.1-292 of the Code of Virginia.

Effective Date: October 18, 1995.

Summary:

This regulation establishes the rate schedules and delegation of authority under which VDOT may temporarily suspend toll collection operations at two facilities currently conducting toll operations (Dulles Toll Road and the Powhite Parkway), and one facility proposed to reopen as a toll facility (George P. Coleman Bridge).

The toll schedules for the Dulles Toll Road have been amended to accommodate the implementation of the FasToll system, an automated vehicle identification system which is intended to improve transportation flow on the facility.

Agency Contact: Copies of the regulation may be obtained from David L. Roberts, Management Services Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-3620.

VR 385-01-68. Rules, Regulations, and Rates Concerning Toll and Bridge Facilities.

§ 1. Applicability and effective dates.

This regulation applies to the following facilities: the Dulles Toll Road, administered by the Northern Virginia District; the Powhite Parkway Extension Toll Road, administered by the Richmond District; and the George P. Coleman Bridge, administered by the Suffolk District. Provisions of this regulation will become effective as provided for by § 9-6.14:9.3 of the Administrative Process Act, or as otherwise stated in § 3.

§ 2. General conditions and criteria concerning suspension of toll collection.

A. Tolls may be temporarily suspended on any toll facility subject to this regulation, under the following conditions:

1. The Commonwealth Transportation Commissioner or his designee has investigated or assessed a threat to public safety on or in the vicinity of the toll facility; and
2. As a result of the investigation or assessment, the Commonwealth Transportation Commissioner or his designee believes that a temporary suspension of toll collection will alleviate an actual or potential threat or risk to the public's safety, or facilitate the flow of traffic on or within the vicinity of the toll facility.

B. Incidents which may justify the temporary suspension of toll collection operations include, but are not limited to, the following: natural disasters, such as hurricanes, tornadoes, fires, and floods; accidental releases of hazardous materials, such as chemical spills; major traffic accidents, such as multi-vehicle collisions; and any other incidents deemed to present a risk to public safety.

C. Judicial proceedings arising from any incident resulting in the suspension of toll collection will be conducted as provided for by § 33.1-252 of the Code of Virginia.

§ 3. Rates and delegation of authority to suspend toll collection.

A. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the Dulles Toll Road to the Northern Virginia District Administrator, subject to the conditions and criteria outlined in § 2 A and B. At his discretion, the Northern Virginia District Administrator may delegate this authority to others within the district organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

B. 1. The following are the toll rate schedules for the Dulles Toll Road, and remain in effect until the FasToll system is implemented.

DULLES TOLL ROAD RATE STRUCTURE			
VEHICLE CLASS	MAIN PLAZA	SULLY ROAD	OTHER RAMPS
Passenger Cars	\$0.50	\$0.35	\$0.25
Passenger Cars w/trailers	\$1.00	\$0.70	\$0.50
Motorcycles	\$0.50	\$0.35	\$0.25
Trucks, two axles, four tires	\$0.50	\$0.35	\$0.25
Trucks, two axles, six tires	\$1.00	\$0.70	\$0.50
Trucks, two axles, w/trailer	\$1.00	\$0.70	\$0.50
Trucks, three or more axles	\$1.00	\$0.70	\$0.50
Trucks, three or more axles, w/trailer	\$1.00	\$0.70	\$0.50
Buses, two axles	\$1.00	\$0.70	\$0.50
Buses, Three axles	\$1.00	\$0.70	\$0.50

2. Upon implementation of the FasToll system, the following are the toll rate schedules for the Dulles Toll Road.

DULLES TOLL ROAD RATE STRUCTURE			
VEHICLE CLASS	MAIN PLAZA	SULLY ROAD	OTHER RAMPS
Two axles ¹	\$0.50	\$0.35	\$0.25
Three axles ²	\$0.75	\$0.60	\$0.50
Four axles	\$1.00	\$0.85	\$0.75
Five axles	\$1.25	\$1.10	\$1.00
Six axles or more	\$1.50	\$1.35	\$1.25

¹ Includes passenger cars, motorcycles, and trucks (4 and 6 tires).

² Includes trucks, buses, and passenger cars with trailers.

C. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the Powhite Parkway Extension Toll Road to the Richmond District Administrator, subject to the conditions and criteria outlined in § 2 A and B. At his discretion, the Richmond District Administrator may delegate this authority to others within the district organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

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D. The following are the toll rate schedules for the Powhite Parkway Extension Toll Road.

POWHITE PARKWAY EXTENSION TOLL ROAD MAXIMUM RATE STRUCTURE				
VEHICLE CLASS	MAIN LINE PLAZA	MAIN LINE PLAZA - EAST AND WEST RAMP	RAMP - ROUTE 60	RAMP - COURT-HOUSE ROAD
Two axle vehicles	\$0.75	\$0.25	\$0.25	\$0.50
Three axle vehicles	\$1.00	\$0.35	\$0.35	\$0.60
Four axle vehicles	\$1.25	\$0.45	\$0.45	\$0.70
Five axle vehicles	\$1.50	\$0.55	\$0.55	\$0.80
Six axle vehicles	\$1.50	\$0.55	\$0.55	\$0.80

E. No tolls shall be collected on the George P. Coleman Bridge until the Virginia Department of Transportation determines that the bridge's reconstruction project is completed and it is opened to traffic. In anticipation of that date, the Commonwealth Transportation Commissioner delegates the authority to suspend pending toll collection operations on the George P. Coleman Bridge to the Suffolk District Administrator, subject to the conditions and criteria outlined in § 2 A and B. At his discretion, the Suffolk District Administrator may delegate this authority to others within the district organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

VA.R. Doc. No. R95-716; Filed August 30, 1995, 10:55 a.m.

EMERGENCY REGULATIONS

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

Statutory Authority: §§ 9-158 and 9-160 of the Code of Virginia.

Effective Dates: August 30, 1995, through August 29, 1996.

Nature of Emergency and Necessity for Action:

This emergency regulation is necessary because HB 2294, adopted by the 1995 General Assembly, eliminated the requirement for nursing homes to file a budget with the council. The council is supported entirely from Special Dedicated Revenues (fee assessed health care institutions at the time a budget and an historical are filed). Consequently, the rules and regulations must reflect the change in filing requirements as well as a method for assessing fees that is not related to a budget filing. Without this provision, a serious shortfall of revenues would occur.

Other deletions were necessary because they were requirements when the council performed rate review. The methodology was changed in 1993; therefore, this extraneous material is being deleted.

/s/ Ann Y. McGee, Executive Director
Virginia Health Services Cost Review Council
July 7, 1995

/s/ Robert W. Lauterberg, Director
Department of Planning and Budget
July 19, 1995

/s/ Kay C. James
Secretary of Health and Human Resources
July 19, 1995

/s/ George Allen
Governor
August 9, 1995

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings:

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. ~~The institution's current operating costs, including expenses for operating and maintenance of approved services and facilities, direct and indirect expenses for~~

~~patient care services, working capital needs and taxes, if any;~~

~~2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and accumulation of funds for approved capital projects;~~

~~3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;~~

~~4. For investor-owned institutions organized as proprietorships, partnerships, or S corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carry forwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.~~

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Chapter 5, Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be

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construed to include *continuing care retirement communities which file annual financial reports with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2*, any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to § 32.1-123 et seq. or § 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that ~~files its budget, annual report, or charge schedule with the council~~ submits any of the council's filings past the due date.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1 et seq. of the Code of Virginia apply to their promulgation.

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in The Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III. COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The mission of the council is to promote cost containment within Virginia's health care institutions by collecting, analyzing, and disseminating information to the public.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV. FILING REQUIREMENTS AND FEE STRUCTURE.

§ 4.1. Each individual health care institution shall ~~file~~ submit an annual historical report ~~filing~~ of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with unconsolidated certified audited financial statements. ~~(or equivalents) as prescribed in § 9-159 of the Code of Virginia.~~ *If the health care institution is part of a publicly held company, the individual institution may submit unconsolidated, unaudited financial statements. Investor-owned institutions organized as proprietorships, partnerships, or S-corporations that impute income tax on the annual historical filing report an imputed*

income tax based on the maximum tax rates for federal and state income. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Operating losses may be carried forward no more than five years but may not be carried back to prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution. The annual historical report filing and the unconsolidated certified audited financial statement shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. The requirement for the filing submission of an annual historical report filing and an unconsolidated certified audited financial statement may be waived if a health care institution can show that an extenuating circumstance exists. Requests for a waiver must be submitted in writing prior to the due date. Examples of an extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. For those health care institutions that participate in either the Medicare or Medicaid program, the cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for filings submitted to the council. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the council and the health care institution must continue to utilize that methodology for all subsequent filings unless a subsequent change is approved by the council.

§ 4.2. Each individual health care institution hospital shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-160 B of the Code of Virginia on forms provided by the council. The institution's hospital's projection (budget) shall be received by the council no later than 30 days before the beginning of its respective applicable fiscal year. ~~An institution's budget for a given fiscal year will not be accepted unless the institution has already filed its annual report and certified audited financial statement for the previous fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990.~~ Each health care institution hospital with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital the nursing home, continuing care

retirement community, or with home for adult beds in the budget filed with the council. For those health care institutions hospitals that participate in either the Medicare or Medicaid program, the cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for filings submitted to the council. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the council and the health care institution must continue to utilize that methodology for all subsequent filings unless a subsequent change is approved by the council.

§ 4.3. Each individual hospital shall file submit a quarterly historical report filing of revenue, expenses, and related statistics. The hospital quarterly file filing shall be received by the council no later than 45 days after the end of the respective applicable hospital's quarter end.

§ 4.4. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-159 A 4 3 of the Code of Virginia. The institution's schedule of charges shall be received by the council within 10 days after the beginning of its respective applicable fiscal year.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed within 10 days of the effective date of the revised annual projection. ~~An institution's proposed amendment or modification to its annually filed schedule of charges shall not be accepted unless the institution has complied with all prior filing requirements contained in §§ 4.1 and 4.2 for previous fiscal years.~~

In addition to the requirement above, a new schedule of charges must be submitted if any of the following conditions exist: (i) the creation or revision of a markup or pricing methodology, or (ii) the creation or revision of charges for new services or products. Amendments or modifications to a schedule of charges that are due only to cost adjustments resulting from the pass through of a markup or pricing methodology that had been implemented since the beginning of the fiscal year are considered minimal as described in § 4.2 and need not be reported.

§ 4.5. Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. ~~This For hospitals this information shall be received by the council from each hospital no later than April 30 of each year.~~

The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in

Emergency Regulations

effect as of the first day of a sample month to be chosen by the council. ~~This~~ For nursing homes this information shall be provided to received by the council no later than March 31 of each year.

§ 4.6. Each health care institution ~~hospital~~ or any corporation that controls a health care institution ~~hospital~~ shall respond to a survey conducted by the council to determine the extent of commercial diversification by such health care institutions ~~hospitals~~ in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request the information specified in subdivisions a through j below for each affiliate of such health care institution ~~hospital~~ or corporation, if any:

- a. The name and principal activity;
- b. The date of the affiliation;
- c. The nature of the affiliation;
- d. The method by which each affiliate was acquired or created;
- e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;
- f. The total assets;
- g. The total revenues;
- h. The net profit after taxes, or if not-for-profit, its excess revenues;
- i. The net quality, or if not-for-profit, its fund balance; and
- j. Information regarding related party transactions.

§ 4.6:1. The information specified in § 4.6 shall relate to any legal controls that exist as of the ~~1st of July of each calendar year in which the survey is required to be submitted~~ ~~hospital's~~ fiscal year end. The response to the survey shall include the required information for all affiliates in which the health care institution ~~hospital~~ or any corporation which controls a health care institution ~~hospital~~ has a 25% or greater interest. Information regarding affiliates or organizations that do not have corporate headquarters in Virginia and that do no business in Virginia need not be provided.

~~§ 4.6:2. For fiscal years ending on or before June 30, 1992, each health care institution or any corporation that controls a health care institution and that is required to respond to the survey specified in § 4.6 shall complete and return the survey to the council by the 31st day of August of 1992.~~

~~§ 4.6:3. For fiscal years ending on or before June 30, 1992, each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.~~

~~§ 4.6:4. For fiscal years ending on or before June 30, 1992, each nursing home that reports to the council or any corporation which controls a nursing home that reports to the council shall submit either a certified audited financial~~

~~statement or an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.~~

~~The filings required by this section shall be submitted to the council by the 31st day of August of 1992 or 120 days after the health care institution's fiscal year end, whichever is later.~~

~~§ 4.6:5~~ 4.6:2. For fiscal years ending on or after July 1, 1992, each health care institution ~~Each~~ hospital that reports to the council or any corporation which controls a health care institution ~~hospital~~ that reports to the council shall submit audited consolidated financial statements and consolidating financial schedules to the council which include its total assets, liabilities, revenues, expenses, and net worth.

~~§ 4.6:6~~ 4.6:3. For fiscal years beginning on or after July 1, 1992, ~~the~~ The information required in §§ 4.6, 4.6:1, and 4.6:5 4.6:2 shall be due 120 days after the end of the health care institution's ~~hospital's~~ fiscal year end.

§ 4.7. Each health care institution that reports to the council, any corporation controlling any such health care institution a ~~hospital~~, and each affiliate of the health care institution ~~hospital~~ or corporation that controls a ~~hospital~~ shall submit the health care institution, corporation, or affiliate as an organization exempt from taxes pursuant to § 501(C)(3) of the Internal Revenue Code, a copy of the most recent federal information return (Form 990) which was filed on behalf of the institution, corporation, or affiliate together with all accompanying schedules that are required to be made available to the public by the Internal Revenue Service. Information regarding not-for-profit affiliates which do no business in Virginia need not be submitted.

~~For fiscal years beginning on or after July 1, 1992, the~~ The information required in this section shall be due to the council 120 days after the completion of the health care institution's fiscal year end. If the information return (Form 990) has not been filed with the Internal Revenue Service, the due date will be extended to no later than the normal due date to the IRS or any extensions granted.

§ 4.8. All filings required by these regulations will be made to the council.

§ 4.9. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

§ 4.10. For hospitals, Fifty percent 50% of the filing fee shall be paid to the council at the same time that the health care institution ~~hospital~~ files its budget under the provisions of § 4.2 of these regulations. The balance of the filing fee shall be

paid to the council at the same time the health care institution files hospital submits its annual report historical filing under the provisions of § 4.1 of these regulations.

§ 4.11. For nursing homes, 50% of the fee shall be paid to the council no later than 30 days before the beginning of the nursing home's fiscal year. The fee shall be based on the nursing home's most recently submitted annual historical adjusted patient days. If there have been no previous annual historical filings, the nursing home's fee shall be based on its projected adjusted patient days for the fiscal year. The balance of the fee shall be paid to the council at the same time the nursing home submits its annual historical filing under the provisions of § 4.1 of these regulations.

§ 4.12. A late charge shall be paid to the council by a health care institution that files reports or fees past the due date. The late charge may be waived if such a waiver is requested prior to the due date and the health care institution can show that an extenuating circumstance exists. Examples of extenuating circumstances include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.

§ 4.13. A late charge of \$10 per working day shall be paid to the council by a health care institution that files its annual projection (budget), quarterly historical report filing, annual historical report filing, unconsolidated audited financial statements (or extracted equivalent) or fees past the due date.

§ 4.14. A late charge of \$50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 4.15. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 4.6 including the audited consolidated financial statement required by § 4.6:2 or both.

§ 4.16. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 4.5.

§ 4.17. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to submit the Form 990s as provided § 4.7.

PART V. WORK FLOW AND ANALYSIS.

§ 5.1. The annual historical report filing data filed submitted by health care institutions as prescribed in § 4.1 of these regulations shall be analyzed as directed by the council.

§ 5.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 4.2 of these regulations shall be analyzed as directed by the council.

PART VI. PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 6.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection.

§ 6.1. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 4.4 of these rules and regulations will be kept on file at the council office for public inspection.

§ 6.2. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 6.2.1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

§ 6.3. The council shall release historical financial and statistical data reported by health care institutions pursuant to § 9-159 B of the Code of Virginia. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

VA.R. Doc. No. R95-707; Filed August 30, 1995, 9:19 a.m.

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 18, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: In the matter of CASE NO. PUC950018
investigating local exchange
telephone competition, including
adopting rules pursuant to
Virginia Code § 56-265.4:4.C.3

ORDER SCHEDULING HEARING

By order entered June 9, 1995, the Commission prescribed notice and invited comments concerning Draft Rules for Local Exchange Telephone Competition which had been prepared by the Commission Staff and which were Appendix A of that order. Pursuant to that order, comments about the Draft Rules and answers to the questions attached to the order as Appendix B were received from numerous interested parties by the deadline of August 4, 1995. That order and the published notice also advised that interested parties might request a hearing before the Commission. Several parties requested an opportunity to be heard or to make reply comments.

Pursuant to those requests, the Commission has scheduled a hearing to receive oral argument. This will afford all interested parties an opportunity to be heard and to reply to the comments of others. Although oral argument will aid the Commission in its consideration, the Commission has not identified any issue on which it appears necessary to receive evidence. Nonetheless, any party seeking to present evidence may notify the Commission of the name of its witness and the subject matter and substance of the proposed testimony. Evidence will be heard gre tenus only to the extent that measures short of a full evidentiary hearing are not sufficient to make a full record. Accordingly,

IT IS THEREFORE ORDERED THAT:

(1) The Commission will hear oral argument concerning the Draft Rules and comments filed herein on Tuesday, September 26, 1995, beginning at 10:00 a.m., in its second floor courtroom, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219.

(2) Each party will be limited to no more than 15 minutes of argument.

(3) On or before September 18, 1995, each party that wishes to provide oral argument must file with the Clerk of the Commission a notice of intent to participate.

(4) On or before September 18, 1995, any party seeking to present evidence must notify the Clerk of the Commission of the name of any proposed witness, the subject matter to be addressed, and the substance of the proposed testimony to be presented.

AN ATTESTED COPY of this Order, including the Appendices, shall be sent by the Clerk of the Commission to: local exchange telephone companies as set out in Attachment A hereto; all Virginia certificated interexchange

carriers as set out in Attachment B hereto; Edward L. Petri, Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Richmond, Virginia 23219; Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; James C. Roberts, Esquire, and Donald G. Owens, Esquire, Virginia Cable Television Association, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208; Louis R. Monacell, Esquire, and Alexander F. Skirpan, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, Virginia 23219-3095; Ronald B. Mallard, Director, Fairfax County Department of Consumer Affairs, 12000 Government Center Parkway, Suite 433, Fairfax, Virginia 22035; Claude W. Reeson, Surry County Chamber/Commerce, 8263 Colonial Trail West, Spring Grove, Virginia 23881; Nelson Thibodeaux, Preferred Carrier Services, 1425 Greenway Drive, Suite 210, Irving, Texas 75038; Michael Beresik, AARP, 601 East Street, N.W., Washington, D.C. 20049; James R. Hobson, Esquire, National Emergency Number Association, 1100 New York Avenue, N.W., Suite 750, Washington, D.C. 20005-3934; Cecil O. Simpson, Jr., U.S. Department of Defense, 901 North Stuart Street, Arlington, Virginia 22203-1837; Richard M. Tettelbaum, Citizens Telecommunications, 1400 16th Street, N.W., Suite 500, Washington, D.C. 20036; Naomi C. Klaus, Esquire, Metropolitan Washington Airports Authority, 1201 New York Avenue, Suite 100, Washington, D.C. 20005-3917; Brian Sulmonetti, WorldCom, Inc., d/b/a LDDS, 1515 South Federal Highway, Suite 400, Boca Raton, Florida 33432; D.R. Maccarelli, CFW Communications, P.O. Box 1990, Waynesboro, Virginia 22980-7590; Jodie Donovan-May, Esquire, Teleport Communications Group, Inc., 1133 21st Street, N.W., Washington, D.C. 20036; Andrew O. Isar, Telecommunications Resellers Association, 4312 92nd Avenue, N.W., Gig Harbor, Washington 98335; Andrew D. Lipman, Esquire, MFS Intelenet of Virginia, Inc., 3000 K Street, N.W., Suite 300, Washington, D.C. 20007; David W. Clarke, Washington/Baltimore Cellular, P.O. Box 796, Richmond, Virginia 23206; James W. Wright, Esquire, Central Telephone/United, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, Economics and Finance, and Public Service Taxation.

V.A.R. Doc. No. R95-695; Filed August 23, 1995, 2:14 p.m.

PROPOSED REGULATION

Division of Energy Regulation

Title of Regulation: 20 VAC 5-200-20. Rules for Rate Increases for Electric Cooperatives (REPEALING).

Title of Regulation: 20 VAC 5-200-21. Rules Governing Streamlined Rate Proceedings and General Rate Proceedings for Electric Cooperatives Subject to the State Corporation Commission's Rate Jurisdiction.

Statutory Authority: §§ 12.1-13, 56-226, 56-227 and 56-235.2 of the Code of Virginia.

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE930054

Ex Parte, In re: Investigation of the rules governing electric cooperative rate cases and rate regulation of electric cooperatives

HEARING EXAMINER'S RULING

August 4, 1995

Pursuant to Hearing Examiner's Ruling dated September 13, 1994, the procedural schedule in this matter was suspended in order to give the parties and the Commission's Staff additional time to explore a possible settlement of the issues raised in this proceeding.

On August 3, 1995, the Commission's Staff, by counsel, filed a Motion to Adopt Procedural Schedule, and attached thereto a set of revised Rules Governing Streamlined Rate Proceedings and General Rate Proceedings for Electric Cooperatives ("Rules"). The revised Rules have resolved many of the issues and concerns raised by the parties in this case, and the Motion requests that a new procedural schedule be established to consider the revised Rules. The Motion further states that Staff counsel has contacted counsel for all other parties in this case and they have no objection to the procedural schedule proposed by the Staff.

Good cause having been shown, I am of the opinion, and find, that the Staff's Motion should be granted. Accordingly,

IT IS DIRECTED:

(1) That a hearing is hereby scheduled for November 8, 1995, at 10:00 a.m., in the Commission's Second Floor Courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia, for the purpose of receiving evidence relevant to the revised Rules;

(2) That, on or before September 8, 1995, the Commission Staff shall file an original and fifteen (15) copies of prefiled direct testimony addressing its Report, any further revisions thereto, and the Comments filed herein, which testimony shall be presented at the hearing to be convened on November 8, 1995;

(3) That, on or before September 29, 1995, Loral, Luck, Bear Island, and the Cooperatives may each file with the Clerk of the Commission an original and fifteen (15) copies of the prefiled direct testimony, addressing the Staff's Report, the comments filed in response to this Report, and the Staff's prefiled direct testimony, that these parties intend to present at the November 8 hearing; and

(4) That, on or before October 13, 1995, the Staff may file with the Clerk of the Commission an original and fifteen (15) copies of any rebuttal testimony it may have.

/s/ Glenn P. Richardson
Senior Hearing Examiner

Document Control Center is requested to mail or deliver a copy of the above Ruling on August 4, 1995 to: Ronald W.

Watkins, P.O. Box 2310, Glen Allen, VA 23058-2310; the Division of Consumer Counsel, Office of the Attorney General, 900 East Main St., Richmond, VA 23219; Howard L. Scarboro, P.O. Box 247, Lovingson, VA 22949; John A. Pirko, Esquire, 4201 Dominion Blvd., #200, Glen Allen, VA 23060; Jean Ann Fox, 114 Coachman Drive, Yorktown, VA 23693; Richard D. Cagan, 1214 W. Graham Rd., #3, Richmond, VA 23220-1409; Edward L. Flippen, Esquire, P.O. Box 1122, Richmond, VA 23208; Peggy S. Kidd, 215 E. High St., Charlottesville, VA 22902; Margaret Morton, P.O. Box 241, Covington, VA 22949; Louis R. Monacell, Esquire, 1200 Mutual Building, Richmond, VA 23219; Sherry H. Bridewell, Esquire, Commission counsel; and to the Commission's Divisions of Public Utility Accounting, Energy Regulation, and Economics and Finance.

20 VAC 5-200-21. Rules Governing Streamlined Rate Proceedings and General Rate Proceedings for Electric Cooperatives Subject to the State Corporation Commission's Rate Jurisdiction.

A. *Nothing in these rules shall be interpreted to apply to applications for temporary reductions of rates pursuant to § 56-242 of the Code of Virginia.*

B. *All streamlined or general rate applications for jurisdictional electric distribution cooperatives ("cooperatives" or "applicants") shall be subject to the following rules:*

1. *Pursuant to § 56-235.4 of the Code of Virginia and the exceptions stated therein, the regulated operating revenues of a cooperative shall not be increased more than once within any 12-month period. However, streamlined rate relief may become effective in less than 12 months after a preceding increase provided that regulated base operating revenues are not increased more than once in any calendar year.*

2. *An applicant may select any test period it wishes to use to support its application.*

3. *Any increase in revenues under these rules shall be allocated in accordance with a properly designed cost of service study.*

4. *A cooperative which has outstanding wholesale power cost riders which reflect permanent changes in power costs approved by a regulatory agency shall adjust its base rates to reflect such changes at the same time it increases its rates in a rate application.*

5. *Except as otherwise provided herein, all applications for rate relief shall be filed in the original and 15 copies with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216.*

6. *An electric cooperative intending to file a rate application shall notify the State Corporation Commission ("commission") and all parties of record appearing in the cooperative's last rate case at least 60 days in advance of the filing of the application.*

7. *The commission retains the right to waive any or all parts of these rate case rules for good cause shown.*

State Corporation Commission

C. An applicant may file a complete application for streamlined rate relief provided the following limitations are met:

1. The increase in total operating revenues as calculated in column (5) of Schedule 3 of Appendix A is not more than the test period increase in the Consumer Price Index ("CPI"), or 5.0%, whichever is less. The CPI shall be defined as the Consumer Price Index for all Urban Consumers (CPI-U) for all items, as estimated by the U.S. Department of Labor, Bureau of Labor Statistics, and published in its Summary Data from the Consumer Price Index News Release, or its successor. As calculated in this publication, the percentage change in the CPI-U for a test year will be the index for the last month of the test year divided by the index for the same month one year prior, minus one, multiplied by 100.

2. Earnings after the proposed increase must not produce financial ratios which exceed the level approved by the commission in the applicant's most recent general rate case.

An application shall not be deemed filed under § 56-238 of the Code of Virginia unless it is in full compliance with these rules. Subject to the rules set forth below, a cooperative which files an application for streamlined rate relief may petition the commission requesting that its rates be made permanent no less than 30 days from the date the application is deemed complete and filed with the commission if there are insufficient customer objections to the application or if the commission does not suspend the proposed increase and convene a hearing.

3. A cooperative filing a rate application under the streamlined rate procedure shall not:

a. Increase rates by more than the increase in the test period CPI or 5.0% (whichever is less) of adjusted Virginia jurisdictional operating revenues;

b. Request earnings, after the proposed increase, which produce financial ratios that exceed those approved by the commission in the applicant's most recent general rate case;

c. Propose revisions to its terms and conditions of service; or

d. Propose revisions to its rate structure as part of its application.

4. The commission may, on its own motion, suspend a cooperative's proposed rate increase and tariff revisions pursuant to § 56-238 of the Code of Virginia and may convene a hearing on the cooperative's streamlined application.

5. The commission may suspend a cooperative's proposed tariff revisions and increase in rates and shall schedule a hearing thereon if the lesser of 150 or 5.0% of the customers or other persons within a class and subject to a change in a rate, toll, or charge object to the proposed revision or increase in a rate.

6. The commission may, in its discretion, suspend an electric cooperative's rate increase and proposed tariff revisions in a streamlined rate proceeding on the motion of its own staff, on the motion of the Division of Consumer Counsel, or on the motion of any person subject to such change who requests a hearing and states a substantive reason why a hearing is necessary.

7. The requested rate increase for streamlined rate relief shall be supported by a fully adjusted financial status statement (Schedule 3 of Appendix A).

8. Adjustments to test year cost of service shall be limited to the amount of increase or decrease that will be in effect during the rate year.

9. A cooperative shall not file more than three consecutive applications for streamlined rate relief; nor shall there lapse more than five years since the later of the date of the final order or the effective date of rates specified in the final order in the applicant's last general rate case when filing an application for streamlined rate relief.

10. An application filed under the streamlined rate procedure shall include:

a. The name and post office address of the applicant and the name and post office address of counsel of record, if any.

b. A brief narrative statement describing the change in rates and tariff revisions and explaining the need for a change in rates and tariff revisions. This statement shall include a description of the actions taken by the cooperative to advise its membership of the change in rates and contents of its application.

c. A copy of the resolution calling for a change in rates adopted by the Board of Directors of the cooperative.

d. A copy of the completed notice given to the public by the cooperative, including a description of the method of publication used.

e. Schedules 1-8 of Appendix A.

11. Public notice of the increase and tariff revisions shall be completed 30 days in advance of the date the cooperative files its application for revised rates with the commission. Actual proof of public notice shall be furnished to the commission as part of the rate application.

12. The public notice of the increase and tariff revisions in an application for streamlined rate relief may be given by:

a. Direct mailing to each customer;

b. Publication in Rural Living magazine, or the cooperative's member publication;

c. Newspapers of general circulation in the area served;

d. Any combination of these methods; or

e. Any other method of publication authorized by the commission.

13. A copy of the notice shall be served on the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county (or equivalent officials in the counties having alternative forms of government) in the state in which the cooperative offers service, and on the mayor or manager and the attorney of every city and town (or equivalent officials in towns and cities having alternative forms of government) in the state in which the cooperative offers service and upon the Division of Consumer Counsel, Office of the Attorney General. Service shall be made by either personal delivery or first class mail, postage prepaid, to the customary place of business of the person served or to his residence.

14. The public notice shall, at a minimum, include the following information:

- a. The amount of the total increase in revenues, both in percentages and dollar amounts;
- b. The percentage increase being applied to each of the cooperative's rate schedules;
- c. The identity of all wholesale power cost riders to be rolled-in to base rates;
- d. The locations where copies of the information required to be filed with the commission can be reviewed;
- e. The date the application will be delivered to the commission;
- f. A notice that any person subject to the change or changes proposed by the cooperative has the right to request a hearing within 30 days of the application's delivery to the commission;
- g. A notification that requests for hearing should be directed to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;
- h. A statement advising that the commission may convene a hearing, and if a hearing is held, the commission may order rate relief, redesign rates or adopt tariff revisions which differ from those appearing in the cooperative's application;
- i. A statement advising the public that if the lesser of 150 or 5.0% of the customers or other persons within a class and subject to a change in a rate, toll, or charge do not request a hearing, the cooperative may petition the commission to make rates permanent without hearing within 30 days after the application is filed with the commission; and
- j. A statement advising the public of the cooperative's proposed effective date for its new rates.

15. If the commission determines that a hearing on the application for streamlined rate relief is required, then the commission shall issue a procedural order which, among other things, shall specify the date by which the

cooperative shall file with the Clerk of the Commission an original and 15 copies of any direct testimony the cooperative intends to rely on in support of its application, together with the remaining schedules set forth in Appendix A hereto. That Order shall specify such additional notice of the hearing to the electric cooperative's members that the commission deems appropriate.

D. 1. A cooperative seeking (i) an increase that produces financial ratios in excess of those allowed in the applicant's most recent general rate case; (ii) an increase in jurisdictional adjusted operating revenues of more than the test period increase in the CPI (as defined in subdivision 1 of subsection C of this section); (iii) revision of its terms and conditions of service; or (iv) to redesign or restructure its rates shall file an original and 15 copies of a general rate application with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216.

2. An application seeking a general rate increase shall include:

- a. The name and post office address of the applicant and the name and post office address of counsel of record, if any.
- b. A brief narrative statement describing the change in rates and tariff revisions and explaining the need for a change in rates and tariff revisions. This statement shall include a description of the actions taken by the cooperative to advise its membership of the change in rates and contents of the rate application.
- c. A copy of the resolution calling for a change in rates adopted by the cooperative's Board of Directors.
- d. All direct testimony which the cooperative intends to rely on in support of its rate application.
- e. Exhibits consisting of the Schedules 1 through 12, found in Appendix A. Such schedules shall be identified with the appropriate schedule number and shall be prepared in accordance with the instructions contained in Appendix A and the following general instructions:

(1) Attach a table of contents to the cooperative's application, including exhibits.

(2) The applicant shall be expected to verify the accuracy of all data and calculations contained in and pertaining to every exhibit submitted, as well as support any adjustments, allocations or rate design upon which it relies.

(3) Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right hand corner as shown below:

Exhibit No. (Leave Blank)

Witness: (Initials)

Statement or Schedule Number

State Corporation Commission

The first page of all exhibits shall contain a caption which describes the subject matter of the exhibit.

(4) The required accounting and statistical data shall include three copies of all work papers and other information necessary to ensure that the items, statements and schedules found in the application are not misleading.

f. Exhibits consisting of additional schedules may be submitted with the cooperative's direct testimony. Such schedules shall be identified as Schedule 13 et seq. and shall conform to the general instructions contained in subdivision 2e of subsection D of this section.

g. The commission shall prescribe the general notice to be given to the public and the date by which such notice shall be completed in its procedural order.

h. The applicant shall serve a copy of the information required in subdivisions 2a through 2c of subsection D of this section upon the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county or (equivalent officials in counties having alternative forms of government) in the state affected by the proposed increase and upon the mayor or manager and the attorney of every city and town (or equivalent officials in towns and cities having alternative forms of government) in the state affected by the proposed increase. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained by such official at no cost by making a request thereof orally or in writing to a specified company official or location. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General in Virginia. All such service specified by this rule shall be made either by (i) personal delivery or (ii) first class mail, to the customary place of business or to the residence of the person served.

E. Rate reductions and tariff revisions filed pursuant to § 56-40 of the Code of Virginia shall be filed with the Division of Energy Regulation and shall include the following:

1. A descriptive statement of and justification for the tariff revision;
2. Load data if applicable;
3. A certified excerpt from the minutes of the cooperative's Board of Directors, wherein the Board approved the tariff revision;
4. Identification of all customers that may be eligible for the tariff revision;
5. A revenue impact study; and
6. An affidavit by the cooperative's manager that the proposed tariff revision affects no increase in rates.

F. Failure to comply with the rules governing streamlined rate applications or general rate applications may result in dismissal of the application, or may subject the cooperative to

such other actions as the commission deems appropriate, including, but not limited to, prohibiting a cooperative from filing an application for streamlined rate relief for a period of time specified by the commission.

APPENDIX A

SCHEDULES REQUIRED FOR A STREAMLINED OR GENERAL RATE APPLICATION

Schedule Number Streamlined Rate Proceeding Schedules

1	Comparative Balance Sheets
2	Comparative Income Statements
3	Financial Status Statement
4A and B	Detail of Ratemaking Adjustments
5A and B	Proposed Rates and Tariffs and Revenue Allocation
6	Sample Billing
7	Class Cost of Service Study
8	Capital Structure

Schedule Number General Rate Proceeding Schedules

1	Comparative Balance Sheets
2	Comparative Income Statements
3	Financial Status Statement
4A and B	Detail of Ratemaking Adjustments
5A and B	Proposed Rates and Tariffs and Revenue Allocation
6	Sample Billing
7	Class Cost of Service Study
8	Capital Structure
9	Net Original Cost Rate Base
10	Working Papers for Ratemaking Adjustments
11	Revenue and Expense Variance Analysis
12	Jurisdictional Allocation

Schedule 1

Comparative Balance Sheets

Instructions: Provide a publicly available comparative balance sheet for the test period and the corresponding 12-month period immediately preceding the test period for the applicant.

Schedule 2

Comparative Income Statements

Instructions: Provide a publicly available comparative income statement covering the test period and 12-month period immediately preceding the test period for the applicant.

Schedule 3

Financial Status Statement

Instructions: Use the format of the schedule identified as Schedule 3 in this Appendix.

Adjustments in Column (2) reflect any financial differences between Generally Accepted Accounting Principles (GAAP) and ratemaking accounting as prescribed by the State Corporation Commission. An example of such an adjustment would include, but would not be limited to, the reclassification of capital leases to

operating leases. Each Column (2) adjustment shall be separately identified and shown using the format prescribed for Schedule 4A and 4B.

Column (4) shall reflect total nonjurisdictional operations. Jurisdictional allocation factors used to determine nonjurisdictional business in Column (4) amounts shall be fully supported and explained in Schedule 12 for general rate filings.

Each Column (6) adjustment shall be separately identified and shown in Schedule 4A and 4B. In a streamlined rate proceeding, adjustments reflected in Column (6) of Schedule 3 which do not incorporate ratemaking treatment approved by the commission in the utility's last general rate case shall be identified as new proposed adjustments in Schedule 4A and 4B.

Riders reflected on line 4 shall be separately listed to include a line for each rider in effect during the test year or projected for the rate year. The amount of other income and other expense shown in Column (5), lines 20 and 23, shall be the current amount recognized as jurisdictional in the applicant's last general rate case. Amounts reflected on line 33 shall be actual cash receipts.

Lines (29), (30), (31), and (32) shall be based on the following definitions:

Line 29.
$$\text{TIER} = \frac{\text{Total Margins (Line 24)} + \text{Interest on Long-Term Debt (Line 21)}}{\text{Interest on Long-Term Debt (Line 21)}}$$

Line 30.
$$\text{DSC} = \frac{\text{Total Margins (Line 24)} + \text{Depreciation and Amortization Expense (Line 11)} + \text{Interest on Long-Term Debt (Line 21)}}{\text{Total Principal Payments} + \text{Total Long-Term Interest Payments}}$$

Line 31.
$$\text{Rate of Return on Rate Base} = \frac{\text{Operating Margins Adj. (Line 18)}}{\text{Total Rate Base (Line 28)}}$$

Line 32.
$$\text{Rate of Return on Margins and Equities} = \frac{\text{Total Margins (Line 24)}}{\text{Total Margins and Equity Capitalization (Schedule 8)}}$$

Schedules 4A and 4B

Detail of Ratemaking Adjustments

Instructions: Use format of the schedule identified as Schedule 4A and 4B to this Appendix.

Each adjustment shall be numbered sequentially and listed under the appropriate description category (Base Rate Revenue, Fuel-WPCA Revenue, Purchased Power, etc.). The impact on cost of service from each adjustment shall be detailed in Columns (1) through (16).

Each ratemaking adjustment shall be fully explained in a supporting subschedule 4B to this schedule.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 10 for general rate filings.

Schedule 5A and 5B

Proposed Rates and Tariffs, and Revenue Allocation by Class

Schedule 5A Instructions:

Provide a copy of each tariff sheet with the revisions the cooperative proposes to implement. For general rate applications, provide a copy of all tariffs and Terms and Conditions of Service Sheets proposed for revision containing the revised language.

Schedule 5B Instructions:

Provide a class revenue allocation analysis showing, by class, the present revenue recovered from each class, the proposed increase in revenue to be recovered from each class, the total proposed revenue to be recovered from each class, and the percentage of increase in total revenue to be recovered from each class.

Schedule 6

Sample Billing

Instructions: Provide a sample billing analysis showing the effect on customers of the proposed tariff changes at various levels of consumption, for all classes of service.

Schedule 7

Class Cost of Service Study

Instructions: A. Each streamlined rate application shall include a copy of the cost of service study used to determine the allocation of revenues to each class. The cost of service study shall be based on per books data which is no more than five years old. Each general filing shall include a copy of the cost of service study used to allocate the increase or to adjust rate design. The data used in a cost of service study submitted in a general rate case shall use the same test period as used in the cooperative's general rate application.

B. Each cost of service study shall consist of the following schedules:

1. For multi-state cooperatives, provide total system rate base, revenue and operation and maintenance expenses by account number, or major account group showing separation between Virginia and nonjurisdictional operations.
2. Provide a jurisdictional financial status statement in the format of Schedule 3, column (5) of Appendix A for each customer class and the return provided by these classes.
3. For all service schedules, present the unit cost per kilowatt, kilowatt hour, and customer resulting from the cost study. Include the kilowatt hours, demand, and number of customers, as well as the total cost for each component by class and the allocated rate base by class, as support for the unit costs derived.
4. If directed by the commission, the cooperative shall collect and maintain separate expense, rate base, and revenue data on nonjurisdictional consumers within Virginia.

State Corporation Commission

5. For all service classes, provide a schedule of consumers by service class indicating the total number of customers in the class and the number of nonjurisdictional consumers in Virginia in the class.

Nonjurisdictional consumers in Virginia include government agencies: federal, state, local, and regional government authorities. If there are nonjurisdictional consumers in any class, this schedule must be accompanied by a list of all such nonjurisdictional consumers by service class and their usage characteristics.

6. Provide a short narrative describing the cost of service study methodology employed. This narrative shall include the following information:

(a) Identification and description of the classification used to assign rate base as demand, energy, or customer related. Specifically, include the classification methodology used to differentiate between demand and customer components of distribution plant; and the customer classification used in the study, i.e., minimum system, minimum size, zero intercept, etc.

(b) Identification of the allocation methodology used for assigning rate base, revenue, and expenses to customer classes. For demand allocation method, e.g., average and excess, nonconincident peak; customer allocation method, e.g., number of customers, weighted customers, etc.

(c) Provide a table showing the kilowatts, kilowatt hours, number of customers allocated to each class, including the derivation of the demand, energy, and customer allocators for each class.

7. Provide a list of classification and allocation factors used.

8. Provide a copy of the actual study by account or primary account. The primary accounts shall identify the secondary accounts included by account number. Indicate which allocators and classifiers were used to assign each account.

Schedule 8

Capital Structure and Cost of Debt Statement and Supporting Schedules

Instructions: Use the format of the schedule identified as Schedule 8 in this Appendix.

Column (1) shall reflect the per books capital structure at the end of the test year. Data in Column (1) shall be compatible with the applicant's publicly available financial statements. Adjustments in Column (3) reflect any financial differences between Generally Accepted Accounting Principles (GAAP) and ratemaking accounting as prescribed by the commission. Each Column (3) adjustment shall be separately identified in a supporting schedule, if not already identified in Schedule 4A or 4B

Schedules shall be provided to support the amounts and cost rates of short- and long-term debt in Columns (4) and (6), respectively, and the adjusted amounts and cost rates in Columns (8) and (10), respectively. Each issue of long-term debt shall be listed with its corresponding interest rate, date of issue, maturity, and lending institution(s) or other source(s). Short-term debt shall be listed with a high, low, ending, and average balance for each month, a weighted average interest rate for each month, and the name of the lending institution(s) or other source(s).

Schedule 9

Net Original Cost Rate Base

Instructions: Use the format of the schedule identified as Schedule 9 in this Appendix.

Adjustments in Column (2) reflect any financial differences between GAAP and ratemaking accounting as prescribed by the State Corporation Commission. Each Column (2) adjustment shall be separately identified and reflected using the format prescribed for Schedule 4A and 4B.

Column (4) shall reflect total nonjurisdictional business. Allocation factors used to determine nonjurisdictional business in Column (4) shall be fully supported in Schedule 12.

Each Column (6) adjustment shall be separately identified and reflected in Schedule 4A and 4B. In a streamlined rate proceeding, adjustments reflected in Column (6) of Schedule 3 which do not incorporate the ratemaking treatment approved by the commission in the utility's last general rate case shall be separately identified as new proposed adjustments in Schedule 4A and 4B.

Schedule 10

Working Papers for Ratemaking Adjustments

Instructions: Provide detailed workpapers and supporting schedules of all proposed adjustments. Each supporting document shall identify the origin of the data shown. Also, indicate whether data is actual or estimated. Working papers shall be numbered, indexed and tabbed for each adjustment. Two copies shall be filed with the Division of Public Utility Accounting, and one copy of the working papers shall be filed with the Division of Energy Regulation.

Schedule 11

Revenue and Expense Variance Analysis

Instructions: The cooperative shall quantify jurisdictional operating revenues and system operating and maintenance (O&M) expenses by primary account during the test period and the preceding 12 months. Also, provide jurisdictional sales volumes by customer class for the test period and the preceding 12 months.

The cooperative shall provide a detailed explanation of all jurisdictional revenue and system expense increases and decreases of more than 10% during the test period

compared to the previous 12-month period. The expense variance analysis applies to test period expense items greater than two-hundredths (.0002) of 1.0% of total O&M expenses for all cooperatives with total operating expenses exceeding \$50 million, and five hundredths (.0005) of 1.0% of total operating expenses for cooperatives with total operating expenses below \$50 million.

Schedule 12

Jurisdictional Allocation

Instructions: Provide summary schedules by primary account reflecting all revenue, expense, and rate base items allocated to the Virginia jurisdiction. If directed by the commission, this schedule shall include allocations relating to nonjurisdictional Virginia consumers as well as out-of-state operations. Provide working papers to support all calculated amounts, including the development of allocation factors.

Provide a narrative explanation and justification of the allocation methodology used. Discuss any changes in the applicant's operations which materially affect any allocation factor.

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Schedule 3

**FINANCIAL STATUS STATEMENT
PER BOOKS AND FULLY ADJUSTED
FOR THE 12-MONTHS ENDING**

Line No.	Description	(Col. 1) Total Cooperative Per Books	(Col. 2) Adjustments Due to Ratemaking Requirements	(Col. 3) Total Cooperative As Adjusted	(Col. 4) Non-Virginia Jurisdictional Business	(Col. 5) Virginia Jurisdictional Business	(Col. 6) Ratemaking Adjustments	(Col. 7) Amounts After Adjustments	(Col. 8) Revenue Requirement	(Col. 9) Amounts After Revenue Requirement
1.	Operating Revenues									
2.	Base Rates									
3.	Fuel - WPCA									
4.	Roll in of Riders									
5.	Riders (List Separately)									
6.	Margin Stabilization									
7.	Other Electric Revenues									
8.	Total Operating Revenues									
9.	Operating Expenses									
10.	Purchased Power Expense									
11.	Margin Stabilization									
12.	Other Operation and Maintenance Expense									
13.	Depreciation and Amortization									
14.	Tax Expense - Property									
15.	Tax Expense - Other									
16.	Total Operating Expenses									
17.	Operating Margins									
18.	Less: Interest on Customer Deposits Charitable and Educational Donations									
19.	Operating Margins Adjusted									
20.	Plus: Capital Credits Accrued									
21.	Other Income									
22.	Less: Interest on Long-Term Debt									
23.	Other Interest Expense									
24.	Other Expense									
25.	Total Margins									
26.	Rate Base									
27.	Net Utility Plant									
28.	Allowance for Working Capital									
29.	Other Rate Base Deductions									
30.	Total Rate Base									
31.	TIER									
32.	DSC									
33.	Rate of Return on Rate Base									
34.	Rate of Return on Margins and Equities									
35.	Capital Credits Received									

SCHEDULE 4A
Page ___ of ___

DETAIL OF RATEMAKING ADJUSTMENTS

Adj. No.	(Col. 1) Description	(Col. 2) Purchased Power Expenses	(Col. 3) Margin Stabil.	(Col. 4) Other O&M Expenses	(Col. 5) Degr. & Amort.	(Col. 6) Tax Expense	(Col. 7) Other Adjusted	(Col. 8) Operating Margins	(Col. 9) Accrued Capital Credit	(Col. 10) Other Income	(Col. 11) Interest on Long-Term Debt	(Col. 12) Other Exp. (Incl. Int. Exp.)	(Col. 13) Total Margins	(Col. 14) Net Utility Plant	(Col. 15) Allowance for Working Capital	(Col. 16) Other Rate Base Reductions	(Col. 17) Total Rate Base
	<u>Base Rate Revenues</u>																
	<u>Fuel - WPCA Revenue</u>																
	<u>Rider Revenue</u>																
	<u>Margin Stabilization</u>																
	<u>Other Electric Revenues</u>																
	<u>Purchased Power Exp.</u>																
	<u>Margin Stabilization</u>																
	<u>Other O&M Expense</u>																
	<u>Degr. & Amort.</u>																
	<u>Tax Expense - Property</u>																
	<u>Tax Expense - Other</u>																
	<u>Other</u>																
	<u>Operating Margins Adjusted</u>																
	<u>Capital Credits Accrued</u>																
	<u>Other Income</u>																
	<u>Interest on Long-Term Debt</u>																
	<u>Other Interest Expense</u>																
	<u>Other Expense</u>																
	<u>Total Margins</u>																
	<u>Net Utility Plant</u>																
	<u>Allowance for Working Capital</u>																
	<u>Other Rate Base Deductions</u>																
	<u>Total Rate Base</u>																

DETAIL OF RATEMAKING ADJUSTMENTS

<u>Adj. No.</u>	<u>Description</u>	<u>Explanation of Adjustment</u>
	<u>Base Rate Revenue</u>	
	<u>Fuel - WPCA Revenue</u>	
	<u>Rider Revenue</u>	
	<u>Margin Stabilization</u>	
	<u>Other Electric Revenues</u>	
	<u>Purchased Power Exp.</u>	
	<u>Margin Stabilization</u>	
	<u>Other O&M Expense</u>	
	<u>Depr. & Amort.</u>	
	<u>Tax Expense - Property</u>	
	<u>Tax Expense - Other</u>	
	<u>Other</u>	
	<u>Operating Margins Adjusted</u>	
	<u>Capital Credits Accrued</u>	
	<u>Other Income</u>	
	<u>Interest on Long-Term Debt</u>	
	<u>Other Interest Expense</u>	
	<u>Other Expense</u>	
	<u>Total Margins</u>	
	<u>Net Utility Plant</u>	
	<u>Allowance for Working Capital</u>	
	<u>Other Rate Base Deductions</u>	
	<u>Total Rate Base</u>	

CAPITAL STRUCTURE AND COST OF DEBT STATEMENT

PER BOOKS AND FULLY ADJUSTED

For the 12-Months Ending _____

	(Col. 1)	(Col. 2)	(Col. 3)	(Col. 4)	(Col. 5)	(Col. 6)	(Col. 7)	(Col. 8)	(Col. 9)	(Col. 10)
	<u>Total</u> <u>Cooperative</u> <u>Per Books</u>	<u>Percentage</u> <u>of Col. 1</u> <u>Total</u>	<u>Adjustments</u> <u>Due to</u> <u>Rate-making</u> <u>Requirements</u>	<u>Total</u> <u>Cooperative</u> <u>As Adjusted</u>	<u>Percentage</u> <u>of Col. 4</u> <u>Total</u>	<u>Cost of</u> <u>Col. 4</u> <u>Debt</u>	<u>Rate-making</u> <u>Adjustments</u>	<u>Amount</u> <u>after</u> <u>Adjustments</u>	<u>Percentage</u> <u>of Col. 8</u> <u>Total</u>	<u>Cost</u> <u>of Col. 8</u> <u>Debt</u>
1. <u>Short-Term Debt</u>										
2. <u>Long-Term Debt</u>										
3. <u>Total Margins and Equities</u>										
4. <u>Other</u>										
5. <u>Total Capital</u>										
6. <u>Principal Repayments</u>										
7. <u>Accumulated Capital Credits</u> <u>Accrued</u>										
8. <u>Accumulated Capital Credits</u> <u>Received</u>										

Schedule 9

NET ORIGINAL COST RATE BASE
PER BOOKS AND FULLY ADJUSTED
 For the Period Ending _____

Line No.	Description	(Col. 1) Total Cooperative Per Books	(Col. 2) Adjustments Due to Ratemaking Requirements	(Col. 3) Total Cooperative As Adjusted	(Col. 4) Non-Virginia Jurisdictional Business	(Col. 5) Virginia Jurisdictional Business	(Col. 6) Ratemaking Adjustment	(Col. 7) Amounts After Adjustments
	<u>Net Utility Plant</u>							
1.	Electric Plant in Service							
2.	Completed Construction Not Classified							
3.	Construction Work in Progress							
4.	Plant Hold for Future Use							
5.	Less: Accumulated Provision for Depreciation and Amortization							
6.	<u>Total Net Utility Plant</u>							
	<u>Allowance for Working Capital</u>							
7.	Cash Working Capital: Purchased Power							
8.	Other O&M							
9.	Materials & Supplies (13-month average)							
10.	Deferred Fuel							
11.	Other Working Capital (List Separately)							
12.	<u>Total Allowance for Working Capital</u>							
	<u>Other Rate Base Deductions</u>							
13.	Customer Deposits							
14.	Customer Advances for Construction							
15.	Other Cost Free Capital (List Separately)							
16.	<u>Total Other Rate Base Deductions</u>							
17.	<u>Total Rate Base</u>							

VA.R. Doc. No. R95-715, Filed August 30, 1995, 10:06 a.m.

GOVERNOR

EXECUTIVE ORDER NUMBER FORTY-SEVEN (95)

RESCINDING AND REISSUING CERTAIN EXECUTIVE ORDERS

Certain executive orders issued in the past did not include expiration dates and either the actions they called for have been completed or the situations and conditions they addressed no longer exist.

Therefore, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby rescind the following executive orders:

Executive Order Number Thirteen issued October 28, 1971, and Executive Order Number Twenty-eight issued November 17, 1972, both by Governor Linwood Holton, to provide for the release of certain tax related information;

Executive Order Number Forty-seven (76) issued December 14, 1976, by Governor Mills E. Godwin, to provide for the review of plans to alter historic landmarks;

Executive Order Number Eighteen (78) issued June 30, 1978, by Governor John N. Dalton, to reissue certain executive orders issued between 1946 and 1978; and

Executive Order Number Fifty-four (81) issued December 2, 1981, by Governor John N. Dalton, to allocate the state ceiling under the Mortgage Subsidy Bond Tax Act of 1980.

The Executive Order issued June 28, 1948, by Governor William M. Tuck and reissued by Executive Order Eighteen (78), to establish the date of organization of the First Virginia Regiment, is hereby reissued and remains in effect.

This Executive Order shall be effective upon its signing, and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 23rd day of May, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-702; Filed August 29, 1995, 3:55 p.m.

EXECUTIVE ORDER NUMBER FIFTY-TWO (95)

DEPARTMENT OF THE TREASURY SECONDARY MARKET DISCLOSURE

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.1-39.1 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby authorize and direct the State Treasurer to take any and all actions necessary to comply

with all rules and regulations relating to primary and secondary market disclosure for securities issued by the Commonwealth and its agencies, institutions, boards and authorities or other securities for which the Commonwealth is deemed to be an obligated person, including but not limited to entering into agreements to provide information to the secondary market.

On November 10, 1994, the Securities and Exchange Commission ("SEC") issued Release No. 34-34961 which amended SEC Rule 15c2-12 ("Rule") under the Securities Exchange Act of 1934 to deter fraud and manipulation in the municipal securities market by prohibiting the underwriting and subsequent recommendation of securities for which adequate information is not available. The amendments to the Rule were intended to improve disclosure on outstanding municipal securities in the secondary market.

The amendments to the Rule prohibit a broker or dealer from purchasing or selling municipal securities unless such broker or dealer has reasonably determined that an issuer of municipal securities or an obligated person has undertaken in a written agreement or contract for the benefit of the holders of the securities to provide certain annual financial information and event notices to information repositories. Although the Rule does not require that municipal issuers provide the information, it effectively eliminates an issuer's access to the primary and secondary securities markets if an issuer fails to provide annual financial information and event notices. Therefore, it is imperative that the Commonwealth comply with the Rule in order to serve its citizens effectively.

All agencies of the Commonwealth are expected to cooperate with and provide assistance to the State Treasurer to the fullest extent allowed by law and to the extent that such cooperation does not conflict with the missions of the various agencies. The State Treasurer may request such information, reports, documents, etc., as necessary to comply fully with the Rule. The State Treasurer may consult with and seek guidance from financial consultants, legal counsel, and agencies of the federal government as needed.

This Executive Order shall not be interpreted to limit or alter the rights or the obligations of the Commonwealth or any agency or other instrumentality thereof to meet or fulfill the terms of any agreements made with holders of any bonds, notes, or other obligations of the Commonwealth or such instrumentality issued and outstanding on or prior to the effective date of this Order, or, in any way, to impair the rights and remedies of such holders.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this tenth day of August, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-703; Filed August 29, 1995, 3:55 p.m.

EXECUTIVE ORDER NUMBER FIFTY-THREE (95)

DECLARATION OF A STATE OF EMERGENCY THROUGHOUT THE COMMONWEALTH ARISING FROM HURRICANE FELIX

Recent meteorological forecasts concerning Hurricane Felix predict that the storm could cause storm surge, heavy rains, flooding, and high winds in the Commonwealth. The potential also exists for tornadoes that could be spawned as a collateral effect of the hurricane. Should the hurricane make landfall in those cities and counties of the Commonwealth that lie generally east of Interstate Highway 95 in the Commonwealth, flash flooding, storm surge damage, and wind damage are anticipated in those areas. Inland areas of the state could also be impacted by the residual destructive power of Hurricane Felix.

The health and general welfare of the citizens of the localities that may be affected require that state action be taken to help alleviate the conditions that may result from this situation. I also find that these potential hurricane effects may constitute a natural disaster wherein human life and public and private property are imperiled, as described in Section 44-75.1 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby declare that a state of emergency exists in the Commonwealth and direct that appropriate assistance be rendered by agencies of the state government to alleviate any conditions resulting from this hurricane. Pursuant to Sections 44-75.1 (3) and (4) of the Code of Virginia, I also direct that the Virginia National Guard and the Virginia Defense Force be called forth to assist in providing such aid.

In order to marshal all public resources and appropriate preparedness measures to meet this potential threat and in accordance with my authority contained in Section 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective measures:

- 1. The full implementation by agencies of the state and local governments of the Commonwealth of Virginia Emergency Operations Plan (COVEOP) inclusive of those Volumes and attendant Annexes deemed necessary by the Coordinator of Emergency Services in consultation with the Secretary of Public Safety;
2. The evacuation by low-lying localities, particularly in Tidewater Virginia, the coastal counties, and the Eastern Shore, of citizens subject to the potential effects of this storm. Although I have the power to direct evacuations as outlined in Section 44-146.17 (1) of the Emergency Services and Disaster Laws, I will defer such actions to the authorities of the governing bodies of local jurisdictions as to exactly when and to what extent evacuation of their localities is implemented. This

authority to issue local preventive evacuation orders is dependent upon the following procedures: (a) the declaration by the governing body of a local emergency as outlined in Section 44-146.21 of the Emergency Services and Disaster Laws; (b) the judicious and timely use of the manual Decision Arc process, or any automated decision aids, device or process, as described in Annex I-FF, Virginia Hurricane Emergency Response Plan, to determine specific local evacuation start times; and (c) prior consultation and close coordination with the Emergency Operations Center (EOC) in Richmond. Violations of local orders to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class I misdemeanor;

3. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures (except mandatory constitutional requirements) pertaining to performance of public work, entering into contracts, incurring of obligations, disbursing of funds, or other logistical and support measures, as delineated in Section 44-146.28 (b) of the Emergency Services and Disaster Laws. Section 44-146.24 also applies to the disaster activities of state agencies;

4. The hosting of evacuees from affected localities by inland jurisdictions in their public shelters is authorized and encouraged. To assist host jurisdictions in this regard, the use of the Sum Sufficient, as provided for in Section 44-146.28 (a) of the Emergency Services and Disaster Laws, to defray authorized and justified expenses incurred by the host jurisdictions in opening and operating their public shelters, is herewith authorized. Invoices and payments will be subject to such approvals and procedures as may be prescribed by the State Coordinator of Emergency Services and subject to the approval of the Secretary of Public Safety and the State Comptroller;

5. The cessation of toll collection on evacuation routes. Coordination, timing and application of this measure will be accomplished by the Virginia Department of Transportation, in conjunction with the toll road administrations, local jurisdictions, and the Department of State Police. The general public will be duly informed of this action;

6. The authorization of the Departments of State Police, Transportation, Motor Vehicles, and the State Corporation Commission to grant temporary overweight/registration/license exemptions to carriers transporting essential emergency relief supplies into and within the Commonwealth in order to support the disaster response and recovery, particularly as regards donation management.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Table with 2 columns: Axle Type and Weight Limit. Rows include Any One Axle (24,000 Pounds) and Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers) (44,000 Pounds).

Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,000 Pounds
Tractor-Semitrailer (4 Axles)	75,000 Pounds
Tractor-Semitrailer (5 or more Axles)	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with SCC/DMV. This includes the vehicles enroute and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

The following conditions apply to the employment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, and with the approval of the Secretary of Public Safety, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be desirable to assist in pre-storm preparations and in alleviating the human suffering and damage to property as a result of Hurricane Felix.
2. Pursuant to Section 52-6 of the Code of Virginia, I authorize and direct the Superintendent of State Police to appoint such Virginia National Guard personnel called to state active duty as additional police officers that he in his discretion deems appropriate to direct traffic, prevent looting, quell civil disturbances, and perform other law enforcement functions. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by Section 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.
3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of the state or local governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Department of State Police or local law enforcement authorities or receiving guidance from them in the performance of their duties.
4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

5. The following conditions apply to service by the Virginia Defense Force:

(a) Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;

(b) Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;

(c) All privately owned equipment, including, but not limited to vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with Section 44-54.12 of the Code of Virginia; and

(d) In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers' Compensation Act.

6. The costs incurred by the Department of Military Affairs in performing these missions shall be paid out of the Sum Sufficient appropriation for Disaster Planning and Operations contained in Item 593 of Chapter 853 of the 1995 Acts of Assembly.

This Executive Order shall be effective upon its signing, and shall remain in full force and effect until June 30, 1996,

Governor

unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard in the event of injury or death shall continue to remain in effect after termination of this Executive Order as a whole.

Given under my hand and under the Seal of the Commonwealth of Virginia, this fifteenth day of August, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-704; Filed August 29, 1995, 3:55 p.m.

EXECUTIVE ORDER NUMBER FIFTY-FOUR (95)

DECLARATION OF A STATE OF EMERGENCY ARISING FROM HEAVY RAINS, FLASH FLOODS AND MUD SLIDES IN PORTIONS OF THE COMMONWEALTH OF VIRGINIA

On the morning of June 23, 1995, I verbally declared a State of Emergency due to the existence of heavy rains which resulted in flash floods, mud slides and a major dam failure in the western and central portions of the state, with devastating effects to public health and safety. Further, on June 26, I extended this emergency declaration to include parts of northern and south central Virginia. I specifically authorized placement of assets of the Virginia National Guard to state duty for deployment to assist with rescue and damage assessment and to take other actions to help mitigate the effects of floods and mud slides. Furthermore, other state agencies have been directed to provide assistance in dealing with this emergency as may be required by the Coordinator of Emergency Services in consultation with the Secretary of Public Safety.

The health and general welfare of the citizens of the western and central portion of the state required that immediate state action be taken to help prevent and alleviate the conditions which resulted from this situation. I found that flash floods and mud slides and other effects of heavy rains constituted a disaster wherein human lives were both lost and imperiled, as contemplated by Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby confirm, ratify and memorialize in writing my verbal orders issued June 23, 1995, wherein I proclaimed that a state of emergency exists in the Commonwealth and directed that appropriate assistance continue to be rendered by agencies of the state government to respond to and perform operations to alleviate these conditions. Pursuant to Sections 44-75.1 (3) and (4) of the Code of Virginia, I also directed that the Virginia National Guard be called forth to assist in providing such aid as may be required by the Coordinator of the Department of

Emergency Services, in consultation with the Secretary of Public Safety and the Adjutant General of Virginia.

The following conditions did and do apply to said deployment of the Virginia National Guard:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, and with the approval of the Secretary of Public Safety, shall make available on state active duty such units and members of the Virginia National Guard with such equipment as may be desirable to assist in rescue efforts and damage assessment activities and to help the affected communities recover from the effects of heavy rains.

2. In all instances, members of the Virginia National Guard shall remain subject to military command as prescribed by Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of the state or local governments.

3. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

4. The costs incurred by the Virginia Department of Military Affairs in performing this mission shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 593 of Chapter 853 of the 1995 Acts of Assembly, with any reimbursement thereof from nonstate agencies for partial or full reimbursement of this cost to be paid into the

general fund of the state treasury to defray said sum sufficient expenditures.

This Executive Order shall be retroactively effective to June 23, 1995, upon its signing, and shall remain in full force and effect until June 30, 1996, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard in the event of injury or death shall continue to remain in effect after termination of this Executive Order as a whole.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 22nd day of August, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-719; Filed August 30, 1995, 11:55 a.m.

EXECUTIVE MEMORANDUM 4-95

INTELLECTUAL PROPERTY POLICIES

PURPOSE

The purpose of this Executive Memorandum is to establish policies for state ownership and marketing of intellectual property invented or created by state employees or by third parties in cooperation with state employees. Consistent with the provisions of Section 2.1-20.1:1 of the Code of Virginia, these policies are designed to encourage creativity and innovation by state employees and to protect certain property created or invented by employees during working hours, within the scope of their employment, or when using state-owned or state-controlled facilities. This memorandum addresses the responsibilities and methods for:

- Obtaining patents and copyrights for the state or materials created by state employees which are patentable or copyrightable pursuant to Section 2.1-20.1:1 of the Code of Virginia;
- Marketing certain patented and copyrighted property;
- Returning to the appropriate agency and to employee inventors and creators, marketing revenue after deducting administrative and marketing costs; and
- Making possible the transfer of interests from the state to the inventor, creator, or third parties of intellectual properties which the state chooses not to market.

DEFINITION OF INTELLECTUAL PROPERTY

"Intellectual property" includes all patentable subject matter (referred to as "inventions") and subject matter that is copyrightable (referred to as "creations") and their resulting patents and copyrights. Employees shall use the appropriate disclosure form to report to the Secretary of Administration all such "inventions" and "creations" which may reasonably be expected to have some degree of commercial value.

Patentable subject matter embraces all inventions subject to the United States Patent System, such as new processes, materials, compounds, chemicals, bio-chemicals, equipment, botanical plants, and designs. The Patent System includes

U.S. Patents, U.S. Design Patents, U.S. Plant Patents, and protection afforded by the Plant Variety Protection Act.

Copyrightable subject matter includes all creations subject to the United States Copyright Act of 1976, including but not limited to printed material, computer software, logos, drawings, blueprints, and compilations, such as electronic databases.

APPLICABILITY

This memorandum applies to all Executive Branch agencies and all their classified and unclassified full-time, part-time, and hourly employees. Excluded are employees of state-supported institutions of higher education who shall be subject to the patent and copyright policies of the institution employing them.

EFFECTIVE DATE

July 1, 1995

GENERAL POLICY

It is the policy of the Commonwealth to secure the proprietary interest of the state in the management of intellectual properties and to encourage, to the extent practicable, development of such properties for the public good. Implementation policies and procedures will be issued by the Secretary of Administration and will be designed to:

- Encourage the development of innovative and creative approaches to carrying out the work of the Commonwealth;
- Provide for disclosure, accountability, reporting, contracting for third party collaborations, and oversight procedures regarding intellectual properties developed by state employees;
- Allocate a percentage of net revenue to the inventor or creator, or among inventors or creators, after offsetting marketing and administrative costs;
- Achieve the potential scientific, technical, economic, and social advantages arising from an invention or creation; and
- Grant, when appropriate, to the inventor, creator, or a third party, a license to use intellectual property which the state chooses not to market or, in the alternative, to release partially or completely state rights, title, and interest in the creation or invention by transferring interest in favor of such creator, inventor, or third party.

SPECIFIC REQUIREMENTS

A. Applying for Patents and Copyrights

With prior approval of the Secretary of Administration, the appropriate agency may apply, or arrange for application for the patent and/or copyright registration, for materials developed by that agency that are believed to have commercial or marketable value.

B. Ownership Conditions

All patentable or copyrightable, or potentially patentable or copyrightable, materials developed by a state employee or by a third party in cooperation with a state employee, under

Governor

conditions enunciated below shall be the property of the Commonwealth. This ownership vests automatically when the materials were developed by a state employee under the following conditions:

- (1) During the state employee's working hours;
- (2) Within the scope of employment or a contractual agreement; or
- (3) When using state-owned or state-controlled facilities.

Ownership gives the Commonwealth the sole discretion to submit an application for the copyright registration or patent. The Secretary of Administration may empanel an Intellectual Property Review Committee or consult with appropriate parties or arrange for the Innovative Technology Authority or the Center for Innovative Technology, or other public or private entity, to evaluate, administer, and market intellectual properties.

For purposes of this policy, the following definitions shall apply:

- (1) "Ownership" means the entire worldwide rights, title, and interest to inventions and creations.
- (2) "Developed" means any time during the period from conception to actual reduction to practice of an invention or to the time of creation.

Without prior written release approved by the Secretary of Administration, neither an employee nor any third party may commercialize intellectual property belonging to the state. If the Secretary determines the invention or creation does not meet the definitions set forth in this section, or that the material is not marketable or shall not be marketed, the agency, with prior written approval of the Secretary, may grant to the employee or any third party a license to use the invention or creation. In the alternative, the agency, with prior written approval of the Secretary, may partially or completely release state rights, title, and interest in the creation or invention by transferring interests in favor of such creator, inventor, or third party.

C. Disclosure Requirements

Every state employee is required to disclose all pertinent information relating to any creation, invention, innovation, discovery, computer program, process, technique, or the like, which possesses, at a minimum, the ownership standards enunciated in Section B above and which may reasonably be expected to have some degree of commercial value. Disclosure shall be made promptly to the employee's agency, and the agency shall disclose it to the Secretary of Administration on a form developed and administered by the Secretary. Disclosure is required whether the property was developed by the agency, developed by an employee, acquired under contract from an external source when developed in cooperation with a state employee, or was the subject of joint development.

Pursuit by the employee, or someone else on behalf of the employee, of a copyright registration or patent owned by the state, as described in Section D below, in any name other than the state's, may be used as evidence that a disclosure form should have been filed by the employee.

(1) The creator or inventor's disclosure to the agency head shall provide a description of the invention or creation and its applied applications, a complete list of inventors and/or creators, and the potential for marketing and commercialization, if known.

(2) The agency head, using this information, shall comment in writing on the intrinsic merit of the property, and any recommended course of action by the Commonwealth, if known.

(3) The inventor or creator shall sign the disclosure of information, pledging to furnish all further assurances as may reasonably be required regarding the state's right, title, and interest, including fulfilling all obligations for further disclosure, assignment, registering the copyright, or exploiting any invention or creation to which the Commonwealth affirms this ownership.

(4) Because failure to make prompt disclosure can lead to forfeiture or impairment of the Commonwealth's rights:

(a) Patent applications must be filed within one year of the first public use, commercial effort, or publication, including the publication of abstracts, newsletter articles, or other public presentation.

(b) Copyright notices must be placed in an appropriate location on any creation being distributed or published. An application for a certificate of registration should be filed promptly when the agency determines the subject matter is of significant value; and

(c) A copyright notice must include (i) either the symbol "©", the word "Copyright", or the abbreviation "Copr."; (ii) the year of first publication; and (iii) the name of the copyright owner (where applicable, the Commonwealth of Virginia). This information should be followed by the words, "All rights reserved."

D. Administration of Intellectual Properties

The Secretary of Administration has the authority to act on behalf of the Governor to:

(1) Secure proprietary interests conferred by the General Assembly in Section 2.1-20.1:1 of the Code of Virginia;

(2) Approve transfers of ownership by agencies to (a) The Innovative Technology Authority or Center for Innovative Technology, (b) third parties, or (c) the inventors and creators;

(3) Assign commercialization responsibility;

(4) Approve grants of licenses of state-owned intellectual properties;

(5) Approve the release of rights in intellectual property as allowed by law; and

(6) Cooperate with institutions of higher education in the implementation of this policy in the event an employee of an Executive Branch agency is co-inventor/co-creator with an employee of an institution of higher education.

The Secretary of Administration will develop a standard disclosure form to include a written statement, to be signed by the employee and Secretary, that specifies the employee's obligation for any further disclosure, assignment, and cooperation in patenting, registering copyright, or exploiting the intellectual property.

E. Disposition of Income

Executive Branch agencies that receive revenues from the commercialization of an invention or creation must:

(1) With guidance from the Secretaries of Administration and Finance, return revenues received in accordance with the general provisions of the state Appropriation Act in effect at the time the revenues are received; and

(2) Pay to inventors or creators a total sum of twenty percent (20%) of net royalties. Distribution ratios among co-inventors or co-creators shall be determined by the Secretary of Administration. Net royalties shall be defined as any revenues derived by the agency less legal, marketing and administrative costs. Nothing herein shall be construed as creating any obligation on the part of the inventor or creator to pursue any commercialization opportunity or to use any degree of skill or effort in such pursuit.

F. Oversight Requirements

The Secretary of Administration shall report to the Governor on the status of the policy and requirements of this Executive Memorandum on a biennial basis or, if appropriate, more frequently.

The Secretary may request periodic reports from any entity carrying out activities pursuant to this Executive Memorandum, and may require agencies to develop procedures to implement this policy and to submit them for approval.

Portions of the policy and requirements set forth in this Executive Memorandum may be promulgated as part of Personnel Policy pursuant to the Regulations of the Department of Personnel and Training, if appropriate.

This Executive Memorandum rescinds Executive Memorandum 2-86 issued by Governor Gerald L. Baliles on July 15, 1986, and shall remain in full force and effect unless rescinded or amended by further executive action.

/s/ George Allen
Governor

VA.R. Doc. No. R95-705; Filed August 29, 1995, 3:56 p.m.

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF CONSERVATION AND RECREATION

Title of Regulation: VR 217-03-00. Nutrient Management Training and Certification Regulations.

Governor's Comment:

This regulation is mandated by state law. I have reviewed it on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: August 7, 1995

VA.R. Doc. No. R95-699; Filed August 25, 1995, 2:59 p.m.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-01:1. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. The regulation is mandated by state law and federal code and regulations. It is needed to comply with recent changes in state and federal requirements and to eliminate unnecessary confusion and duplication of the agency's existing water quality regulations. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: June 6, 1995

VA.R. Doc. No. R95-696; Filed August 23, 1995, 2:14 p.m.

Title of Regulation: VR 680-14-21. Virginia Pollutant Abatement (VPA) Permit Regulation.

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. The regulation is specifically mandated by state water control law. It is needed to comply with recent changes in state water quality requirements and to eliminate unnecessary confusion and duplication of the agency's existing water quality regulations. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objections to this regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: June 6, 1995

VA.R. Doc. No. R95-697; Filed August 23, 1995, 2:14 p.m.

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HJR 551/SJR 334: Joint Subcommittee Studying Charter Schools

August 1, 1995, Richmond

HJR 551 and SJR 334 specifically direct the joint subcommittee to review, among other things, the actual operations of charter schools in other states, various constitutional and funding issues, and the specific mechanics of charter school legislation. The subcommittee is also to make recommendations regarding the efficacy of such legislation for the Commonwealth.

Background

Rising dropout rates, escalating school violence, and declining student test scores have prompted education leaders to call for change in public education. A number of states have grappled with school finance reform, and many have also explored initiatives such as school choice, vouchers, site-based management, school performance assessments, and teacher empowerment.

Linking many of these reform initiatives are the concepts of autonomy and competition. Site-based management has been proposed in some states to "decentralize" public education, ideally freeing individual schools and teachers to pursue more creative solutions to various educational and administrative challenges. Based on the theory that competition for students will enhance school performance, choice programs adopted in various states allow parents to select the public school their children will attend. Voucher programs, providing state dollars for students to attend private or parochial schools, also reflect this marketplace philosophy.

Combining various aspects of the choice and site-based management programs, the char-

ter school concept espouses the creation of an autonomous public school, organized and operated by an individual or group pursuant to a charter or contract with a sponsor—usually the state or local school board. Although released from compliance with various state education laws, the charter school remains accountable for its operations; the

Inside:

- 3** SJR 372: Joint Subcommittee Studying the Legal and Policy Ramifications of Breast Cancer Susceptibility Gene Research
- 5** HJR 536: Task Force Studying Sustainable Development
- 7** Coal Subcommittee of the Virginia Coal and Energy Commission
- 8** HJR 656: Funding for Public Transportation in Hampton Roads
- 9** HJR 583: Steering Group: Pain Management Symposium
- 10** Joint Commission on Health Care
- 13** Commission on Early Childhood and Child Day Care Programs
- 14** HJR 549: Joint Subcommittee Studying the Effects of Deinstitutionalization
- 16** HJR 640: VGIN Study
- 17** SJR 366: Joint Subcommittee Studying Taxation of Motor Carrier Equipment
- 18** SJR 223 (1993): The Standing Joint Subcommittee on Block Grants
- 19** HJR 410: Clean Fuels Study Subcommittee
- 20** HJR 502: Joint Subcommittee Studying the Child Protective Services System in Virginia
- 22** SJR 370/HJR 591: Joint Subcommittee Studying Capital Access and Business Financing

school must meet specified performance standards or lose its charter. The charter school may be a new public school, a school-within-a-school, or an existing public or private school and may target certain curricula or a specific student group. Supporters of the charter school concept praise its cost effectiveness and its emphasis on outcomes and the empowerment of teachers and parents. Others, however, have voiced concerns regarding educational quality, pupil equity, and teacher employment issues and contend that the mechanisms necessary to support education innovation already exist within the present system.

Federal Action

At the federal level, the charter school concept was cited in *America 2000*, the 1991 national education strategy, which noted that educational choice should "include all schools that serve the public and are accountable to public authority, regardless of who runs them." In 1992, charter school legislation was proposed, but not enacted, as part of the U.S. Senate's Neighborhood Improvement Act and the House of Representatives' Education Improvement bill. Funding for the promotion of charter schools was also included in Goals 2000: Educate America Act, submitted to Congress in the spring of 1993.

British "Grant-Maintained" Schools

Although the topic of much debate in America, the charter school concept is not native to the United States. In England, "grant-maintained" schools were authorized in 1988, through legislation that allowed local schools to "opt out" of local control and instead seek direct funding from the national Department of Education. Financial incentives for becoming a grant-maintained school include seed moneys for the transitional and restructuring periods, annual appropriations for capital structural repairs, and supplementary grants for major capital development projects.

compliance with state education laws, and nondiscriminatory admissions policies. The Michigan statute was recently retooled after a county circuit court found its original form violated the state constitution by usurping the state board's general authority over public education and by providing public money for private education. When the North Carolina legislature adjourned on Saturday, July 29, 1995, one charter school bill remained in the House committee on education; another measure was in conference. Both bills will be available for consideration in the 1996 session.

Exploring the Charter School Concept in Virginia

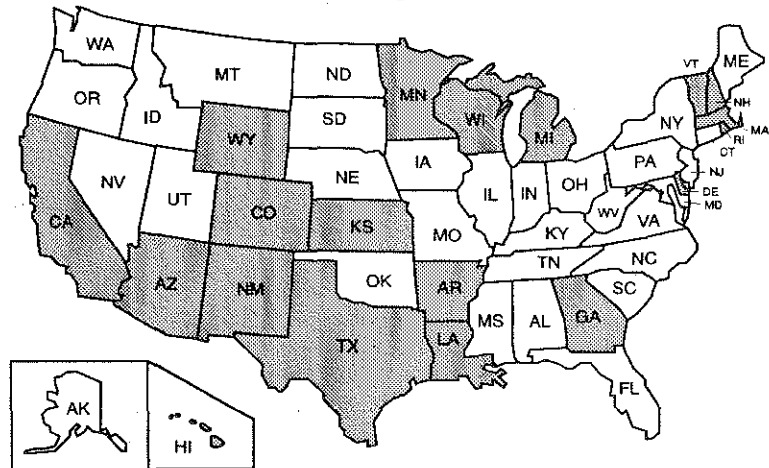
Application of the charter school concept in Virginia's system of public education necessarily includes consideration of state constitutional and statutory provisions and related policy issues regarding educational excellence, the effective administration of public education, and the responsibility and authority of local school boards. Because the Virginia Constitution vests the "general supervision" of the public schools in the Board of Education and makes the board primarily responsible for "effectuating the educational policy," the operation of any charter schools in Virginia must necessarily be consistent with this state education policy.

As a public school, any charter school established in the Commonwealth would be subject to those Standards of Quality (SOQ) mandated by the Constitution and established in the Code of Virginia; compliance with these minimum educational standards could not be waived by a charter agreement. Responsibility for funding a charter school would be shared by the Commonwealth and the locality, just as responsibility for funding the SOQ is now apportioned between the state and localities pursuant to the Virginia Constitution.

Charter Schools Statutes in America

Thirteen states have already adopted charter school legislation (Figure 1)—Arizona, California, Colorado, Georgia, Hawaii, Kansas, Massachusetts, Minnesota, Michigan, New Mexico, Vermont, Wisconsin, and Wyoming. In most states, the state or local school board grants or denies charters; however, this approval authority is held by a special state board for charter schools in Arizona and by the state secretary of education in Massachusetts. Eight states restrict the number of charters that may be granted; 11 restrict the term of an initial or renewed charter. Other features commonly addressed in charter school statutes include funding, revocation procedures, teacher employment issues, specific exemptions from

Figure 1.
States with Charter School Statutes
(as of August 1995)



Another significant consideration in the development of any charter school legislation in the Commonwealth is the supervisory authority of local school boards, as Article VIII, § 7 vests local school boards with responsibility for the supervision and daily management of public schools. The operation of a charter school, as delineated by an agreement between a local school board and the charter school organizer, may raise a number of concerns regarding the delegation of this supervisory authority. In addressing this issue, a number of Virginia Supreme Court cases and opinions of the Attorney General have focused on the "essential and indispensable" nature of the supervisory authority to be transferred.

Recent Developments in the Commonwealth

Increased educational opportunities, educational quality, and flexibility in the implementation of educational standards have received repeated review by the legislative and executive branches in recent years. Inter- and intra-district choice programs have been statutorily authorized and are the focus of board regulation. Recent sessions have considered not only charter schools, but also collaborative decision making, single-gender classes, and site-based management. Although the charter schools bills considered in 1995 (HB 1625, HB 2535, SB 1037) failed to pass, the legislation raised significant issues that may be revisited in future sessions. Notable differences in these bills are found in the funding provisions, in the appeals processes, and in the treatment of employment issues.

In pursuing its study, the joint subcommittee expects to review in greater detail pertinent state constitutional provisions and case law regarding the administration of public education in Virginia. The joint subcommittee may also review required educational standards and methods of implementing these standards to determine what degree of flexibility currently exists and what changes may be appropriate to promote educational excellence in Virginia's public schools. The actual operations of charter schools in other states will also receive further review, as will the specific components of charter school legislation. Finally, the joint subcommittee will examine funding and policy issues, including any financial incentives or disincentives to establishing a charter school, access and admissions criteria, and teacher employment concerns.

A specialist from the Virginia Department of Education described to the subcommittee action of the Board of Education in response to HB 2601, which requires the board to identify those provisions of the Standards of Accreditation (SOA) "providing flexible implementation alternatives to the several school divisions of the Commonwealth" and to establish "consistent criteria" for granting school board applications for this flexibility. The board is to report to the House Committee on Appropriations and the Senate Committee on Finance by November 1, 1995, regarding its findings. The board is currently reviewing and developing proposed revisions to the Standards of Quality; revisions to the Standards of Accreditation will likely

be disseminated for public comment in spring 1996, in anticipation of a shared effective date for both sets of revisions.

Currently, there are three forms of grants for flexibility under the SOA: (i) the state board may grant school divisions flexibility to employ "experimental and innovative programs" if existing regulations impede innovation; (ii) the local board may approve certain initiatives; and (iii) within existing regulations, which may simply require certain action without specifying how such action is to be taken. To distinguish "flexibility in implementation" from a waiver, it was noted that the former retains some expectation of compliance with regulatory requirements, but in a different manner, while the latter releases the school division from compliance entirely. Funding may remain in place for flexible implementation, but may be withdrawn in waiver situations. The most frequently requested waivers address block scheduling. The department was requested to supply additional data regarding the number, substance, results, and subsequent performance evaluations of waivers. Although there are presently no sanctions for decreased academic performance resulting from waivers, schools are accredited biennially and must submit annual reports of compliance with accreditation requirements.

The joint subcommittee plans to meet again in Richmond on September 12.



The Honorable J. Paul Council, Jr., *Chairman*
Legislative Services contact: Kathleen G. Harris

SJR 372: Joint Subcommittee Studying the Legal and Policy Ramifications of Breast Cancer Susceptibility Gene Research

August 1, 1995, Richmond

Citing the high death rate of women from breast cancer and the potential of research into the genetic predisposition of some of these women to develop the disease, the General Assembly passed SJR 372 in 1995, which authorized a joint subcommittee study of the issue.

Breast Cancer

Breast cancer is the most common cause of death among women 30 to 54 years of age, and some experts feel that the incidence of this disease has reached epidemic proportions. One out of every eight women living in the Commonwealth is predicted to be affected by this disease sometime in her life. Even though the White House, in 1971, declared a "war on cancer" and billions of dollars have been spent in research, there is still no known cause for breast cancer. At present, although early

detection is the primary weapon, there is currently no medically effective, cost-effective, or safe method to screen for breast cancer in women under the age of 50. Each year in the U.S., 182,000 women will be diagnosed with breast cancer, and 42,000 will die.

It is estimated that as many as 45 percent of women diagnosed with breast cancer before the age of 40 carry a breast cancer susceptibility gene. As a result, the National Plan on Breast Cancer has adopted as one of its six priorities the implementation of a "comprehensive plan to address the needs of individuals carrying breast cancer susceptibility genes."

Because breast cancer is a complex disease with multiple potential causes, the likelihood of all individuals identified as carrying a susceptibility gene actually developing the disease is remote. Of the 10 percent of all women who have inherited cases of breast cancer, about five percent are the result of the gene called BRCA 1. Currently, genetic testing for breast cancer is done only in research settings, but low-cost kits are expected to be available in about three years, which may drive the demand for testing up considerably. The joint subcommittee is concerned about the social, legal, and policy ramifications of this testing.

Genetic Research and the Human Genome Project

All genetic research raises ethical and legal issues related to societal perceptions, public and private third-party payer systems, privacy, confidentiality, counseling, treatment, and discrimination. Future research into breast cancer will be greatly hindered if genetic information gathered for medical research or medical intervention is allowed to be the basis of discriminatory actions, discouraging participation in the studies. A reluctance to participate in studies slows progress in the studies and could affect women's health and thereby increase the human and monetary costs of breast cancer.

In the past, routine genetic testing has been limited to detecting fetal abnormalities, newborn screening, and carrier screening to assess reproductive risk for populations at high risk. Tests with which most people are familiar include those for PKU (phenylketonuria), cystic fibrosis, maple syrup urine disorder, hypothyroidism, and others. Recent studies have identified additional genetic disorders such as Huntington disease, Alzheimer's disease, amyotrophic lateral sclerosis (Lou Gehrig's disease), colon cancer, and numerous other disorders.

As a result of many specific studies and the work of the Human Genome Project, sponsored by the National Institutes of Health and the Department of Energy, an international effort has completed a detailed map of all of the human chromosomes and the sequence of the 3 billion DNA base pairs which our 24 unique chromosomes contain. Because of the vital concern about the impact of such a project and the resultant uses of the information, 3-5 percent of the project budget is devoted to study and evaluation of the ethical, legal, and social implications (the ELSI project) of genetic research and technologies.

Subcommittee's Charge

The joint subcommittee, along with a variety of national and international studies and projects in this area, has identified a number of issues that need to be examined and resolved in such a manner as to regulate and control the use of genetic testing. The joint subcommittee is directed to examine ethical and legal issues, with the exception of matters pertaining to informed consent (being studied by SJR 313, 1995), which are related to the protection of individuals volunteering to participate in genetic research or who seek medical care involving genetic testing, including confidentiality and privacy concerns, life and health insurance coverage and reimbursement, employment discrimination, and other societal implications, such as the ability to obtain housing and credit.

Insurance

Medical underwriting, simply put, is the process by which insurance companies determine whether an application for insurance by a small group, family, or individual represents an acceptable risk. The potential health impact of these characteristics is compared with other applicants to evaluate whether the applicant is expected to generate more claims than the average person. Large groups are generally not underwritten because the risk can be spread out among more people.

According to recent information, insurance companies in the U.S. do not conduct genetic testing for underwriting but can obtain genetic information from medical records or certain codes in files from the Medical Information Bureau (MIB). Family medical history, however, is important not only for the individual who is applying for coverage but also affects other family members who share that insurance. An Office of Technology Assessment (OTA) 1992 survey of insurers found that "personal and family medical histories were the most important factors in determining insurability." Insurers are wary, especially in this day of genetic testing, when applicants have more information than the insurer does about the risk of illness or loss. This results in what is termed "adverse selection," in which an applicant does not pay a high enough premium to cover his losses.

Government Regulation of Insurance

The Bureau of Insurance of the State Corporation Commission in Virginia, under the 1945 McCarran-Ferguson Act, regulates insurance companies. Other federal legislation that affects the industry are the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), which requires employers to continue employees' eligibility for health benefits for a limited period at the employees' expense following conclusion of employment, and the Health Maintenance Organization Act, which regulates HMOs and sets federal qualification standards, including rate setting and underwriting. The federal Employee Retirement Income Security Act of 1974 (ERISA), however, besides covering pension plans, exempts self-insured employers from state-

mandated minimum benefit requirements and allows them to avoid insurance premium taxes that would subsidize state-sponsored high-risk insurance pools. ERISA also allows employers who self-insure to alter or eliminate benefits for specific conditions at any time. The Commonwealth has a self-insured health insurance program for its employees, which is managed by third-party entities. The percentage of large firms that self-insure has grown from 20 percent in 1980 to approximately 65 percent in 1988.

Issues

At the first meeting of the joint subcommittee, a number of issues were outlined and discussed. While genetic information can provide, in many cases, advance knowledge of impending disease and provide guidance and/or treatment early on, several questions need to be answered by anyone considering such tests.

- Am I at more risk than others for inheriting a particular malady?
- Do I want to know?
- What are the benefits of knowing? Are there any treatments known at the present time that would improve the quality of my life?
- Are genetic tests reliable?
- Are genetic tests voluntary?
- How will knowledge of my genetic make-up affect my family?
- Could research be improved with the additional information that could be garnered from individual tests?
- Will my health insurance be denied, canceled, or the cost be so prohibitive that I cannot afford it even though rates may be based on only a prediction of probable disease and not the disease itself?
- How does state government approach the issue so that every party is protected fairly?
- How will this knowledge affect my life in other ways? Will the quality of my life be affected by my own perception of myself with a potential illness and by that of others?
- Is genetic counseling readily available?
- If I have a genetic test, can the results be kept confidential?
- Do the state's informed consent statutes provide adequate warning and knowledge?
- What educational opportunities are currently available for medical personnel to both inform them and help them inform their patients?
- What about education of the public?

According to a 1992 March of Dimes poll, 68 percent of Americans know "relatively little" or "almost nothing" about genetic testing, but the same survey indicates that 72 percent said they would take genetic tests to determine whether they or their children were at risk for a serious disease.

Subcommittee Work

The subcommittee outlined several areas of concern about which additional information would be needed for their next

meeting. The resolution directs the subcommittee to work in tandem with the SJR 313 study on informed consent, since the issues overlap. The SJR 313 subcommittee will have its first meeting on September 27 in Richmond.



The Honorable Janet D. Howell, *Chair*
Legislative Services contact: Gayle Nowell Vergara

HJR 536: Task Force Studying Sustainable Development

July 31, 1995, Richmond

Sustainable development has been described as "development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs." HJR 291 (1994) calls upon the Task Force on Sustainable Development to do three things: (1) assess current sustainable development initiatives in the Commonwealth and other areas, (2) develop a statewide strategic plan for sustainable development, and (3) recommend appropriate actions that state and local governments, citizen groups, and nonprofit organizations, especially in rural areas of the Commonwealth, might consider for implementation. During its first meeting, in November 1994, the task force learned about several sustainable development projects in Virginia, in other states, and at the national level. At its first 1995 meeting, the task force began working on its strategic plan.

Summary of Projects Studied

Presumably, one of the reasons the task force is directed to examine existing sustainability initiatives is to enable it to identify effective strategies to incorporate into its own strategic plan. Many of the projects studied by the task force share comparable methods and seek to accomplish similar goals. For example, as an initial phase of many projects, participants create a list of sustainability goals, principles, or values or a guiding definition of the term "sustainable development." Another common element of sustainability projects is the involvement of a large number of stakeholders. Identification of barriers to sustainable development and use of a consensus-building process are also commonly used tools.

Sustainable development plans tend to be based on a long-term vision and often contain a mechanism for monitoring progress through the use of indicators. Commonly identified goals of sustainable development initiatives include increasing the accessibility of information from government and the private sector, minimizing waste, preventing pollution, managing growth, and achieving better coordination among different government agencies, different levels of government, and the public and private sectors. Most sustainable development work emphasizes the interrelatedness of environmental and economic concerns.

Strategic Plan for Virginia

After consideration of the elements that are common to other sustainable development projects, members of the task force identified various issues to be addressed by their strategic plan. Issues raised included:

- What is the appropriate role of the state in encouraging sustainable development at the local level?
- How might a desirable relationship between local and state regulators and policies concerning issues of greater than local significance be achieved?
- How might stakeholders be included in the strategic planning process?
- How broadly or narrowly should sustainable development be defined so that a manageable plan might be created? How broad or narrow should the identified goals of the plan be?
- How might existing regional entities be utilized to implement sustainable development goals?
- How might voluntary sustainable development be encouraged?
- How might the Virginia Geographic Information Network be used to pursue sustainable development goals?

August 21, 1995, Richmond

In order to resolve some of the issues raised at its first 1995 meeting, the task force asked representatives of several sustainable development initiatives to recommend ways that a statewide strategic plan might encourage and benefit successful projects in the future. The task force received recommendations from representatives of four regional initiatives: one in the Clinch River Valley, one in the Lower Rappahannock River Valley, one on the Eastern Shore, and one in the Thomas Jefferson Planning District (Charlottesville and Ablemarle, Fluvanna, Greene, Louisa and Nelson Counties). The vice president of The Nature Conservancy also made recommendations to the task force.

Statewide Strategic Plan

The regional speakers' presentations addressed both general goals for sustainable development in Virginia and specific ideas for programs that might be implemented by state government to encourage sustainable development at the local and regional level. Speakers listed many examples of activities that the Commonwealth should encourage, including:

- economic development that is specifically and uniquely designed and developed by the local community;
- economic development that both develops and protects natural resources that support the local economy;
- business incubators, flexible manufacturing networks, microenterprise programs, and job training;
- "Buy Virginia" and "Buy Local" campaigns;
- supplier-manufacturing networks which link manufacturers

with potential local suppliers;

- REAL (Real Entrepreneurship through Action Learning) and other efforts to train innovative and skilled youth entrepreneurs;
- small business in general, particularly agricultural, forest products and tourism businesses;
- use by businesses of waste and recycled products and renewable energy sources;
- the development of geographic information systems;
- stormwater management; and
- revenue-sharing and interjurisdictional cooperation among local governments.

Common recommendations for specific programs were that a grant program for demonstration projects should be established and that staff should exist, located either in a state agency or in planning district commissions, that could provide technical assistance to local projects. Representatives of two groups recommended that the Virginia Department of Transportation be directed to revise its road construction standards, particularly road width requirements that are inconsistent with rural and cluster development patterns. Other recommendations included:

- Facilitate permit processing for environmentally sound development.
- Strengthen the "Virginia's Finest" program.
- Establish a comprehensive agricultural preservation program.
- Create a state designation for localities that are committed to sustainability.
- Produce a detailed inventory showing the types, quantity, and distribution of Virginia's natural resources.
- Develop criteria to assess compatibility and long-term benefits and costs of new industries, taking into account regional needs, priorities, and policies.

Nature Conservancy

The Nature Conservancy has assisted and implemented sustainable development programs in Virginia and other states and has identified seven key factors for successful local sustainable development programs: (1) local citizen leadership, (2) community readiness, (3) a collaborative, broadly based local process and institutional leadership, (4) a strategic planning approach, (5) the use of outside expertise and support, (6) adequate funding, and (7) successful action with tangible results. These factors produce a working definition of sustainable development: "economic development and natural resource uses that enhance the local economy, achieve community goals and protect the environment." The task force was urged to create a test program that would provide civic leaders with sustainable development training and assistance and would provide financial support to a small number of communities, selected through a competitive process, for the development and implementation of a comprehensive sustainable development program that would include business planning for job creation. Such a program should be developed and implemented by proven outside providers, under the auspices of appropriate state agencies.

State Updates

The task force also received an update on sustainable development initiatives in Kentucky, Minnesota, and North Carolina. Minnesota's work includes a strategic plan, copies of which were distributed to the task force, and legislation that has been introduced to encourage sustainable development statewide. Both Kentucky's extensive sustainable development program and the University of North Carolina's effort have included numerous public meetings and are producing many reports. For example, the Kentucky initiative will produce reports recommending biodiversity, forestry, agriculture, and economic development policies and strategies. The North Carolina project recently produced a report on sustainability indicators for the state and a report summarizing sustainability efforts around the state.



The Honorable Clarence E. Phillips, *Chairman*
Legislative Services contact: Nicole R. Beyer

Coal Subcommittee of the Virginia Coal and Energy Commission

August 1, 1995, Wytheville

The Coal Subcommittee's fourth meeting of the year focused on the influence of coal seam thickness on mining costs and coalfield employment. During the 1995 session, the General Assembly created a new coal production tax credit, which now appears in § 58.1-439.2 of the Code. With respect to underground coal, the amount of the credit is based on the thickness of the seam from which coal is mined. For each ton of coal, producers may claim 60 cents of tax credit if the coal came from a seam less than 33 inches thick, and 50 cents if the seam was 33 inches thick or more. Disagreement exists within the coal industry as to whether these delineations should be changed. Several coal company representatives presented their views to the subcommittee.

Coal Companies

Rapoca Energy Company's corporate counsel told the subcommittee that most of the company's reserves in Buchanan and Dickinson Counties exist in seams thinner than 36 inches. A tax credit in the range of \$1.20-\$1.50 per ton would ensure that existing thin-seam mines could continue to operate for several years. A tax credit in the range of \$1.80-\$2.00 per ton might allow companies to open new mines and maintain or increase current production and employment levels. A manager at Jewell Smokeless Coal Corporation said that his company experienced a 25 percent drop in production last year due to low prices and high mining expenses associated with thin seams. Almost all of the company's 60 million logical mining units of identified coal reserves is in seams of less than 36 inches, and one third of that

amount is in seams of less than 30 inches. A credit of \$3.00 to \$4.00 per ton of coal mined from 30-inch or smaller seams would allow companies to mine thin seams. It is common for Jewell Smokeless and other companies to be confronted with the decision of whether to replace old equipment or close a mine. A representative of Amvest Corporation agreed that the emphasis of the coal production tax credit should be on thin seams. Although many factors affect mining profitability, coal companies are unlikely to revisit a decision to abandon a thin seam.

A Pittston Company representative noted that thick seams can be more expensive to mine than thin seams. Pittston compared mining costs for seven of its mines and found, with one exception, that the thicker seams were more expensive to mine. In fact, one of Pittston's 60-inch seams cost seven dollars per ton more to mine than one of its 37-inch seams. Pittston suggested that the bulk of the tax credit money should be allotted to seams that are likely to be mined. A tax credit for seams in the 37-to-60-inch range would be the best way to maintain or increase mining jobs in the short term. A credit for thin seams may be appropriate when thicker seams are no longer available.

Coal Mining Employment

Several speakers and members of the subcommittee noted that ascertaining which allocation of the tax credit among seam thicknesses will best benefit employment is problematic. Geologic information on the seam thickness of Virginia's coal reserves exists as a result of a mapping effort undertaken by the Department of Mineral Resources in the 1980s. It is possible to correlate this information with mine employment information to compare the number of people working at thin seam mines with the number working at thick seam mines. Because this effort would be extremely time-consuming and would involve proprietary information, however, a clear picture of the relationship between seam thickness and employment is unlikely to be available in the near future. Members of the subcommittee emphasized that the object of the tax credit is to maintain or increase Virginia coal mining employment in general, not to help particular Virginia coal companies to compete with other Virginia coal companies.

Commission Meeting

The full Coal and Energy Commission meets on August 29 and 30 in Blacksburg, where it hears the results of a study estimating the effects of the coal production tax credit on coalfield employment and on the state budget. At the request of the subcommittee, the study will also project the effects of the tax credit at two and three times its present amount. The subcommittee plans to use this information in further deliberations on whether to propose a change in the amount of the tax credit, either by changing seam thickness allocations or by increasing the tax credit for either or both of the seam thickness categories presently delineated in § 58.1-439.2.



The Honorable Jackson E. Reasor, Jr., *Chairman*
Legislative Services contact: Nicole R. Beyer

HJR 656: Funding for Public Transportation in Hampton Roads

August 22, 1995, Hampton

The second meeting of the joint subcommittee focused on the needs for public transportation in Hampton Roads. The testimony identified current feasibility studies underway for several major public transportation projects in the region, including a connection to the proposed Washington-Charlotte high speed rail corridor, light rail service along the CSX corridor on the Peninsula, light rail service between Norfolk and Virginia Beach, and widening I-64 on the Peninsula. The guest speakers echoed the theme that a healthy public transportation system is important to the economy of Hampton Roads.

Transportation Study

The members were provided with drafts of the Rail, Public Transportation and Ridesharing Needs Assessment Study reports prepared for the Department of Rail and Public Transportation in December 1994. The study projects the funding needs of rail and public transportation during the period 1995-2014, with emphasis on the costs of capital projects and operating subsidies. The draft report, prepared by KPMG Peat Marwick, found that the total capital and operating needs for public transportation and ridesharing in Hampton Roads over 20 years are \$517.8 million under a scenario providing for maintaining current levels of service; \$829.5 million under a scenario of moderate service expansion; and \$3.2 billion under a scenario of significant service expansion. The third scenario includes light rail transit service in both the Peninsula and Tidewater portions of Hampton Roads.

The director of the Department of Rail and Public Transportation noted that KPMG Peat Marwick's report was a cursory look at the situation and is not intended to be a project list. While a light rail system for Tidewater and the Peninsula would not eliminate the need for a third crossing, it would provide a significant boost to tourism and would benefit both daily commuting and economic development in the region. St. Louis and Portland were cited as examples of cities that have benefited from light rail.

VDOT Report

In its 1993 report pursuant to SJR 188, the Virginia Department of Transportation (VDOT) stated that there were \$8.04 billion of highway needs and \$1.18 billion of public transit needs in the Suffolk construction district. VDOT estimated that less than 50 percent of the needs would be funded under present arrangements. The Hampton Roads Planning District Commission (HRPDC), which serves the Metropolitan Planning Organization (MPO), reported that regulations under the federal Intermodal Surface Transportation Act (ISTEA) require that

long range transportation plans be constrained by projected revenues. When the MPO completed the development process of its 2015 Regional Transportation Plan, it estimated that \$3.35 billion of highway improvements could be completed by 2015. The MPO also approved the dedication of \$170 million in future regional surface transportation program funds and congestion mitigation/air quality funds available under the ISTEA for public transportation. The region's 2015 Plan contains \$3.5 billion in improvements, which sum is less than 40 percent of the needs identified in VDOT's SJR 188 report.

Public Transportation Study

The HRPDC staff has recently completed a study of public transportation funding in the region and will present a report at the subcommittee's next meeting. PENTRAN and TRT are each expected to have annual operating shortfalls of over \$2 million during the next 10 years. A light rail system in South Hampton Roads would increase TRT's shortfall to \$10 million per year. The region's transportation needs also include several major unfunded highway projects. Delegate Crittenden observed that it is important to strike a balance between highway needs and transit needs.

In addition to financial assessments of the region's public transportation needs, several speakers discussed the various societal needs addressed by a strong public transportation system. Such a system promotes economic development, creates jobs, relieves congestion, contributes to a cleaner environment, and enhances the quality of life for all people by providing access to jobs, education, goods, and services.

Local Needs

The public transportation needs for the three bus companies in the region — TRT, PENTRAN, and James City County Transit — over the next 10 years totals \$722 million, of which \$231 million is unfunded. Proposed Congressional reductions in operating subsidies for public transportation would eliminate \$2 million for Hampton Roads in the current fiscal year. The Hampton Roads Public Transportation Alliance recommended the adoption of a transit distribution formula that provides adequate funding for public transit needs, advocated state matching of all passenger rail and transit financial assistance in the same manner as highways, and supported regional dedicated funding to expand and enhance public transportation.

The region's Chamber of Commerce has recognized the importance of an intermodal approach to meeting the transportation needs of Hampton Roads. Chamber staff outlined several of the proposals under review, including connecting the region to the proposed high-speed rail system, a regional light rail system, and a commuter ferry service across the Chesapeake Bay. A strong public transportation system is critical because it may help avoid downgrading the designation of the region from a marginal nonattainment area under the 1990 Amendments to the Clean Air Act. Such a designation would preclude many new businesses

from even considering Hampton Roads as a home. The chamber suggested that new or redirected revenue sources be dedicated to fund current and future modes of public transportation.

The transportation director at SEVAMP Senior Services, a regional community service agency serving the needs of the elderly, advocated dedicated, predictable, adequate and reliable sources of public transportation funding. A strong public transportation system is essential if many elderly and disabled citizens are to maintain their independence. Those who cannot maintain their independence may be institutionalized at considerable expense. Money spent on public transportation may save the Commonwealth money by avoiding the public expenditures on nursing home care.

The executive director of Step-Up, Inc., a community service agency providing job training and placement services, echoed the theory that money invested in public transportation saves money. Public transportation is an important but often-overlooked component of welfare reform plans that require recipients to find employment. Mass transit should also be adequate to allow access to educational and job-training facilities.

Next Meeting

In other business, the members heard that Newport News will soon release a request for proposals for a major investment study (MIS) for a rail transit project along the CSX corridor through Newport News and Hampton. At its next meeting, TRT is expected to report on the status of its MIS on a rail project for the Tidewater region. The next meeting of the joint subcommittee will be held at the Hampton City Council Chambers on September 22. The members of an advisory committee are expected to be appointed at that time.



The Honorable Flora D. Crittenden, *Chair*
Legislative Services contact: Franklin D. Munyan

HJR 583: Steering Group: Pain Management Symposium

May 23, June 6, August 8, 1995, Richmond

During its 1994 study, the Joint Subcommittee Studying the Commonwealth's Current Laws and Policies Related to Acute and Cancer Pain Management visited patients, observed pain measurement, viewed demonstrations and video tapes, and received many expert presentations concerning pain management and the various devices and techniques used for pain management.

Clinical studies find that 25 percent of cancer patients die without pain relief, severe pain among children and older adults is often ineffectively managed, and acute postoperative pain is relieved in only approximately 50 percent of patients. Among the joint subcommittee's 1994 study conclusions were that professionals' knowledge about pain management must be increased and that the physicians' concerns about regulatory intervention related to pain management prescribing appear to have been overstated. Therefore, in 1995, the joint subcommittee's continued study will focus primarily on garnering public/private cooperation and private financial support to develop and conduct a pain management conference.

Steering Group

In the spring, Chairman Woods appointed a steering group of practitioners, health benefits plan representatives, and others to help plan this conference. The steering group will also assist the joint subcommittee in seeking symposium participation from a broad spectrum of government officials, health care professionals, private health care organizations and companies, and other agencies in order to probe the reasons for the troubling statistics related to pain relief and to increase knowledge, understanding, and implementation of effective, up-to-date pain management techniques, both pharmacological and nonpharmacological.

Pain Management Symposium

Currently in the planning stage, this symposium, entitled Pain Management: Attitudes, Obstacles and Issues, will be held on December 6 in the Richmond Marriott at 600 East Broad Street and will feature nationally known speakers to provide an educational dialogue by and for health professionals. Between 180 and 215 health care practitioners are expected to attend, including physicians, nurses, and pharmacists as well as others engaged in regulating or insuring health care. The symposium is being designed to provide detailed and reflective examinations of the issues and to heighten interaction between the faculty and the participants through a format featuring a mix of keynote speakers, lunch with the faculty, and panels of experts on various important topics.

All members of the General Assembly have been extended an invitation to attend the symposium and are encouraged to mark the date of this important educational event.



The Honorable Jane H. Woods, *Chairman*
Legislative Services contact: Norma E. Szakal

Joint Commission on Health Care

July 24, 1995, Richmond

Health Care Cost and Quality Initiatives

Across the nation, both the public and private sectors have looked to health care cost and quality data reporting as a means of controlling costs and improving the quality of health care. The objectives of health care data reporting are to: (i) control costs by increasing competition, (ii) educate patients about the cost and quality of health care services and health plans, (iii) educate providers about the most effective services/procedures, and (iv) improve the quality of care.

In the private sector, providers, employers, and insurers all have initiated various data collection activities to help them make the health care system more affordable and more effective. Similarly, in the public sector, the federal government, as well as many state governments, also have been engaged in a wide range of cost and quality data initiatives.

In Virginia, the Virginia Health Services Cost Review Council (VHSCRC) collects, analyzes, and publishes various health care data regarding hospitals and nursing homes. Virginia Health Information, Inc. (VHI), which is a private, nonprofit corporation that contracts with the VHSCRC, administers a patient level data base for Virginia.

HJR 513 (1995) directed the Joint Commission on Health Care to: (i) evaluate Virginia's health care data initiatives; (ii) review the organizational structure of the VHSCRC and VHI; and (iii) determine the appropriate role of the Commonwealth versus the private sector in cost and quality initiatives.

Value and Utility of VHSCRC Publications

The VHSCRC publishes a number of reports that provide information on health care institutions' (i.e., hospitals and nursing homes) costs and charges and related third-party transactions. In addition to these published reports, the VHSCRC collects IRS Form 990 information on the compensation of top executives of nonprofit institutions and annual budget filings of hospitals.

Because of the numerous factors that affect the cost and quality of health care, it was not possible to develop any quantitative measures of how effective the reports have been in enhancing competition, controlling costs, or improving quality. However, based on interviews conducted with numerous potential users of the VHSCRC reports, including insurers, health maintenance organizations, major employers, and hospital and nursing home administrators, use of most of the reports appears limited. Several potential users noted that while the information was interesting, it was of little practical use. Consumers have little if any knowledge of the reports.

Reasons cited for the lack of use of the reports include: (i) insurers maintain their own data bases of claims information and hospital charges; (ii) employers rely on their health insurance carrier to select institutional providers to be included in their provider networks and do not contract directly with providers; (iii) hospital charge information is of little value because very few persons actually pay charges; nearly all care is paid for on a discounted basis or other contractual basis; and (iv) with the advent of managed care, consumers, for the most part, purchase their health care through health plans rather than directly from the provider.

The *Efficiency and Productivity Report*, which the VHSCRC developed with the Williamson Institute at Virginia Commonwealth University, appears to have more promise for having a positive impact in the marketplace. This report, which rank-orders hospitals and nursing homes based on a series of efficiency indicators, was first released in December 1994. The VHSCRC and Williamson Institute plan to add quality of care indicators in the next release. Those interviewed as part of the study believe this addition will enhance the utility and value of the report.

Value and Utility of the Patient Level Data Base

The Patient Level Data Base, which is administered by VHI, collects and makes available data on patient demographics, clinical information (e.g., procedures and diagnoses), outcomes of treatment, and finances. VHI collects data on all inpatient admissions in Virginia and outpatient data from the state employee health benefits program and the state Medicaid program.

The first patient level data became available in January 1995. Thus, there is little history upon which to judge the utility and value of this information. However, potential users identified the patient level data base as having significant potential value. Key aspects of the data base identified as most valuable are its ability to analyze patient demographics and clinical information, compare utilization of health care services among employees of different employers, and conduct customized analyses. The collection and analysis of additional outpatient data also is seen as having significant value.

Organizational Structure and Location of VHSCRC and VHI

Both VHSCRC and VHI have 17-member boards through which key stakeholders (e.g., providers, insurers, employers, and consumers) have input into the activities of each organization. These organizations and their respective boards have similar data functions and responsibilities. Consequently, there is overlap in the current organizational structure. A more appropriate structure may be to merge the functions of VHSCRC into VHI and link VHI with an existing state agency, such as the Department of Health, the Department of Medical Assistance Services, or the State Corporation Commission.

Role of the Commonwealth in Health Care Data Initiatives

There are numerous private sector initiatives collecting, analyzing, and disseminating health care cost and quality data. National organizations such as the National Committee for Quality Assurance and the Joint Commission on the Accreditation of Health Care Organizations publish information on health plans and institutional providers, respectively. Insurers and employers also are embarking on various data collection functions. The Commonwealth's role should be limited to supporting initiatives in the marketplace and producing only that information which is useful and not available from other sources.

Conclusions

The draft issue brief prepared by the joint commission staff includes the following conclusions:

- The Commonwealth should collect, analyze and disseminate only that data which produces useful and valuable information in the marketplace; several of the current VHSCRC reports appear to have little value.
- The Efficiency and Productivity Methodology and the Patient Level Data Base appear to hold the most promise for producing valuable and useful health care data; these initiatives should be continued and enhanced.
- The current organizational structure of VHSCRC and VHI is duplicative and should be revised.
- The Commonwealth should play a supportive rather than a primary role in providing health care data for the private sector and general public.
- The Commonwealth should enhance the coordination and use of health care data in its health care purchasing activities (i.e. state employee health benefits program and Medicaid).
- If the current health care data functions are moved to a non-state entity (i.e., VHI), the Commonwealth should consider assigning explicit responsibility to a state agency for monitoring the financial trends and profitability of hospitals and the level of community support provided.

Policy Options

The following policy options were presented to the joint commission for its consideration.

- Option I: Maintain the status quo.
- Option II: Eliminate all current VHSCRC reports except the Efficiency and Productivity Methodology; eliminate VHSCRC and merge the Efficiency and Productivity Methodology into VHI's functions.

- Option III: Eliminate all current VHSCRC reports except the Efficiency and Productivity Methodology; eliminate VHSCRC and merge the Efficiency and Productivity Methodology into VHI's functions; adopt requirements for hospitals to submit outcomes and quality-of-care data similar to that in Colorado, Iowa, and Pennsylvania and have VHI administer this function.

- Option IV: Direct the Department of Personnel and Training and the Department of Medical Assistance Services to consider requiring health plans included in their respective programs to achieve national accreditation and to submit plan assessments, or "report cards," for inclusion in the information provided to enrollees.

- Option V: Assign explicit responsibility to the Department of Medical Assistance Services for monitoring hospitals' financial trends, profitability, and level of community support.

- Option VI: Request VHI to publish HEDIS-type health plan assessments voluntarily submitted by HMOs and other health plans.

- Option VII: Direct VHI to review the feasibility of expanding its current base of state-sponsored outpatient data to include additional types of outpatient and physician data.

The joint commission received public comments on the draft issue brief and will submit its final report to the General Assembly later this year.

Health Work Force Initiatives (SJR 308)

SJR 308 (1995) requested the Joint Commission on Health Care, in cooperation with the Secretary of Education, the Secretary of Health and Human Resources, and the State Council of Higher Education, to study the organization and effectiveness of state health work force reform initiatives. Specifically, SJR 308 requested an evaluation of the need for each initiative and an assessment of the effectiveness of each program in addressing health work force needs in the Commonwealth. In response to SJR 308, the joint commission received a draft issue brief from staff at its July meeting. The major findings and recommendations of the draft issue brief are summarized below.

Need for Health Work Force Reform

Health work force reform is important for addressing Virginia's primary care access problems. Studies indicate that citizens of many Virginia communities do not have adequate access to primary health care services. A shortage of primary care physicians is one of several contributing factors, along with lack of health coverage, inadequate health care delivery systems, poor access to health promotion and disease prevention, and lack of community support services. The need for quality primary care providers is increasing as managed care takes hold and primary care providers assume a greater role for managing patient care. The best available data indicate that Virginia has significant

regional primary care provider shortages and may experience statewide shortages after the turn of the century.

Virginia's Overall Strategy

Virginia's overall strategy for health work force reform begins with community needs assessment and involves both education policy and health policy. Community needs assessment is critical for determining which communities are in greatest need of improved primary care services. Virginia has also adopted a "grow your own" approach, which involves identifying and recruiting qualified K-12 and college students who are interested in becoming primary health care providers in Virginia's areas of need. Once students enter health professions training programs, it is important that they have continuing exposure to excellent role models in community-based primary care. The key to success in recruiting new health professionals into practice in underserved areas is to create viable practice opportunities.

Virginia has established a number of programs for carrying out these strategies. The Statewide Area Health Education Center (AHEC) Program provides local support for recruitment of minority and disadvantaged students in the primary health care professions, supporting community-based education for health professions students, and providing continuing education and other assistance to practicing primary health care professionals. Virginia's three medical schools are cooperating in implementation of the Virginia Generalist Initiative, a comprehensive plan for increasing the number of primary care physicians available to meet the needs of Virginia. The Virginia Health Department is working in cooperation a number of other organizations to implement the Virginia Practice Sights Initiative, which is a set of strategies aimed at enhancing Virginia's ability to recruit and retain primary care providers in underserved areas.

Oversight of Health Work Force Reform

Virginia's health work force reform efforts involve two secretariats (Education and Health and Human Resources) and multiple state agencies. To be successful, health work force reform will require active policy oversight and program coordination from both secretariats. This can best be achieved through a single locus of responsibility in the executive branch. For the near term, the issue brief included draft recommendations for accomplishing joint review of health work force proposals by the Secretaries of Education and Health and Human Resources and by the Education and Health and Human Resources Subcommittees of the Senate Finance and House Appropriations Committees. For the long term, the General Assembly might wish to consider restructuring the Virginia Health Planning Board and giving it explicit responsibility for overseeing Virginia's health work force reform efforts.

Community Needs Assessment

Community needs assessment is the cornerstone of health work force reform because needs vary according to community characteristics and local market forces. The study found that

there is a need for better data on the number and types of providers in local communities. Also, there is a need to develop consensus on optimal levels of primary care within communities. This type of information is important not only for addressing immediate needs, but also for evaluating the effectiveness of health work force reform efforts over time. The report includes a draft recommendation which would give the Board of Health clear responsibility for addressing weaknesses in Virginia's system for community needs assessment.

Student Recruitment

Effective student recruitment and admissions strategies are critical for developing a pool of health professions trainees who are willing and able to become primary care providers in Virginia's areas of need. The major organizations involved in student recruitment and admissions efforts are the Statewide AHEC Program and the academic health centers. The study emphasized the importance of close collaboration between the Statewide AHEC Program and Virginia's medical schools in carrying out programs to attract more medical students from Virginia with an interest in primary care.

Health Professions Education

Health professions education reform is important to ensure that Virginia will have an adequate supply of primary care providers who are willing and able to practice in Virginia's areas of need. With the Virginia Generalist Initiative, Virginia's medical schools have committed to the goal of significantly increasing the number of their graduates who enter primary care practice in Virginia. This initiative is funded by the state, the Robert Wood Johnson Foundation, and other non-general funds from the institutions. The study found that the Virginia Generalist Initiative is on track, but there is a need for close coordination between the medical schools and the Statewide AHEC Program. There is also a need for close scrutiny of Virginia's graduate medical education (or residency) programs to ensure that they are structured to meet the future needs of the Commonwealth. In addition, the study emphasized the importance of collaborative and multidisciplinary training among physicians and nurse practitioners.

Provider Recruitment and Retention in Underserved Areas

The ultimate test of Virginia's health work force reform efforts will be the ability of communities with provider shortages to recruit and retain primary care providers. Virginia's major strategy for provider recruitment and retention is the Virginia Practice Sights Initiative. This initiative is partially funded through a grant from the Robert Wood Johnson Foundation, and is being carried out by the Virginia Health Department in cooperation with the medical schools, the Statewide AHEC Program, the Virginia Primary Care Association, the Virginia Health Care Foundation, the Joint Commission on Health Care, and others. It is designed to develop public/private partnerships to help local communities attract the primary care providers they need through

financial incentives, consulting resources, and other strategies. The report included a draft recommendation which would give the Virginia Health Department clear statutory responsibility for coordination of health professions recruitment and retention efforts. The report also identified several areas in which to improve the cost-effectiveness of Virginia's scholarship and loan repayment programs for providers who agree to serve in Virginia's underserved areas.

Future of the Statewide AHEC Program

The study included a special focus on the future of the Statewide AHEC Program. This program, which includes a statewide office at Virginia Commonwealth University/Medical College of Virginia and eight local AHEC organizations, was initiated in the early 1990s with the help of federal grant funds. The study found that local AHECs have played an important role in recruiting minority and disadvantaged students into health professions education, supporting community-based education, and providing continuing education and other services for practicing health professionals. Federal funding for the Statewide AHEC Program will begin to decline in federal fiscal year 1998, and thereafter the state will have to decide what level of support to provide to the program. The report identified a need to begin clarifying the role of the program in Virginia's health work force reform plans in anticipation of federal funding reductions.



The Honorable Jay W. DeBoer, *Chairman*
Staff contact: Jane Norwood Kusiak

Commission on Early Childhood and Child Day Care Programs

August 10, 1995, Richmond

The secretary of Health and Human Resources briefly described Virginia's welfare reform program and stated that child care plays a crucial role in welfare reform. In preparing for welfare reform, the Empowerment Commission studied the role of day care and interviewed numerous people.

Impact of Welfare Reform

The secretary said that there are currently 230,000 child care slots in Virginia, counting all types of care, and it is anticipated that welfare reform will double the number needed. Innovative ways must be used to increase the number of slots for infant, rural, night and weekend care. Because AFDC mothers with children under 18 months of age are exempt from the work requirement, a huge need for infant care will be eliminated. Child care in public housing projects and that provided by community organizations and churches is needed. Fathers, whether they

reside with the child or not, should be considered as a child care resource.

In September, the Council on Child Day Care and Early Childhood Programs will assist in training welfare mothers to become day care providers in their own homes. Welfare recipients will be encouraged to enlist friends and relatives as child care providers. For the first year of welfare reform, the state budget allocates \$8.9 million for day care, which will be distributed to the phase-in regions based on need. The secretary supports full parental choice in day care and the elimination of bureaucratic barriers to the creation of new child care.

The Council on Child Day Care and Early Childhood Programs made up a \$1 million federal shortfall in Head Start expansion funds from the Child Care and Development Block Grant. The contract for Project VOICE has been extended until December 1995. The secretary noted that regulations for child day centers and family day homes are under review to make them easier to understand and to ensure that the focus is on health and safety. She assured the commission that the administration is interested in the highest quality of child care and does not wish to put any child at risk.

Importance of Quality Care

A representative of the U.S. General Accounting Office said that welfare reform means that more and younger children will need child care and that a shift work economy often results in informal unregulated care. Care for sick children is also an issue, because hourly employees can quickly lose their jobs if they stay home with sick children. A study showed that AFDC mothers prefer to know their provider because they believe that there is more child abuse in centers. Advantages of informal unregulated care are flexible hours and lower cost, but such care is also often of lower quality and less reliable. The GAO representative cited the Perry preschool longitudinal study, which showed remarkable differences in the adult characteristics of children who received high-quality versus low-quality preschool care.

A study that observed family day homes concluded that "intentionality" (i.e., that the provider considers herself to be in the day care business rather than just baby-sitting) is an important determinant in quality care. It is important that family day providers feel that they are in a profession, and ongoing training and support are important components. If Congress adopts block grants, there will be a significant impact on how child care money will be distributed. The U.S. military has an excellent program that encourages quality family and center child care.

Culpeper Programs

A representative of the Culpeper Department of Social Services, which is one of the localities where the welfare reform work requirement was implemented July 1, 1995, explained how Culpeper has developed child care. Since 1987, when there was one licensed child day center for hospital employees only, the department has worked with the school system, the division of

licensing programs, the extension service, and others in the community to develop six sites for before- and after-school care and a summer program. The Board of Supervisors has funded a child day center for children 0-4 years old which will open in December. There is an urgent need for infant and preschool care. Because industries operate 24 hours a day, there is also a need for day care that is available around the clock.

Head Start

The president of the Virginia Head Start Director's Association explained the background and rationale for Head Start. She stated that five years ago Virginia took bold action to strengthen its Head Start programs when the Council on Child Day Care and Early Childhood Programs and Region III Head Start became partners in the effort to bring the Head Start experience to more families and to strengthen existing programs. As a result, there has been tremendous growth in the numbers of children served, the number of employees hired, and the number of low-income families helped towards self-sufficiency. Many of the efforts of this collaborative effort, which is called Project VOICE, are in line with welfare reform. The Head Start representative requested continued commitment to Head Start, especially continuing wrap-around dollars for child care for low-income working families and allowing localities to determine how many hours care is needed, continuing expansion efforts in unserved and underserved areas of the state, and establishing a Virginia Head Start Association Office.

Four-Year-Olds

A representative from the Virginia Department of Education presented a status report on the funding and implementation of at-risk four-year-old programs, detailing the availability of programs to 102 localities, serving 30 percent of the at-risk four-year-olds who do not have access to federally funded preschool programs.



The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Jessica F. Bolecek

HJR 549: Joint Subcommittee Studying the Effects of Deinstitutionalization

August 3, 1994, Richmond

1994 Activities

Because of the numerous and lengthy special sessions held during 1994, the joint subcommittee was unable to complete its tasks in a manner acceptable to the membership and, therefore, the study was continued for an additional year. The subcommit-

tee did review a presentation by the Virginia Association of Community Services Boards that outlined the services now available across the state to meet the needs of individuals experiencing mental health, mental retardation, or substance abuse problems. Of course, services are not identical in each community services board region, nor are they able to reach all those who need them, mainly for lack of adequate funding.

In addition, the joint subcommittee endorsed legislation that would assist judges who must make determinations as to who is an appropriate candidate for outpatient commitment. The legislation, HB 2126, outlines criteria for the judge to use, including the capability of and willingness by the client to participate in an informal "contract" to participate in his own care and abide by the conditions set by the court. The law previously was considered by some to be too vague and therefore was not used as much as potentially possible.

Outline of 1995 Work

As the joint subcommittee has stressed, its work is not to determine the policy of deinstitutionalization, but rather to assess its current and potential efficacy in order to meet the needs of the mental health and substance abuse client. Deinstitutionalization is here to stay, and has been validated by the courts, but there are certain clients who still need hospitalization, whether for evaluation or an extended stay. But recent advances in mental health care and drug therapy have reduced the need for hospitalization for many clients, because their needs can be better met in the community with a minimal disruption to the client's life.

The major issues currently being debated and examined by the joint subcommittee are: (i) developing a policy as to which clients the state will be able to treat; (ii) determining what services are needed; (iii) estimating the cost of these services; (iv) applying the savings realized in the downsizing of institutions to community-based services; (v) establishing a funding stream that will follow the client; and (vi) determining which fiscal and management techniques best meet the needs of the client, both current and those on waiting lists for services, and the state.

At its first meeting of 1995, the joint subcommittee heard presentations from the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and the Virginia Association of Community Services Boards on their vision for the future of mental health care in Virginia.

DMHMRSAS

The commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services gave a detailed overview of the development of the funding system for the provision of mental health and substance abuse services in the Commonwealth. From passage of the original enabling legislation in 1968 to the present, services provided by community services boards (CSBs) have been funded through a matching grant mechanism in which certain local funds, local govern-

ment appropriations, charitable contributions, and specific types of in-kind donations match state general funds. Although the match was originally a 50:50 ratio, subsequent legislation has lowered the local government share to 25 percent and ultimately to 10 percent. Certain areas, especially urban, have more resources to contribute than do some rural areas with fewer resources.

In the 1980s, state contributions hit the highest ratio of state:local contributions, averaging about 63 percent state and 37 percent local. A dramatic drop in state contributions occurred in 1991, due mainly to the implementation of the Medicaid State Plan Option (SPO) initiative, which uses state funds as match for the federal share of Medicaid SPO fees. The local match percentage, however, has continued to increase and now stands at an average of almost 46 percent. Several other funding sources play an important role in funding local services, including federal grants, expansion of Medicaid coverage, and fees. Fees charged to parties such as third-party insurers, direct clients, schools, and courts have grown as a revenue source by approximately 263 percent since FY 1990.

Section 37.1-199 of the Code of Virginia stipulates the factors that the department shall consider in allocating state funds for community services, including (i) the total amount of funds appropriated to the department for this purpose, (ii) the total amount of funds requested by the local CSB, (iii) the financial abilities of all of the participating local governments to provide funds required to generate the requested state match, (iv) the type and extent of programs and services offered or planned by the local CSB, (v) the availability of services provided by the local CSB in the areas served by it, and (vi) the ability of the services provided by the local CSB to decrease financial costs to the department and increase the effectiveness of treatment by reducing state facility admissions. Funds are distributed on the whole based on the appropriations made by the General Assembly, but the funding formula specifically is determined by the state board and the department.

The department has made no recommendations to the joint subcommittee regarding a change in organization and funding to the CSBs but has made a presentation regarding the potential use of managed care in the provision of mental health services. Final 1995 budget language, after many changes, contained a provision directing the administration to develop and implement a capitated managed care program as a pilot in the Tidewater area. The detailed plan is to be submitted to the General Assembly on September 1, 1995, to allow for legislative and public input prior to implementation on January 1, 1996.

The original language did not include nor specifically exclude mental or behavioral health services. As a result, the department presented an outline of its plan to institute a managed care mental health plan in the Tidewater region as well. Managed care, according to testimony at the first meeting, is efficient, outcome-oriented, cost-effective, and provides technology that will give the state better control over the provision of care and will also allow the state to provide additional care to

those persons now on waiting lists at the CSBs. CSBs would not be the single source of mental health care in the community but would, instead, be utilized as a primary provider, with contracts to be let with other providers as well. State institutions would also remain a separate system with a separate funding stream as it currently operates, but with the idea that many institutions would undergo evaluation and possible change in focus.

CSB Association

As an alternative, the Virginia Association of Community Services Boards (VACSB) presented an approach that it feels is a better way of making services available to mental health clients in the Commonwealth. While recognizing the benefits of managed care, the CSBs reject the idea of an independent manager who has no ties to the community. Community involvement in this system has always been viewed as one of its greatest strengths, and dissolution of those ties would seriously jeopardize care. To this end, the VACSB offered the following outline as a way to revamp the system, provide single-source funding, and guarantee that the funds indeed do follow the client.

According to the VACSB, the following principles should guide the publicly funded system of services:

- Community-based planning and decision-making should drive the system.
- The system should be consumer-focused.
- MHMRSAS services should be fully integrated and well coordinated with other community services.
- A single local organization should be responsible for the management and coordination of MHMRSAS services.
- Public funding for MHMRSAS services should be fully integrated (the single local organization should manage all of the public MHMRSAS financial resources, including state, federal and local funds, and Medicaid).
- The MHMRSAS system should redirect and reinvest resources as necessary to address consumer need (e.g., flexible funding through a single funding stream).
- A network of public and private providers with sufficient expertise and capacity is essential.
- The publicly funded MHMRSAS system should be outcome oriented.
- The system should contain cost by assuring that more intrusive and expensive levels of care can be reduced by a broader array of community services
- Cost of services should not be shifted to local government.

Testimony indicated that the most significant barrier to a fully integrated system of services and to a cost-effective service system is the historical separation of funding for state-operated facility services and all other publicly funded MHMRSAS services in the community. Barriers to the full integration of services can be eliminated by implementing the following concepts.

- Community services boards should remain the single local organization responsible for the publicly funded MHMRSAS system.
- All public funds that support the MHMRSAS system should

be integrated.

- Public MHMRSAS funding should be allocated based on eligible populations.
- Eligible populations should be defined.
- Services of state facilities should be purchased by the CSBs.
- MHMRSAS services should be evaluated based on agreed-upon outcomes.
- Access standards should be established.
- The CSBs should accept responsibility and risk for services to eligible populations.
- The development of public/private partnerships should be continued.
- The state should retain the responsibility for persons found not guilty by reason of insanity or incompetent to stand trial.
- The MHMRSAS system should maximize Medicaid for persons with mental disabilities.
- The MHMRSAS system changes should be evaluated to determine effectiveness.

No further comment was offered after the presentations. Both the administration and the CSBs are scheduled to make similar presentations to a number of other audiences in the near future, including the Joint Commission on Health Care and the respective money committees of the General Assembly.



The Honorable Anne G. Rhodes, *Chair*
Legislative Services contact: Gayle Nowell Vergara

HJR 640: VGIN Study

August 8, 1995, Richmond

During its second meeting of the 1995 interim, the Joint Subcommittee Studying the Virginia Geographic Information Network (VGIN) heard a proposal from the Center for Study of Public Choice at George Mason University for conducting the VGIN study and appointed the members of the joint subcommittee's technical advisory committee.

George Mason University Proposal

The proposal, entitled "Organizational Structure for the Virginia Geographic Information Network," was presented by George Mason University professor and research associate Mark Crain. The proposed study is in four parts, beginning with market research and analysis to determine the current and potential demand for geographic information system (GIS) data and to assess how well the current demand is being supplied.

The study's second task is to determine the financial feasibility of establishing VGIN, including an estimate of the development and operating costs and a comparison of these

costs to the potential revenues derived from marketing VGIN products. Third, the study will examine property rights and regulatory issues, particularly copyright restrictions, Freedom of Information Act requirements, and other intellectual property rights issues. Finally, the study proposes to recommend an organizational structure that "best meets the state's GIS needs and protects the state's investment in the VGIN system."

Subcommittee members discussed the George Mason proposal at some length, expressing a need for a firm timetable for the delivery of the four parts of the proposal, suggesting revisions and modifications to the proposal to provide for the continuous involvement of the joint subcommittee's technical advisory committee, and deciding that a decision to award the contract be delayed pending the first meeting of the technical advisory committee.

As part of the subcommittee's discussion, two key issues were revisited: (i) where would the proposed VGIN entity be housed? and (ii) where would the funding (approximately \$2 million per year by some estimates) come from? The subcommittee was assured that both issues would be addressed.

Technical Advisory Committee

The joint subcommittee appointed 23 citizens to the technical advisory committee. As specified in HJR 640, the members represent the private sector, the Commonwealth's universities, planning district commissions, local government, and the press. Delegate John Watkins was designated the liaison between the joint subcommittee and the technical advisory committee, which held its organizational meeting on August 17 and will meet again in September.

Future Meetings

To allow adequate time for the technical advisory committee to organize, meet, and begin its work, the joint subcommittee cancelled its previously scheduled September meeting. The joint subcommittee will next meet on October 5 at the U.S. Geological Survey in Reston.



The Honorable W. Tayloe Murphy, Jr., *Chairman*
Legislative Services contact: Ken Patterson

SJR 366: Joint Subcommittee Studying Taxation of Motor Carrier Equipment

August 7, 1995, Richmond

The second meeting of the joint subcommittee focused on surveys conducted by the Commissioners of Revenue Association and the Virginia Trucking Association. The members were also advised of difficulties associated with the implementation of SB 898 (1995), which capped the rate of tax on motor carrier equipment at the machinery and tools tax rate.

Survey of Local Governments

The Commissioners of Revenue Association polled every city and county in the Commonwealth in order to ascertain the fiscal impact of personal property taxation of trucking equipment. Localities were asked to identify the assessed value of trucks, tractors, and trailers of commercial motor carriers for fiscal year 1994. They were also asked to provide the personal property tax revenues collected on such property for 1994, as well as the estimated revenue that will be levied in 1996 based on the locality's machinery and tools tax rate.

The commissioner of revenue for Chesapeake reported that the assessed value of trucking equipment in the responding jurisdictions totaled \$331,263,926. In 1994, localities collected \$12,886,313 in personal property tax revenue from trucking equipment. The responding cities and counties also estimated that receipts from the personal property tax on motor carrier equipment would fall to \$9,191,259 in 1996 as a result of SB 898's limit on the rate at which such equipment can be taxed. The survey results are based on the responses of 67 percent of the localities.

Survey of Trucking Association Members

The Virginia Trucking Association (VTA) surveyed member companies regarding the effect of Virginia's system of taxing motor carrier equipment on their activities. Of 368 surveys distributed, 40 were returned. Those responding were a mixture of private and for-hire carriers, and of companies with established places of business outside of Virginia and those operating only in the Commonwealth.

In the past five years, respondents purchased nearly 4,900 power units, of which 730 were initially titled and base-registered in Virginia. In the same period, they purchased 13,900 trailers, of which 683 were initially titled and base-registered in Virginia. Over 96 percent of the power units and trailers initially titled and base-registered in other states were acquired by companies with

established places of business outside of Virginia. Factors most frequently cited by these companies for titling and base-registering equipment in other states include (i) total tax/cost savings, (ii) operational/service locations, and (iii) lower sales/titling tax. Other factors influencing these decisions included requirements for duplicate vehicle inspections, convenience, and, with respect to trailers, the ability to obtain permanent license plates.

Finally, members of the VTA were asked to rank several factors according to the role they play in determining whether equipment is titled, base-registered, and located in Virginia. The personal property tax was cited as the most important consideration by 14, and as the second most important by seven, of the 33 respondents answering the question. The vehicle sales tax was cited as the primary factor by nine members, and as the secondary factor by 10 members.

Rolling Stock Tax

In 1994, the assessed value of rolling stock of certificated motor carriers was \$86 million. In 1995, the assessed value of this type of rolling stock increased to almost \$107 million. Such equipment has been taxed at the rate of \$1 per \$100 of assessed value by the State Corporation Commission (SCC). The SCC distributed the collected taxes to localities based on the number of miles traveled by these carriers within each locality. As the result of changes in federal law banning the economic regulation of most intrastate trucking, after 1995 the SCC is no longer authorized to issue certificates of public convenience and necessity to motor carriers of property. Consequently, the SCC can no longer assess the rolling stock of these carriers. Certain other carriers, including passenger bus carriers, will remain subject to the rolling stock tax.

Eliminating the 11 motor carriers of property who will no longer be subject to the rolling stock tax will reduce the assessed value of motor carrier property by nearly \$75 million. Equipment that had been subject to the rolling stock tax will be subject to local personal property taxation. The joint subcommittee received data on the amount of rolling stock tax distributed to each Virginia locality in 1994 and 1995. The SCC noted that localities with trucking terminals of companies that previously had been subject to the rolling stock tax might gain revenue after the elimination of the rolling stock tax on certificated motor carriers of property. Revenues may drop in other localities.

Implementation of SB 898

The commissioners of the revenue for Chesterfield and Frederick Counties expressed concerns about implementing SB 898. The bill created a separate classification of tangible personal property in § 58.1-3506 for "[m]otor vehicles owned or used by a motor carrier as defined in § 56-273, and motor carrier transportation property as defined in 49 U.S.C. § 11503a (a) (3)." Property in this classification cannot be taxed at a rate higher than the machinery and tools tax rate. By reducing the tax rate on this type

of property, the legislation will reduce revenues in many jurisdictions. The commissioners asked for guidance in interpreting the new law.

The commissioners also expressed concerns that the legislation is inconsistent with the goal of uniformity of taxation. Commissioners will be required to determine whether the owner of an item of transportation property meets the Interstate Commerce Commission's definition of a motor common carrier, who is "a person holding itself out to the general public to provide motor vehicle transportation for compensation." The ICC's definition of "motor carrier transportation property" includes not only motor vehicles but also other items of personal property, such as maintenance equipment, owned or used by interstate motor carriers. Commissioners may also be required to discern whether motor carriers are providing transportation in interstate commerce.

Other Issues

The joint subcommittee was urged to focus on the issue of whether large interstate tractor-trailer combinations are registered in Virginia and to review the SCC's data on motor fuels tax to ascertain how many of the trucks traveling in the Commonwealth are paying property taxes here. It was suggested that Virginia adopt a requirement of proportionate licensing, under which companies are required to base-register a percentage of their vehicles in Virginia equal to the percentage of total miles traveled in the Commonwealth.

The joint subcommittee received a report on the motor vehicle sales and use tax paid on purchases of trucks and tractors by private and for-rent or for-hire carriers. In 1994, \$7.6 million in titling tax was paid on 10,530 vehicles. Department of Motor Vehicle data for fiscal years 1994 and 1995 showed that motor carrier equipment registration increased from 392,854 to 397,802 over the period. While the total number of trucks, tractors, and trailers increased by 1.3 percent, the number of IRP registrations declined from 25,125 to 24,620.

At its next meeting, the joint subcommittee plans to hear from the Department of Transportation regarding previous studies of vehicle cost responsibility. The Virginia Trucking Association is also expected to present recommended changes to the current system at the next meeting.



The Honorable Charles L. Waddell, *Chairman*
Legislative Services contact: Franklin D. Munyan

SJR 223 (1993): The Standing Joint Subcommittee on Block Grants

August 21, 1995, Richmond

Pursuant to the controlling federal law—Title VI of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), as amended, including the Human Services Amendments of 1994 (P.L. 103-252)—the Community Services Block Grant application must be the subject of a legislative public hearing prior to submission. Since 1982, the Standing Joint Subcommittee on Block Grants has served as Virginia's compliance mechanism for all federal block grant legislative public hearing requirements.

CSBG Program

Continuing this practice, Chairman Colgan convened the public hearing by first reciting the long-standing history of the subcommittee and then calling for a summary of the 1996 Community Service Block Grant (CSBG) application. The CSBG program provides support for self-help programs operated by various community action agencies throughout the Commonwealth. Designed to assist low-income people in becoming self-sufficient, the Community Services Block Grant emphasizes

- employment readiness and skill training,
- job-related education,
- housing services,
- emergency assistance,
- rural transportation,
- services for the homeless, and
- water and waste water facility development.

1996 Application

The commissioner of social services described the 1996 CSBG application, noting that 26 local community action agencies and three statewide community action organizations are funded through the grant to provide assistance to low-income people in becoming self-sufficient. In fiscal year 1996, approximately \$6.3 million in CSBG moneys will be available to Virginia, with five percent for state administration and program support, 90 percent to be distributed to local community action agencies, and five percent to be distributed to statewide community action organizations.

One-half of the CSBG local funds will be distributed in accordance with the Department of Social Services' (DSS) funding formula, as follows: 75 percent according to the poverty population, 20 percent according to the number of jurisdictions served, and five percent according to the square miles served. The remaining 50 percent of the local funds will be distributed to local agencies that receive less than the current local agency maximum if that agency would receive lower funding if all funds were distributed according to the DSS formula. In the coming

year, five areas of Virginia will be piloting the family development method for poor families to achieve and maintain independence similar to that developed in Iowa. This program is predicted to demonstrate dramatic cost saving and expected to be implemented statewide eventually.

Following a needs assessment, priority assignment, and planning, each agency must apply for the CSBG funds and must provide documentation of service area needs, quantifiable goals and objectives, a program budget, and other items. Contracts are executed with the agencies prior to release of any funds. At least biennially, DSS monitors each funded agency through review of legal documents and agency information, program accomplishments, internal monitoring and evaluation procedures, and compliance with relevant federal and state law and DSS requirements.

Public Hearing

During the public hearing, testimony was given concerning the assistance received from various community action agencies by individuals with families who had been on ADC, individuals who had been homeless and unemployed, individuals whose homes had been weatherized, a former offender who is holding down a job and leading a productive life, several individuals who have learned to be entrepreneurs/small businessmen through the CAP programs, and a mother and daughter who are both going to college. Several presenters stated that they had sought help from a number of agencies before finding the community action agency, which helped them through the depression and desperation of being homeless or jobless and without skills. These individuals noted the importance of the guidance, training, and respect that they had received from the community action personnel.

The Virginia Water Project continues to assist poor, rural communities in obtaining safe drinking water and waste disposal, providing the means of obtaining the bare necessities such as running water and bathroom facilities, assisting with recycling, studying contaminated wells, and helping flood victims with water service restoration.

Subcommittee Action

After the public hearing, the joint subcommittee unanimously approved a motion to endorse the current block grant application.



The Honorable Charles J. Colgan, *Chairman*
Legislative Services contact: Norma E. Szakal

HJR 410: Clean Fuels Study Subcommittee

August 2, 1995, Richmond

The subcommittee was briefed by representatives of the Virginia Department of Environmental Quality on Virginia's ongoing negotiations with the federal Environmental Protection Agency aimed at developing a mutually acceptable Clean Air Act state implementation plan.

State agency, private industry, and local government representatives shared with the members their views on state and federal clean air and clean fuel programs, speculated on likely federal policy trends in these areas, and discussed recent and still-evolving developments in clean fuels technology. In the course of these discussions, the need for greater efforts on the part of clean fuel suppliers to increase public awareness of their products was repeatedly underscored.

With the participation of representatives of the Virginia Department of Motor Vehicles and the Virginia Department of Transportation, the subcommittee began efforts, to be continued at its next meeting, (i) to develop a long-term taxation policy for alternative motor fuels that will safeguard the adequacy of highway construction and maintenance revenues without discouraging use of alternative fuels and (ii) to find a stable and reliable source of funding for loans and grants made in support of clean fuel projects through the Virginia Alternative Fuel Revolving Fund.



The Honorable Arthur R. Giesen, Jr., *Chairman*
Legislative Services contact: Alan B. Wambold

HJR 502: Joint Subcommittee Studying the Child Protective Services System in Virginia

June 27, 1995, Fairfax County

The subcommittee met with representatives from the child protective services (CPS) program at the Fairfax County Department of Human Development and with a judge from the juvenile and domestic relations district court and held a public hearing.

Fairfax County

Local staff explained training received, screening procedures, investigations, decision making and ongoing services. Fairfax County has 39 CPS investigators and 16 ongoing services workers. Staff reported:

- A dramatic increase in the number of child abuse and neglect cases and in the seriousness of cases;
- A lack of automation for service records, with all record checks done manually, which is very time consuming;
- Federal funds available to assist in developing an automated system, but Virginia has not participated;
- Increased difficulty in assessing risk since the elimination of the reason-to-suspect category; and
- Schools as the biggest referral source.

Juvenile Judge

The juvenile judge presented a letter from the chief juvenile judge of the nineteenth judicial circuit suggesting that if a juvenile or circuit court judge determines that a child is not abused or neglected, then that adjudication disposes of the administrative process.

Standards of Evidence

The subcommittee discussed the standard of "clear and convincing" versus "preponderance of the evidence," noting that Virginia is one of only two states that has such a high standard of proof for a founded case of child abuse or neglect. Local departments cannot force families to receive services in the absence of a court order. There are instances when child abuse charges are misused in custody cases in Fairfax County. There are sanctions available for false reporters if a falsely accused person requests them, but sanctions are rarely, if ever, requested.

Public Hearing

Over 30 individuals expressing a wide variety of views on child protective services testified at the public hearing. Some individuals were highly critical of the current CPS system,

stating that CPS has too much power and sometimes abuses it. Others endorsed the current system but suggested improvements.

Some speakers complained that CPS makes its determination without conducting thorough investigations and does not interview enough collateral people (e.g., baby-sitters, teachers).

A number of speakers said that CPS does not investigate thoroughly in abuse/neglect cases where the parents are otherwise involved in the court system for divorce or custody actions. Both CPS and the judiciary are quick to assume that the allegations are false and the result of an acrimonious relationship between the parties, and consequently children are not being protected. Reports of abuse/neglect in custody cases should not, according to several speakers, be summarily dismissed.

Other persons stated that the biases of individual social workers adversely influenced their cases and that judicial decisions are based on inadequate information and are often illogical and not in the best interests of children and families. Some speakers said that the juvenile court "rubber stamps" the decisions of CPS, while others said that valid CPS testimony was completely ignored. Concern was expressed about a lack of accountability for the actions of CPS workers.

Finally, several speakers said that CPS does an excellent job of fulfilling its very difficult mission. Recommendations were made regarding the reporting of child abuse/neglect, investigations, disposition of cases, training of CPS workers, misconduct by CPS workers, and the resources needed to do a better job.

July 26, 1995, Norfolk

In Norfolk, the subcommittee heard from representatives from CPS programs in various Hampton Roads jurisdictions and from three juvenile and domestic relations district court judges and a circuit court judge before holding a public hearing.

CPS Staff

Local CPS staff described some of the recurring difficulties that they face as a result of court procedures, pregnant mothers who abuse drugs, the elimination of the reason-to-suspect category for retaining records, cross-jurisdictional cases, definitions of abuse, and the clear-and-convincing standard of evidence. Representatives from the Norfolk area noted that most workers carry twice the recommended caseload.

The CPS workers suggested raising the age limit for using closed circuit television testimony from 14 to 18 years. They advocated lowering the standard of proof required for a case to be considered founded from clear and convincing to a preponderance of the evidence. The workers felt that clear Virginia Code definitions of abuse and evidentiary standards would help prevent disparities between agency guidelines and the statute. They

recommended the following internal changes to CPS: minimum degree requirements, training according to statutory provisions (not according to agency guidelines alone), requiring experience as a line worker before promotion to supervisor or director, and ongoing training. The workers requested professional courtesy in the courtroom to alleviate the amount of time they wait to give testimony. They support a background check on persons requesting custody, consistency between localities, and a sharper focus on the workers' duties and responsibilities.

Judges

The judges discussed a Fairfax juvenile and domestic relations district court judge's proposal that if a juvenile or circuit court judge determines that a child is not abused or neglected, that adjudication should dispose of the administrative appeal. They reviewed ways that courts might help CPS workers reduce the time spent in court, the effect of reducing the standard of evidence in administrative proceedings, the possibility of using trials *de novo* for appeals of administrative determinations, and training for guardians *ad litem*. The judges stated that they frequently encounter allegations of child abuse in connection with divorce and custody and visitation disputes and that they feel that it is necessary to view each case individually, using the available resources of the court to tailor their handling of the case.

Public Hearing

Approximately 25 individuals testified at the public hearing. Some were highly critical of the current CPS system while others endorsed the current system and recommended improvements. Many speakers advocated lowering the standard of evidence for founded cases of abuse from clear and convincing to a preponderance. Others noted disparities in qualifications between rural and urban CPS workers.

A few speakers expressed concern that allegations of child abuse arising during divorce proceedings are not taken seriously. Other speakers indicated that when such allegations are fictitious, the person who made the allegations should be subject to serious sanctions. Some said that the subcommittee should persuade bar associations to discourage attorneys from advising parents to make fictitious child abuse allegations to gain custody.

Some felt CPS workers do not adequately consider or investigate the suitability of other family members for custody when a child is removed from his parents. Others stated that family members should be allowed information about the child and his health and well-being and that the family should not be excluded from the child's life. Concern was expressed about the lack of accountability of CPS workers. A few speakers disagreed with the provision that allows CPS workers to interview children outside the parent's presence.

August 21, 1995, Richmond

The subcommittee met with representatives from Central Virginia CPS programs, other representatives of local departments of social services, and the commissioner of social services and held a public hearing.

CPS Staff

CPS workers reported that while increasing numbers of CPS complaints are being received, supportive services for families are shrinking. CPS is focusing more and more on investigations, which involve determining whether or not there is a founded case of abuse/neglect, and less on provision of services to prevent further abuse/neglect. The role of a CPS caseworker is shifting away from social work, with the goals of protecting children and assessing and assisting families, and towards law-enforcement and legal responsibilities. Almost every case has to be reported to law-enforcement, which results in a significant increase in work load. Preparing for appeals and for court appearances requires an immense amount of time. Because of a lack of resources, it is more difficult to link clients with homemaker and case-aid services, counseling, and parenting classes. In some instances children are going into foster care because these services are not available.

Strong agency supervision, employee reprimand, training, court review of cases, community and extended family interest in cases, and the threat of lawsuits were mentioned as ways that CPS workers are accountable for violations of CPS laws and policies. Decisions about whether or not to remove children are routinely reviewed with a supervisor.

The CPS workers also discussed the administrative appeal process, the frustration of having to destroy all information when the investigation cannot be completed because a family relocates, standards of evidence for founded cases, and the effect of the loss of the reason-to-suspect category. There was no endorsement of the suggestion that an adjudication by a juvenile or circuit court judge that a child is not abused or neglected should dispose of the administrative appeal. Particularly in a criminal case, it does not follow that the administrative appeal should be dismissed when an alleged perpetrator is found not guilty.

Social Services Commissioner

The commissioner of social services discussed service automation, licensing of child protective services workers, and a proposed two-track model CPS delivery system. The commissioner reported that although service automation is definitely needed by localities, it has been put on hold because of a lack of state matching dollars, other priorities, and a lack of manpower. She also cautioned that although considerable federal money is available for service automation, sometimes federal requirements are so costly that it can be more cost effective not to use

federal money. However, a request for proposals will be issued in the near future.

The commissioner also informed the subcommittee that for the first time, training is being mandated for new and existing CPS workers and supervisors (although existing workers can test out) and suggested monitoring the impact of mandatory training before requiring licensing or credentialing. She discussed the licensure of social workers by the Board of Social Work within the Department of Health Professions and noted that there are no CPS-specific requirements and no requirements for continuing education.

VLSSE

A representative of the Virginia League of Social Services Executives (VLSSE) stated that social workers in local agencies need the same level of automated support that ADAPT will give eligibility workers. Because of demands on workers' time and energy, a true system of automated case management support is needed not only for CPS, but for all service programs. The system needs to have the following capabilities: client tracking, workload management, worker alert system, automatic and ad hoc report generation, and system maintenance and staff training. The VLSSE believes that automation support for social workers is needed immediately, that the system developed must actively support the work of line staff, and that the system should build on the technology and structure already in place and be compatible with the efforts of ADAPT and welfare reform.

The chairman of the Children and Family Services Committee of the VLSSE presented a comprehensive VLSSE report entitled *Quality Protective Services for Children and Families: A Plan for Excellence*. The report includes sections on CPS issues of concern, CPS reform, specialized services, and the following five recommendations for change: establishment of an advisory group to study the two-track CPS model, changing the evidentiary standard for a founded case from clear and convincing to a preponderance, setting appropriate guidelines for professional and community involvement in cases, determining staffing levels and ensuring funding for staff, and funding for services for families where abuse/neglect has been identified.

Public Hearing

A number of the 19 speakers at the public hearing endorsed changing the standard of evidence in founded cases from clear and convincing to a preponderance. It was pointed out that Virginia is one of only two states that have such a high standard and that there are many instances in which the clear-and-convincing standard will not protect a child at risk. Preponderance is also consistent with the standard of evidence used in civil child abuse cases.

Speakers at the Richmond public hearing expressed many of the same concerns and opinions the joint subcommittee heard at public hearings in Fairfax and Norfolk.

Future Meetings

The subcommittee has scheduled a meeting and public hearing in Roanoke on August 29 and meetings in Richmond on November 20 and December 12.



The Honorable Alan E. Mayer, *Chairman*
Legislative Services contact: Jessica F. Bolecek

SJR 370/HJR 591: Joint Subcommittee Studying Capital Access and Business Financing

August 3, 1995, Richmond

Opportunity Virginia and the Subcommittee's Mission

The secretary of Commerce and Trade summarized the five key goals identified in the Governor's December 1994 report, *Opportunity Virginia*, that will help ensure that the Commonwealth remains an economic leader into the 21st century. The goals are to: (1) renew Virginia's commitment to the economic principles and foundations that promote broad-based economic growth; (2) restore Virginia's competitive position and strengthen economic development programs to foster prosperity for all Virginians; (3) focus on improving the economic success and competitiveness of Virginia's established industry base; (4) capitalize on Virginia's technology assets and infrastructure to compete in the 21st century; and (5) assist the various regions of the state in achieving their full economic potential, fostering economic diversity and growth throughout the state.

Strategies identified in *Opportunity Virginia* that help accomplish the third and fourth goals include seeking to make working capital and financing for expansion more accessible for Virginia's smaller established firms, evaluating the availability of "risk capital," and developing strategies to attract additional seed and venture capital for Virginia. The need to further examine and develop these strategies was the genesis of the legislative study resolution that created the subcommittee and forms the core of the subcommittee's mission.

Virginia Small Business Financing Authority

The Virginia Small Business Financing Authority (VSBFA) was created by the General Assembly in 1984. The enabling legislation (§9-201 et. seq.) gives VSBFA broad authorization to issue bonds, make direct loans, provide loan guarantees, offer insurance, and provide other financial assistance to encourage investment of private capital in Commonwealth businesses.

VSBFA currently administers two revolving loan funds (Economic Development and Defense Conversion) and programs providing industrial development and umbrella bonds, loan guarantees, and export and child day care financing assistance. VSBFA is also currently developing the Rural Business Development Revolving Loan Fund and the Virginia Capital Access Program. Since 1984, VSBFA has facilitated \$181 million in financing and the creation or retention of 14,197 jobs, which, according to agency calculations, translates into \$13.7 million in annual state personal income and sales tax.

The Economic Development Revolving Fund, among the largest of the programs that VSBFA administers, was established in 1977 with a \$6 million federal grant. In 1990, the fund was codified (§59.1-284.1 et seq.). To date, the General Assembly has appropriated \$10 million to the fund, the first appropriation having been made in 1988. In addition to federal and state dollars, the fund consists of interest on investments and loan repayments. The outstanding loan portfolio is currently \$22 million. Approximately \$3.2 million in principal and interest is repaid each year. Because the fund is revolving, money is available to be lent as payments are made on existing loans. Currently, about \$1.5 million in cash is available to be lent.

Loans from the fund—up to a maximum of \$700,000—are designed to supplement private sector financing by requiring a dollar-for-dollar match of private money to fund money. Projects eligible for the fund are capital improvements to land, buildings, or equipment. From its creation in 1977 up until June 30 of this year, the fund was administered by the Department of Housing and Community Development. With the passage of HB 2527 (1995), VSBFA began to administer the program on July 1.

Other Business Financing Programs and Initiatives

■ In 1991, the Commonwealth provided \$1.8 million to help establish the Virginia Economic Development Corporation (VEDCORP) as a private, for-profit financing entity. Capitalized with \$12 million from Virginia's financial institutions, utilities, and large corporations, VEDCORP's primary mission is to provide capital to small and medium-sized Virginia businesses to support their long-term growth objectives. VEDCORP investments, which are typically subordinated loans with equity warrants, range from \$200,000 to \$1 million. Outside venture capital investors are brought in for larger transactions.

■ The Center for Innovative Technology, created in 1984 pursuant to the Innovative Technology Authority Act (§9-250 et seq.), intends to help create 6,000 jobs and assist 150 companies over the next two years. To achieve these objectives, the center is convening meetings and conferences to introduce investors and technology companies, sponsoring incubator programs, and helping companies access financing, particularly at an early stage. With the passage of HB 1842 (1995), administrative responsibility for the center was transferred out of the

education secretariat into commerce and trade. The transfer emphasizes the center's mission as an economic development organization, not a research institution.

■ Beginning July 1, the Department of Housing and Community Development began to administer a microenterprise loan program, which consists of over \$2 million in state funds and matching private money. Small businesses (those with up to five employees) will be eligible for loans generally ranging from \$3,000 to \$8,000. Loans are made through local community development organizations. The program is also designed to provide mentoring and training assistance to small businesses.

■ The General Assembly provided \$200,000 to the City of Roanoke to fund a small business incubator. The Center for Innovative Technology and the New Century Council, a local economic development organization based in Roanoke, are currently working with city officials to develop the program.

Future Meetings and Study Work Plan

The subcommittee indicated a desire to hear presentations, at future meetings, about business financing needs, additional existing financing programs (including those of other states), and the venture capital industry. The subcommittee's next meeting is Wednesday, September 20, 1995, at 10 a.m. in Senate Room A of the General Assembly Building in Richmond.



The Honorable Robert L. Calhoun, *Chairman*
Agency contact: Christopher D. Lloyd,
Office of the Secretary of Commerce and Trade

New Filing Deadlines

By action of the 1995 General Assembly, two new categories of bills now must be filed by the first day of the General Assembly Session.

Local Fiscal Impact (§ 30-19.03:1; Chapter 743, 1995 Acts of Assembly)

Any bill that mandates an additional expenditure by any county, city, or town must be filed on or before the first day of the session. A mandate has the effect of (i) requiring the performance of a new or expanded service or maintaining an existing service at a specific level, (ii) assuming administrative costs in support of state-related programs, or (iii) furnishing capital facilities for state-related activities. There is an exemption for bills requested by the Governor or "filed in accordance with the rules of the General Assembly."

Prison Impact (§ 30-19.1:6; Chapter 462, 1995 Acts of Assembly)

All bills requiring a statement of fiscal impact on the operating costs of state correctional facilities must be filed on or before the first day of the session. A fiscal impact statement is required for any bill that would result in a net increase in periods of imprisonment in state correctional facilities, including those bills that (i) add new crimes for which imprisonment is authorized, (ii) increase the periods of imprisonment for existing crimes, (iii) impose minimum or mandatory terms of imprisonment, or (iv) modify the law governing the release of prisoners in such a way that the time served in prison will increase.

The Legislative Record summarizes the activities of Virginia legislative study commissions and joint subcommittees. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia.



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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 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Pursuant to Executive Order Number Fifteen (94), the Department of Environmental Quality is publishing this notice to inform the public that the regulations listed below will be reviewed to determine if they should be continued, amended or repealed.

By July 1, 1996

- VR 680-21-00. Water Quality Standards.
- VR 680-15-02. Virginia Water Protection Permit Regulation.
- VR 680-15-03. Surface Water Management Area Regulations.
- VR 680-11-01. Policy for the Protection of Water Quality in Virginia's Shellfish Growing Waters.
- VR 680-11-02. Commonwealth of Virginia Wetlands Policy.
- VR 680-11-03. Commonwealth of Virginia Water Resources Policy.
- VR 680-13-02. Underground Storage Tanks - Technical Standards and Corrective Action Requirements.
- VR 680-13-04. Eastern Virginia Groundwater Management Area.
- VR 680-13-05. Order Declaring the Eastern Shore of Virginia (Accomack and Northampton Counties) as a Critical Groundwater Area.
- VR 680-13-07. Groundwater Withdrawal Regulations.
- VR 680-14-02. Policy for Nutrient Enriched Waters.
- VR 680-14-04. Sewerage Regulations.
- VR 680-14-05. Regulation No. 5, Control of Pollution from Boats.
- VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.
- VR 680-14-11. Corrective Action Plan (CAP) General Permit.
- VR 680-14-16. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Heavy Manufacturing.
- VR 680-14-17. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Storm Water Discharges Associated with Industrial Activity from Light Manufacturing Facilities.
- VR 680-14-18. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Transportation Facilities, Landfills, Land Application Sites and Open Dumps, Materials Recycling Facilities, and Steam Electric Power Generating Facilities.
- VR 680-14-19. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges from Construction Sites.
- VR 680-14-20. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Nonmetallic Mineral Mining.
- VR 672-01-2. Schedule of Fees for Hazardous Waste Facility Site Certification.
- VR 672-01-3. Technical Assistance Fund Administrative Procedures.
- VR 672-01-4. Administrative Procedure for Hazardous Waste Facility Site Certification.
- VR 672-01-5. Hazardous Waste Facility Siting Criteria.
- VR 120-01. Regulations for the Control and Abatement of Air Pollution.
- Performance Standards for New and Modified Sources (Part V).
 - Stationary Sources (Rule 5-4).
 - Regulated Medical Waste Incinerators (Rule 5-6).
 - Permits for Stationary Sources (Part VIII).
 - New and Modified Sources (120-08-01)
 - PSD Areas (120-08-02)
 - Non-Attainment Areas (120-08-03)
 - Federal Operating Permits (Rule 8-5).
 - Permit Fees for Stationary Sources (Rule 8-6).
 - General Provisions (Part II) (120-02-[01-34])
 - Emission Standards for Existing Sources (Part IV).
 - Synthesized Pharmaceutical Ops (Rule 4-6).
 - Rubber Tire Ops (Rule 4-6).
 - Solvent Metal Cleaning Ops (Rule 4-24).
 - VOC Storage and Transfer Ops (Rule 4-25).
 - Large Appliance Coating Application Systems (Rule 4-26).

Schedules for Comprehensive Review of Regulations

Magnet Wire Coating Application Systems (Rule 4-27).
Automobile and Light Duty Truck Coating (Rule 4-28).
Can Coating Application Systems (Rule 4-29).
Metal Coil Coating Application Systems (Rule 4-30).
Paper and Fabric Coating Application Systems (Rule 4-31).
Vinyl Coating Application Systems (Rule 4-32).
Metal Furniture Coating Application Systems (Rule 4-33).
Misc. Metal Parts and Products Coating (Rule 4-34).
Flatwood Paneling Coating Application Systems (Rule 4-35).
Graphic Arts Printing Processes (Rule 4-36).

With publication of this schedule, the public comment period is open on all the regulations listed above. The agency is specifically seeking comment on provisions of the regulations (i) which are not mandated by state or federal law, are not essential to protect the health, safety and welfare of citizens, or which are not essential for the efficient and economical performance of an important government function; (ii) for which less burdensome or less intrusive alternatives are available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose; or (iii) which are not clearly written and easily understandable by the individuals and entities affected.

Written comments should be sent to Ms. Cindy M. Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240. Comments should be submitted by close of business on Friday, December 1, 1995.

In addition, comments from the public will be accepted at two joint public meetings of the Department of Environmental Quality, State Air Pollution Control Board, State Water Control Board, and Virginia Waste Management Board. These meetings will be held at 7 p.m. in Norfolk City Council Chambers, 11th floor City Hall, 810 Union Street, Norfolk and 7 p.m. in the Spotsylvania County Board of Supervisors Room, Administration Building, State Route 208 in Spotsylvania.

All comments received will be considered by the agency during the review of the regulations. In addition, a summary of the comments will be included in the agency's report to the Secretary of Natural Resources.

To review any of the regulations listed, please contact Ms. Cindy Berndt at the address above or (804) 762-4378 or contact the nearest DEQ regional office.

DEPARTMENT OF SOCIAL SERVICES

Notice of Review of Existing Regulations in the Child Protective Services (CPS) Program

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that the Child Protective Services (CPS) Program regulation listed below will be reviewed to determine if it should be continued, amended or repealed.

Regulation

VR 615-45-5. Investigation of Child Abuse and Neglect in Out of Family Complaints.

Procedures for Submitting Comments

Written comments on the above regulation must be received no later than October 20, 1995, to be considered in the regulation review.

Please mail comments to the Child Protective Services Program Manager, Division of Service Programs, 730 East Broad Street, Richmond, Virginia 23219. Comments may also be submitted by facsimile transmission (FAX number: (804) 692-2209).

The department contact for any questions about this notice is Jesslyn Cobb, CPS Program Consultant, Division of Service Programs, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219, telephone (804) 692-1254.

Notice of Review of Existing Regulations in the Purchase of Services Program

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that the Purchase of Services Program regulation listed below will be reviewed to determine if it should be continued, amended or repealed.

Regulation

VR 615-52-11. Rules of the Interdepartmental Committee on Rate-Setting.

Procedures for Submitting Comments

Written comments on the above regulation must be received no later than October 19, 1995, to be considered in the regulation review.

Please mail comments to the Purchase of Services Program Manager, Division of Service Programs, 730 East Broad Street, Richmond, Virginia 23219. Comments may also be submitted by facsimile transmission (FAX number: (804) 692-2209).

The department contact for any questions about this notice is Kathy Cooper, Purchase of Services Program Manager, Division of Service Programs, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219, telephone (804) 692-1212.

Schedules for Comprehensive Review of Regulations

Notice of Review of Existing Regulations in the Child Support Enforcement Program

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is publishing this notice to inform the public that the Child Support Enforcement Program regulation listed below will be reviewed to determine if it should be continued, amended or repealed.

Regulation

VR 615-70-17. Child Support Enforcement Program.

Procedures for Submitting Comments

Written comments on the above regulation must be received no later than October 18, 1995, to be considered in the regulation review.

Please mail comments to the Division of Child Support Enforcement Policy and Procedures Unit Manager, Division of Child Support Enforcement, 730 East Broad Street, Richmond, Virginia 23219. Comments may also be submitted by facsimile transmission (FAX number: (804) 692-2410).

The department contact for any questions about this notice is Penny Pellow, Department of Social Services, Division of Child Support Enforcement, 730 East Broad Street, Richmond, Virginia 23219, telephone (804) 692-2402.

GENERAL NOTICES/ERRATA

Symbol Key

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

Public Notice

Notice is hereby given that the Department of Environmental Quality (DEQ) is requesting information to use in developing study plans to research four technical issues that have been raised with the agency. These issues appertain to the Water Quality Standards Regulation, VR 680-21-01, § 14 B (Table of Standards). Conclusions reached from these studies might warrant appropriate amendments to the regulation. The issues are:

1. Mercury - The DEQ is looking for data/information for possible development of an appropriate action level for methyl mercury in fish tissue which could be used to determine compliance with a Virginia Pollutant Discharge Elimination System (VPDES) permit limit for total mercury. The DEQ is looking for any other information to develop an appropriate mechanism which would determine compliance with the mercury water quality standard via the VPDES permitting system.
2. Ammonia - The DEQ is examining whether it is appropriate to express the ammonia standard as a 30-day average in effluents with low variability rather than the current four-day average. The DEQ is also looking for information to determine acceptable limits of ammonia concentration variability in effluents to allow the longer averaging period. The DEQ is also seeking additional information outside of the EPA Water Quality Criteria for Ammonia, 1984 data base which would potentially support this change.
3. Lead - The DEQ is looking for new acute and chronic toxicity data for lead or suggestions on how to improve and update the data base for the lead standards.
4. Copper - The DEQ is looking for data to be used in determining the relationship of total organic carbon to the toxicity of dissolved copper and possibly developing an equation to use in establishing a hardness and total/dissolved organic carbon based copper standard. Also, DEQ is seeking information to be used in developing an estuarine copper standard similar to the State of Maryland's acute copper standard of 6.1 ug/L.

Any questions or comments should be directed to the address listed below and must be received no later than 4 p.m. on Wednesday, October 4, 1995. Please address any correspondence to: Dr. Alan J. Anthony, Director, Division of Scientific Research, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4114.

Redesignation of the Regional Boundary for Solid Waste Management Planning City of Newport News

Planning for the management of solid waste in the City of Newport News has been conducted in accordance with the approved Virginia Peninsulas Public Services Authority Solid Waste Management Plan dated March, 1990. The City of Newport News has geographic limits as to the appropriate boundary for solid waste management planning and to disassociate it from the public services authority plan. The city has submitted a new plan, "City of Newport News Comprehensive Solid Waste Management Plan 1995," in support of its petition to realign the planning boundaries.

The Director of the Department of Environmental Quality is considering the approval of the new planning boundary under VR 672-50-01, § 5.5, Regulations for the Development of Solid Waste Management Plan, May 15, 1990 (adopted pursuant to Title 10.1, Chapter 14, § 10.1-1400 et seq. of the Code of Virginia). Before approving the new solid waste planning boundary, the director seeks all comments the public has on the action. Please submit written comments by 5 p.m., September 29, 1995, to: Department of Environmental Quality, Attention: Robert G. Wickline, P.E., P.O. Box 10009, Richmond, Virginia 23240.

STATE BOARD OF HEALTH

† Legal Notice of Opportunity to Comment on Proposed State Plan of Operations and Administration of Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1996

Pursuant to the authority vested in the State Board of Health by § 32.1-12 and in accordance with the provisions of Public Law 95-627, notice is hereby given of a public comment period to enable the general public to participate in the development of the Special Supplemental Food Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1996.

Written comments on the proposed plan will be accepted in the office of the Director, Division of Public Health Nutrition, Virginia Department of Health, 1500 East Main Street, Room 132, Richmond, Virginia 23219, until 5 p.m. on October 6, 1995.

The proposed State Plan for WIC Program Operations and Administration may be reviewed at the office of your health district headquarters during public business hours beginning September 5, 1995. Please contact your local health department for the location of this office in your area.

General Notices/Errata

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Significant Change in Statewide Methods and Standards for Setting Payment Rates

(Title 42 Code of Federal Regulations 447.205)

Regulation Title and Issue: Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care: Reimbursement Rate for Home Tomorrow Services

This public notice of significant change in statewide methods and standards of setting payment rates addresses the issue of reimbursement to hospitals for their participation in the Home Tomorrow program.

Description: The Home Tomorrow program is an optional program wherein women who have normal, uncomplicated vaginal deliveries may be discharged from the hospital within 24 hours of their delivery. They are provided a comprehensive home health visit, including a maternal assessment, a newborn assessment, and a home assessment. Hospitals participating in this program will be reimbursed a flat per-case rate intended to cover a day of hospital care as well as the home health visit.

Estimate of Expected Changes in Annual Aggregate Expenditures:

This program is one of three initiatives to control hospital utilization, which were required by the 1995 Budget Act. Taken together, this and another program related to obstetrical and newborn care are expected to reduce expenditures by \$3 million General Funds and \$3 million Non-General Funds.

Why the Agency is Changing its Methods and Standards:

This program represents a cooperative initiative developed by the DMAS and the Virginia Hospital Association. It enables hospitals to reduce lengths of stay while still providing quality care, by providing a "package" rate that includes funding for home health visits, which are not separately reimbursable under the Medicaid benefit package. The program and the cost savings were mandated by the 1995 General Assembly.

Availability of Proposed Changes and Address for Comments:

Copies of the proposed change are available from either Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219, or at (804) 371-8850.

Written comments should be directed to Scott Crawford, Division of Financial Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

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

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

ERRATA

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: VR 385-01-49. Roadway and Structure Lighting.

Publication: 11:25 VA.R. 4130 September 4, 1995.

Correction to Final Regulation:

Effective date is August 10, 1995.

CALENDAR OF EVENTS

Symbol Key

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

♿ Location accessible to handicapped

☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

October 23, 1995 - 10 a.m. -- Open Meeting

October 24, 1995 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action will be held immediately after a public hearing on Executive Order 15(94). A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting date so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Board of Agriculture and Consumer Services

September 27, 1995 - 9 a.m. -- Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿

A meeting to discuss regulations and receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy Seward at least five days

before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Virginia Horse Industry Board

October 4, 1995 - 10 a.m. -- Open Meeting

Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia.♿

The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

Virginia Irish Potato Board

† October 11, 1995 - 8 p.m. -- Open Meeting

Eastern Shore Agricultural Research and Extension Center, 33446 Research Drive, Painter, Virginia.♿

A meeting to discuss programs (promotion, research and education); the annual budget, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

Calendar of Events

Virginia Marine Products Board

September 26, 1995 - 5:30 p.m. -- Open Meeting
Kiln Creek Golf and Country Club, 1003 Brick Kiln Boulevard,
Newport News, Virginia. ♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old and new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact the board at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA 23608, telephone (804) 874-3474.

Pesticide Control Board

October 13, 1995 - 9 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Board Room 204,
Richmond, Virginia. ♿

A general business meeting. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any other matter not on the agenda beginning at 9 a.m. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 401, P.O. Box 1163 Richmond, VA 23209, telephone (804) 371-6558.

Virginia Seed Potato Board

† **November 1, 1995 - 8 p.m.** -- Open Meeting
Eastern Shore Agricultural Experiment Station, Research
Drive, Painter, Virginia. ♿

A meeting to review regulations and to plan for the 1996 seed season. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

STATE AIR POLLUTION CONTROL BOARD

September 21, 1995 - 9 a.m. -- Open Meeting

Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A quarterly meeting.

Contact: Cindy Berndt, Policy and Planning Supervisor, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378, FAX (804) 762-4346 or (804) 762-4021/TDD ♿

State Advisory Board on Air Pollution

† **October 16, 1995 - 9 a.m.** -- Open Meeting
† **October 17, 1995 - 8:30 a.m.** -- Open Meeting
Ramada Plaza Resort Oceanfront, Oceanfront at 57th,
Virginia Beach, Virginia. ♿

The 29th annual meeting of the advisory board. Topics for the meeting include overviews of Clean Air Act issues from Congress, EPA, and the Commonwealth; regional air quality management and modeling; regulatory negotiation; cost/benefit analysis of environmental regulations; and regulatory reform. Speakers will include the Honorable Thomas J. Bliley (Congressman, 7th District of Virginia and Chair, House Commerce Committee), the Honorable Becky Norton Dunlop (Secretary of Natural Resources for the Commonwealth of Virginia) and Mary Nichols (Assistant Administrator for Air and Radiation, USEPA).

Contact: Kathy Frahm, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4376 or FAX (804) 762-4346.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

September 18, 1995 - 9:30 a.m. -- Open Meeting
October 2, 1995 - 9:30 a.m. -- Open Meeting
October 16, 1995 - 9:30 a.m. -- Open Meeting
October 30, 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, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

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

† **October 2, 1995 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

Board for Interior Designers

September 21, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

Board for Land Surveyors

† September 22, 1995 - 1 p.m. -- Open Meeting
Holiday Inn Golf and Conference Center, Exit 225 off Interstate 81, Staunton, Virginia. ☎

A meeting to conduct a voluntary seminar for land surveyor regulants. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

AUCTIONEERS BOARD

† October 18, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD

VIRGINIA PUBLIC BUILDING AUTHORITY

† October 4, 1995 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A meeting to discuss the issuance of State Building Reserve Bonds and other board business.

Contact: John A. McQueen, Policy Analyst, Department of the Treasury, P. O. Box 1879, Richmond, VA 23215, telephone (804) 371-6235.

CHARITABLE GAMING COMMISSION

† September 18, 1995 - 1 p.m. -- Open Meeting
Ninth Street Office Building, Sixth Floor Conference Room, Richmond, Virginia. ☎

A regular meeting.

Contact: Andy Poarch, Policy Director, Office of the Secretary of Administration, P.O. Box 1475, Richmond, VA 23212, telephone (804) 786-1201, FAX (804) 371-0038 or (804) 786-7765/TDD

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 21, 1995 - 10 a.m. -- Open Meeting
Department of Social Services Building, 730 East Broad Street, Conference Room 3, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to conduct general board business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken early in the meeting. A tentative agenda will be available by September 5, 1995, from the Chesapeake Bay Local Assistance Department.

Contact: Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

STATE BOARD FOR COMMUNITY COLLEGES

September 27, 1995 - 1 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

Committee meetings.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, 101 N. 14th St.,

Calendar of Events

15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

September 28, 1995 - 8:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled board meeting.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

September 18, 1995 - 7 p.m. -- Open Meeting
Suffolk Municipal Center, 441 Market Street, City Council Chambers, 2nd Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

September 19, 1995 - 7 p.m. -- Open Meeting
Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisors Room, Roanoke, Virginia.☎ (Interpreter for the deaf provided upon request)

September 21, 1995 - 7 p.m. -- Open Meeting
Henrico Government Center, 4301 East Parham Road, Board Room, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to provide the public an opportunity within the mandatory 60-day public comment period ending October 23, 1995, for verbal and written comments, as well as questions regarding the proposed VR 217-03-00, Nutrient Management Training and Certification Regulations.

Contact: E.J. Fanning, Assistant Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-8095.

September 18, 1995 - 7 p.m. -- Public Hearing
Municipal Center, 441 Market Street, Suffolk, Virginia.

September 19, 1995 - 7 p.m. -- Public Hearing
County of Roanoke Administration Center, 5204 Bernard Drive, Roanoke, Virginia.

September 21, 1995 - 7 p.m. -- Public Hearing
Henrico County Government Center, 4301 East Parham Road, Richmond, Virginia.

October 23, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Recreation intends to adopt regulations entitled: **VR 217-03-00. Nutrient Management Training and Certification Regulations.** This regulation is being promulgated to govern a voluntary program for training and certifying persons preparing nutrient management

plans. The plans are prepared to manage land application of fertilizers, sewage sludge, manure, and other nutrient sources for agronomic benefits and in ways which protect water quality. The regulation provides for certification standards, revocation or suspension of certificates, criteria for the development of nutrient management plans, and program fees. The Department of Conservation and Recreation will administer this program as part of the nutrient management program.

The development of a voluntary nutrient management training and certification program was authorized by the 1994 Session of the General Assembly. The program should expand the number of persons in the private and public sector capable of developing nutrient management plans beyond that of the limited number of agency personnel currently involved. Nutrient management is a key strategy to assist in efforts to reduce nitrogen and phosphorus levels in the Chesapeake Bay necessary to protect ecological and economic interests dependent on the Chesapeake Bay. The program should assist the Commonwealth in achieving a 40% reduction in controllable nutrient loads entering the Chesapeake Bay tributaries consistent with the Chesapeake Bay Agreement of 1983, as amended in 1987 and 1992. The program should also protect groundwater and surface waters in the Commonwealth while retaining the agronomic benefits of efficient nutrient use on farms crops and other lands.

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

Contact: E.J. Fanning, Assistant Manager, Nutrient Management Program, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-8095.

† **September 21, 1995 - 7:30 p.m. -- Open Meeting**
Northumberland High School Auditorium, Route 360, Heathsville, Virginia.

† **September 25, 1995 - 7:30 p.m. -- Open Meeting**
Loudoun County Administration Building, 18 North King Street, Supervisor's Meeting Room, Leesburg, Virginia.

† **September 27, 1995 - 7:30 p.m. -- Open Meeting**
King George High School Auditorium, 8246 Dahlgren Road, King George, Virginia.

† **October 5, 1995 - 7:30 p.m. -- Open Meeting**
Augusta County Government Center, 4801 Lee Highway, Public Meeting Room, Verona, Virginia.

† **October 7, 1995 - 10 a.m. -- Open Meeting**
Northern Virginia Community College, Woodbridge Campus, 15200 Neabsco Mills Road, Woodbridge, Virginia.

The Department of Conservation and Recreation and the Department of Environmental Quality will conduct a series of six public meetings (the first meeting was September 14 in Middleton) throughout the Northern Virginia area to gather citizen comments on the development of tributary strategies. Strategies will focus on ways to reduce nutrient flows from controllable sources into the Potomac River basin and the

Chesapeake Bay by 40% by the year 2000, with 1985 as the base year. The strategies emphasize the need to address at the local level nutrient pollution of the area's tributaries. Site-specific, balanced, scientifically sound, cost-effective solutions, in particular, regarding point and nonpoint source pollution are being sought.

Contact: Ivy L. Joyner, Office Services Specialist, Department of Conservation and Recreation, 203 Governor St., Suite 214, Richmond, VA 23219, telephone (804) 786-1712, FAX (804) 371-2072 or (804) 786-2121/TDD ☎

† September 27, 1995 - 2:30 p.m. -- Open Meeting

† September 27, 1995 - 7:30 p.m. -- Open Meeting
Karlan State Park, Route 58, Lee County, Virginia.

Informal public information meetings will be held to provide the public an opportunity to review and comment on the Draft Comprehensive Master Plan proposed for Karlan State Park.

Contact: Janet H. Blevins, Park Manager, Southwest Virginia Museum, P.O. Box 742, Big Stone Gap, VA 24219-0742, telephone (540) 523-6118 or FAX (540) 523-6616.

Falls of the James Scenic River Advisory Board

September 21, 1995 - Noon -- Open Meeting

October 19, 1995 - Noon -- Open Meeting

November 16, 1995 - Noon -- Open Meeting

City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.

A meeting to discuss river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD☎

Board on Conservation and Development of Public Beaches

† October 25, 1995 - 10:30 a.m. -- Open Meeting

Virginia Institute of Marine Science, Director's Conference Room, Richmond, Virginia.☎

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Carlton Lee Hill, Chief Shoreline Engineer, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998.

BOARD FOR CONTRACTORS

September 20, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to review board member reports and summaries from informal fact-finding conferences held pursuant to the Administrative Process Act, Code of Virginia, and to review consent order offers in lieu of further disciplinary proceedings. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least two weeks in advance of the meeting at (804) 367-8500. The department fully complies with the Americans with Disabilities Act.

Contact: Debbie A. Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582 or (804) 367-9753/TDD ☎

Applications Review Committee

September 19, 1995 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled meeting of the committee to review applications with convictions or complaints for Class A, B, and C contractor applications. The meeting is open to the public.

Contact: Elizabeth Y. Kirksey, Assistant Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or FAX (804) 367-2474.

Recovery Fund Committee

September 27, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

Contact: Holly Erickson, Assistant Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

Regulatory Review Committee

September 26, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to review comments received from the public during the comment period. The meeting is open to the public.

Calendar of Events

Contact: Gerald W. Morgan, Regulatory Boards Administrator Senior, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or FAX (804) 267-2474.

BOARD OF DENTISTRY

September 22, 1995 - 9 a.m. -- Open Meeting

September 29, 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)

A formal hearing and informal conferences. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD

September 30, 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)

A Regulatory/Legislative Committee meeting to continue reviewing the regulations as required by Executive Order 15(94). This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD

DISABILITY SERVICES COUNCIL

† September 25, 1995 - 1 p.m. -- Open Meeting

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A meeting to develop guidelines for award of remaining RSIF moneys and review of biennial needs assessment.

Contact: Martha Adams, SRAC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7077, toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD

BOARD OF EDUCATION

September 28, 1995 - 8:30 a.m. -- Open Meeting

† October 26, 1995 - 8 a.m. -- Open Meeting

† November 16, 1995 - 8 a.m. -- Open Meeting

General Assembly Building, Ninth and Broad Streets, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: 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.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

October 5, 1995 - 5:30 p.m. -- Open Meeting

November 2, 1995 - 5:30 p.m. -- Open Meeting

6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - FAIRFAX

October 12, 1995 - 10 a.m. -- Public Hearing

Call (703) 246-3934 for location and directions.

A meeting to conduct a public hearing for the 1995 Hazardous Materials Emergency Response Plan (HMERP) followed by a membership meeting to formulate the future goals and objectives of the committee.

Contact: Nell Rose Jarvis, Fairfax County Staff to the LEPC, 4100 Chain Bridge Rd., 4th Floor, Fairfax, VA 22030, telephone (703) 246-3971 or FAX (703) 385-7591.

LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

October 11, 1995 - 9 a.m. -- Open Meeting

American Red Cross Chapter 352, Church Avenue, Roanoke, Virginia.

A meeting to (i) receive public comment; (ii) receive report from community coordinators; and (iii) receive report from standing committees.

Contact: Danny W. Hall, Fire Chief, Emergency Services Coordinator, 105 S. Market St., Salem, VA 24153, telephone (540) 375-3080.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† October 4, 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 Dept., 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 665-5645/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

September 21, 1995 - 7:30 p.m. -- Open Meeting
City of Radford Municipal Building, 619 Second Street, Council Chambers, Radford, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to consider an application from Internet Corporation for a state operating permit for the combined Lynchburg Foundry Company - New River Castings plant, located at 1605/1701 First Street in Radford, Virginia.

Contact: Larry Leonard, Air Permit Manager, Department of Environmental Quality, 7701-03 Timberlake Rd., Lynchburg, VA 24502, telephone (804) 582-5120 or (804) 762-4021/TDD ☎

† **October 17, 1995 - 7 p.m. -- Open Meeting**
Norfolk City Council Chambers, 310 Union Street, City Hall, 11th Floor, Norfolk, Virginia. ☎ (Interpreter for the deaf provided upon request)

† **October 25, 1995 - 7 p.m. -- Open Meeting**
Spotsylvania County Board of Supervisor's Room, County Administration Building, Route 208, Spotsylvania, Virginia. ☎ (Interpreter for the deaf provided upon request)

Pursuant to § 10.1-1184 of the Code of Virginia, representatives of the State Water Control Board, State Air Pollution Control Board and Virginia Waste Management Board will hold a joint public forum to receive public comments about environmental issues of concern to the Commonwealth. Additionally, the meeting will provide an opportunity for public comment on the Department of Environmental Quality's regulations under review.

Contact: Kathy Frahm, Policy Analyst, Department of Environmental Quality, Policy and Legislation, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4376, FAX (804) 762-4346 or (804) 762-4021/TDD ☎

Litter Control and Recycling Fund Advisory Committee

September 18, 1995 - 10:30 a.m. -- Open Meeting
October 24, 1995 - 1:30 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 4th Floor, West Conference Room, Richmond, Virginia. ☎

A meeting to (i) review and make recommendations on applications for grants from the fund; (ii) promote the control, prevention and elimination of litter from the Commonwealth and encourage recycling; and (iii) advise the Director of the Department of Environmental Quality on other litter control and recycling matters.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

STATE EXECUTIVE COUNCIL

† **September 29, 1995 - 9 a.m. -- Open Meeting**
Department of Social Services, 730 East Broad Street, 9th Floor Conference Room, Richmond, Virginia.

A regularly scheduled monthly meeting to (i) provide for interagency programmatic and fiscal policies; (ii) oversee the administration of funds appropriated under the act; (iii) review and take actions on issues brought by the State Management Team; and (iv) advise the Governor.

Contact: Alan G. Saunders, Director, Comprehensive Services for At-Risk Youth and Families, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 786-5394.

CITIZENS ADVISORY COUNCIL ON FURNISHING AND INTERPRETING THE EXECUTIVE MANSION

† **September 29, 1995 - 2 p.m. -- Open Meeting**
The Executive Mansion, Capitol Square, Richmond, Virginia.

A general business meeting.

Contact: Georgia Esposito, Coordinator, Executive Mansion, Capitol Square, Richmond, VA 23219, telephone (804) 371-2642.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

September 21, 1995 - 10 a.m. -- Open Meeting
September 22, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A meeting to hold informal conferences. No public comment will be received.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARD OF GAME AND INLAND FISHERIES


October 11, 1995 - 6 p.m. -- Open Meeting
Best Western Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will visit an electrofishing site to observe agency staff perform this activity, or they will tour department-owned lands and facilities in the area. The observation or visitation is open to the public.

Calendar of Events

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

October 12, 1995 - 8 a.m. -- Open Meeting

Best Western Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia.  (Interpreter for the deaf provided upon request.


A meeting to adopt non-native animal regulations. The board will hear and discuss general and administrative matters, as necessary, and take action as appropriate. The board may hold an executive session. The board plans to adjourn its meeting by 10:30 a.m. After adjournment, Dr. Mike Vaughan will make a presentation on black bear research to board members and others present. At the conclusion of Dr. Vaughan's presentation, board members will meet with national forest personnel at a site yet to be selected, where the board members will receive tours and presentations concerning national forest lands and programs. All events are open to the public.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

GEORGE MASON UNIVERSITY

Board of Visitors

September 20, 1995 - 3:30 p.m. -- Open Meeting

George Mason University, Mason Hall, Room D23, Fairfax, Virginia. 

A regular meeting whereby the board will hear reports from standing committees and act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals and organizations who request it. EEO and Affirmative Action Committees will meet on September 19, 1995, at 6:30 p.m. Standing committees will meet during the day on September 20, 1995, beginning at 9:30 a.m.

Contact: Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701 or FAX (703) 993-8707.

HAZARDOUS MATERIALS TRAINING COMMITTEE

† September 27, 1995 - 12:30 p.m. -- Open Meeting

Radisson Hotel, Virginia Beach, Virginia. 

A meeting to discuss curriculum course development and review existing hazardous materials courses. Individuals with a disability as defined in the Americans with Disabilities Act of 1990 desiring to attend the meeting should contact VDES 10 days prior to the meeting to ensure appropriate accommodations are provided.

Contact: George B. Gotschalk, Jr., Department of Criminal Justice Services, 803 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001.

DEPARTMENT OF HEALTH

Commissioner's Waterworks Advisory Committee

September 21, 1995 - 10 a.m. -- Open Meeting


Office of Water Programs, Culpeper Field Office, 400 South Main Street, 2nd Floor, Culpeper, Virginia.

A general business meeting of the committee. The committee meets the third Thursday of odd months at various locations around the state. The next meeting is November 16, 1995. Locations will be announced at a later date.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 East Main Street, Room 109, Richmond, VA 23219, telephone (804) 786-5566.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

September 26, 1995 - 9:30 a.m. -- Open Meeting

Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. 

A monthly meeting of the council.

Contact: Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

COMMISSION ON THE FUTURE OF HIGHER EDUCATION

September 20, 1995 - 8:30 a.m. -- Open Meeting

The Markel Building, 4551 Cox Road, Glen Allen, Virginia.

A general business meeting. For information about the meeting agenda, contact the Council of Higher Education.

Contact: Anne H. Moore, Associate Director, State Council of Higher Education for Virginia, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632.

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources and State Review Board

September 20, 1995 - 10 a.m. -- CANCELLED
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The joint meeting of the department's boards has been cancelled.

Contact: Margaret Peters, Preservation Program Manager, 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

September 22, 1995 - 8:30 a.m. -- Open Meeting
The Airport Sheraton, 4700 South Laburnum Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to continue developing the 1996 Prevention Plan.

Contact: Elaine G. Martin, Coordinator, STD/AIDS Education, Information and Training, Bureau of STD/AIDS, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

October 3, 1995 - 9 a.m. -- Open Meeting
November 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 Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

September 19, 1995 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Commissioners to review and, if appropriate, (i) approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate.

Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

STATEWIDE INDEPENDENT LIVING COUNCIL

† September 24, 1995 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A meeting to conduct regular business.

Contact: Catherine Northan, Chairperson, or Kathy Hayfield, SILC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134 (Hayfield), (804) 850-5922 (Northan), toll-free 1-800-552-5019/TDD and Voice, or (804) 662-9040/TDD

COUNCIL ON INFORMATION MANAGEMENT

† September 22, 1995 - 10 a.m. -- Open Meeting
1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia.

A regular bi-monthly meeting.

Contact: Linda W. Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD

VIRGINIA INTERAGENCY COORDINATING COUNCIL

† October 11, 1995 - 9:30 a.m. -- Open Meeting
Henrico Area Mental Health and Mental Retardation Services, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss ongoing issues pertaining to the implementation of Part H (Early Intervention for Infants and Toddlers with Disabilities) in Virginia.

Contact: Richard B. Corbett, Program Support, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710 or FAX (804) 371-7959.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

October 9, 1995 - 1 p.m. -- Open Meeting
Virginia Beach, Virginia (meeting place to be announced).

A regular meeting to discuss such matters as may be presented.

Calendar of Events

Contact: Adele MacLean, Secretary, Advisory Commission on Intergovernmental Relations, 8th Street Office Building, Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508 or FAX (804) 371-7999.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† **September 21, 1995 - 10 a.m.** -- Open Meeting
Richmond Technical Center, 2020 Westwood Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the council to (i) discuss bylaws and any changes deemed necessary; (ii) elect vice-chairman; (iii) introduce new council members and new apprenticeship staff; and (iv) discuss effects of new Tradesmen Certification changes on apprenticeship.

Contact: Nancy Jakubec, Director, Cooperative Programs, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-9877 or (804) 786-2376/TDD

Migrant and Seasonal Farmworkers Board

September 27, 1995 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board.

Contact: Patti C. Bell, Staff Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 371-6524 or (804) 786-2376/TDD

ROBERT E. LEE SOIL AND WATER CONSERVATION DISTRICT

† **September 18, 1995 - 7 p.m.** -- Public Hearing
Bethlehem Lutheran Church, 7336 Timberlake Road, Lynchburg, Virginia.

Directors of the Robert E. Lee Soil and Water Conservation District received a petition on August 25, 1995, in accordance with § 10.1-615 of the Code of Virginia, proposing establishment of the Timberlake Watershed Improvement District (WID), Campbell County, Virginia. Directors of the Robert E. Lee Soil and Water Conservation District will hold a hearing to give consideration to the practicality and feasibility of creating the proposed Timberlake WID. All owners of land within the proposed Timberlake WID and all other interested parties are invited to attend and be heard.

Contact: Charlie Robertson, Chairman, Robert E. Lee Soil and Water Conservation District, 5032 Boonesboro Rd., Lynchburg, VA 24503, telephone (804) 384-3322 or FAX (804) 352-9405.

STATE COUNCIL ON LOCAL DEBT

September 20, 1995 - 11 a.m. -- Open Meeting
† **October 18, 1995 - 11 a.m.** -- Open Meeting
† **November 15, 1995 - 11 a.m.** -- Open Meeting
† **December 20, 1995 - 11 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 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 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.

STATE LOTTERY BOARD

† **September 27, 1995 - 9:30 a.m.** -- Open Meeting
State Lottery Department, 900 East Main Street, 8th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

Contact: Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

MARINE RESOURCES COMMISSION

September 26, 1995 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 7756, Newport

News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

BOARD OF MEDICINE

† **September 21, 1995 - 8:15 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

September 22, 1995 - 9 a.m. -- Open Meeting
The Marriott, 50 Kingsmill Road, Williamsburg, Virginia. ☎

† **September 27, 1995 - 9 a.m.** -- Open Meeting
Department of Transportation, 86 Deacon Road, Falmouth, Virginia. ☎

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† **September 30, 1995 - 9 a.m.** -- Open Meeting
† **October 1, 1995 - 9 a.m.** -- Open Meeting
Hotel Roanoke, Roanoke, Virginia. ☎

The board and its staff will meet to plan for accomplishing the work as assigned to it. No public comments will be received. No regular business of the board will be conducted.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

October 28, 1995 - 8:30 a.m. -- Open Meeting
Smith Hall Board Room, Virginia Military Institute, Lexington, Virginia. ☎

A regular meeting of the Board of Visitors to receive committee reports. Public comment will not be received at this meeting. Public comment is received at the August meeting of the board.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (540) 464-7206.

MOTOR VEHICLE DEALER BOARD

September 27, 1995 - 9 a.m. -- Open Meeting
† **October 25, 1995 - 9 a.m.** -- Open Meeting
† **November 21, 1995 - 9 a.m.** -- Open Meeting
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Department of Motor Vehicles (DMV) at (804) 367-6606 at least 10 days prior to the meeting so that suitable arrangements can be made. DMV and the board fully comply with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Department of Motor Vehicles. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's "Guidelines for Public Comment."

Contact: W. Gail Morykon, Chief, Investigative Services, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6002, FAX (804) 367-2936 or (804) 272-9278/TDD ☎

VIRGINIA MUSEUM OF FINE ARTS

September 18, 1995 - 1 p.m. -- Open Meeting
September 19, 1995 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. ☎

A two-day retreat for the Board of Trustees. Planning issues and future direction of the Museum will be discussed. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

BOARD OF NURSING

† **September 25, 1995 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences 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, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Calendar of Events

† September 26, 1995 - 9 a.m. -- Open Meeting

† September 27, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m. on Tuesday, September 26, 1995. On September 27, 1995, the board will conduct formal hearings.

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, FAX (804) 662-9943 or (804) 662-7197/TDD

† September 28, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings. 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, FAX (804) 662-9943 or (804) 662-7197/TDD

BOARD FOR OPTICIANS

October 13, 1995 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action will be held immediately after a public hearing on Executive Order Number Fifteen (94). A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the public hearing and/or meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the public hearing/meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

BOARD OF OPTOMETRY

September 20, 1995 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Informal conferences. Public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Department of Health Professions, Southern States Building, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910 or (804) 662-7197/TDD

VIRGINIA POLYGRAPH EXAMINERS ADVISORY BOARD

September 26, 1995 - 10 a.m. -- CANCELLED

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The meeting to review new enforcement procedures, to administer the Polygraph Examiners Licensing Examination to eligible polygraph examiner interns, and to consider other matters which may require board action has been cancelled.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

PRIVATE ENTERPRISE COMMISSION

† September 20, 1995 - Noon -- Open Meeting

Riverfront Plaza, 901 East Byrd Street, West Tower, 19th Floor, Richmond, Virginia.

The commission will hold its second meeting and establish its mission and objectives. The commission was created to review the practices of government agencies and nonprofit organizations which may constitute inappropriate competition with private enterprise.

Contact: Laura McElligott, Associate State Director, Department of Economic Development, P.O. Box 798, Richmond, VA 23220, telephone (804) 371-8253 or FAX (804) 225-3384.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

September 18, 1995 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting of the board. 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: Debra S. Vought, Agency Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TDD ☎

BOARD OF PSYCHOLOGY

† **October 17, 1995 - 10:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

A meeting to conduct general board business and to approve draft regulations for sex offender treatment providers. Public comment will be received between 10:45 a.m. and 11 a.m.

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

Examination Committee

† **September 22, 1995 - 10:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

A meeting to conduct general committee business. No public comment will be received.

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

REAL ESTATE APPRAISER BOARD

September 19, 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 interpretive services should contact the department. The department fully complies with the Americans with Disabilities Act. Please notify the department at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

† **September 28, 1995 - 8:30 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Room 8, Williamsburg, Virginia. ☎

† **November 9, 1995 - 8:30 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular business meeting to include review of investigative matters, consideration of applications, various requests to the board for information, and other business.

Contact: Emily O. Wingfield, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, or (804) 367-9753/TDD ☎

STATE REHABILITATION ADVISORY COUNCIL

† **October 27, 1995 - 10 a.m.** -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct regular business of the council.

Contact: Kathy Hayfield, SRAC 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

September 28, 1995 - 10 a.m. -- Open Meeting

† **November 30, 1995 - 10 a.m.** -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly business meeting.

Contact: Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

VIRGINIA RESOURCES AUTHORITY

October 10, 1995 - 9:30 a.m. -- Open Meeting

November 14, 1995 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month; to review the Authority's operations for the prior months; and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

Calendar of Events

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

September 28, 1995 - 4 p.m. -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor,
Classroom, Richmond, Virginia. ♿

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

BLUE RIBBON COMMISSION ON SCHOOL HEALTH

† **September 29, 1995 - 9:30 a.m.** -- Open Meeting
American Cancer Society Volunteer Center, 4240 Park Place
Court, Glen Allen, Virginia. ♿ (Interpreter for the deaf
provided upon request)

The fifth meeting of the Blue Ribbon Commission on School Health pursuant to Senate Joint Resolution No. 155 (1994).

Contact: Nancy Ford, School Health Nurse Consultant, Department of Health, Division of Child and Adolescent Health, 1500 E. Main St., Room 137, Richmond, VA 23218-2448, telephone (804) 786-7367.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

September 20, 1995 - 10 a.m. -- Open Meeting
September 21, 1995 - 10 a.m. -- Open Meeting
County of Henrico, Administrative Building, 4301 East
Parham Road, Board of Supervisors Board Room, Richmond,
Virginia. ♿

November 1, 1995 - 10 a.m. -- Open Meeting
November 2, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, Senate Room A, Capitol Square,
Ninth and Broad Streets, Richmond, Virginia. ♿

The board will 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: Beth B. Dubis, 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.

BOARD OF SOCIAL WORK

September 21, 1995 - Noon -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Room 2, Richmond, Virginia. ♿

A meeting of the Ad Hoc Regulatory Review Committee.

Contact: Evelyn Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943 or (804) 662-7197/TDD ♿

September 21, 1995 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. ♿

An informal conference conducted in accordance to § 9-6.14:11 of the Code of Virginia.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7328.

September 22, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Room 3, Richmond, Virginia. ♿

A regular meeting of the board to consider committee reports, training curriculum, adoption of final regulations for social workers, and any other matters under the jurisdiction of the board.

Contact: Evelyn Brown, Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943 or (804) 662-7197/TDD

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Reproposed

September 20, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-01-51. Auxiliary Grants Program: Levels of Care and Rate Setting.** The regulation includes the process for adult care residences to use in reporting their costs, the process used in calculating the auxiliary grant rates for the residences, and services to be provided to auxiliary grant recipients.

Statutory Authority: §§ 63.1-25 and 63.1-25.1 of the Code of Virginia.

Contact: Karen Cullen, Program Consultant, Division of Benefit Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1720.

Reproposed

September 20, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-22-02:1 Standards and Regulations for Licensed Adult Care Residences.** The 1993 General Assembly enacted legislation (House Bill 2280) which created two levels of care in licensed homes for adults. This legislation also established the statutory basis for the prohibition of specific medical conditions. In addition, it changed the term "homes for adults" to "adult care residences." This regulation specifies the licensure requirements for adult care residences. Sections addressed within the licensure regulation include personnel and staffing requirements; admission, retention and discharge policies; resident accommodations, care and related services; buildings and grounds; and additional requirements for assisted living facilities (the higher of the two levels of care). The proposed regulation replaces the regulation entitled "Standards and Regulations for Licensed Home for Adults" and has a proposed effective date of February 1, 1996.

Statutory Authority: §§ 63.1-25, 63.1-174 and 63.1-174.001 of the Code of Virginia.

Contact: Judy McGreal, Program Development Supervisor, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1792.

Reproposed

September 20, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-46-02. Assessment and Case Management in Adult Care Residences.** This regulation establishes general standards for assessment and case management for applicants to and residences of adult care residences.

Statutory Authority: §§ 63.1-25 and 63.1-173.3 of the Code of Virginia.

Contact: Terry A. Smith, Manager, Adult Services Program, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1208.

**DEPARTMENT OF TRANSPORTATION
(COMMONWEALTH TRANSPORTATION BOARD)**

September 20, 1995 - 2 p.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

September 21, 1995 - 10 a.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the Chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

TRANSPORTATION SAFETY BOARD

NOTE: CHANGE IN MEETING DATE

September 19, 1995 - 9 a.m. -- Open Meeting
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

October 4, 1995 - 9 a.m. -- Open Meeting
Virginia Military Institute, Lexington, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss matters regarding highway safety.

Contact: Angelisa C. Jennings, Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-2026 or FAX (804) 367-6031.

TREASURY BOARD

September 20, 1995 - 9 a.m. -- Open Meeting
† **October 18, 1995 - 9 a.m.** -- Open Meeting
† **November 15, 1995 - 9 a.m.** -- Open Meeting
† **December 20, 1995 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ♿

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

Calendar of Events

VIRGINIA RACING COMMISSION

† September 20, 1995 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia ☎

A regular meeting and discussion of a proposed medication regulation.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

BOARD FOR THE VISUALLY HANDICAPPED

October 19, 1995 - 1:30 p.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia ☎ (Interpreter for the deaf provided if requested no later than 5 p.m. on October 5, 1995)

The Board for the Visually Handicapped is an advisory board responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Administrative Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

October 14, 1995 - 11 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request. Request must be received no later than 9/5/95 at 5 p.m.)

A quarterly meeting to advise the Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

VIRGINIA VOLUNTARY FORMULARY BOARD

October 18, 1995 - 10 a.m. -- Public Hearing

James Madison Building, 109 Governor Street, Main Floor, Conference Room, Richmond, Virginia.

The board will hold a public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on May 1, 1994. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on October 18, 1995, will be made a part of the hearing record.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

October 3, 1995 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regularly scheduled meeting.

Contact: Cindy Berndt, Policy and Planning Supervisor, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378, FAX (804) 762-4346 or (804) 762-4021/TDD ☎

† October 19, 1995 - 10:30 a.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to obtain comments from the public on the Virginia Solid Waste Management Regulations (VR 672-20-10). These comments will form the basis for Amendment 2 that is the subject of the Notice of Intended Regulatory Action published in Volume 11, Issue 26 of the Virginia Register.

Contact: Walt Gulevich, Department of Environmental Quality, Waste Division, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4021.

† October 23, 1995 - 1 p.m. -- Public Hearing
Norfolk City Council Chambers, City Hall Building, 810 Union Street, 11th Floor, Norfolk, Virginia.

† October 24, 1995 - 2 p.m. -- Public Hearing
War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

† October 25, 1995 - 2 p.m. -- Public Hearing
Roanoke County Board of Supervisors Room, 5204 Bernard Drive, Roanoke, Virginia.

† **November 20, 1995** -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed amendment is to incorporate recent changes to federal regulations governing hazardous materials transport and motor carrier safety and new state law requiring a register of shippers.

Statutory Authority: §§ 10.1-1402, 10.1-1450 and 44-146.30 of the Code of Virginia.

Contact: Julia King-Collins, Office of Enforcement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4247.

STATE WATER CONTROL BOARD

September 25, 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 Water Control Board intends to repeal regulations entitled: **VR 680-14-01. Permit Regulation.** The purpose of the proposed regulatory action is to repeal the permit regulation in order to eliminate confusion and duplication from the concurrent adoption of a VPDES permit regulation and a VPA permit regulation.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Zelda Hardy, Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4377 or (804) 762-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Hardy no later than Monday, August 14, 1995.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Richard Ayers at the Department of Environmental Quality.

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

Written comments may be submitted until 4 p.m., Monday, September 25, 1995, to Zelda Hardy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 527-5059 or (804) 762-4261/TDD☎

September 25, 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 Water Control Board intends to adopt regulations entitled: **VR 680-14-01:1. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.** The purpose of the proposed regulation is to adopt a VPDES permit regulation which will administer the VPDES program which controls the point source discharge of pollutants to surface waters of the state.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Zelda Hardy, Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4377 or (804) 762-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Hardy no later than August 14, 1995.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Richard Ayers at the Department of Environmental Quality.

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

Written comments may be submitted until 4 p.m., Monday, September 25, 1995, to Zelda Hardy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 527-5059 or (804) 762-4261/TDD☎

September 25, 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 Water Control Board intends to repeal regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The purpose of the proposed regulatory action is to repeal the Toxics Management Regulation to avoid duplication and

Calendar of Events

confusion with the adoption of a VPDES permit regulation.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Zelda Hardy, Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4377 or (804) 762-4261/TDD. Persons needing interpreter services for the deaf must notify Ms. Hardy no later than August 14, 1995.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Richard Ayers at the Department of Environmental Quality.

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

Written comments may be submitted until 4 p.m., Monday, September 25, 1995, to Zelda Hardy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 527-5059 or (804) 762-4261/TDD

September 25, 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 Water Control Board intends to adopt regulations entitled: **VR 680-14-21. Virginia Pollution Abatement (VPA) Permit Regulation.** The purpose of the proposed regulation is to adopt a VPA permit regulation which will administer the VPA permit program which controls activities that do not result in a point source discharge to surface waters of the state.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. The Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Zelda Hardy, Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4377 or (804) 762-4261/TDD. Persons needing interpreter services for the

deaf must notify Ms. Hardy no later than August 14, 1995.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Richard Ayers at the Department of Environmental Quality.

Statutory Authority: §§ 62.1-44.15, 62.1-44.16, 62.1-44.17, 62.1-44.18, 62.1-44.19, 62.1-44.20 and 62.1-44.21.

Written comments may be submitted until 4 p.m., Monday, September 25, 1995, to Zelda Hardy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 527-5059 or (804) 762-4261/TDD

October 11, 1995 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled meeting.

Contact: Cindy Berndt, Policy and Planning Supervisor, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4378, FAX (804) 762-4346 or (804) 762-4021/TDD

October 12, 1995 - 2 p.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public meeting to receive views and comments and to answer questions from the public on the board's notice of intent to amend VR 680-01-01, Fees for Permits and Certificates.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

† October 18, 1995 - 2 p.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board will receive comments and views from the public on the State Water Control Board's intent to adopt/readopt regulations governing General Permits for Discharges from fish farms, sewage discharges of less than or equal to 1,000 gallons per day, ready-mixed concrete facilities, car washes and cooling tower discharges to municipal separate storm sewer systems.

Contact: Richard Ayers, Water Division, Office of Water Resources Management, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4075.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

October 5, 1995 - 8:30 a.m. -- Open Meeting
 Department of Professional and Occupational Regulation,
 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎
 (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

GOVERNOR'S ADVISORY COMMISSION ON WELFARE REFORM

October 12, 1995 - 1 p.m. -- Open Meeting
 Department of Social Services, 703 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the commission. Business will be conducted according to items listed on the agenda which has not yet been determined. Subcommittees of the commission are tentatively scheduled to meet at the same location beginning at 9 a.m.

Contact: Gail Nottingham, Commission Secretary, 4615 W. Broad St., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9800, FAX (804) 367-6172 or (804) 367-6283/TDD ☎

LEGISLATIVE

VIRGINIA CODE COMMISSION

September 20, 1995 - 10 a.m. -- Open Meeting
 General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. ☎

A regular meeting.

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

September 18

Alcoholic Beverage Control Board
 † Charitable Gaming Commission
 Conservation and Recreation, Department of Environmental Quality, Department of
 - Litter Control and Recycling Fund Advisory Board
 Museum of Fine Arts, Virginia
 - Board of Trustees
 Professional and Occupational Regulation, Board for

September 19

Conservation and Recreation, Department of Contractors, Board for
 - Application Review Committee
 Housing Development Authority, Virginia
 Museum of Fine Arts, Virginia
 - Board of Trustees
 Real Estate Appraiser Board
 Transportation Safety Board

September 20

Code Commission, Virginia
 Contractors, Board for
 George Mason University
 - Board of Visitors
 Higher Education for Virginia, State Council of Local Debt, State Council on
 Optometry, Board of
 † Private Enterprise Commission
 Sewage Handling and Disposal Appeals Review Board
 Transportation Board, Commonwealth
 Treasury Board
 † Virginia Racing Commission

September 21

Air Pollution Control Board, State
 Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
 - Board for Interior Designers
 Chesapeake Bay Local Assistance Board
 Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
 Environmental Quality, Department of
 Funeral Directors and Embalmers, Board of
 Health, Department of
 - Commissioner's Waterworks Advisory Committee
 † Labor and Industry, Department of
 - Virginia Apprenticeship Council
 † Medicine, Board of
 Sewage Handling and Disposal Appeals Review Board
 Social Work, Board of
 Transportation Board, Commonwealth

September 22

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
 - Board for Land Surveyors
 Dentistry, Board of
 Funeral Directors and Embalmers, Board of

Calendar of Events

HIV Prevention Community Planning Committee, Virginia

† Information Management, Council on
Medicine, Board of
† Psychology, Board of
- Examination Committee
Social Work, Board of

September 24

† Independent Living Council, Statewide

September 25

† Conservation and Recreation, Department of
† Disability Services Council
† Nursing, Board of

September 26

Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
Contractors, Board for
- Regulatory Review Committee
Health Services Cost Review Council, Virginia
Marine Resources Commission
† Nursing, Board of

September 27

Agriculture and Consumer Services, Board of
Community Colleges, State Board for
† Conservation and Recreation, Department of
Contractors, Board for
† Hazardous Materials Training Committee
Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
† Lottery Board, State
† Medicine, Board of
Motor Vehicle Dealer Board
† Nursing, Board of

September 28

Community Colleges, State Board for
Education, Board of
† Nursing, Board of
† Real Estate Board
Rehabilitative Services, Board of
Richmond Hospital Authority
- Board of Commissioners

September 29

Dentistry, Board of
† Executive Council, State
† Executive Mansion, Citizen's Advisory Council on
Furnishing and Interpreting the
† School Health, Blue Ribbon Commission on

September 30

Dentistry, Board of
† Medicine, Board of

October 1

† Medicine, Board of

October 2

Alcoholic Beverage Control Board
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for

October 3

Hopewell Industrial Safety Council
Waste Management Board, Virginia

October 4

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
† Building Authority, Virginia Public
† Emergency Planning Committee, Local - City of
Winchester
Transportation Safety Board

October 5

† Conservation and Recreation, Department of
Emergency Planning Committee, Local - Chesterfield
County
Waterworks and Wastewater Works Operators, Board
for

October 7

† Conservation and Recreation, Department of

October 9

Intergovernmental Relations, Advisory Commission on

October 10

Resources Authority, Virginia

October 11

† Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
Emergency Planning Committee, Local - Roanoke Valley
Game and Inland Fisheries, Board of
† Interagency Coordinating Council, Virginia
Water Control Board, State

October 12

Game and Inland Fisheries, Board of
Water Control Board, State
Welfare Reform, Governor's Advisory Commission on

October 13

Agriculture and Consumer Services, Department of
- Pesticide Control Board
Opticians, Board for

October 14

Visually Handicapped, Department for the
- Advisory Committee on Services

October 16

† Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board

October 17

† Air Pollution, State Advisory Board on
† Environmental Quality, Department of
† Psychology, Board of

October 18

† Auctioneers Board
† Local Debt, State Council on
† Treasury Board
Voluntary Formulary Board, Virginia
† Water Control Board, State

October 19

Falls of the James Scenic River Advisory Board
Visually Handicapped, Board for the
† Waste Management Board, Virginia

October 23

Accountancy, Board for

October 24

Accountancy, Board for
Environmental Quality, Department of
- Litter Control and Recycling Fund Advisory Board

October 25

† Conservation and Recreation, Department of
- Board on Conservation and Development of Public
Beaches
† Environmental Quality, Department of
† Motor Vehicle Dealer Board

October 26

† Education, Board of

October 27

† Rehabilitation Advisory Council, State

October 28

Virginia Military Institute
- Board of Visitors

October 30

Alcoholic Beverage Control Board

November 1

† Agriculture and Consumer Services, Department of
- Virginia Seed Potato Board
Sewage Handling and Disposal Appeals Review Board

November 2

Emergency Planning Committee, Local - Chesterfield
County
Sewage Handling and Disposal Appeals Review Board

November 7

Hopewell Industrial Safety Council

November 9

† Real Estate Board

November 14

Resources Authority, Virginia

November 15

† Local Debt, State Council on
† Treasury Board

November 16

Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
† Education, Board of

November 21

† Motor Vehicle Dealer Board

November 30

† Rehabilitative Services, Board of

December 20

† Local Debt, State Council on
† Treasury Board

PUBLIC HEARINGS

September 18

Conservation and Recreation, Department of
† Robert E. Lee Soil and Water Conservation Board

September 19

Conservation and Recreation, Department of

September 21

Conservation and Recreation, Department of

October 12

Emergency Planning Committee, Local - Fairfax

October 18

Voluntary Formulary Board, Virginia

October 23

Accountancy, Board for
† Waste Management Board, Virginia

October 24

† Waste Management Board, Virginia

October 25

† Waste Management Board, Virginia

