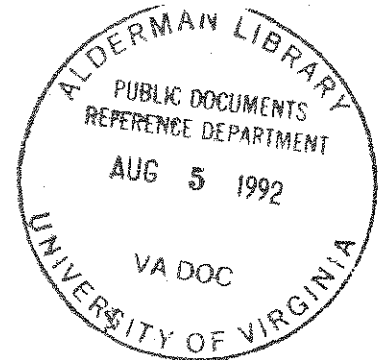
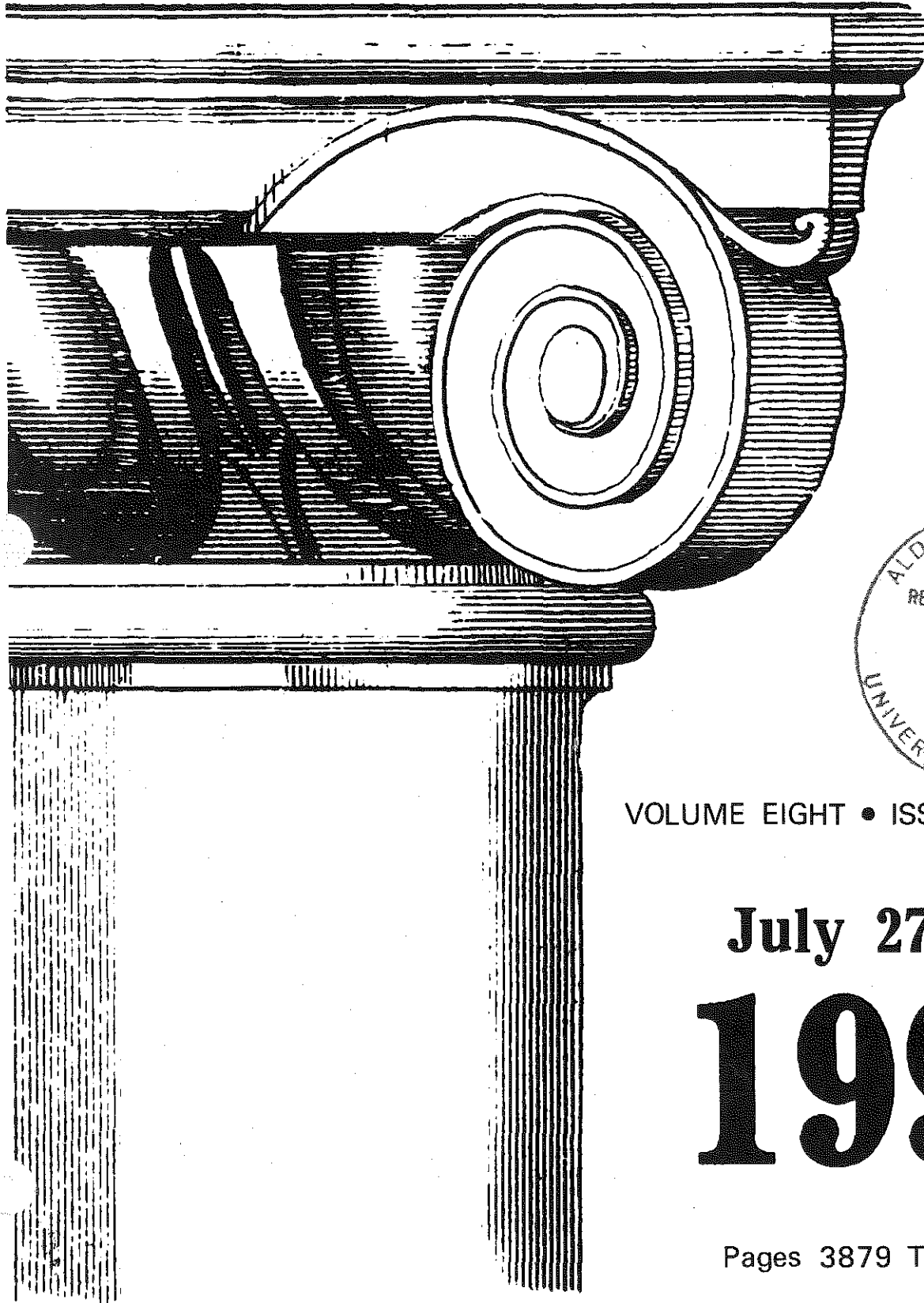


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# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME EIGHT • ISSUE TWENTY-TWO

July 27, 1992

# 1992

Pages 3879 Through 4030

## VIRGINIA REGISTER

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

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

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

### ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

### EMERGENCY REGULATIONS

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

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

### STATEMENT

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

### CITATION TO THE VIRGINIA REGISTER

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VIRGINIA REGISTER OF REGULATIONS

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# NOTICES OF INTENDED REGULATORY ACTION

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## STATE AIR POLLUTION CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed action is to amend the regulations concerning permits for new and expanding industry to address concerns relating to requirements for commercial medical waste incinerators.

**Public meeting:** A public meeting will be held on August 14, 1992, at 10 a.m. in House Room 1, State Capitol Building, Richmond, Virginia, to discuss the intended action.

**Ad hoc advisory group:** The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by close of business July 17, 1992, and provide your name, address, phone number and the organization you represent (if any). Facsimile copies will be accepted only if followed by receipt of the original within three business days. Notification of the composition of the ad hoc advisory group will be sent to all applicants by August 7, 1992. If you are selected to be on the group, you are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

**Need and issues involved:** The 1992 General Assembly of Virginia passed legislation to impose a moratorium on the issuance of permits for commercial medical waste incinerators (MWIs), and for the promulgation of regulations. The legislation was proposed in response to health concerns from commercial MWI emissions. Although the Virginia Waste Management Board has promulgated regulations regarding the storage, transportation, and incineration of infectious wastes, the Virginia Department of Air Pollution Control has not promulgated air pollution permit regulations specifically addressing MWIs. State and federal air quality regulations governing incineration in general and municipal waste combustors in particular do exist, but none specifically address MWIs.

The General Assembly passed legislation directly

addressing MWIs for a number of reasons:

1. Currently, there is more than sufficient capacity at the state's sole commercial MWI to handle the state's medical waste. Concern has been expressed over the possibility that if more commercial MWIs are constructed, large quantities of medical waste will be imported from out of state.
2. Because medical waste has a higher plastics content than ordinary municipal solid waste, incineration of medical waste may generate unusual quantities of toxic or trace metals, dioxins and furans, acid gases and particulate matter. Excessive exposure to dioxin, for example, can cause severe dermatological, cardiovascular, respiratory, pancreatic, and urinary disorders; dioxins and furans are also suspected carcinogens.
3. Removal of pathogens that may cause disease is an issue directly related to incineration of infectious waste.

**Regulatory alternatives:** The alternatives are to either (i) amend the regulations to satisfy the provisions of the law and associated regulations and policies or (ii) take no action to amend the regulations.

**Regulatory constraints:** The legislation imposes a moratorium for the issuance of permits for commercial infectious waste incinerators (i.e., MWIs). An MWI is considered "commercial" if more than 25 percent of the waste it burns is generated off-site. "Infectious waste" is defined as solid waste with the potential to cause infectious disease in humans. The law states, "No permits for the construction, reconstruction, or expansion of a commercial infectious waste incinerator shall be issued, reviewed, processed, or approved by the State Air Pollution Control Board or the Virginia Waste Management Board prior to (i) the effective date of the regulations required to be promulgated by the State Air Pollution Control Board and the Virginia Waste Management Board or (ii) September 1, 1993, whichever first occurs." Existing and proposed noncommercial MWIs, and existing commercial MWIs are not affected.

The law further states, "The State Air Pollution Control Board and the Virginia Waste Management Board shall each promulgate regulations with respect to the permitting of infectious waste incinerators no later than September 1, 1993." Factors to be considered by both boards include:

1. An assessment of the annual need for the disposal of infectious waste generated in Virginia;

# Notices of Intended Regulatory Action

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2. Ways to reduce the volume of infectious waste;
3. The availability of disposal methods other than incineration;
4. Siting criteria;
5. Standards for assessing the economic feasibility of proposed commercial MWIs;
6. The propriety of establishing different criteria and procedures for permitting MWIs;
7. The economic demand for importation of infectious waste from out of state, and an estimate of the incinerator capacity to be allowed for such waste;
8. The impact of the Clean Air Act Amendments of 1990 on the incineration of infectious waste by hospitals; and
9. The impact of reports by EPA regarding the Medical Waste Tracking Act of 1988.

## Applicable statutory provisions:

1. State. The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).
2. Federal.
  - a. The legal basis for the regulation is § 110 of the federal Clean Air Act (42 USC 7401 et seq., 91 State 685).
  - b. The regulatory basis for the regulation is Subpart L and Section 51.281 of 40 CFR Part 51.

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

Written comments may be submitted until August 14, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

## BOARD OF DENTISTRY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Dentistry intends to consider amending regulations entitled: **VR 255-01-1. Board of Dentistry Regulations**. The purpose of the proposed action is to implement changes effective July 1, 1992, to § 54.1-3408 which authorizes a dentist to cause

Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent certified by the Board of Dentistry who has satisfactorily completed a training program for this purpose that is approved by the Board of Dentistry.

Statutory Authority: § 54.1-3408 of the Code of Virginia.

Written comments may be submitted until August 1, 1992.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9906.

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider promulgating regulations entitled: **VR 270-01-0055. Regulations Governing the Protection of Human Subjects in Research**. The purpose of the proposed action is to ensure protection of human subjects involved in research.

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

Written comments may be submitted until August 21, 1992.

Contact: Lawrence McCluskey, Lead Specialist, Division of Research and Evaluation, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2762 or toll-free 1-800-292-3820.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. The Rules and Regulations of the Virginia Health Services Cost Review Council**. The purpose of the proposed action is to clarify the definition of "charity care" as utilized in the analysis of the various filings submitted by health care institutions.

Statutory Authority: §§ 9-158 A and 9-164 2 of the Code of Virginia.

Written comments may be submitted until August 20, 1992.

Contact: John A. Rupp, Executive Director, 805 E. Broad Street, 6th Floor, Richmond, Virginia 23219, telephone (804) 786-6371.

# Notices of Intended Regulatory Action

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-01. College Scholarship Assistance Program Regulations.** The purpose of this action is to permit the State Council of Higher Education to promulgate new regulations governing the College Scholarship Assistance Program.

Statutory Authority: §§ 23-38.45 through 23-38.52 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-01:1. College Scholarship Assistance Program Regulations.** The purpose of this action is to establish policies and procedures for administering the College Scholarship Assistance Program.

Statutory Authority: §§ 23-38.45 through 23-38.52 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-02. Virginia Work-Study Program Regulations.** The purpose of the proposed action is to permit the State Council of Higher Education to promulgate new regulations governing the Virginia Work-Study Program.

Statutory Authority: §§ 23-38.70 and 23-38.71 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs

Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-02:1. Virginia Work-Study Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Virginia Work-Study Program.

Statutory Authority: §§ 23-38.70 and 23-38.71 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-03. Virginia Scholars Program Regulations.** The purpose of the proposed action is to permit the State Council of Higher Education to promulgate new regulations governing the Virginia Scholars Program.

Statutory Authority: §§ 23-38.53:1 through 23-38.53:3 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-03:1. Virginia Scholars Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Virginia Scholars Program.

Statutory Authority: §§ 23-38.53:1 through 23-38.53:3 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs



# Notices of Intended Regulatory Action

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Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider repealing regulations entitled: **VR 380-03-04. Tuition Assistance Grant Program Regulations.** The purpose of the proposed action is to permit the State Council of Higher Education to promulgate new regulations governing the Tuition Assistance Grant Program.

Statutory Authority: §§ 23-38.11 through 23-38.18 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-04:1. Tuition Assistance Grant Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Tuition Assistance Grant Program

Statutory Authority: §§ 23-38.11 through 23-38.18 of the Code of Virginia.

Written comments may be submitted until August 26, 1992.

**Contact:** Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia intends to consider promulgating regulations entitled: **VR 380-03-05. Virginia Guaranteed Assistance Program Regulations.** The purpose of the proposed action is to establish policies and procedures for administering the Guaranteed Assistance Program.

Statutory Authority: §§ 22.1-212.3, 22.1-212.4 and 23-38.53:4 through 23-38.53:7 of the Code of Virginia.

**Contact:** Stephen R. Merritt, Financial Aid Programs Coordinator, State Council of Higher Education, James

Monroe Bldg., 10th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2623.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-40-400. Regulations Governing the Virginia Medical Scholarship Program.** The purpose of the proposed action is to amend the regulation governing the Virginia Medical Scholarship Program in order to make scholarship funds available for three medical students from Southwest Virginia attending the James H. Quillan College of Medicine at East Tennessee State University during the forthcoming academic year.

The amendments identify the cities and counties of Southwest Virginia. Residents of Southwest Virginia that attend James H. Quillan College of Medicine at East Tennessee State University are eligible to receive three scholarships of those funded by the 1992 General Assembly. These regulations amend the regulations governing the Virginia Medical Scholarship Program which were adopted and became effective July 3, 1991.

Statutory Authority: § 32.1-122.6 B of the Code of Virginia.

Written comments may be submitted until August 28, 1992.

**Contact:** E. George Stone, Director, Virginia Medical Scholarship Program, Virginia Department of Health, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-6970.

## BOARD OF PHARMACY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Board of Pharmacy.** The purpose of the proposed action is to (i) promulgate regulations necessary to implement 1992 legislation concerning (a) mandatory continuing education for pharmacists, (b) relicensure and regulations of wholesalers, and (c) 30-day notification of pharmacy closing; and (ii) establish and amend related licensure fees.

1992 legislation established a requirement for mandatory continuing education for pharmacists. The Board of Pharmacy is promulgating regulations to implement this legislation with regard to approval of continuing education programs, conditions for granting of exemptions and extensions, proof of continuing education, record-keeping, establishment of an inactive licensure status, and

# Notices of Intended Regulatory Action

establishment of related fees or amendment of existing fees.

1992 legislation established a requirement of posting a notice of pharmacy closing 30 days prior to actual closing date, unless exempted from this requirement by the board. The Board of Pharmacy is promulgating regulations establishing exemptions or conditions for an exemption to this requirement.

In response to a federal mandate requiring and establishing conditions for state licensure of wholesale distributors of prescription drugs, 1992 legislation repealed the Board of Pharmacy's current "wholesaler" category, and established three new categories of licensure. The Board of Pharmacy is promulgating regulations and amending existing regulations to implement this legislation with regard to storage, handling, and distribution of drugs, devices, and/or paraphernalia and the establishment and amendment of related fees.

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

Written comments may be submitted until July 29, 1992.

**Contact:** Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **VR 615-01-43. Aid to Dependent Children Program - Fifth Degree Specified Relative.** The purpose of the proposed action is to expand the definition of relative of specified degree to include relatives of fifth degree relationship to the dependent child, such as a first cousin once removed.

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

Written comments may be submitted until August 12, 1992, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699.

**Contact:** Peggy Friedenberg, Agency Regulatory Liaison, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **VR 615-37-01. Regulation for Criminal Records**

**Check for Homes for Adults and Adult Day Care Centers.** The purpose of the proposed action is to set forth requirements for criminal record reports for compensated employees of Homes for Adults and Adult Day Care Centers.

Statutory Authority: § 63.1-174 of the Code of Virginia.

Written comments may be submitted until July 29, 1992, to Cheryl Worrell, Program Development Supervisor, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229.

**Contact:** Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-43-8. Agency Placement Adoption - Subsidy.** The purpose of the proposed action is to revise policy governing the individual circumstances that make a child eligible for subsidy and to clarify policy related to reasonable efforts to first place without subsidy.

Statutory Authority: § 63.1-238.5 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Brenda Kerr, 8007 Discovery Dr., Richmond, VA 23229-8699.

**Contact:** Peggy Friedenberg, Legislative Analyst, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **VR 615-80-01. Human Subject Research.** The purpose of the proposed action is to develop rules and regulations to assure the protection of participants in human research. These rules will apply to human subject research coordinated or authorized by the Department of Social Services, local social service agencies and any agency or facility licensed by the department.

Statutory Authority: § 63.1-25.01 of the Code of Virginia.

Written comments may be submitted until August 14, 1992, to Barbara Cotter, Division of Management and Customer Services, Bureau of Research and Systems Support.

**Contact:** Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

# Notices of Intended Regulatory Action

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## DEPARTMENT OF SOCIAL SERVICES (BOARD OF) AND THE CHILD DAY CARE COUNCIL

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services and the Child Day Care Council intend to consider repealing regulations entitled: **VR 175-04-01 and VR 615-32-02. Criminal Records Checks.** This regulation will be superseded by the proposed regulation entitled "Regulations for Criminal Record Checks for Child Welfare Agencies" which incorporated changes made by the 1992 General Assembly.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until July 29, 1992, to Cheryl Worrell, Program Development Supervisor, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229.

**Contact:** Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services and the Child Day Care Council intend to consider promulgating regulations entitled: **VR 175-10-01 and VR 615-36-01. Regulations for Criminal Records Checks for Child Welfare Agencies.** The purpose of the proposed action is to supersede regulation entitled Criminal Record Checks VR 615-32-02 and VR 175-04-01. The proposed regulation will establish criminal record check procedures for child welfare programs and will incorporate the requirements of Senate Bill 226.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until July 29, 1992, to Cheryl Worrell, Program Development Supervisor, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229.

**Contact:** Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

## VIRGINIA RACING COMMISSION

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Satellite Wagering Facilities.** The purpose of the proposed action is to establish conditions under which

simulcast horse racing shall be conducted at satellite wagering facilities.

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

Written comments may be submitted until September 28, 1992.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-40-01. Infectious Waste Management Regulations.** The purpose of the proposed action is to (i) amend the regulations to correct errors; (ii) improve and update existing exemptions, standards and procedures; (iii) add methods for the review of alternate technologies and tracking waste shipments; and (iv) consider mail shipments, reusable container management and other issues. The department may form an advisory panel to help it consider these amendments. Persons or organizations interested in being a member of the panel, please notify the department.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Written comments may be submitted until August 26, 1992, to the Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, VA 23219, ATTN: Infectious Waste Regulations.

**Contact:** Robert G. Wickline, Director of Research, Office of Science Services, Department of Waste Management, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2321.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed action is to incorporate by reference changes that were made by U.S. DOT to Title 49, Code of Federal Regulations from July 1, 1991 to June 1, 1992.

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

Written comments may be submitted until August 13, 1992.

# Notices of Intended Regulatory Action

Contact: C. Ronald Smith, Hazardous Waste Enforcement Chief, Department of Waste Management, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-4761.

## STATE WATER CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-01-01. Fees for Permits and Certificates.** The purpose of the proposed action is to adopt a regulation which establishes, in regulation, a schedule of fees based on the time and complexity associated with processing various categories of permits within the maximum amounts specified in § 62.1-44.15:6 and specifies the method to be used to collect such fees.

All entities which apply for new permits or certificates, apply for reissuance of permits or certificates, or have permits modified at their request or by an action initiated by the Board will be subject fees in amounts not to exceed maximums specified in Chapter 621 of the 1992 Acts of the General Assembly. Specifically, these maximum amounts for the issuance or reissuance of a permit or certificate, or the modification of a permit or certificate at the request of the permit or certificate holder are as follows:

#### ISSUANCE/REISSUANCE

#### Type of Permit/Certificate Category ... Maximum Amount

1. Virginia Pollutant Discharge Elimination System	
Major .....	\$8,000
Minor .....	\$3,500
General .....	\$ 400
2. Virginia Pollutant Abatement	
Agriculture/Concentrated .....	\$1,000
Agriculture/Intensified .....	\$ 500
Industrial/Wastewater .....	\$5,000
Industrial/Sludge .....	\$2,500
Municipal/Wastewater .....	\$5,000
Municipal/Sludge .....	\$2,500
Other .....	\$ 250
3. 401 Certification/Virginia Water Protection	
Individual .....	\$3,000
General .....	\$ 400
Waiver .....	\$ 400
4. Ground Water Withdrawal	
Agricultural Withdrawals	
Agricultural withdrawals not exceeding 150 million gallons in any single month .....	\$ 250
Agricultural withdrawals greater	

than 150 million gallons but less than 300 million gallons in any single month .....	\$ 400
Agricultural withdrawals of 300 million gallons or greater in any single month .....	\$ 600
All Other Withdrawals .....	\$2,000

#### 5. Surface Water Withdrawal

Agricultural Withdrawals	
Agricultural withdrawals not exceeding 150 million gallons in any single month .....	\$ 250
Agricultural withdrawals greater than 150 million gallons but less than 300 million gallons in any single month .....	\$ 400
Agricultural withdrawals of 300 million gallons or greater in any single month .....	\$ 600
All Other Withdrawals .....	\$4,000

The maximum fees for modification of a permit or certificate initiated by the board shall not exceed 75% of the maximum amount for issuance or reissuance of a permit or certificate, or modification of a permit or certificate at the request of the permit or certificate holder.

Payments to the Department of Game and Inland Fisheries and the Department of Conservation and Recreation for reviewing any permit application they are required to review pursuant to requirements of the Code of Virginia will be made from the maximum fee amounts specified above. These payments will be up to 25% of the total fee, but not more than \$100.

All issues related to implementation of Chapter 621 of the 1992 Acts of the General Assembly will be considered. Of particular interest are proposals related to fees for modifications of permits and certificates and options for the collection of fees.

The board will hold public meetings regarding the Fees for Permits and Certificates regulation. See Calendar of Events Section.

Applicable laws and regulations include Chapter 621 of the 1992 Acts of the General Assembly, the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the Board's Public Participation Guidelines.

Statutory Authority: § 62-44.15:6 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Pat Woodson, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230,

# Notices of Intended Regulatory Action

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telephone (804) 527-5166.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with the agency's public participation guidelines that the State Water Control Board intends to repeal regulations entitled: **VR 680-13-01. Rules of the Board and Standards for Water Wells.** The purpose of the proposed action is to repeal VR 680-13-01 Rules of the Board and Standards for Water Wells and promulgate VR 680-13-07 Ground Water Withdrawal Regulations pursuant to the Ground Water Management Act of 1992 (effective July 1, 1992).

Paragraph 2 of Chapter 812 of the 1992 Acts of the General Assembly repeals the Groundwater Act of 1973 (Code of Virginia Title 62.1, Chapter 3.4, § 62.1-44.83 through § 62.1-44.107; effective July 1, 1992). Legislative authority to promulgate VR 680-13-01 Rules of the Board and Standards for Water Wells was contained in Chapter 3.4 of Title 62.1 of the Code of Virginia. Concurrently with this action, the board is considering the adoption of VR 680-13-07 Ground Water Withdrawal Regulations in accordance with Paragraph 1 of Chapter 812 of the 1992 Acts of the General Assembly added Chapter 25 (§§ 62.1-254 through 62.1-270) to Title 62.1 of the Code of Virginia (effective July 1, 1992).

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Groundwater Act of 1973, The Ground Water Management Act of 1992 (Chapter 812 of the 1992 Acts of Assembly), Rules of the Board and Standards for Water Wells, and the Administrative Process Act.

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

Written comments may be submitted until August 26, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

Contact: Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The purpose of the proposed action is to incorporate the amendments enacted by the 1992 General Assembly in Chapters 819 and 456 (House Bills 1172 and 1043), establish revised financial responsibility compliance dates for owners and operators of underground storage tanks and petroleum storage tank vendors, and delete requirements for the

Virginia Underground Petroleum Storage Tank Fund which are to be established concurrently with this proposed regulatory action in a new regulation.

The General Assembly's establishment of a sliding scale for financial responsibility (effective July 1, 1992) will reduce the amount of financial responsibility required of many owners and operators of underground storage tanks and petroleum storage tank vendors. Therefore, there would be no negative financial impact imposed on the regulated community. Extension of compliance dates will benefit the regulated community by providing owners and operators and vendors with more time in which to comply with financial responsibility requirements.

An issue under consideration is the amount and type of documentation necessary to establish the amount of petroleum pumped on an annual basis. This is required in order to determine the level of financial responsibility required for owners and operators.

See Calendar of Events section for schedule of public meetings.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), and Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:8 (8) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-13-06. Virginia Petroleum Storage Tank Fund Requirements.** The purpose of the proposed action is to adopt a regulation describing the requirements for the Virginia Petroleum Storage Tank Fund.

The amendments to the State Water Control Law enacted by the 1992 General Assembly (effective July 1, 1992) increased the number of persons who have access to the Fund and reduced the amount of financial responsibility required to certain categories of regulated owners and operators. Therefore, there would be no negative financial impact imposed on the regulated community and a substantial benefit may be conferred upon certain persons who are not part of the regulated community.

## Notices of Intended Regulatory Action

Issues under consideration include (1) the criteria which must be met prior to the board initiating State-Lead corrective actions at a site where a release has occurred; (2) limitations on access to the Fund by operators of facilities with aboveground storage tanks (regulated and unregulated); and (3) access to the Fund for subsequent property owners who discover/purchase abandoned tanks located on the property.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, the Petroleum Storage Tank Financial Responsibility Requirements (VR 680-13-03), the Underground Storage Tanks; Technical Standards and Corrective Action Requirements (VR 680-13-02), and Chapter 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:8 (8) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-13-07. Ground Water Withdrawal Regulation.** The purpose of the proposed action is to adopt regulations which establish administrative procedures for the establishment of ground water management areas and the issuance of ground water withdrawal permits within designated areas. The regulations will also establish technical criteria to be used when evaluating an application for a ground water withdrawal permit as well as enforcement procedures to assure compliance with the regulations.

Paragraph 1 of Chapter 812 of the 1992 Acts of the General Assembly added Chapter 25 (§ 62.1-254 through § 62.1-270) to Title 62.1 of the Code of Virginia (effective July 1, 1992). Chapter 25 is titled the Ground Water Management Act of 1992. Section 62.1-256.8 specifically requires the Board to adopt regulations necessary to administer and enforce the provisions of Chapter 25.

All ground water users who hold existing permits or certificates of ground water right in existing ground water management areas will be required to apply for new permits with terms not to exceed 10 years. An unknown number of agricultural users who were exempt from the Groundwater Act of 1973 will be required to apply for a

permit. Any person wishing to initiate a withdrawal in excess of 300,000 gallons per month or expand an existing permitted withdrawal within existing ground water management areas will be required to apply for a ground water withdrawal permit. The Ground Water Management Act of 1992 establishes criteria for the creation of additional ground water management areas within which any user of greater than 300,000 gallons per day would be required to apply for a permit.

All issues related to the implementation of the Ground Water Management Act of 1992 will be open for consideration. Staff of the Board is especially interested in input on methodologies to determine historic ground water withdrawals from wells that were not metered, methodologies to determine the amount of ground water needed annually for drought relief wells, information necessary to document water withdrawal savings achieved by water conservation, information necessary to document additional ground water needed (in addition to existing use) during the term of a permit, strategies to assure that the maximum amount of ground water is preserved and protected for future beneficial uses, strategies for prioritizing types of water use when evaluating withdrawal applications, and establishment of criteria for the issuance or denial of ground water withdrawal permits.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Groundwater Act of 1973, The Ground Water Management Act of 1992 (Chapter 812 of the 1992 Acts of Assembly), Rules of the Board and Standards for Water Wells, and the Administrative Process Act.

Statutory Authority: § 62.1-256.8 of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-12. Aboveground Storage Tanks Registration Requirements.** The purpose of this proposed regulatory action is to adopt new regulations which will allow the board to compile an inventory of facilities with an aboveground storage capacity of greater than 1320 gallons of oil or individual aboveground storage tanks having a storage capacity of greater than 660 gallons of oil.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of

# Notices of Intended Regulatory Action

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aboveground storage tanks to register their facilities and tanks with the board. This will impose minimum additional requirements as many of these facilities will be subject to a similar registration program under federal statute and regulation.

An issue under consideration is ensuring that the regulations consider similar requirements under federal statute or regulation. The board will determine the adequacy of the federal requirements when drafting these regulations.

Another issue under consideration is the establishment of administrative fees. Section 62.1-44.34:19.1 authorizes the board, if the board determines that registration under federal law or regulations is inadequate for the purpose of compiling its inventory and that additional registration requirements are necessary, to assess a fee, according to a schedule based on the size and type of the facility or tank, not to exceed \$100 per facility or \$50 per tank, whichever is less. The board seeks comments on the appropriateness of establishing a fee schedule for registration or reregistration.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and Chapter 456 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:19.1 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-13. Aboveground Storage Tanks Prevention Standards and Operational Requirements.** The purpose of this proposed regulatory action is to adopt regulations necessary to prevent pollution of state waters, lands, or storm drain systems from the discharge of oil from new and existing aboveground storage tanks. Section 62.1-44.34:15.1 states that the regulations shall provide:

1. For existing aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater:

a. To prevent leaks from aboveground storage tanks,

requirements for inventory control, testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the board) and formal tank inspections every five years in accordance with accepted industry practices and procedures approved by the board. Initial testing shall be on schedule approved by the board;

b. To prevent overfills, requirements for safe fill and shut down procedures, including an audible staged alarm with immediate and controlled shut down procedures, or equivalent measures established by the board;

c. To prevent leaks from piping, requirements for cathodic protection, and pressure testing to be conducted at least once every five years, or equivalent measures established by the board;

d. To prevent and identify leaks from any source, requirements (i) for a visual inspection of the facility each day of normal operations and a weekly inspection of the facility with a checklist approved by the board, performed by a person certified or trained by the operator in accordance with board requirements, (ii) for monthly gauging and inspection of all ground water monitoring wells located at the facility, and monitoring of the well head space for the presence of vapors indicating the presence of petroleum, and (iii) for quarterly sampling and laboratory analysis of the fluids present in each such monitoring well to determine the presence of petroleum or petroleum byproduct contamination; and

e. To ensure proper training of individuals conducting inspections, requirements for proper certification or training by operators relative to aboveground storage tanks.

2. For existing aboveground storage tanks at facilities with an aggregate capacity of less than one million gallons but more than 25,000 gallons:

a. To prevent leaks from aboveground storage tanks, requirements for inventory control and testing for significant inventory variations (e.g., test procedures in accordance with accepted industry practices, where feasible, and approved by the board). Initial testing shall be on a schedule approved by the board;

b. To prevent overfills, requirements for safe fill and shut down procedures;

c. To prevent leaks from piping, requirements for pressure testing to be conducted at least once every five years or equivalent measures established by the board; and

# Notices of Intended Regulatory Action

d. To prevent and identify leaks from any source, requirements for a visual inspection of the facility each day of normal operations and a weekly inspection of the facility with a checklist approved by the board, performed by a person certified or trained by the operator in accordance with board requirements developed in accordance with Item 1 above.

Further, the board shall establish performance standards for aboveground storage tanks installed, retrofitted or brought into use after the effective date of the regulations promulgated pursuant to this subsection that incorporate all technologies designed to prevent oil discharges that have been proved in accordance with accepted industry practices and shown to be cost-effective.

The amendments to the State Water Control Law enacted by the General Assembly will require operators of aboveground storage tanks of oil to adhere to the prevention standards set by statute. These standards may require some upgrade and improvements to be made to facilities not already in substantial conformance with applicable federal statute and regulation. These regulations will also require additional operational procedures to be met.

An issue under consideration is ensuring that the regulations are in substantial conformance with the current codes and standards recommended by the National Fire Protection Association as well as practices contained in applicable American Petroleum Institute publications and other accepted industry standards. The board will also consider those pollution prevention standards mandated under federal statute and regulation.

Public meetings will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and Chapter 456 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:15.1 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-14. Aboveground Storage Tanks Financial**

**Responsibility Requirements.** The purpose of this intended regulatory action is to adopt new regulations setting the amount of financial responsibility operators of facilities with aboveground storage tanks must demonstrate.

The amendments to the State Water Control Law enacted by General Assembly will require operators of aboveground storage tanks of oil to demonstrate financial responsibility based on the aggregate capacity of the facilities. This may require operators to obtain additional pollution insurance to meet the amount required by regulation. No governmental agency is required to comply with these regulations.

An issue under consideration is ensuring that the regulations consider those parameters established by statute prior to determining the amount of financial responsibility required to be demonstrated. In no instance will this amount exceed five cents per gallon of aboveground storage capacity or five million dollars for a pipeline.

Another issue under consideration is the establishment of administrative fees for acceptance of evidence of financial responsibility. Section 62.1-44.34:21 of the Code of Virginia authorizes the board to collect from any operator seeking acceptance of evidence of financial responsibility fees sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:16 as to an operator seeking acceptance of evidence of financial responsibility. The board seeks comments on the appropriateness of establishing a fee schedule for acceptance of evidence of financial responsibility.

Public meeting will be held. See Calendar of Events Section.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and Chapters 456 and 819 of the 1992 Acts of Assembly.

Statutory Authority: §§ 62.1-44.34:16 and 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until August 31, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5203.



# Notices of Intended Regulatory Action

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## DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **Standards for the Detention of Juveniles in Jails and Lockups**. The purpose of the proposed action is to:

1. Serve as criteria for use by staff of the Department of Youth and Family Services in monitoring jails and lockups holding juveniles.
2. Serve as guidelines for jails and lockups wishing to hold juveniles.

Statutory Authority: §§ 66-10 and 16.1-249 of the Code of Virginia.

Written comments may be submitted until August 26, 1992, to Kathi Faber, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108.

**Contact:** Sheila Christian, Licensure/Certification Program Manager, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0571.

# 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.

## COUNCIL ON THE ENVIRONMENT

**Title of Regulation:** VR 305-01-001. Public Participation Guidelines. **REPEALED.**

**Title of Regulation:** VR 305-01-001:1. Public Participation Guidelines.

**Statutory Authority:** §§ 9-6.14:7.1 and 10.1-2202 of the Code of Virginia.

**Public Hearing Date:** August 26, 1992 - 7 p.m.  
(See Calendar of Events section for additional information)

### Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and use public participation guidelines for soliciting the input of interested persons in the development and adoption of regulations. The purpose of the proposed action is to adopt new guidelines for soliciting public participation in the development and adoption of regulations by the Council on the Environment. These guidelines will be consistent with those of the other Natural Resources agencies. The proposed regulation will replace VR 305-01-001. Public Participation Guidelines under which the council currently operates.

The proposed regulation will require, among other things, that additional information be submitted as part of the Notice for Intended Regulatory Action (NOIRA) and the Notice of Public Comment (NOPC), that a public hearing be held during both the NOIRA and NOPC phases of the regulation adoption process, and that the public comment period for a NOIRA be expanded from 15 to 30 days.

VR 305-01-001:1. Public Participation Guidelines.

### § 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Administrator" means the administrator of the Council on the Environment or his designee.

"Agency" means the council administrator and staff responsible for implementing the programs and providing administrative support to the council.

"Council" means the Council on the Environment, the collegial body, established under § 10.1-1200 et seq. of the Code of Virginia.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Virginia Environmental Quality Law" means the provisions found in § 10.1-1200 et seq. of the Code of Virginia authorizing the Council on the Environment or the administrator to adopt regulations or procedural requirements.

Unless specifically defined in the Virginia Environmental Quality Law or in this regulation, terms used shall have the meanings commonly ascribed to them.

### § 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the council or the agency, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

### § 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the council so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

# Proposed Regulations

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C. The agency may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the agency.

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include the following:

- a. A brief statement as to the need for regulatory action;
- b. A brief description of alternatives available, if any, to meet the need.
- c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.
- d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. Holding public meetings.

- a. The agency shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the administrator, in his sole discretion, may dispense with the public meeting.
- b. In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication of the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.
2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the

NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received to the NOIRA shall also be distributed to the council.

G. Upon approval of the draft proposed regulation by the council, the agency may, at its discretion, proceed by publishing the NOPC and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.
2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.
3. A request for comments on the costs and benefits of the proposal.
4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:
  - a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.
  - b. A statement of estimated impact:
    - (1) Number and types of regulated entities or persons affected.
    - (2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.
    - (3) Projected cost to the council staff for implementation and enforcement.
    - (4) The beneficial impact the regulation is designed to produce.
  - c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.
  - d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in

Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the agency believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. In those cases in which the agency elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia. The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations;

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the council. Both the summary and the comments shall become a part of the agency file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

## BOARD OF HISTORIC RESOURCES

**Title of Regulation:** VR 390-01-01. Public Participation Guidelines.

**Statutory Authority:** §§ 9-6.14:7.1 and 10.1-2205 of the Code of Virginia.

**Public Hearing Date:** August 26, 1992 - 7 p.m.  
(See Calendar of Events section for additional information)

### Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of the regulation.

The purpose of the proposed action is to adopt public participation guidelines that establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines that are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines require an expanded notice of intended regulatory action, require that a summary of all comments received be prepared and made available by the Department of Historic Resources, and require the performance of certain analyses.

VR 390-01-01. Public Participation Guidelines.

### § 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Board" means the Board of Historic Resources.

"Department" means the Department of Historic Resources.

"Director" means the Director of the Department of Historic Resources or his designee.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or other legal entity.

Unless specifically defined in Chapters 22, 23, and 24 of Title 10.1 of the Code of Virginia or in this regulation, terms used shall have the meanings commonly ascribed to them.

### § 2. General provisions.

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A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the board or the director, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

## § 3. Public participation procedures.

A. The department shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the board so directs or upon its own initiative, the department may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The department may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the department.

D. The department shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

### 1. The NOIRA shall include at least the following:

- a. A brief statement as to the need for regulatory action;
- b. A brief description of alternatives available, if any, to meet the need.
- c. A request for comments on the intended regulatory action, to include any ideas to assist the department in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.
- d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. During the public comment period for NOIRAs, the department shall conduct public meetings as follows:

a. The department shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting.

b. In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication of the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The department shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.
2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public comment, the department may prepare the draft proposed regulation and prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. A summary or copies of the comments received in response to the NOIRA shall also be distributed to the board.

G. Upon approval of the draft proposed regulation by the director, the department may, at its discretion, proceed by publishing the NOPC and the proposal for public comment.

### H. The NOPC shall include the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.
2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.
3. A request for comments on the costs and benefits of the proposal.
4. A statement that an analysis of the following has been conducted by the agency and is available to the

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public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the department for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or upon other organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the department believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the department will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases in which the agency elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the department determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia

Register.

J. The department shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations;

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The department shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the board. Both the summary and the comments shall become a part of the department file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

## DEPARTMENT OF HISTORIC RESOURCES

Title of Regulation: VR 392-01-01. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2202 of the Code of Virginia.

Public Hearing Date: August 26, 1992 - 7 p.m.  
(See Calendar of Events section for additional information)

### Summary:

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of the regulation.

The purpose of the proposed action is to adopt public participation guidelines that establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines that are consistent with those of the other agencies within the Natural Resources Secretariat.

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Specifically, the proposed guidelines require an expanded notice of intended regulatory action, require that a summary of all comments received be prepared and made available by the department, and require the performance of certain analyses.

VR 392-01-01. Public Participation Guidelines.

## § 1. Definitions.

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

“Administrative Process Act” means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

“Department” means the Department of Historic Resources.

“Director” means the Director of the Department of Historic Resources or his designee.

“Person” means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or other legal entity.

Unless specifically defined in Chapters 22, 23, and 24 of Title 10.1 of the Code of Virginia or in this regulation, terms used shall have the meanings commonly ascribed to them.

## § 2. General provisions.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act or excluded from the operation of Article 2 of the Administrative Process Act.

B. At the discretion of the director, the procedures in § 3 may be supplemented by any means and in any manner to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

## § 3. Public participation procedures.

A. The department shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. The department may commence the regulation

adoption process upon its own initiative and proceed to draft a proposal according to these procedures.

C. The department may form an ad hoc advisory group to assist in the drafting and formation of the proposal. When an ad hoc advisory group is formed, such ad hoc advisory group shall be appointed from groups and individuals registering interest in working with the department.

D. The department shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

### 1. The NOIRA shall include at least the following:

a. A brief statement as to the need for regulatory action;

b. A brief description of alternatives available, if any, to meet the need.

c. A request for comments on the intended regulatory action, to include any ideas to assist the department in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.

d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

### 2. During the public comment period for NOIRAs, the department shall conduct public meetings as follows:

a. The department shall hold at least one public meeting when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting.

b. In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication of the Virginia Register, time and place of the public meeting(s).

### 3. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the Virginia Register.

E. The department shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public comment, the department may prepare the draft proposed regulation and

prepare the notice of public comment (NOPC) and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation.

G. Upon approval of the draft proposed regulation by the director, the department may, at its discretion, proceed by publishing the NOPC and the proposal for public comment.

H. The NOPC shall include the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.

2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.

3. A request for comments on the costs and benefits of the proposal.

4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:

a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.

b. A statement of estimated impact:

(1) Number and types of regulated entities or persons affected.

(2) Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the department for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may

result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or upon other organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement why the department believes that the proposed regulation is the least burdensome alternative to the regulated community.

f. A schedule setting forth when, within two years after the effective date of the regulation, the department will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. (In those cases in which the agency elects to conduct an evidential hearing, the notice shall indicate that the evidential hearing will be held in accordance with § 9-6.14:8 of the Code of Virginia.) The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the department determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register of Regulations.

J. The department shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations;

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate.

2. Distribution by mail to persons on the list(s) established under subsection A of this section.

K. The department shall prepare a summary of comments received in response to the NOPC. Both the summary and the comments shall become a part of the department file.

L. Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.



# Proposed Regulations

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## VIRGINIA RACING COMMISSION

**Title of Regulation:** VR 662-04-04. Virginia Breeders Fund.

**Statutory Authority:** §§ 59.1-369 and 59.1-372 of the Code of Virginia.

**Public Hearing Date:** September 16, 1992 - 9:30 a.m.  
(See Calendar of Events section for additional information)

### Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The proposed regulation sets forth the manner in which the Virginia Breeders Fund shall be disbursed among stallion owners, breeders and owners of Virginia-bred racehorses.

VR 662-04-04. Virginia Breeders Fund.

### PART I. DEFINITIONS.

#### § 1.1. Definitions.

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

**"Breeding season"** means a period of time beginning on February 1 and ending on August 1 of each year. For Standardbreds, the breeding season means a period of time beginning February 15 and ending on July 15 of each year.

**"Stallion owner"** means an owner or lessee of record of a stallion that covered mares in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred horse.

**"Virginia-bred Arabian horse"** means a registered Arabian horse foaled in the Commonwealth of Virginia.

**"Virginia Arabian horse breeder"** means the owner or lessee of record of the mare at the time of foaling of a Virginia-bred Arabian horse.

**"Virginia Arabian sire"** means a registered Arabian stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Arabian horse.

**"Virginia-bred Quarter Horse"** means a registered Quarter Horse foaled or conceived in the Commonwealth of Virginia.

**"Virginia Quarter Horse breeder"** means the owner or

lessee of record of the mare at the time of conception of a Virginia-bred Quarter Horse.

**"Virginia Quarter Horse sire"** means a registered Quarter Horse stallion or registered Virginia Thoroughbred stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Quarter Horse.

**"Virginia-bred Standardbred horse"** means a registered Standardbred horse foaled or conceived in the Commonwealth of Virginia. After December 31 of the fifth calendar year following the year in which Standardbred racing first commences in the Commonwealth pursuant to an unlimited license issued by the commission, the horse must be sired by a Virginia Standardbred sire.

**"Virginia Standardbred horse breeder"** means the owner or lessee of record of the mare at the time of conception of a Virginia-bred Standardbred horse.

**"Virginia Standardbred sire"** means a registered Standardbred stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Standardbred horse.

**"Virginia-bred Thoroughbred horse"** means a registered Thoroughbred horse foaled in Virginia and, if foaled in the Commonwealth after December 31 of the second calendar year following the year in which Thoroughbred racing first commences in the Commonwealth pursuant to an unlimited license issued by the commission, shall also satisfy one of the following additional requirements:

1. The foal was sired by a Virginia Thoroughbred sire; or
2. If not so sired, the dam, if bred back that same breeding season, is bred to a Virginia Thoroughbred sire; or
3. If not so sired, or the dam is not bred back that same breeding season or is bred to a sire other than a Virginia Thoroughbred sire, the dam remains continuously in the Commonwealth from September 1 to date of foaling, or if barren to February 1 of the following year.

**"Virginia Thoroughbred horse breeder"** means the owner or lessee of record of the mare at the time of foaling of a Virginia-bred Thoroughbred horse.

**"Virginia Thoroughbred sire"** means a registered Thoroughbred stallion that covers mares, other than test mares, only in the Commonwealth during the breeding season in which it sires a Virginia-bred Thoroughbred horse, or only during that part of the breeding season after entering the Commonwealth.

## PART II. GENERAL.

### § 2.1. Generally.

The purpose of these regulations is to establish procedures for the administration of the Virginia Breeders Fund by the Virginia Racing Commission as provided for in § 59.1-372 of the Code of Virginia.

#### A. Certification.

The commission shall certify that a racehorse is a Virginia-bred for eligibility for entry into races restricted to Virginia-bred horses, to qualify its owner for purse supplements and to qualify the stallion owner, if applicable, and breeder for awards.

#### B. Determination of eligibility.

The final determination of all questions, disputes or protests relating to the registration, eligibility for certification or breeding of a Virginia-bred horse and the final determination of eligibility of any horse to enter a race restricted to Virginia-bred horses shall rest solely with the commission.

#### C. Documentation.

In making its determination, the commission, in its discretion, may require the submission of any certificate of foal registration, eligibility paper or any other registration document, affidavits or other substantive proof to support or deny any claim concerning registration of a horse as a Virginia-bred.

#### D. False statements.

Any person who submits false or misleading information to a breed registry, to the commission or any racing official, may be fined, have his permit suspended or revoked, be denied participation in the Virginia Breeders Fund for a period of time deemed appropriate by the commission, or any or all of the foregoing.

#### E. Forfeiture of awards and purse moneys.

Any person who is denied participation in the Virginia Breeders Fund under the provisions of the regulations shall forfeit and restore to the commission any awards and purse moneys received based upon the submission of false or misleading information. Until the awards and purse moneys are restored, the commission may suspend the person's permit to participate in horse racing at licensed facilities.

#### F. Recognized registries.

The commission shall recognize certificates of registration from the following breed registries:

1. Thoroughbred: The Jockey Club;
2. Standardbred: The United States Trotting Association;
3. Quarter horse: The American Quarter Horse Association; and
4. Arabian horse: The Arabian Horse Registry of America.

#### G. Payment of awards.

All awards for stallion owners and breeders may be distributed from the Virginia Breeders Fund within 30 days of the end of the race meeting that generated the funds. The following provisions shall apply to payment of stallion owner and breeder awards pursuant to an unlimited license issued by the commission:

1. Determination of individual distributions to a stallion owner shall be in the same ratio as the amount of nonsupplement first-place purse money won by the Virginia-bred horse at the race meeting, which qualifies the stallion owner for an award, to the total amount of nonsupplemented first-place purse money won by all Virginia-bred horses which qualify stallion owners for awards at the race meeting;
2. Determination of individual distributions to a breeder shall be in the same ratio as the amount of nonsupplemented first-place purse money won by the Virginia-bred horse at the race meeting, which qualifies the breeder for an award, to the total amount of nonsupplemented first-place purse money won by all Virginia-bred horses at the race meeting;
3. To become eligible for a stallion owner or breeder award from the Virginia Breeders Fund, the stallion owner or breeder must be certified by the commission prior to receiving any award, unless his stallion or broodmare has been previously registered with the commission;
4. A stallion owner or breeder will have 25 days after the closing of the race meeting, at which he becomes eligible for an award, to be certified by the commission unless his stallion or broodmare has been previously registered with the commission;
5. A stallion owner or breeder need only be certified once per racehorse; and
6. Any unclaimed awards from the Virginia Breeders Fund shall be distributed proportionately among those stallion owners and breeders who have been certified as being entitled to an award from the race meeting which generated the funds.

#### H. Distribution by breeds.

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The funds generated by the breed of horse through pari-mutuel wagering at a race meeting shall be distributed to that breed of horse through stallion owner awards, breeder awards and purse supplements.

## I. Reimbursement of funds.

The source of funding is 1.0% of all pari-mutuel pools which shall be paid to the commission within five days of the date that the funds were generated. Purse moneys shall be paid from the horsemen's account when approval is granted by the stewards. The commission shall reimburse the horsemen's account to the extent that funds are available from the Virginia Breeders Fund. Any deficiencies in the horsemen's account shall be assumed by the licensee.

## J. Restrictions.

In disbursing the Virginia Breeders Fund, the following restrictions shall apply:

1. Supplements to purses from the Virginia Breeders Fund shall not be considered in determining breeder or stallion awards;
2. The amount of the purses for races restricted to Virginia-bred horses or any adjustments must be fair, equitable and appropriate to the quality of the horses competing for those purses;
3. Funds allocated for purse supplements shall be credited to the owner's account by the horsemen's bookkeeper in accordance with procedures established elsewhere in these regulations; and
4. Underpayment of moneys generated by each breed shall be remitted to the commission, deposited in an interest-bearing account and carried forward to be distributed as purse supplements or purse moneys for races restricted to the same breed of Virginia-bred horses, which generated the moneys, during the next succeeding race meeting at the same horse racing facility for the breed that generated the purse money.

## K. Reservation of funds.

The commission may set aside funds for distribution in future years, if the commission, in its discretion, determines that there is an insufficient supply of Virginia-bred horses of a certain breed to warrant a distribution. In this event, the funds shall be deposited in an interest bearing account for future distribution of awards and purse supplements to the breed that generated the funds so set aside.

## L. Assignment of awards.

Awards distributable to breeders and stallion owners are only assignable pursuant to a court order.

## M. Advisory committee.

To assist it in establishing this awards and incentive program to foster the industry of breeding racehorses in Virginia, the commission shall appoint an advisory committee composed of two members from each of the registered breed associations representing each breed of horse participating in the fund program, one member representing the owners and operators of racetracks and one member representing all the meets sanctioned by the National Steeplechase and Hunt Association.

The commission, in its discretion, may establish and appoint the members of subcommittees of the advisory committee for each breed of horse participating in the fund program. Each subcommittee shall be composed of one commissioner, the executive secretary of the commission, two advisory committee members, a member representing an owner or operator of a horse racing facility, and an at-large member from the breed of horse participating in the fund program. All appointments shall be approved by the commission.

## PART III. THOROUGHBREDS.

### § 3.1. Commencement of registration.

The commission shall establish a date when owners of Thoroughbred stallions shall commence registering their stallions and breeders of Virginia-bred Thoroughbred horses shall commence registering their broodmares.

### § 3.2. Stallion registration.

#### A. Initial registration.

For a stallion owner to be certified to receive stallion owner awards from the Virginia Breeders Fund, the stallion owner shall register his stallion with the commission by satisfying the following requirements:

1. Each year prior to the commencement of the breeding season, but no later than January 31, or within 30 days following the entry into stud in Virginia if entry is after the breeding season commences, the owner or authorized agent shall submit an application on a form prepared by the commission, which shall set forth the name of the stallion, year of foaling, registration number, pedigree, including sire, dam and sire of the dam, where the stallion is standing at stud, the date of entry to stud if after the commencement of the breeding season, and the name(s) and address(es) of owner(s) and lessee(s);
2. The application shall be signed and dated by the owner or lessee, or the authorized agent;
3. A notarized copy of the stallion's Certificate of Foal Registration, clearly showing the front and transfer side of the document, shall accompany the application;

4. If the stallion is held under a lease or a syndicate agreement, a copy of the lease or agreement shall accompany the application, and the lease or agreement must include a statement that the lessee or syndicate manager is authorized to sign the service certificate and receive stallion awards; and

5. The owner or authorized agent shall submit to the commission a notarized copy of The Jockey Club's Report of Mares Bred at the conclusion of the breeding season but no later than August 1.

#### B. Late registration.

A stallion may be registered with the commission for the breeding season after January 31 or 30 days following its entry into stud in Virginia. A late registration fee of \$250 shall be assessed. A late registration of a stallion shall be accepted by the commission until August 1 for that breeding year.

#### C. Change of ownership.

If there is a change in ownership, or the stallion is subsequently leased or syndicated, or the location of where the stallion standing is changed, the new owner, lessee or syndicate manager shall submit to the commission a new application for stallion registration.

#### § 3.3. Broodmare registration.

For an owner or lessee of broodmare to be certified to receive breeder awards from the Virginia Breeders Fund, the owner or lessee shall register his broodmare with the commission by satisfying the following requirements:

1. Each year prior to the commencement of the breeding season but no later than January 31, or within 30 days after the mare enters the Commonwealth, if the entry is after the commencement of the breeding season, the breeder or his authorized agent must submit an application, on a form prepared by the commission, including the name of the broodmare, year of foaling, registration number, pedigree, including sire, dam and sire of the dam, the location in Virginia where the mare domiciled, and the name and address of the owner;

2. The application shall be signed and dated by the owner or authorized agent;

3. A notarized copy of the broodmare's Certificate of Foal Registration, clearly showing the front and transfer side of the document, shall accompany the application;

4. If the broodmare is held under a lease, a statement to that effect and a copy of the lease, which must include a statement that the lessee is authorized to register the foal, shall accompany the application;

5. If the broodmare was not bred to a Virginia Thoroughbred sire or is not bred back to a Virginia Thoroughbred sire, then the owner or authorized agent shall sign the affidavit stating that the broodmare has been domiciled in the Commonwealth of Virginia since September 1 of the preceding year; and

6. If there is a change of ownership, or if the broodmare is subsequently leased, or there is a change in the prior lease agreement, the new owner or lessee shall submit a new application to the commission.

#### B. Late registration.

A broodmare may be registered with the commission for the breeding season after January 31 or 30 days following its entry into Virginia. A late registration fee of \$100 shall be assessed. A late registration of a broodmare shall be accepted by the commission until August 1 for that breeding year.

#### § 3.4. Fund distribution.

##### A. Allocation of funds.

The funds generated by pari-mutuel wagering on thoroughbred horse races for the Virginia Breeders Fund shall be allocated on the following schedule:

1. 25% shall be set aside for payment to the breeders of Virginia-bred thoroughbred horses that win races at horse racing facilities licensed by the commission;

2. 15% shall be set aside for payment to owners or lessees of registered Virginia stallions which sire Virginia-bred thoroughbred horses that win races at horse racing facilities licensed by the commission; and

3. 60% shall be paid to supplement purses as determined by the commission under the following provisions:

a. A purse supplement may be paid to the owner or owners of a Virginia-bred thoroughbred horse each time the horse wins a nonrestricted race at a horse racing facility licensed by the commission; and

b. Purse supplements shall be paid for purses for races restricted to Virginia-bred thoroughbred horses.

#### § 3.5. Restricted races.

The racing secretary at each unlimited race meeting licensed by the commission shall include in the condition book restricted races which equal not less than 5.0% of the total nonsubstitute races included in that book, and that those races shall be run if eight separate betting interests are entered. If there is not a sufficient number of registered Virginia-bred horses entered to fill the race,

# Proposed Regulations

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then the racing secretary may substitute another race.

races restricted to Virginia-bred horses.

## PART IV. STANDARDBREDS.

### § 4.1. Allocation of funds.

The funds generated by Standardbred racing through pari-mutuel wagering shall be allocated according to the following schedule:

1. 10% shall be set aside for payment to the breeders of Virginia-bred Standardbred horses that win races at horse racing facilities licensed by the commission;
2. 5.0% shall be set aside for payment to the owners or lessees of Virginia Standardbred stallions which sire Virginia-bred Standardbred horses that win races at horse racing facilities licensed by the commission; and
3. 85% shall be paid to supplement purses according to the following provisions:
  - a. Not less than 75% shall be set aside to develop a stakes program for two and three-year-old Virginia-bred Standardbred horses; and
  - b. Any remaining amounts shall be set aside and may be paid to the owner or owners of a Virginia-bred Standardbred horse each time the horse wins a nonrestricted race at a horse racing facility licensed by the commission.

## PART V. ARABIANS AND QUARTER HORSES.

### § 5.1. Allocation of funds.

The funds generated by Arabian and Quarter horse racing through pari-mutuel wagering shall be allocated to the breed which generated the funds according to the following schedule:

1. 20% shall be set aside for payment to the breeders of Virginia-bred horses that win races at horse racing facilities licensed by the commission;
2. 10% shall set aside for payment to the owners or lessees of registered Virginia stallions which sire Virginia-bred horses that win races at horse racing facilities licensed by the commission; and
3. 70% shall be paid to supplement purses according to the following provisions:
  - a. A purse supplement may be paid to the owners of Virginia-bred horses each time Virginia-bred horses win nonrestricted races at horse racing facilities licensed by the commission; and
  - b. A purse supplement shall be paid to purses for

STATE OF REGULATIONS

JUL -7 PM

VIRGINIA BREEDERS FUND THOROUGHBRED BROODMARE REGISTRATION FOR THE YEAR 19\_\_

For a breeder to be eligible for awards from the Virginia Breeders Fund an application must be submitted to the Virginia Racing Commission prior to the commencement of the breeding season but no later than January 31, or within 30 days after the mare enters the Commonwealth of Virginia, if entry is after the commencement of the breeding season.

(Name of Broodmare)
(Year of Foaling) (Registration Number)
(Sire) (Dam) (Sire of the Dam)

Where Broodmare is Domiciled:

\_\_\_\_\_

Broodmare was bred to during the previous breeding season:

\_\_\_\_\_

Broodmare will be bred back to during current breeding season:

\_\_\_\_\_

Name and Address of Owner:

\_\_\_\_\_

1) A notarized copy of the broodmare's Certificate of Foal Registration, clearly showing the front and transfer side of the document, must accompany the application.

2) If the broodmare is held under a lease, a statement to that effect and a copy of the lease, which must include a statement that the lessee is authorized to register the foal, must accompany the application.

(Owner) (Date)

IF THE BROODMARE WAS NOT BRED TO A VIRGINIA THOROUGHBRED SIRE OR IS NOT BRED BACK TO A VIRGINIA THOROUGHBRED SIRE, I HEREBY CERTIFY THAT THE BROODMARE WAS DOMICILED IN THE COMMONWEALTH OF VIRGINIA SINCE SEPTEMBER 1 OF THE PRECEDING YEAR.

(Owner) (Date)

REGULATIONS -7 PM 2:33

VIRGINIA BREEDERS FUND THOROUGHBRED STALLION REGISTRATION FOR THE YEAR 19\_\_

For a stallion owner to be eligible for awards from the Virginia Breeders Fund an application must be submitted to the Virginia Racing Commission prior to the commencement of the breeding season but no later than January 31, or within 30 days of following entry into stud in Virginia if entry is after the breeding season commences.

(Name of Stallion)
(Year of Foaling) (Registration Number)
(Sire) (Dam) (Sire of the Dam)

Where Stallion Is Standing:

\_\_\_\_\_

Name and Address of Owner or Lessee:

\_\_\_\_\_

1) A notarized copy of the stallion's Certificate of Foal Registration, clearly showing the front and transfer side of the document, must accompany the application.

2) If the stallion is held under a lease or syndicate agreement, a copy of the lease of agreement must accompany the application, and the lease or agreement must include a statement that the lessee or syndicate manager is authorized to sign the Service Certificate and receive stallion awards.

I HEREBY CERTIFY THAT THE STALLION NAMED ABOVE HAS COVERED MARES, OTHER THAN TEST MARES, ONLY IN THE COMMONWEALTH OF VIRGINIA DURING THE BREEDING SEASON IN WHICH IT SIRES VIRGINIA-BRED THOROUGHBRED HORSES OR ONLY DURING THAT PART OF THE BREEDING SEASON AFTER ENTERING THE COMMONWEALTH.

(Signature of Owner or Lessee) (Date)

Return to: Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208 Telephone: (804) 371-7363

REMINDER: Please submit notarized copy of Report of Mares Bred

# Proposed Regulations

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

**REGISTRAR'S NOTICE:** Due to its length, the Virginia Hazardous Waste Management Regulations filed by the Department of Waste Management are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulations is available for public inspection at the office of the Registrar of Regulations and at the Department of Waste Management.

**Title of Regulation:** VR 672-10-1. Virginia Hazardous Waste Management Regulations.

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

**Public Hearing Date:** September 15, 1992 - 12:30 p.m.  
(See Calendar of Events section for additional information)

### Summary:

The Virginia Waste Management Board proposes to amend its Hazardous Waste Management Regulations. Since the adoption of Amendment 11 of the Virginia Hazardous Waste Management Regulations on March 7, 1991, with an effective date of July 1, 1991, the United States Environmental Protection Agency made a significant number of changes to its regulations. During the period from July 1, 1990, to June 30, 1991, EPA promulgated regulations dealing with wood preserving operations, industrial boilers and furnaces, and added a number of new listings. EPA also made a number of corrections to the toxicity characteristic rule and continued with its promulgation of land disposal requirements. These and other less far-reaching changes require prompt regulatory action by the Commonwealth. At the same time, the Commonwealth is also going back and incorporating a portion of the mining waste changes which were made by EPA in January, 1990. Because of pending litigation, these changes were not incorporated into Amendment 11. Furthermore, because of a recent court decision, only a portion of these changes are proposed to be included in Amendment 12 at this time. Several of the changes included in proposed Amendment 12 are intended to make certain provisions no more stringent than their federal counterparts; these include changes regarding delistings, changes impacting upon "clean closures," the closed-loop recycling exclusion, transporter requirements, and notification requirements for minor permit modifications.

\* \* \* \* \*

**REGISTRAR'S NOTICE:** Due to its length, the Solid Waste Management Regulations filed by the Department of Waste Management are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the

summary is being published in lieu of the full text. The full text of the regulations is available for public inspection at the office of the Registrar of Regulations and at the Department of Waste Management.

**Title of Regulation:** VR 672-20-10. Solid Waste Management Regulations.

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

### Public Hearing Dates:

September 1, 1992 - 1 p.m.  
September 2, 1992 - 9 a.m.  
September 15, 1992 - 2 p.m.  
September 16, 1992 - 1 p.m.  
(See Calendar of Events section for additional information)

### Summary:

The Virginia Waste Management Board and the Director of the Department of Waste Management propose to amend the Virginia Solid Waste Management Regulations (VR 672-20-10) to incorporate changes in the Virginia Waste Management Act enacted by the General Assembly, to bring Virginia regulations into compliance with the newly promulgated federal criteria for Municipal Solid Waste Landfills (Part 258, Title 40, Code of Federal Regulations), and to reflect the department's experience with the administration of its regulations gained since 1988.

Most of the changes contained in proposed Amendment 1 are dictated by the federal Criteria for Municipal Solid Landfills. These changes will significantly affect the siting, the operating and the design of all sanitary landfills effective on October 9, 1993. The required amendments are extensive, especially in the areas of liner design and groundwater monitoring standards. Adoption of the pertinent portions of the federal regulations will impart considerable regulatory flexibility to the states that are able to show the United States Environmental Protection Agency (EPA) that their regulatory programs meet the EPA's program requirements. Ability to tailor the Virginia program to its environmental conditions will greatly benefit the citizens and the regulated community.

In addition to the mandatory changes, Amendment 1 contains discretionary changes proposed by the department. Since the promulgation of the Virginia Solid Waste Management Regulations in December 1988, it was determined that many procedures contained in the regulations can be streamlined to provide for faster and more efficient administration of the program. To achieve this simplification, it is proposed that the permitting and variance procedures be substantially amended. Additionally, it was found that many design and operational performance

*requirements were either overly broad and gave insufficient guidance to the regulated community, or were too restrictive in their scope thus limiting the exercise of the normal professional judgment on the part of the applicant.*

*The proposed Amendment 1 also contains the changes necessary to reflect amendments to the Virginia Waste Management Act enacted by the General Assembly since 1989. These include increased penalties for noncomplying facilities, new requirements for disclosure statements to be submitted by the owners or operators of the solid waste management facilities on behalf of their key personnel, statutory prohibition of the disposal of lead acid batteries, extension of the compliance deadlines for the construction of landfill liners, and adoption of the federally mandated capped standards for facilities undergoing closure.*



# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

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

## BOARD FOR COSMETOLOGY

**Title of Regulation:** VR 235-01-03. Nail Technician Regulations.

**Statutory Authority:** §§ 54.1-201, 54.1-202, 54.1-1200 of the Code of Virginia.

**Effective Date:** August 26, 1992.

### Summary:

*The Board for Cosmetology Nail Technician Regulations set forth the requirements for the licensure of persons and salons performing manicures, pedicures and the applications of artificial nails for compensation or consideration in Virginia. The regulations also require the board to approve nail technician educational programs and license the schools in which the program is offered. The proposed and final texts are identical to the emergency text of regulations which is currently in effect.*

**NOTICE:** As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 8:15 VA.R. 2407-2413 April 20, 1992.

## DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes Board

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 425-02-35. Formaldehyde Standard (1910.1048) - Virginia Occupational Safety and Health Standards for General Industry.

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** August 27, 1992.

### Summary:

*Federal OSHA has amended its existing regulation for Occupational Exposure to Formaldehyde, 29 CFR 1910.1048, primarily in response to a remand by the U.S. Court of Appeals for the D.C. Circuit in UAW v. Pendergrass, 878 F. 2d 389 (D.C. Cir. 1989).*

*These final amendments lower the permissible exposure level (PEL) for formaldehyde from 1 ppm (parts per million of air) as an 8-hour time-weighted average to an 8-hour time-weighted average of 0.75 ppm. A 15-minute short-term exposure limit (STEL) of 2 ppm and an "action level" of 0.5 ppm in the existing standard will continue in effect.*

*The amendments also add medical removal protection provisions to supplement the existing medical surveillance requirements for those employees suffering significant eye, nose or throat irritation and for those suffering from dermal irritation or sensitization from occupational exposure to formaldehyde. Medical removal protection rules may require that such employees be removed from current jobs to jobs with less exposure until their condition improves; in the interim their jobs and pay are protected.*

*In addition, certain changes were made to the standard's hazard communication and employee training requirements for all forms of formaldehyde, including mixtures and solutions composed of 0.1% or greater of formaldehyde in excess of 0.1 ppm. Additional hazard labeling, including a warning that formaldehyde presents a potential cancer hazard, is required where formaldehyde levels, under reasonably foreseeable conditions of use, may potentially exceed 0.5 ppm.*

*The final amendments also provide for annual training of all employees exposed to formaldehyde at levels of 0.1 ppm or higher. The standard previously required initial training for persons exposed at 0.1 ppm or above, but required annual training only for those exposed at or above the action level or the STEL.*

### Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Formaldehyde Standard (1910.1048) is declared a document general available to the public and appropriate for incorporation by reference. For this reason, the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-35. Formaldehyde Standard (1910.1048).

When the regulations, as set forth in the Amendment to Occupational Exposure to Formaldehyde Standard, § 1910.1048, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as below:

FEDERAL TERMS	VOSH EQUIVALENT
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of the Department of Labor and Industry

Implementation Dates

	FEDERAL	VIRGINIA
Effective date	6/26/92	8/27/92
Effective date for respiratory protection [paragraph (g)]	9/24/92	11/25/92
Effective date for engineering and work practice controls [paragraph (d)]	6/26/93	8/27/93
Effective date for medical removal protection [paragraph (l)]	12/28/92	2/15/93
Effective date for hazard communication [paragraph (m)]	12/28/92	2/15/93
Effective date for periodic training for employees [paragraph (n)]	8/25/92	10/15/92

On June 9, 1992, the Virginia Safety and Health Codes Board adopted an identical version of the amended federal OSHA standard entitled, "Occupational Exposure to Formaldehyde," 29 CFR 1910.1048, as published in the Federal Register, Vol. 57, No. 102, pp. 22307-22328, Wednesday, May 27, 1992. The amendments as adopted are not set out.

# Final Regulations

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## COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

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

July 10, 1992

Ms. Suzanne K. Lowman, Chairman  
Safety and Health Codes Board  
C/o The Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

Re: VR 425-02-35 - Amendment to Occupational Exposure  
to Formaldehyde, § 1910.1048

Dear Ms. Lowman:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script that reads "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS:jbc

\* \* \* \* \*

## Safety and Health Codes Board

**REGISTRAR'S NOTICE:** The following regulations filed by the Department of Labor and Industry are excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 425-02-45. Explosives and Blasting Agents (1910.109).  
VR 425-02-84. Process Safety Management of Highly Hazardous Chemicals (1910.119).

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** September 15, 1992.

### Summary:

*This new performance-oriented standard within Subpart H, Hazardous Materials, deals with the risks involved in the storage, handling and processing of highly hazardous materials. It emphasizes the application of management controls, rather than specific engineering guidelines, when addressing the risks associated with handling or working near hazardous chemicals.*

*The standard establishes procedures for process safety management that will protect employees by preventing or minimizing the consequences of chemical accidents involving highly hazardous chemicals. The standard contains a 5-year phase-in period for compliance with paragraph (e) which deals with process hazard analysis.*

*The requirements of this standard are intended to eliminate or mitigate the consequences of exposure to the hazards of toxicity, fires and explosions from catastrophic releases of highly hazardous chemicals in their workplaces.*

*The Explosives and Blasting Agents standard, § 1910.109, was amended in section (k)(2) and (3) so that the manufacture of explosives and pyrotechnics will meet the requirements contained in the new standard on Process Safety Management of Highly Hazardous Materials in § 1910.119.*

*After the publication of the final rule on February 24, 1992, federal OSHA received a joint petition from Union Carbide, the Chemical Manufacturers Association, the American Petroleum Institute and the*

*National Petroleum Refiners Association requesting a delay in the effective date of four provisions of the rule because of the extensive written requirements of the rule.*

*To give the agency time to evaluate petitions requesting the delay and to seek public comment on whether additional time should be granted for complying with the four provisions, OSHA granted a 90-day delay.*

*The four provisions for which federal OSHA granted an administrative stay until August 26, 1992, are as follows:*

1. paragraph (f)-operating procedures;
2. paragraph (h)-contractors;
3. paragraph (i)-mechanical integrity; and
4. paragraph (l)-management of change.

*OSHA determined that, based on a review of the information submitted, an extension of time was not warranted for the following provisions:*

1. paragraph (c)-employee participation;
2. paragraph (i)-pre-startup safety review;
3. paragraph (n)-emergency planning and response.

*Employers will be expected to continue to expedite their efforts to fully comply with all of the provisions of the standard in spite of the stay.*

### Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, the amendment to Explosives and Blasting Agents (1910.109) and the Standard on Process Safety Management of Highly Hazardous Chemicals and Administrative Stay (1910.119) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason, the entire documents will not be printed in The Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, Powers-Taylor Bldg., 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, Room 262, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-45. Explosives and Blasting Agents (1910.109).

VR 425-02-84. Process Safety Management of Highly Hazardous Chemicals (1910.119).

When the regulations as set forth in the General Industry Standard for Process Safety Management of Highly Hazardous Chemicals and Administrative Stay, § 1910.119; and the Amendment to Explosives and Blasting Agents, § 1910.109, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as below:

# Final Regulations

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FEDERAL TERMS	VOSH EQUIVALENT
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of the Department of Labor and Industry

## Implementation Dates

	FEDERAL	VIRGINIA
Effective date of Standard and Amended Standard	5/26/92	9/15/92
Effective date of Administrative Stay	5/27/92	6/10/92
Effective date for operating procedures [paragraph (f)] stayed until	8/26/92	12/15/92
Effective date for contractors [paragraph (h)] stayed until	8/26/92	12/15/92
Effective date for mechanical integrity [paragraph (j)] stayed until	8/26/92	12/15/92
Effective date for management of change [paragraph (l)] stayed until	8/26/92	12/15/92

On June 9, 1992, the Virginia Safety and Health Codes Board adopted an identical version of the federal OSHA standard entitled, "Process Safety Management of Highly Hazardous Chemicals," 29 CFR 1910.119, as published in the Federal Register Vol. 57, No. 36, pp. 6403-6417, Monday, February 24, 1992. The board also adopted an identical version of the Administrative Stay to "Process Safety Management of Highly Hazardous Chemicals," as published in the Federal Register, Vol. 57, No. 105, pp. 23060-23061, Monday, June 1, 1992. Additionally, the board adopted an identical version of the federal OSHA amended standard entitled, "Explosives And Blasting Agents," 29 CFR 1910.109, which was also published in the Federal Register, Vol. 57, No. 36, pp. 6403-6417, Monday, February 24, 1992.

The VOSH standard, "Process Safety Management of Highly Hazardous Chemicals, and the Administrative Stay, § 1910.119, VR 425-02-84," are effective on September 15, 1992, and on June 10, 1992, respectively. The VOSH amended standard, "Explosives and Blasting Agents, § 1910.109, VR 425-02-45," is effective on September 15, 1992.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH  
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION  
General Assembly Building

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

July 10, 1992

Ms. Suzanne K. Lowman, Chairman  
Safety and Health Codes Board  
C/o The Department of Labor and Industry  
13 South Thirteenth Street  
Richmond, Virginia 23219

ATTN: John Crisanti, Director of the Office of Enforcement Policy

Re: VR 425-02-84 - Process Safety Management of Highly  
AND Hazardous Chemicals, § 1910.119; and  
VR 425-02-45 Explosives and Blasting Agents, § 1910.109.

Dear Ms. Amato:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith  
Registrar of Regulations

JWS:jbc

# Final Regulations

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## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Title of Regulation: VR [ ~~470-05-01~~, 470-05-01:1. ]  
Regulation for Certification of Case Management.

Statutory Authority: §§ 37.1-10 and 37.1-179 et seq. of the  
Code of Virginia and § 1-92 Item 466.F.5 of the 1990-92  
Appropriations Act.

Effective Date: August 26, 1992.

### Summary:

*These regulations establish requirements which facilities must meet in order to receive reimbursement from Medicaid for Case Management Services. The regulations require that case managers meet knowledge, skills and abilities set forth in the regulations and that facilities meet the standards established by the regulations.*

*The final regulations differ from the proposed regulations as follows: The number of years for which a facility may be certified was changed from two to three years to comply with statutory changes. The description of examples of major duties was modified and one duty was added. One example of the abilities that a case manager should possess was added to the sample position specification. Two examples of skills that a case manager should possess were added.*

VR 470-05-01:1. Regulation for Certification of Case Management.

### PART I. INTRODUCTION.

#### Article 1. Definitions.

##### § 1.1. Definitions.

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

*“Board” means the State Mental Health, Mental Retardation and Substance Abuse Services Board.*

*“Case management services” means assisting individual children, adults, and their families in accessing needed medical, psychiatric, social, educational, vocational and other supports essential to meeting basic needs.*

*“Commissioner” means the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services.*

*“Department” means the Department of Mental Health, Mental Retardation and Substance Abuse Services.*

*“Facility” means any facility not operated by an agency of the federal government by whatever name or designation which provides case management services to mentally ill or mentally retarded persons. Such institution or facility shall include a hospital as defined in § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.*

*“Mentally ill” means any person afflicted with mental disease to such an extent that for his own welfare or the welfare of others, he requires care and treatment.*

*“Mental retardation” means substantial subaverage general intellectual functioning which originates during the [ ~~development~~ developmental ] period and is associated with impairment in adaptive behavior.*

#### Article 2. Legal Base.

§ 1.2. Pursuant to § 37.1-10 the board shall make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of laws of the Commonwealth administered by the commissioner or the department. Section 37.1-179 et seq. requires facilities providing care and treatment of mentally ill, mentally retarded and substance abusing persons to be licensed in accordance with regulations promulgated by the board. Item 466.F.5 of the 1990 Appropriations Act requires that qualified providers shall be licensed or certified under regulations promulgated by the department.

#### Article 3. Services Subject to Certification Under These Regulations.

§ 1.3. No person shall establish, conduct, maintain or operate in this Commonwealth case management services which receive reimbursement from the Department of Medical Assistance Services without first being duly certified except where such services are exempt from certification.

#### Article 4. Application for Case Management Certification.

§ 1.4. A facility desiring to be certified or recertified for case management services shall submit to the commissioner a letter stating that all individuals providing case management services for which reimbursement from the Department of Medical Assistance Services will be sought possess a combination of applicable mental health or mental retardation work experience or related education which indicates that the individual possesses the knowledge, skills and abilities (KSAs) as established by the department and attached hereto which are necessary to perform case management services. This letter shall constitute the application for certification. This letter shall clearly identify the entity that is seeking certification and is responsible for ensuring compliance with all

certification requirements.

§ 1.5. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear in the application for certification or certification renewal and which shall not be changed without first securing approval of the department.

§ 1.6. The terms of any certification issued shall include: (i) the operating name of the facility; (ii) the name of the entity to whom the certification is issued; (iii) the physical location of the facility; (iv) the effective dates of the certification; and (v) other specifications prescribed within the context of the regulations.

Article 5.  
The Certification.

§ 1.7. The commissioner may certify a facility for the provision of case management services for which reimbursement is sought from the Department of Medical Assistance Services only after he is satisfied that all individuals providing services for which Medicaid reimbursement will be sought meet applicable KSAs. In addition, the commissioner must be satisfied that the facility can:

1. Guarantee that clients have access to emergency services on a 24-hour basis;
2. Demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;
3. Meet the administrative and financial management requirements of state and federal regulations;
4. Document and maintain individual case records in accordance with state and federal requirements;
5. Ensure that services are in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services;
6. Provide comprehensive mental health services if the facility provides mental health case management; and
7. Provide comprehensive mental retardation services if the facility provides mental retardation case management.

§ 1.8. The commissioner may issue a certification to a facility that has fulfilled the conditions listed in § 1.7 for any period not to exceed [ ~~two~~ three ] years from its date of issuance, unless it is revoked or surrendered earlier.

§ 1.9. The commissioner may revoke or suspend any certification issued, or refuse issuance of a certification on any of the following grounds:

1. Permitting, aiding or abetting the commission of an illegal act in a facility or institution certified under these regulations.

2. Conduct or practices detrimental to the welfare of any client of a facility or institution certified under these regulations.

3. Failure to employ individuals who meet the standards set forth under these regulations.

§ 1.10. Whenever the commissioner revokes, suspends or denies a certification, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) shall apply.

§ 1.11. If a certification is revoked or refused as herein provided, a new application for certification may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished.

§ 1.12. Suspension of a certification shall in all cases be for an indefinite time and the suspension may be lifted and rights under the certification fully or partially restored at such time as the commissioner determines that the rights of the certified facility appear to so require and the interests of the public will not be jeopardized.

Article 6.  
Inspection.

§ 1.13. Each applicant or certified facility agrees as a condition of application or certification to permit properly designated representatives of the department to examine records including employee personnel records to verify information contained in the application.

PART II.  
REQUIREMENTS.

Article 1.  
Staff Qualifications.

§ 2.1. For services reimbursable by the Department of Medical Assistance Services, the facility shall employ only individuals who possess a combination of applicable mental health work experience or related education which indicates that the individual possesses the knowledge, skills and abilities as established by the department which are necessary to perform case management services for the mentally ill.

§ 2.2. For services reimbursable by the Department of Medical Assistance Services, the facility shall employ only individuals who possess a combination of applicable mental retardation work experience or related education which indicates that the individual possesses the knowledge, skills and abilities as established by the department which are necessary to perform case management services for persons with mental retardation.



# Final Regulations

## Article 2. Facility Requirements.

### § 2.3. The facility shall:

1. Guarantee that clients have access to emergency services on a 24-hour basis;
2. Demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;
3. Have the administrative and financial management capacity to meet state and federal requirements;
4. Have the ability to document and maintain individual case records in accordance with state and federal requirements;
5. Ensure that services are in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services;
6. Provide comprehensive mental health services if the facility provides mental health case management; and
7. Provide comprehensive mental retardation services if the facility provides mental retardation case management.

\* \* \*

### SAMPLE POSITION SPECIFICATION

POSITION TITLE: Medicaid Mental Health Case Manager

#### GENERAL STATEMENT OF DUTIES:

This position is responsible for providing case management services to clients who are eligible for or enrolled in the Medical Assistance Program (Medicaid). The case manager's activities may include preadmission and predischarge planning, services coordination and delivery, assistance in accessing needed medical, psychiatric, social, educational, vocational and other supports, as required, and casework documentation.

In carrying out the responsibilities of this position, the case manager reports to and receives general supervision from a designated supervisor for case management services or other appropriate clinical supervisor. The incumbent is expected to exercise sound judgment, demonstrate initiative and maintain confidentiality in accordance with established policies and procedures which comply with legal and administrative mandates.

#### EXAMPLES OF MAJOR DUTIES:

1. [ Assessing needs and planning services, evaluating individual strengths and needs; evaluating the

appropriateness of and need for various community mental health services; developing individual service plans; and monitoring and evaluating client status. Assessment and planning services to include developing an Individual Service Plan. ]

2. Linking the individual [ directly ] to services and supports specified in the individual service plan.

3. [ Assisting the individual directly for the purpose of locating, obtaining and effectively using community resources, including educating and monitoring information and support to family members, and providing or arranging for transportation for individuals or their family members to access services. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources and providing, utilizing agency as well as privately owned vehicles, or arranging for transportation for individuals or their family members to access services. ]

4. Coordinating services [ and service planning ] with other agencies and providers involved with the individual [ (e.g., Department of Social Services, Department of Rehabilitative Services, Health Department, school division, Area Agency on Aging, Social Security Administration); this also includes assisting clients or their family members to apply for benefits which they are eligible to receive ].

5. Enhancing community [ adjustment and ] integration by [ developing services or supports which increase opportunities for contacting other entities to arrange ] community access and involvement, including [ developing opportunities to learn ] community living skills and [ use ] vocational, civic and recreational services.

6. Making collateral contacts with the individual's significant others [ (e.g., parents, friends and siblings) ] to promote implementation of the service plan and [ optimal ] community adjustment.

7. [ Monitoring service delivery with the client to assure the adequacy and implementation of the individual service plan and to assess the individual's receipt of and participation in appropriate types and levels of services; goal attainment; need for additional assistance and continued appropriateness of service settings. Follow-up and monitoring to access ongoing progress and to ensure services are delivered. ]

- [ 8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan. ]

- [ 8. 9. ] Maintaining necessary casework records to document the provision of case management services for Medicaid reimbursement.

[ 9. 10. ] Attending in-service training and staff development programs to enhance the case management services.

[ 10. 11. ] Performing other duties as assigned related to program requirements and the provision of case management services.

## POSITION QUALIFICATIONS:

The incumbent must have at entry level the following knowledge, skills and abilities. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

### KNOWLEDGE OF:

- the nature of serious mental illness in adults and serious emotional disturbance in children and adolescents
- treatment modalities and intervention techniques, such as behavior management, independent living skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination
- different types of assessments, including functional assessment, and their uses in service planning
- consumers' rights
- local community resources and service delivery systems, including support services (e.g., housing, financial, social welfare, dental, educational, transportation, communications, recreation, vocational, legal/advocacy), eligibility criteria and intake processes, termination criteria and procedures, and generic community resources (e.g., churches, clubs, self-help groups)
- types of mental health programs and services
- effective oral, written and interpersonal communication principles and techniques
- general principles of record documentation
- the service planning process and major components of a service plan

### SKILLS IN:

- interviewing
- observing, recording and reporting on an individual's functioning
- identifying and documenting a consumer's need for resources, services and other supports

- using information from assessments, evaluations, observation and interviews to develop service plans
- identifying services within the community and established service system to meet the individual's needs
- formulating, writing and implementing individualized service plans to promote goal attainment for [ ~~seriously mentally ill and emotionally disturbed persons~~ *people with serious mental illness and emotional disturbances* ]
- negotiating with consumers and service providers
- coordinating the provision of services by diverse public and private providers
- identifying community resources and organizations and coordinating resources and activities
- using assessment tools (e.g., level of function scale, life profile scale)

### ABILITIES TO:

- demonstrate a positive regard for consumers and their families (e.g., treating consumers as individuals, allowing risk taking, avoiding stereotypes of [ ~~mentally ill people~~ *people with mental illness* ], respecting consumers' and families' privacy, believing consumers are valuable members of society)
- be persistent and remain objective
- work as a team member, maintaining effective inter- and intra-agency working relationships
- work independently, performing position duties under general supervision
- communicate effectively, verbally and in writing
- [ • *establish and maintain ongoing supportive relationships* ]

### BUSINESS NECESSITY QUALIFICATIONS:

[ ~~The incumbent must have~~ *If the case manager is required to drive,* ] a valid Virginia driver's license [ *is required* ].

\* \* \*

### SAMPLE POSITION SPECIFICATION

POSITION TITLE: Medicaid Mental Retardation Case Manager

### GENERAL STATEMENT OF RESPONSIBILITIES:

# Final Regulations

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This position is responsible for providing case management services to clients who are eligible for or enrolled in targeted case management as reimbursed through the Medical Assistance Program (Medicaid). The case manager's activities may include linking and coordination of resources and monitoring of service provision.

In carrying out the responsibilities of this position, the case manager reports to and receives general supervision from the case management services supervisor or, in small programs, the MR Director. The incumbent is expected to exercise sound judgment, demonstrate initiative and maintain confidentiality in accordance with established policies and procedures which comply with legal and administrative mandates.

## EXAMPLES OF MAJOR DUTIES:

1. Assessing needs and planning services [ ; determining the appropriateness of, and need for, mental retardation services, evaluating individual needs, reevaluating individual needs periodically, and to include ] developing [ a ] consumer service [ plans plan ].
2. Linking the individual to services and supports specified in the consumer service plan.
3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources, [ including crisis services; this also includes and ] providing [ utilizing agency as well as privately owned vehicles, ] or arranging for transportation for individuals or their family members to access services.
4. Coordinating services [ and service planning ] with other agencies and providers involved with the individual [ (e.g., Department of Social Services, Department of Rehabilitative Services, Health Department, school division, Area Agency on Aging, Social Security Administration); this also includes assisting clients or their family members to apply for benefits which they are eligible to receive ].
5. Enhancing community integration by [ developing increased opportunities for contacting other entities to arrange ] community access and involvement, including [ opportunities to learn ] community living skills and vocational, civic and recreational services.
6. Making collateral contacts with the individual's significant others [ (e.g., parents, guardians, friends, and siblings) ] to promote implementation of the [ services service ] plan and community adjustment.
7. [ Monitoring service delivery to assure implementation of the consumer service plan and to assess the individual's receipt of and participation in appropriate types and levels of services. Following and monitoring to assess ongoing progress and ensuring

services are delivered. ]

[ 8. Education and counseling which guides the client and develops a supportive relationship that promotes the service plan. ]

[ 8. 9. ] Maintaining necessary casework records to document the provision of case management services for Medicaid reimbursement.

[ 9. 10. ] Attending in-service training and staff development programs to enhance the case management services.

[ 10. 11. ] Performing other duties as assigned related to program requirements and the provision of case management services.

## POSITION QUALIFICATIONS:

The incumbent must have at entry level the following knowledge, skills and abilities. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

### KNOWLEDGE OF:

- the definition, causes and program philosophy of mental retardation
- different types of assessments and their uses in program planning
- consumers' rights
- local [ community resources and ] service delivery systems, including support services [ , eligibility criteria and intake process, termination criteria and procedures and generic community resources ]
- types of mental retardation programs and services
- effective oral, written and interpersonal communication principles and techniques
- general principles of record documentation
- the service planning process and the major components of a service plan
- treatment modalities and intervention techniques, such as behavior management, independent living, skills training, supportive counseling, family education, crisis intervention, discharge planning and service coordination

### SKILLS IN:

- negotiating with consumers and service providers

- observing, recording and reporting behaviors
- identifying and documenting a consumer's needs for resources, services and other assistance
- identifying services within the established service system to meet the consumer's needs
- coordinating the provision of services by diverse public and private providers
- [ • ~~analyzing and planning for the service needs of mentally retarded persons~~ ]
- [ • *identifying community resources and organization and coordinating resources and activities* ]
- [ • *using information from assessments, evaluations, observations and interviews to develop service plans* ]
- interviewing
- formulating, writing and implementing individualized [ *consumer* ] service plans to promote goal attainment for [ *persons individuals* ] with mental retardation
- using assessment tools

#### ABILITIES TO:

- demonstrate a positive regard for consumers and their families (e.g., treating consumers as individuals, allowing risk taking, avoiding stereotypes of [ ~~mentally retarded people~~ *persons with mental retardation* ], respecting consumers' and families' privacy, believing consumers can grow)
- be persistent and remain objective
- work as a team member, maintaining effective inter- and intra-agency working relationships
- work independently, performing position duties under general supervision
- communicate effectively, verbally and in writing
- [• establish and maintain ongoing supportive relationships ]

#### BUSINESS NECESSITY QUALIFICATIONS:

[ ~~The incumbent must have~~ *If the case manager is required to drive,* ] a valid Virginia driver's license [ *is required* ].

#### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Title of Regulation: VR 675-01-02. Board for Waterworks

#### and Wastewater Works Operators Regulations.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Effective Date: August 26, 1992.

#### Summary:

*The regulation applies to approximately 1,500 applicants who file original and reexamination waterworks and wastewater works applications annually. The only substantive changes in the regulation are increases in the original application and examination fees in order to assure the board's compliance with the requirements of § 54.1-113 of the Code of Virginia.*

**NOTICE:** As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 8:15 V.A.R. 2425-2433 April 20, 1992.

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# EMERGENCY REGULATIONS

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## BOARD FOR ACCOUNTANCY

Colleges.

"Anniversary date" means September 30 of each even-numbered year.

"Certification" means the issuance of a certificate to a person who has met all the requirements of Part II of these regulations.

"Certify," "examine," "review," or "render or disclaim an opinion," when referenced to financial information or the practice of public accountancy, are terms which, when used in connection with the issuance of reports, state or imply assurance of conformity with generally accepted accounting principles, generally accepted auditing standards, and review standards. The terms include forms of language disclaiming an opinion concerning the reliability of the financial information referred to or relating to the expertise of the issuer.

"Client" means a person or entity that contracts with or retains a firm for performance of accounting services.

"Contact hour" means 50 minutes of participation in a group program or 50 minutes of average completion time in a self-study program.

"Continuing Professional Education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence.

"Firm" means a sole proprietorship, partnership, professional corporation, professional limited liability company or any permissible combination practicing public accountancy in Virginia.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

"Holding out" means any representation that a regulant is a certified public accountant, made in connection with an offer to practice public accounting. Any such representation is presumed to invite the public to rely upon the professional skills implied by the title "certified public accountant" in connection with the services offered to be performed by the regulant. For the purposes of this definition, a representation shall be deemed to include any oral or written communication conveying that the regulant is a certified public accountant, including without limitation the use of titles on letterheads, professional cards, office doors, advertisements and listings; but, it does not include the display of the original (but not a copy) of a currently valid certificate. A person who holds a valid certificate granted to him by the board may refer to himself as a certified public accountant or CPA but is not empowered to practice public accountancy until he obtains a valid license to do so.

Title of Regulation: VR 105-01-2. Board for Accountancy Regulations.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Effective Dates: July 1, 1992 through June 30, 1993.

### Preamble:

*The Board for Accountancy is promulgating emergency regulations as provided for in Section 9-6.14:5 of the Code of Virginia, which establish the registration requirements and standards of practice for CPA firms wishing to practice as professional limited liability companies. In addition the regulations establish a biennial registration requirement for professional corporations and provide the use of the names of licensed officers in the firm name of professional corporations. All of the amendments have been made to conform with the statutes which govern the practice of public accountancy in Virginia.*

### APPROVED

/s/ Bonnie S. Salzman  
Secretary of the Board for Accountancy  
Date: June 12, 1992

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: June 15, 1992

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 19, 1992

/s/ Joan W. Smith  
Registrar of Regulations  
Date: June 29, 1992

VR 105-01-02. Board for Accountancy Regulations.

### PART I. GENERAL.

#### § 1.1. Definitions.

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

"Accredited institution" means any degree-granting college or university accredited at the time of the applicant's degree or attendance by any of the following: Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges and Schools; and Western Association of Schools and

*"Individual firm name"* means a name different from the name in which the individual's license is issued.

*"Interactive self-study program"* means a program designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware, or administrative systems that provide significant ongoing, interactive feedback to the learner regarding his learning process. Evidence of satisfactory completion of each program segment by the learner is often built into such programs. These programs clearly define lesson objectives and manage the student through the learning process by requiring frequent student response to questions that test for understanding of the material presented, providing evaluative feedback to incorrectly answered questions, and providing reinforcement feedback to correctly answered questions. Capabilities are used that, based on student response, provide appropriate ongoing feedback to the student regarding his learning progress through the program.

*"Jurisdiction"* means another state, territory, the District of Columbia, Puerto Rico, the U.S. Virgin Islands or Guam.

*"License"* means a license to practice public accounting issued under the provisions of Chapter 20 (§ 54.1-2000 et seq.) of Title 54.1 of the Code of Virginia.

*"Manager"* means a person who is a licensed certified public accountant designated by the members of a limited liability company to manage the professional limited liability company as provided in the articles of organization or an operating agreement.

*"Member"* means a person who is a licensed certified public accountant that owns an interest in a professional limited liability company.

*"Noninteractive self-study program"* means any self-study program that does not meet the criteria for interactive self-study programs.

*"Performance of accounting services"* means the performance of services by a regulant requiring the use of accounting and auditing skills, and includes the issuance of reports or financial statements, the preparation of tax returns, the furnishing of advice on accounting, auditing or tax matters, or the performance of operational or compliance audits.

*"Principal"* means a certified public accountant who is the sole proprietor of, or a partner or shareholder in, a firm.

*"Professional Limited Liability Company"* means a firm organized in accordance with Chapter 13 (§ 13.1-1070 et seq.) of Title 13.1 of the Code of Virginia.

*"Professional corporation"* means a firm organized in accordance with Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia.

*"Professional services and engagements"* means the association between a client and a firm wherein the firm performs, or offers to perform, accounting services for the client.

*"Professional staff"* means employees of a firm who make decisions and exercise judgment in their performance of accounting services, but excludes employees performing routine bookkeeping or clerical functions.

*"Regulant"* means any Virginia certificate holder, licensee, professional corporation, or professional limited liability company or firm.

*"Reporting cycle"* means the current and two preceding reporting calendar years when meeting the requirements of § 5.1 of these regulations.

*"Reporting year"* means for the purposes of these regulations a calendar year.

*"Self-study program"* means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs do not include informal learning.

*"Virginia approved sponsor"* means an individual or business approved by the board to offer continuing professional education in accordance with these regulations.

## PART II. ENTRY.

### § 2.1. Qualifications for certification.

Any person applying for certification as a certified public accountant shall meet the requirements of good character and education and shall have passed both a basic and an ethics examination, as approved by the board.

#### A. Character.

The board may deny application to sit for the basic examination or deny certification upon a finding supported by clear and convincing evidence of a lack of good character. An applicant's history of dishonest or felonious acts, lack of fiscal integrity or acts which would constitute violations of these regulations will be considered by the board in determining character. Evidence of the commission of a single act may be sufficient to show a lack of good character.

#### B. Education.

1. Each applicant shall have earned one of the following:

a. A baccalaureate or higher degree from a

# Emergency Regulations

four-year accredited institution. The applicant shall have completed the following courses or their equivalent at an accredited institution:

Courses .....	Semester Hours
Principles of Accounting (or introductory level Financial Accounting and Managerial Accounting) .....	6
Financial Accounting/Accounting Theory (above the introductory level) .....	9
Cost/Managerial Accounting (above the introductory level) .....	3
Auditing .....	3
Taxation .....	3
Business (Commercial) Law (exclusive of Legal Environment of Business) .....	3
Computer Information Systems .....	3
Principles of Economics .....	3
Principles of Management .....	3
Principles of Marketing .....	3
Business Finance .....	3
<b>Total .....</b>	<b>42</b>

b. Provided the applicant initially applies and sits for the examination by November 30, 1992, the education requirement will be satisfied if by July 31, 1988, the applicant had completed a baccalaureate or higher degree and had completed 27 semester hours in accounting subjects from an accredited institution. These courses must have included courses in accounting, auditing, cost accounting, and commercial law (but not more than six semester hours of commercial law); or

c. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed a baccalaureate or higher degree with either a major in accounting or a concentration in accounting from an accredited institution as defined in § 1.1; or

d. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed 120 semester hours of earned credit from an accredited institution of which at least 60 semester hours must be at the junior and senior level and must include the following business related courses, or their

equivalent:

Courses .....	Semester Hours
Principles of Accounting .....	6
Principles of Economics .....	3
Principles of Marketing .....	3
Principles of Management .....	3
Finance .....	3
Information Systems .....	3
Statistics .....	3
Business Policy .....	3
Financial Accounting and Accounting Theory .....	6
Cost/Managerial Accounting .....	3
Auditing .....	3
Taxation .....	3
Commercial Law (not to exceed six semester hours) ...	3
Business Electives .....	15
<b>Total .....</b>	<b>60</b>

e. Applicants whose degrees or diplomas were earned at colleges or universities outside the United States shall have their educational credentials evaluated by a foreign academic credentials service approved by the board to determine the extent to which such credentials are equivalent to the education requirements set forth above.

Such credentials may be accepted by the board as meeting its educational requirements fully, partially, or not at all.

2. Evidence of education. Each applicant shall submit evidence of having obtained the required education in the form of official transcripts transmitted directly from the accredited institution. In unusual circumstances other evidence of education may be accepted when deemed equivalent and conclusive.

3. Education prerequisite to examination. The education requirements shall be met prior to examination. An applicant may, however, be admitted to the May examination if he will have completed the education requirements by the succeeding June 30, and to the November examination if he will have completed the education requirements by the succeeding December 31, and has filed evidence of

enrollment in the required courses as specified by the board.

## C. Examination.

1. Each applicant for an original CPA certificate in Virginia must pass a basic four-part, written national uniform examination in auditing, business law, theory of accounting, and accounting practice. Applicants who have no unexpired examination credits must sit for all parts of the basic examination. Each part of the basic examination must be passed with a grade of 75. The board may use all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants to assist it in performing its duties.

The fee for examination shall be \$117. The fee for reexamination shall be \$117. The fee for proctoring out-of-state candidates shall be \$75. Fees shall not be prorated and are nonrefundable except in accordance with § 2.1 C 7.

2. Examination credits. Credits will be given for basic examination parts passed through five successive offerings subsequent to the first occasion when credit is earned, provided that:

a. No credit will be allowed until either accounting practice or two other parts are passed at a single sitting; and

b. The candidate sits for all parts for which credit has not previously been granted; and

c. The candidate receives a minimum grade of 50 in each part not passed, except if three parts are passed at a single examination no minimum grade shall be required on the fourth part.

3. Examination credits, exceptions. The board may, at its discretion, waive any of the above requirements for carryover examination credits for candidates who suffer documented serious personal illness or injury, or death in their immediate family, or who are prevented from meeting these requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board. Documentation of these circumstances must be received by the board no later than 12 months after the date of the examination missed or within 6 months of the completion of military or Peace Corps service whichever is later.

4. Conduct in basic examination. Each applicant shall follow all rules and regulations established by the board with regard to conduct at the basic examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the examination site on the date of the examination.

5. Loss of credit or eligibility. Any applicant found to be in violation of the rules and regulations governing conduct in the basic examination may lose established eligibility to sit for the examination or credit for examination parts passed.

6. Application deadline. Application to sit for the basic examination shall be made on a form provided by the board and shall be filed in accordance with the instructions on the application along with all required documents by the first Friday in March for the May examination and by the first Friday in September for the November examination.

7. Failure to appear; excused examination. An applicant who fails to appear for the basic examination or reexamination shall forfeit the fees charged for that examination or reexamination unless excused.

The board may, at its discretion, excuse an applicant for an examination until the next examination for military service when documented by orders or a letter from the commanding officer; or for serious injury, illness or physical impairment, any of which must be documented by a statement from the treating physician; or death in their immediate family, or for other good cause of similar magnitude approved by the board. The fee for the excused examination will be refunded.

## § 2.2. Original CPA certificate.

A. A CPA certificate will be granted to an applicant who has met all of the qualifications for certification outlined in § 2.1.

B. The fee for an original CPA certificate shall be \$25. All fees are nonrefundable and shall not be prorated.

## § 2.3. Certificate by endorsement.

A CPA certificate will be granted to an applicant who holds a like valid and unrevoked certificate issued under the law of any jurisdiction showing that applicant is in good standing in the jurisdiction; provided:

1. The applicant meets all current requirements in Virginia at the time application is made; or

2. At the time the applicant's certificate was issued in the other jurisdiction the applicant met all requirements then applicable in Virginia; or

3. The applicant has met all requirements applicable in Virginia except the education requirement, or has passed the examination under different credit or grade provisions, and either:

a. The applicant has five years of experience in the performance of accounting services within the 10



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years prior to application, or

b. The applicant has five years of experience in the performance of accounting services, one year of which was immediately prior to application and, within the 10 years prior to application, had completed 15 semester hours of accounting, auditing and related subjects at an accredited institution.

4. The fee for a certificate by endorsement shall be \$90. All fees are nonrefundable and shall not be prorated.

## § 2.4. License/certificate maintenance.

Any person holding a Virginia CPA certificate shall either maintain a Virginia license to practice public accounting or file annually as a certificate holder not engaged in the practice of public accounting in Virginia and pay the required maintenance fee.

## § 2.5. Licensure.

Each certified public accountant who is engaged in or holding himself out to be engaged in the practice of public accountancy in Virginia must hold a valid license. This provision applies to professional staff who are eligible for licensure as set forth in § 2.7 as well as to sole proprietors, partners and shareholders. Professional staff required to, but who do not, hold a license on the effective date of these regulations shall be deemed to be in compliance hereunder if an application for license is made no later than March 1, 1991, and is subsequently approved by the board.

1. To be eligible for licensure an individual shall meet the qualifications for certification outlined in § 2.1 and one of the experience requirements set forth in § 2.7.

2. The fee for an initial CPA license shall be \$75. All fees are nonrefundable and shall not be prorated.

## § 2.6. Requirement for licensure; exception.

Only a certified public accountant, holding a valid Virginia license, may engage in the practice of public accounting in Virginia. However, this does not prohibit any person from affixing his signature to any statement or report for his employer's internal or management use designating the position, title, or office of the person.

## § 2.7. Experience and continuing professional education requirements for original license.

### A. Experience.

Each applicant for an original license shall have met the following experience requirements:

1. Two years of experience in public accounting with the giving of assurances and compilation services

constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services, or

2. Two years of experience under the supervision of a certified public accountant in the performance of accounting services with at least 800 hours of that experience including the following:

a. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in the accounting records; and

b. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records; and

c. Experience in the planning of the program of audit work including the selection of the procedures to be followed; and

d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the accounting records; and

e. Experience in the preparation and analysis of financial statements together with explanations and notes thereon; or

3. Three years of experience in the performing of accounting services which demonstrates intensive, diversified application of accounting principles, auditing standards or other technical standards pertaining to accounting and review services, tax services or management advisory services; or

4. Three years of teaching experience in upper level courses in accounting, auditing, and taxation at an accredited institution in conjunction with no less than five months experience with a public accounting firm with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services.

### B. Education substituted for experience.

An applicant having a baccalaureate degree and courses as defined in § 2.1 B 1 and a master's degree from an accredited institution with 15 semester hours in graduate level accounting courses exclusive of those courses defined in § 2.1 B 1 will be credited with one year of required experience under this section.

### C. Continuing professional education.

Individuals applying for original licensure after January 1, 1992, shall have completed in addition to one of the experience requirements, a minimum of 20 credit hours of CPE in the subject areas listed in § 5.5 within the

# Emergency Regulations

preceding 12 months prior to application for licensure. For purposes of license renewal, the calendar year following the year in which the initial license is issued shall be considered the first reporting year for CPE as outlined in § 5.1 of these regulations.

## § 2.8. Registration of professional corporations and professional limited liability companies .

All professional corporations and professional limited liability companies practicing public accountancy in Virginia shall be registered by the board.

A. The fee for registration shall be \$50. All fees are nonrefundable and shall not be prorated.

B. All registered professional corporations and professional limited liability companies shall meet the standards set forth in § 54.1-2005 of the Code of Virginia and Part IV of these regulations.

## PART III. RENEWAL/REINSTATEMENT.

### § 3.1. Requirement for renewal.

Effective September 30, 1992, each license to practice public accounting ; or CPA certificate maintenance or registration certificate of a professional corporation shall be renewed annually. A registration certificate of a professional corporation or professional limited liability company shall be renewed biennially.

A. Effective September 30, 1992, each license to practice public accounting or registration certificate of a professional corporation shall expire annually on September 30. Maintenance fees for CPA certificates shall also be due on September 30. A registration certificate of a professional corporation or professional limited liability company shall be renewed September 30 of each even-numbered year. The board will mail a renewal notice to the regulant at the last known address of record. Failure of the regulant to receive written notice of the expiration does not relieve him of the requirement to renew or pay the required fee.

#### B. Renewal fees are as follows:

1. The fee for renewal of a CPA license to practice public accounting shall be \$55.
2. The fee for renewal of the registration certificate of a professional corporation shall be \$50.
3. The fee for renewal of the registration certificate of a professional limited liability company shall be \$50.
4. The CPA certificate maintenance fee shall be \$20.

5. All fees are nonrefundable and shall not be prorated.

C. If the required fee is not received by October 30 an additional fee of \$20 for certificate maintenance, \$55 for license renewal and , \$50 for professional corporation , and \$50 for professional limited liability company registration shall be required.

D. Applicants for renewal of the CPA certificate maintenance or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A.

Applicants for renewal of the license to practice public accounting shall meet the requirements of Part V. Failure to comply with Part V will result in the denial of the license renewal.

E. The board, in its discretion, and for just cause, may deny renewal of a license to practice public accounting, registration or certificate maintenance. Upon such denial, the applicant for renewal may request that a hearing be held in accordance with the provisions of the Administrative Process Act.

### § 3.2. Requirement for reinstatement.

A. If the regulant fails to renew his license to practice public accounting or registration or pay his certificate maintenance fee within six months following the expiration, he will be required to present reasons for reinstatement and the board may, in its discretion, grant reinstatement or require a requalification or reexamination or both.

B. The fee for reinstatement of the license to practice public accounting shall be \$150, the fee for reinstatement of the professional corporation registration shall be \$100 , the fee for reinstatement of a professional limited liability company registration shall be \$100, and the fee for reinstatement of the certificate maintenance shall be \$50. All fees are nonrefundable and shall not be prorated.

C. Applicants for reinstatement of the CPA certificate or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A.

D. If the regulant has failed to renew his license to practice public accounting for a period of 12 months or longer he shall be required in accordance with Part V of these regulations to complete 40 credit hours of Continuing Professional Education (CPE) with a minimum of eight CPE credit hours in accounting and auditing and eight CPE credit hours in taxation within the preceding 12 months prior to application.

E. The board, in its discretion, and for just cause, may deny reinstatement of a license to practice public

# Emergency Regulations

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accounting, registration or certificate maintenance. Upon such denial, the applicant for reinstatement may request that a hearing be held in accordance with the provisions of the Administrative Process Act.

## PART IV. STANDARDS OF PRACTICE.

### § 4.1. Regulant accountable for service rendered.

Whenever a regulant offers or performs any services in Virginia related to the performance of accounting services regardless of the necessity to hold a license to perform that service, he shall be subject to the provisions of these regulations. A regulant shall be responsible for the acts or omissions of his staff in the performance of accounting services.

### § 4.2. Use of terms.

No firm with an office in Virginia shall use or assume the title or designation "certified public accountant," "public accountant," "CPA," or any other title, designation, phrase, acronym, abbreviation, sign, card, or device tending to indicate that it is engaged in or holding itself out to be engaged in Virginia in the practice of public accountancy unless all principals and professional staff of that firm who work in Virginia or who have substantial contact with work in Virginia and who meet the qualifications for licensure, currently hold a valid Virginia license.

### § 4.3. Notification of change of address or name.

Every regulant shall notify the board in writing within 30 days of any change of address or name.

### § 4.4. Sole proprietor name.

~~A sole proprietor shall use his own name as the firm name except that a proprietor surviving the death or withdrawal of all other partners may continue using the name of those partners for not more than two years after becoming a sole proprietor.~~

*A sole proprietor shall use his own name as the firm name. However a sole proprietor surviving the death or withdrawal of all other partners in a partnership may continue using the names of those partners for not more than two years after becoming a sole proprietor. A sole proprietor surviving the death or withdrawal of all other members in a professional limited liability company may continue using the names of those members for not more than two years after becoming a sole proprietor.*

### § 4.5. Partnership name.

A licensee Licensees shall not practice in a partnership that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates" or any similar terms or

derivatives unless used to designate at least one unnamed, currently licensed partner. The name of one or more past partners in a predecessor partnership, or shareholders or licensed officers of a predecessor professional corporation, or members or managers of a predecessor professional limited liability company may be included in the partnership firm name of a successor partnership.

### § 4.6. ~~Corporate name.~~ Professional corporation name.

A licensee shall not practice in a ~~corporate name~~ professional corporation that includes a fictitious name, ~~which a name that indicates fields of specialization, or a name that includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed shareholder or licensed officer~~. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, or partners in a predecessor partnership, or members or managers in a predecessor professional limited liability company may be included in the corporate firm name of a successor corporation. A shareholder surviving the death or retirement of all other shareholders may continue using the names of those shareholders, or partners in a predecessor partnership, or those members in a predecessor professional limited liability company for not more than two years after becoming a sole shareholder.

### § 4.7. Professional limited liability company name.

*Licensees shall not practice in a professional limited liability company that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates" or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed member or licensed manager. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, partners in a predecessor partnership, or members or managers in a predecessor limited liability company may be included in the firm name of a successor professional limited liability company.*

### § 4.7. § 4.8. Notification of changes in firm.

A licensee shall notify the board in writing within 30 days after occurrence of any of the following:

1. The formation of a firm and its name, location and names of partners or , shareholders , members or managers ;
2. The admission of any new partner, shareholder or partner , or member ;
3. The change in the name of any partnership or , professional corporation or professional limited liability company ;
4. The change in the supervisor of any branch office;

5. The change in the number or location of Virginia offices;

6. The opening of a new office in Virginia and the name of the supervisor; and

7. Any event which would cause the firm not to be in conformity with the provisions of these regulations.

~~§ 4.8.~~ § 4.9. Sharing an office.

When sharing office facilities with any person who is not in the same firm, the licensee shall use practices and procedures which enable a reasonable person clearly to distinguish between the practice of the licensee and the operation of the other occupation or business.

~~§ 4.9.~~ § 4.10. Resident manager in Virginia in charge of office.

Each branch office of a firm shall be managed by a certified public accountant licensed in Virginia. No licensed certified public accountant shall manage more than one office until such time as the licensee can provide, and the board approves, a management plan to provide supervision and quality control over the work product of all offices under the supervision of the licensee.

~~§ 4.10.~~ § 4.11. Misleading name, letterhead, publication, etc.

Nothing shall be contained in a firm's name or in any firm letterhead, publication, form, card, etc., which states or implies an ability, relationship, or condition that does not exist.

~~§ 4.11.~~ § 4.12. Independence.

A regulant individual or a firm of which he is a partner or shareholder shall not express an opinion or conclusion on financial statements of an entity in such a manner as to imply that he or his firm are acting in an independent capacity when either the regulant or his firm during the period of a professional engagement or at time of expressing an opinion have any of the following interests in that entity:

1. Had or was committed to acquire any direct or material indirect financial interest in the entity; or
2. Held the position of trustee, executor, or administrator of any trust or estate, if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the entity; or
3. Held ownership of any joint closely-held business investment with the entity or any officer, director, or principal stockholder thereof which was material in relation to the net worth of the licensee; or
4. Had a relationship with the entity as a promoter,

underwriter, or voting trustee, director or officer, or in any capacity equivalent to that of a member of management or of an employee; or

5. Had any loan to or from the entity, or from any officer, director, or principal stockholder thereof except loans made by a financial institution under normal lending procedures, terms and requirements such as: loans obtained by the licensee or firm which are not material in relation to the net worth of the borrower; or home mortgages; or other secured loans, except those secured solely by a guarantee of the firm or its licensees.

~~§ 4.12.~~ § 4.13. Integrity and objectivity.

A regulant shall not knowingly misrepresent facts or subordinate his judgement to others. In tax practice, a regulant may resolve doubt in favor of his client as long as there is reasonable support for his position.

~~§ 4.13.~~ § 4.14. Commissions.

A regulant shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. Payments for the purchase of all, or part, of an accounting practice, retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons are permitted.

~~§ 4.14.~~ § 4.15. Contingent fees.

A regulant shall not engage or offer to engage in the performance of accounting services for a fee which is contingent upon his findings or results of his services. This regulation does not apply either to services involving taxes in which the sole findings are those of the tax authorities or to the performance of accounting services for which the fees are to be fixed by courts or other public authorities.

~~§ 4.15.~~ § 4.16. Incompatible occupations.

A regulant shall not concurrently engage in any other business or occupation which impairs his independence or objectivity in the performance of accounting services.

~~§ 4.16.~~ § 4.17. Competence.

A regulant shall not undertake performance of accounting services which he cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with these regulations.

~~§ 4.17.~~ § 4.18. Auditing standards.

A regulant shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent certified public accountant unless he has complied with applicable

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generally accepted auditing standards in current use at the time his services were provided. Departures from compliance with generally accepted auditing standards must be justified.

~~§ 4-18:~~ § 4.19 Accounting principles.

A regulant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from generally accepted accounting principles in current use at the time the services were provided, which departure has a material effect on the statements taken as a whole. Any such departure is permissible only if the regulant can demonstrate that, due to unusual circumstances, the financial statements would otherwise be misleading. In such cases, his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principles would result in a misleading statement.

~~§ 4-19:~~ § 4.20 Other technical standards.

A regulant shall comply with other technical standards pertaining to accounting and review services, tax services and management advisory services in current use at the time services were provided. Departure from compliance with other technical standards must be justified.

~~§ 4-20:~~ § 4.21 Forecasts or projections.

No regulant shall vouch for the achievability of any forecast or projection.

~~§ 4-21:~~ § 4.22 Confidential client information.

A regulant shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of the performance of accounting services, except in response to a subpoena or summons enforceable by order of a court, in response to any inquiry made by the board or its agents, by a government agency, or by a recognized organization of certified public accountants, or by the client himself or his heirs, successors or authorized representative, or in connection with a quality control review of the regulant's practice.

~~§ 4-22:~~ § 4.23 Client's records.

A regulant shall furnish to his firm's client or former client, regardless of any payment due the firm, within a reasonable time upon request:

1. A copy of the client's tax return; or
2. A copy of any report, or other document, issued by the regulant or his firm to or for the client and not formally withdrawn by the regulant or his firm prior to the request; or

3. Any accounting or other record belonging to the client, or obtained from or on behalf of the client, which the regulant or another member of his firm removed from the client's premises or had received for the client's account; or

4. A copy of the regulant's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records not otherwise available to the client. Examples would include worksheets in lieu of books of original entry or general or subsidiary ledgers such as a list of accounts receivable or depreciation schedule. All journal entries and supporting details would also be considered client's records.

~~§ 4-23:~~ § 4.24 Acting through others.

A regulant shall not permit others to carry out on his behalf, acts which, if carried out by the regulant would place him in violation of these regulations. A regulant shall not perform services for a client who is performing the same or similar services for another, if the regulant could not perform those services under these rules.

~~§ 4-24:~~ § 4.25 Advertising.

A regulant shall not make any false, fraudulent, misleading, deceptive, or unfair statement or claim, including but not limited to:

1. A misrepresentation of fact; or
2. Failure to make full disclosure of any relevant fact; or
3. Representation of services of exceptional quality not supported by verifiable facts; or
4. A representation that might lead to unjustified expectation of higher level of performance or of favorable results.

~~§ 4-25:~~ § 4.26 Solicitation.

A regulant shall not by any direct personal communication solicit an engagement for the performance of accounting services if the communication is overreaching or contains use of coercion, duress, compulsion, intimidation, threats, or harassment.

~~§ 4-26:~~ § 4.27 Response to board communication.

A regulant shall respond by registered or certified mail within 30 days of the mailing of any communication from the board when requested.

~~§ 4-27:~~ § 4.28 Revocation, suspension, and fines.

The board may suspend, deny renewal, or revoke any certificate, license, or registration, or may fine the holder

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thereof, upon a finding of any conduct reflecting adversely upon the regulant's fitness to engage in the performance of accounting services or for violation of any of the board's rules and regulations.

~~§ 4.28.~~ § 4.29. Practice inspection and continuing professional education.

In lieu of or in addition to any remedy provided in § 4.27 the board may require an inspection of a regulant's practice, require completion of specified continuing education, restrict regulant's area of practice, or impose such other sanctions as it deems appropriate.

~~§ 4.29.~~ § 4.30. Petition for reinstatement or modification of a penalty.

No petition shall be considered while the petitioner is under sentence for a criminal offense related to the practice of accountancy, including any period during which the petitioner is on court imposed probation or parole for such offense. Otherwise, a person whose certificate or license has been revoked or suspended, or who has been subjected to any penalty may petition the board for reinstatement or modification of any penalty, no sooner than one year from the effective date of that decision. The petition shall be accompanied by at least two verified recommendations from licensees who have had personal knowledge of the activities of the petitioner since the time the disciplinary penalty was imposed. The board may consider all activities of the petitioner dating from the time the disciplinary action was taken; the offense for which the petitioner was disciplined; the petitioner's rehabilitative efforts and restitution to damaged parties; and the petitioner's general reputation for truth and professional ability.

~~§ 4.30.~~ § 4.31. Ownership of records.

All statements, records, schedules, working papers, and memoranda made by a regulant incident to rendering services to a client in the performance of accounting services other than records specified in § 4.22, shall become the property of the regulant's firm absent an express agreement between the firm and the client to the contrary. No such statement, record, schedule, working paper or memorandum covered by this section or in § 4.22 shall be sold, transferred, or bequeathed, to anyone other than a regulant without the consent of the client.

~~§ 4.31.~~ § 4.32. Acts discreditable.

A regulant shall not commit an act discreditable to the profession of accountancy.

~~§ 4.32.~~ § 4.33. Single act.

Evidence of the commission of a single act prohibited by these regulations shall be sufficient to justify a finding of violation, without evidence of a general course of conduct.

## PART V. CONTINUING PROFESSIONAL EDUCATION.

§ 5.1. CPE requirements for license renewal.

Effective January 1, 1992, all licensees shall be required to complete and maintain 120 credit hours of continuing professional education (CPE) during each reporting cycle. At a minimum, a licensee shall complete and report to the board 20 credit hours of CPE by January 31 of the year following the year in which credit was earned.

For each three-year reporting cycle, the licensee shall have completed a minimum of 16 credit hours in accounting and auditing and a minimum of 16 credit hours in taxation as defined by § 5.5. The licensee shall not report more than 24 credit hours of personal development as defined by § 5.5 during each reporting cycle.

In order to receive CPE credit for a license renewal, all credit hours shall be from an approved sponsor as set forth in § 5.4.

The board shall approve sponsors of CPE courses and not individual courses. A CPE course provided by an approved sponsor shall meet the CPE requirements set forth in the Rules and Regulations for Continuing Professional Education Sponsors and will be so designated. An investigation of an approved sponsor may be initiated based on a complaint or other information.

§ 5.2. Requirements for retaining records.

It is the responsibility of the licensee to retain evidence of satisfactory completion of CPE credit hours for a period of five years. Such documentation shall be in the form of the certificate of completion provided by the approved sponsor or verification from the accredited institution offering the course. If upon request, the licensee cannot provide such documentation, the licensee shall be subject to a fine which shall not exceed \$1,000 in accordance with § 54.1-202 of the Code of Virginia.

§ 5.3. Requirements for reporting credit hours.

All CPE credit hours shall be reported to the board on a form provided by the board and subject to a possible audit. The date forms are received, not postmarked, by the board shall be the date used to determine compliance with the CPE reporting requirements.

Failure to complete or report CPE credit hours by January 31 of each succeeding year will result in the following late filing fees:

1. A \$100 late filing fee shall be required for all reporting forms received after January 31 but before June 1.
2. A \$250 late filing fee shall be required for all reporting forms received after May 31 but before

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August 1.

3. A \$500 late filing fee shall be required for all reporting forms when received after July 31. A license renewal shall be issued to the regulant upon receipt by the board of the late filing fee and evidence of compliance with § 5.1.

4. CPE credit hours taken during the late filing period to meet the requirement of the previous year shall not be reported for any succeeding year.

5. Individuals failing to meet the CPE requirements may be subject to requalification including possible reexamination and submission of experience qualifications.

6. The board may, at its discretion, waive or defer CPE requirements and late fees for licensees who suffer documented serious illness or injury, or who are prevented from meeting those requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board.

## § 5.4. Acceptable continuing professional education credit.

The board shall recognize the following as acceptable CPE credit:

1. Courses from sponsors approved by the board in accordance with the board's Rules and Regulations for Continuing Professional Education Sponsors; or

2. Courses from sponsors of continuing professional education programs listed in good standing with the National Registry of CPE Sponsors maintained by the National Association of State Boards of Accountancy (NASBA); or

3. Courses from accredited institutions as defined by § 1.1 of these regulations when offering college courses in the regular course curriculum. CPE credit for completing a college course in the college curriculum will be granted based on the number of credit hours the college grants for successful completion of the course. One semester hour of college credit is 15 CPE credit hours; on quarter hour of college credit is 10 CPE credit hours; or

4. Auditing of college courses from accredited institutions as defined by § 1.1 of these regulations. Licensees auditing a college course shall be granted one CPE credit hour for each contact hour of courses within the fields of study outlined in § 5.5 of these regulations. Attendance at two-thirds of scheduled sessions of audited courses shall be documented by the course instructor to receive CPE credit for the hours attended; or

5. Service as a lecturer or instructor in a continuing

professional education program provided the discussion meets subject matter requirements as defined in § 5.5 and is performed for an approved sponsor. One credit hour shall be given for each 50-minute period of service. For the instructor's preparation time, there will be awarded two additional hours of CPE for each credit hour of instruction. The instructor shall retain evidence to support the request for credit. The instructor shall be given no credit for subsequent sessions involving substantially identical subject matter. The maximum credit given for preparation as an instructor may not exceed 50% of the CPE credit hours reported each year with a maximum of 20 credit hours in any one reporting year ; or

6. Successful completion of a self-study course offered by an approved sponsor. CPE credit hours will be established by the sponsor according to the type of CPE self-study program and pre-tests to determine average completion time. Interactive self-study programs shall receive CPE credit equal to the average completion time. Noninteractive self-study programs shall receive CPE credit equal to one-half of the average completion time. An interactive self-study program that takes an average of two contact hours to complete shall be recommended for two CPE credit hours. A noninteractive self-study program that takes an average of two contact hours to complete shall be recommended for one CPE credit hour.

## § 5.5. Acceptable CPE subject areas.

A. All CPE credit hours shall be in the fields of study within the following CPE subject areas:

1. Accounting and auditing which includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and on the reporting on the results of audit findings, compilations, and review.

A minimum of 16 hours in accounting and auditing shall be completed in each three-year reporting cycle.

2. Advisory services which includes all advisory services provided by professional accountants – management, business, personal, and other. It includes Management Advisory Services and Personal Financial Planning Services. This section also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. The systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services

provided encompass those for management, such as designing, implementing, and evaluating operating systems for organization, as well as business advisory services and personal financial planning.

3. Management which includes the management needs of individuals in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner such as organizational structures, marketing services, human resource management, and administrative practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting, and asset management, as well as items covering management planning, buying and selling businesses, contracting for goods and services, and foreign operations. For licensees in government, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in federal, state and local governmental entities. In general, the emphasis in this field is on the specific management needs of licensees and not on general management skills.

4. Personal development which includes such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also included.

A maximum of 24 hours may be reported in personal development in each reporting cycle.

5. Specialized knowledge and application which includes subjects related to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is defined as specialized if it is unusual in its form of organization, economic structure, source(s) of financing, legislation or regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues.

6. Taxation which includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

A minimum of 16 hours in taxation shall be completed in each three-year reporting cycle.

## § 5.6. NASBA approved sponsors.

A. The board shall annually review the NASBA Registry's Standards for Approval.

B. A NASBA approved sponsor removed from the Registry for failure to comply with NASBA standards will no longer qualify as a Virginia approved sponsor. In such cases, the sponsor may apply to the board for approval as a Virginia approved sponsor.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-18-014. Waterworks Operation Fee.

Statutory Authority: §§ 32.1-170, 32.171.1 and 32.174 of the Code of Virginia.

Effective Dates: July 1, 1992 through June 30, 1993.

Request: In accordance with Virginia Code § 9-6.14:4.1.C.5, the State Health Commissioner, acting pursuant to Virginia Code § 32.1-20, finds that the Waterworks Operation Fee Regulation (VR 355-18-014) is necessitated by an emergency situation. The regulation assesses waterworks a fee for waterworks operation to raise funds for the drinking water Waterworks Technical Assistance Fund. The State Health Commissioner is requesting the Governor's approval of this emergency regulation.

/s/ Robert B. Stroube, M.D., M.P.H.  
State Health Commissioner  
Date: June 10, 1992

### CONCURRENCES:

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 10, 1992

### AUTHORIZATION:

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 11, 1992

### FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 1, 1992

### Preamble:

EFFECTIVE DATE: This emergency regulation is effective upon filing with the Registrar of Regulations, on or after July 1, 1992.

PURPOSE: This regulation levies an annual operation fee (not to exceed \$160,000) on the owners of waterworks. The supplemental special fund revenue authorized by these regulations will fund the implementation of the federal Safe Drinking Water Act (SDWA) and associated state laws and regulations. The revenue raised will be deposited into



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the Waterworks Technical Assistance Fund established in the state treasury by § 32.1-171.1B.

**NATURE OF EMERGENCY:** The Virginia Department of Health is the delegated state agency responsible for the primary enforcement authority (primacy) of the federal Safe Drinking Water Act and must meet certain USEPA mandates on the program. The mandates include that the state adopt regulations as stringent as the federal requirements and be able to implement them. With the increasing federal regulations the Health Department's resources are inadequate and this affects the state's ability to retain primary authority to implement the federal Safe Drinking Water Act. The Department and the USEPA have signed a Primacy Extension Agreement scheduled to expire December 31, 1992; by which time the state must have adopted certain federal regulations and must have the resources to implement them. The passage of HB 236(1992) by the General Assembly and its signing by the Governor on April 6, 1992 authorizes an annual Waterworks Operation permit fee to provide the necessary resources needed for implementing the renewal of the primacy agreement.

Under HB 236(1992), the needed funds can be raised from the regulated entities; and the Appropriations Act authorizes both the funds and positions necessary to implement the required additions to the Drinking Water program. These emergency regulations must be effective July 1, 1992, in order to allow the Department to implement HB 236 and hire authorized staff early in FY 1993.

**NECESSITY FOR THE ACTION:** In order to maintain primary enforcement authority, the Health Department must show EPA before December 31, 1992, that it has the resources to implement and to maintain certain federal rules and regulations. Without adoption of emergency regulations, the Health Department can not meet the December 1992 deadline and the USEPA could remove primacy from Virginia. Therefore, Virginia could lose \$1 million in federal trust dollars and, more importantly, lose the associated benefits of discretionary decision making when interpreting federal rules and regulations. This loss will adversely affect the citizens of the Commonwealth.

VR 355-18-014. Waterworks Operation Fee.

## PART I. DEFINITIONS.

§ 1.1. *General* - As used in this regulation, unless otherwise defined, words and terms are the same as those in Code of Virginia § 32.1-167 or in § 1.2 of VR 355-18-001 (Waterworks Regulations).

### § 1.2. *Definitions.*

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

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner who is the executive officer of the State Board of Health.

"Community Waterworks" means a waterworks which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Customer account" means: (i) a metered or unmetered potable water service connection to the customer's property which is billed separately by the waterworks owner; or (ii) where any community waterworks sends no billing, the customer accounts shall be defined as equal to the population served divided by four (4).

"Department" means the Virginia Department of Health.

"Due" means received or postmarked by the stated date.

"Fiscal Year" means the year from July 1 to June 30.

"Nontransient Noncommunity Waterworks (NTNC)" means a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six (6) months out of the year.

"Owner (or Water Purveyor)" means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity or the federal government, which supplies or proposes to supply water to any person within this Commonwealth from or by means of any waterworks.

"Service connection" means the point of delivery of water to a customer's building service line as follows:

- a. If a meter is installed, the service connection is the downstream side of the meter;
- b. If a meter is not installed, the service connection is the point of connection to the waterworks;
- c. When the water purveyor is also the building owner, the service connection is the entry point to the building.

"Waterworks" means a system that serves piped water for drinking or domestic use to (1) the public, (2) at least 15 connections, or (3) an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered.

## PART II. GENERAL INFORMATION.

§ 2.1. *Effective Date.*

This emergency regulation shall be effective upon filing with the Registrar of Regulations and shall remain in force and effect for one year from the effective date, unless sooner modified or vacated.

## § 2.2. Authority for regulation.

§§ 32.1-170 and 32.1-171.1 of the Code of Virginia as amended provide that the Board of Health may establish regulations to charge an annual operation fee to a waterworks owner.

## § 2.3. Purpose of the regulation.

The Board has promulgated this emergency regulation to establish a waterworks operation fee schedule where the number of customer accounts of a community waterworks is the basis for assessing charges to the community waterworks. The fee schedule for nontransient noncommunity waterworks is based on the waterworks classification as a nontransient noncommunity waterworks. No waterworks owner shall pay more than \$160,000 per year per waterworks, nor is it the intent that an owner be charged this fee on water transferred to another waterworks.

## § 2.4. Compliance with the Administrative Process Act.

The provisions of the Administrative Process Act (VA Code § 9-6.14:1 et. seq.) shall govern the promulgation and administration of this regulation.

## § 2.5. Powers and procedure of regulation not exclusive.

The Commissioner may enforce this regulation through any means lawfully available including, but not limited to, the revocation of the waterworks operation permit (§ 32.1-174 of the Code of Virginia).

### PART III. WATERWORKS OPERATION FEES.

## § 3.1. Community waterworks.

A. An annual waterworks operation fee, not to exceed \$160,000, shall be charged as of July 1 of each fiscal year to the owner of each community waterworks in an amount as follows:

1. Fiscal year 1993 (starting July 1, 1992):  
the number of customer accounts multiplied by \$1.50.
2. Fiscal year 1994 (starting July 1, 1993):  
(this section reserved for future use)
3. Fiscal years thereafter:  
(this section reserved for future use)

B. The fee shall be paid to the Department and be due as follows:

1. If the fee established in § 3.1A is \$400 or less, the fee shall be due in a lump sum on August 1 (except in 1992 it is due October 1, 1992);
2. If the fee established in § 3.1A is more than \$400, the fee shall be due in a lump sum or equal quarterly installments each year as follows:
  - a. August 1 - The lump sum or first quarterly installment (except in 1992 it is due October 1, 1992).
  - b. November 1 - The second quarterly installment.
  - c. February 1 - The third quarterly installment.
  - d. May 1 - The fourth quarterly installment.

C. Data Verification - The number of customer accounts will be based on the best available data for a maximum period of six (6) months prior to the close of business on June 30 each year as provided by the waterwork's owner or chief administrative officer to the Department. This verification shall be provided to the Department by the owner of each community waterworks at the address specified in § 3.6 and is due as follows:

1. Fiscal year 1993 - due by October 1, 1992 with the appropriate payment.
2. Fiscal year 1994 and thereafter - due by August 1 of each year with the appropriate payment.

## § 3.2. Nontransient Noncommunity Waterworks (NTNC).

A. An annual waterworks operation fee shall be charged as of July 1 of each fiscal year to the owner of each NTNC waterworks as follows:

1. Fiscal Year 1993 (starting July 1, 1992) - an amount of \$60 per nontransient noncommunity waterworks.
2. Fiscal Year 1994 (starting July 1, 1993)  
(this section reserved)
3. Fiscal years thereafter  
(this section reserved)

B. The fee shall be paid to the Department with the first payment due November 1, 1992 and every November 1 thereafter.

## § 3.3. Notice.

The Department will send to each waterworks owner a payment form/data verification notice as prescribed by the

# Emergency Regulations

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Department on or before June 1 of each year except for Fiscal year 1993 when it will be on or before September 1, 1992. Failure to receive this notice does not relieve the responsibility of the waterworks owner from providing payments or verification.

## § 3.4. Refundability.

The fees established in §§ 3.1 and 3.2 are nonrefundable but are credited to any new owner of the same waterworks.

## § 3.5. Exemptions.

Customer accounts through which water is sold or delivered to another waterworks are exempted from the fee calculated in § 3.1.

## § 3.6. Payments.

Payments are to be made payable to: VDH - Waterworks Technical Assistance Fund and sent to:

Virginia Department of Health  
Division of Water Supply Engineering

1500 E. Main Street  
Room 109  
P.O. Box 2448  
Richmond, VA 23218

## § 3.7. Late fees and administrative charges.

In addition to the powers in § 2.5, operation fees not received or postmarked by the due date shall be subject to interest, administrative charges, and late penalty fees in accordance with VA Code § 2.1-732.

\* \* \* \* \*

**Title of Regulation:** VR 355-32-500.E. Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program.

**Statutory Authority:** §§ 32.1-151, 32.1-153 and 54.1-2987.1 of the Code of Virginia.

**Effective Dates:** July 1, 1992 through June 30, 1993.

### Summary:

1. **Request:** The emergency regulation is necessary to implement the new statute, enacted by the 1992 General Assembly, that authorizes EMS personnel to follow Do Not Resuscitate Orders for a terminally ill patient. The EMS/DNR Order Form, which is an attachment to these regulations, was submitted on May 5, 1992 for early approval to expedite procurement and distribution in time for the effective date of the statute, which is July 1, 1992.

2. **Recommendation:** Approval to implement emergency

regulations governing the Emergency Medical Services Do Not Resuscitate Program and to initiate the process for promulgation of final regulations. It is anticipated that the Board of Health will approve the emergency regulations at its June 10, 1992 meeting.

/s/ Robert B. Stroube, M.D., M.P.H.  
Date: May 14, 1992

### 3. CONCURRENCES:

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 9, 1992

### 4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 9, 1992

### 5. FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 1, 1992

**Nature of emergency** - On July 1, 1992 a new statute to authorize qualified Emergency Medical Services personnel to follow Do Not Resuscitate Orders for certain adult terminally ill patients will become effective (Section 54.1-2987.1 and Sections 32.1-151 and 153 of the Code of Virginia). The new law requires the Board of Health to promulgate regulations which prescribe the procedures, including the requirements for forms, to implement this new provision and which prescribe the qualifications necessary for authorization to follow EMS/DNR orders pursuant to Section 54.1-2987.1. It is important to implement this new EMS Do Not Resuscitate program as close to the effective date as possible, so the EMS community can be responsive to the needs and desires of the patients it serves. The patients for whom the legislation was designed, and their family members, will expect this program to be available July 1, 1992. There could be significant confusion in the field if the program is not ready for implementation by that date.

**Purpose** - To adopt Rules and Regulations Governing the EMS Do Not Resuscitate Program so that compliance with the new law is possible on July 1, 1992.

VR 355-32-500.E. Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program.

### PART I. DEFINITIONS.

#### § 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning unless the

context clearly indicates otherwise:

"Agent" means an adult appointed by a competent adult patient under an advance directive, executed or made in accordance with the provisions of Section 54.1-2983 of the Code of Virginia, to make health care decisions for him.

"Attending physician" means the primary physician who has responsibility for the treatment and care of the patient.

"Authorized decision maker" means, in order of priority, designated agent, guardian or committee, spouse, adult child, parent, adult brother or sister, other relative in descending order of blood relationship, provided, however, that when two or more persons in the same class with equal decision-making priority are in disagreement, a majority authorization shall be controlling.

"Board" means the State Board of Health.

"Cardiac arrest" means the cessation of a functional heartbeat.

"Cardiopulmonary resuscitation" means medical procedures including cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures.

"Commissioner" means the State Health Commissioner.

"Emergency Medical Services (EMS)" means the services utilized in responding to the perceived individual needs for immediate medical care in order to prevent loss of life, aggravation of physiological or psychological illness or injury including any or all services which could be described as first response, basic life support, advanced life support, specialized life support, patient transportation, medical control, and rescue.

"Emergency Medical Services Agency (EMS Agency)" means any person, firm, corporation, or organization licensed by the Board, which is properly engaged in the business, service, or regular activity of providing emergency medical care to persons who are sick, injured, wounded or otherwise incapacitated or helpless.

"Emergency Medical Services Do Not Resuscitate Order" ("EMS/DNR Order") means a written physician's order in a form approved by the Board which authorizes qualified emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest.

"Emergency medical services personnel" ("EMS personnel") means persons responsible for the direct provision of emergency medical services in a given medical emergency including any or all persons who could be described as a first responder, attendant, attendant-in-charge, or operator.

"Qualified emergency medical services personnel" means EMS personnel who are authorized to follow EMS/DNR Orders. This shall include any person (i) holding current certification to provide emergency medical patient care or treatment by the Department of Health, including those certified as EMS First Responders, Emergency Medical Technicians (EMT), EMT-Shock/Trauma, EMT-Cardiac, and EMT-Paramedic and (ii) acting in accordance with EMS/DNR Order Implementation Protocols.

"Respiratory arrest" means cessation of breathing.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability, a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state, as defined in Section 54.1-2982 of the Code of Virginia.

## PART II. PURPOSE AND APPLICABILITY.

### § 2.1. Authority for Regulation.

Section 54.1-2987.1 of the Code of Virginia (1950), as amended, vests authority for the regulation of EMS/DNR Orders in the Board. Section 32.1-151 of the Code directs the Board to prescribe by regulation the procedures, including the requirements for forms, to authorize qualified EMS personnel to follow EMS/DNR Orders pursuant to Section 54.1-2987.1. Section 32.1-153 further states that the Board shall prescribe those qualifications necessary for authorization to follow EMS/DNR Orders pursuant to Section 54.1-2987.1. Section 32.1-12 provides broad authority to the Board to promulgate regulations necessary to carry out the provisions of the Health Title, Title 32.1 of the Code.

### 2.2. Purpose of Regulations.

The Board has promulgated these emergency regulations in order to ensure timely and appropriate implementation and application of the EMS/DNR Order Statute, effective July 1, 1992.

### 2.3. Administration of Regulations.

These regulations shall be administered by the following:

A. The Board - The Board shall have the responsibility to promulgate and amend, as appropriate, regulations governing EMS/DNR Orders;

B. Commissioner - The Commissioner, pursuant to his authority under Section 32.1-20, shall administer these regulations.

### § 2.4. Application of Regulations.

These regulations shall have general application throughout the Commonwealth.

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## § 2.5. Effective Date of Regulations.

These regulations shall become effective July 1, 1992.

### PART III. REQUIREMENTS AND PROVISIONS.

#### Article 1. General Provisions.

## § 3.1. The Emergency Medical Services Do Not Resuscitate Order Form.

The EMS/DNR Order Form shall be a unique document printed on distinctive security paper and sequentially numbered, as approved by the Board, and consistent with these regulations. The following requirements and provisions shall apply to the approved EMS/DNR Order Form.

A. Content of the Form - A valid EMS/DNR Order Form shall include (i) the attending physician's signed statement regarding the patient's terminal condition and his Do Not Resuscitate determination as set forth in the Order Form, (ii) the patient's signed directives, or (iii) a designated agent's or authorized decision maker's signature, if applicable.

B. Effective Period for a Signed EMS/DNR Order Form - A signed EMS/DNR Order shall be effective for no more than one year from the date the order is written. If the patient is still living at the end of that time, a new EMS/DNR Order Form may be executed and issued by the attending physician.

C. Original EMS/DNR Order Form - Only an original EMS/DNR Order Form, or an unaltered EMS/DNR Order Bracelet, as provided for in Section 3.2 of these regulations, shall be valid for purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified EMS personnel in the event of cardiac or respiratory arrest. The original form shall be maintained and displayed at the patient's home in one of the places designated on the form or shall accompany the patient, if traveling. Copies of the EMS/DNR Order Form may be given to other providers or persons for information, with the express consent of the patient or the patient's designated agent or authorized decision maker.

D. Revocation of an EMS/DNR Order - An EMS/DNR Order may be revoked at any time by the patient (i) by a signed, dated writing; (ii) by physical cancellation or destruction of the EMS/DNR Order Form or bracelet by the patient or another in his presence and at his direction; or (iii) by oral expression of intent to revoke, or by the patient's attending physician, or the designated agent or authorized decision maker for the patient.

E. Distribution of EMS/DNR Order Forms - Approved, sequentially numbered EMS/DNR Forms, with instructions, shall be available to physicians through local Health

Department offices and local hospitals, and to private physicians, on request. Other distribution points may be approved by the Commissioner to meet identified needs.

## § 3.2. The EMS/DNR Order Bracelet.

An EMS/DNR Order Bracelet, as approved by the Board, shall be issued with the EMS/DNR Order. Such EMS/DNR Order Bracelet shall be a uniquely designed, easily identifiable plastic identification bracelet containing the patient's name, Social Security Number, attending physician's name and telephone number, number of the EMS/DNR Order, and date of issuance and expiration of the Order. An intact, unaltered, current EMS/DNR Bracelet may be honored by qualified EMS personnel in lieu of an original EMS/DNR Order Form.

### PART IV. IMPLEMENTATION PROCEDURES.

## § 4.1. Issuance of an EMS/DNR Order.

An EMS Do Not Resuscitate Order may only be issued by an attending physician for a patient who has been diagnosed as having a terminal condition. The physician shall explain to the patient or, if pertinent, his agent or his family the alternatives available, including issuance of an EMS/DNR Order. If the option of an EMS/DNR Order is agreed upon, the attending physician shall have the following responsibilities.

A. Obtain the signature of the patient or designated agent or authorized decision maker or the spokesman for a majority of the highest class of decision makers.

B. Execute and date the Physician Order on the EMS/DNR Order Form.

C. Issue the original EMS/DNR Order Form and Bracelet and place Bracelet on patient.

D. Explain how and by whom the EMS/DNR Order may be revoked.

## § 4.2. EMS Do Not Resuscitate Implementation Procedures.

Qualified Emergency Medical Services personnel shall conform with the following general procedures and published State EMS/DNR Order Implementation Protocols when responding to a patient who is in cardiac or respiratory arrest and who is known or suspected to have an EMS/DNR Order in effect.

### A. Initial Assessment and Intervention

Perform routine patient assessment and resuscitation or intervention until EMS/DNR Order status is confirmed, as follows.

1. Determine that EMS/DNR Order Bracelet is intact and not defaced or that the original EMS/DNR Order

# Emergency Regulations

Form is present and current.

2. Verify, through Driver's License or other identification with photograph and signature or by positive identification by a family member or other person that knows patient, that the patient in question is the one for whom the EMS/DNR Order was issued.

3. If no EMS/DNR Order Bracelet is found, ask family member or other person to look for the original EMS/DNR Order Form.

4. If the EMS/DNR Order Bracelet is not attached or has been defaced, and if no valid EMS/DNR Order Form is produced, consider the EMS/DNR Order to be invalid.

## B. Resuscitative Measures to be Withheld or Withdrawn

In the event of cardiac or respiratory arrest of a patient with a valid EMS/DNR Order under the criteria set forth above, the following procedures should be withheld or withdrawn by qualified EMS personnel, unless otherwise directed by the attending physician.

1. Cardiopulmonary Resuscitation (CPR)
2. Endotracheal Intubation or other advanced airway management
3. Artificial Ventilation
4. Defibrillation
5. Cardiac resuscitation medications
6. Related procedures, as defined by attending physician or medical protocols.

## C. Procedures to Provide Comfort Care or to Alleviate Pain

In order to provide comfort care or to alleviate pain for a patient with a valid EMS/DNR Order, the following interventions may be provided, depending on the needs of the particular patient.

1. Airway (excluding intubation or advanced airway management)
2. Suction
3. Oxygen
4. Pain medications (Advanced Life Support personnel only)
5. Control bleeding
6. Make patient comfortable

7. Be supportive to patient and family

## D. Revocation

The patient, the attending physician, or the patient's designated agent or authorized decision maker may revoke the EMS/DNR Order at any time, as provided in Section 3.1 D. of these Regulations. If an EMS/DNR Order is revoked by one of these authorized persons, EMS personnel shall resume full resuscitation and treatment of the patient.

## E. Documentation

When following an EMS/DNR Order for a particular patient, EMS personnel shall document the response in the following way.

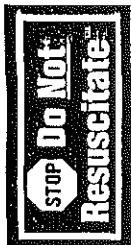
1. Use a standard prehospital patient care report form.
2. Describe assessment of patient's status.
3. Document which identification (EMS/DNR Order Form or Bracelet) was used to confirm EMS/DNR status and that it was intact, not defaced, not canceled, or not officially revoked.
4. Record actual EMS/DNR Order Number as well as name of patient's attending physician.
5. If transporting the patient, keep original EMS/DNR Order Form with the patient.

## F. General Considerations

The following general principles shall apply to implementation of EMS Do Not Resuscitate Orders.

1. If there is misunderstanding with family members or others present at the scene or if there are other concerns about following the EMS/DNR Orders, contact the attending physician or EMS medical control for guidance.
2. If there is any question about the validity of an EMS/DNR Order, resuscitate.
3. An EMS/DNR Order does not mean do not treat otherwise or do not provide appropriate care. Provide all possible comfort care and treat patient and family with care and concern.

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Order # \_\_\_\_\_  
 Date Order Written \_\_\_\_\_  
 (Expires one year from this date)  
 92 JUL 19 11 45 AM '88  
 VIRGINIA EMERGENCY MEDICAL SERVICES - 1 PH 4-54  
 DO NOT RESUSCITATE ORDER

Patient's Full Legal Name \_\_\_\_\_  
 ATTENDING PHYSICIAN'S ORDER  
 I, the undersigned, state that I, an the attending physician of the patient named above, I have diagnosed and certified in the accompanying medical record that he/she is in a terminal condition. Terminal condition means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.  
 I further certify: (must check 1 or 2)

1. The patient is CAPABLE of making an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment. (Signature of patient is required, see reverse).
  2. The patient is INCAPABLE of making an informed decision about providing, withholding or withdrawing a specific medical treatment because he/she is unable to understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision.
- If you checked 2 above, (patient is INCAPABLE of making an informed decision), check 1, 2, or 3 below:
1. The patient has executed a written advance directive which directs that life-prolonging procedures be withheld or withdrawn in the event he/she is diagnosed as being in a terminal condition.
  2. The patient has executed a written advance directive which appoints an agent to make health care decisions on his/her behalf, and provides that agent with authority to direct that life-prolonging procedures be withheld or withdrawn in the event he/she is diagnosed as being in a terminal condition. (Signature of agent is required, see reverse).
  3. The patient has NOT executed a written advance directive (living will or durable power of attorney for health care). (Signature of guardian or committee, if one has been appointed, or authorized family member is required, see reverse).

I hereby direct any and all qualified Emergency Medical Services Personnel, commencing on the effective date noted above and expiring one year from the date, to withhold cardiopulmonary resuscitation (cardiac compression, endotracheal intubation, and other advanced airway management, artificial ventilation, and defibrillation and related procedures) from the patient in the event of the patient's cardiac or respiratory arrest. I further direct such personnel to provide to the patient other medical interventions, such as interventions of fluids, oxygen, or other therapies deemed necessary to provide comfort care or to alleviate pain.

Signature of Attending Physician \_\_\_\_\_  
 Telephone # (enter area code) \_\_\_\_\_  
 Address \_\_\_\_\_

PATIENT'S SIGNATURE  
 I, the undersigned, hereby direct that in the event of my cardiac or respiratory arrest, efforts at cardiopulmonary resuscitation not be initiated. I understand that I may revoke these directions at any time by physical cancellation or destruction of this form and the accompanying bracelet, or by orally expressing a desire to be resuscitated to the Emergency Medical Services Personnel. I also understand that if EMS Personnel have doubts about the applicability or validity of this order, they will begin cardiopulmonary resuscitation.

Signature of Patient \_\_\_\_\_

SIGNATURE OF DESIGNATED AGENT  
 OR OTHER AUTHORIZED DECISION MAKER  
 I, the undersigned, hereby certify that I am authorized to provide consent on the patient's behalf by virtue of my relationship to the patient as \_\_\_\_\_ (in order of priority: designated agent, guardian or committee, spouse, adult child, parent, adult brother or sister, other relative in descending order of relationship) in that capacity, I hereby direct that in the event of the patient's cardiac respiratory arrest, efforts at cardiopulmonary resuscitation not be initiated. I understand that I have these directions at any time by physical cancellation or destruction of this form and the accompanying bracelet. I also understand that if EMS Personnel have any doubts about the applicability or validity of this order, they will begin cardiopulmonary resuscitation of the patient.

Signature of Authorized Decision Maker \_\_\_\_\_

EMS PERSONNEL WILL LOOK FOR THIS ORDER IN THE FOLLOWING PLACES:  
 ON THE BACK OF THE DOOR LEADING TO THE PATIENT'S BEDROOM,  
 ON THE BEDSIDE TABLE, BESIDE THE PATIENT'S BED,  
 ON THE REFRIGERATOR, OR  
 IN THE PATIENT'S WALLET

# Emergency Regulations

\* \* \* \* \*

**Title of Regulation:** VR 355-40-04 355-40-100.E .  
**Regulations Governing the Virginia Medical Scholarship Program.**

**Statutory Authority:** § 32.1-122.6 B of the Code of Virginia.

**Effective Dates:** July 1, 1992 through June 30, 1993.

## Summary:

1. **Request:** Promulgation on an emergency basis is necessary in order that the regulations be in effect on July 1, 1992, the date the amendments become effective. This is of particular importance in carrying out the legislative intent of the amendments, to provide an incentive to medical students from Southwest Virginia attending the James H. Quillan College of Medicine at East Tennessee State University to become committed to the practice of medicine in medically underserved areas of Southwest Virginia.

The regulations must be in the hands of the guidance and financial aid staff of the participating medical schools at the earliest possible date for their use in informing 1992-93 students of the benefits available under the Virginia Medical Scholarship Program.

2. **Recommendation:** Approval to implement emergency Regulations Governing the Virginia Medical Scholarship Program and to initiate the process for promulgation of final regulations. The Board of Health will meet to approve the emergency regulations at its June 9, 1992 meeting.

/s/ Robert B. Stroube, M.D., M.P.H.  
Date: May 11, 1992

## 3. CONCURRENCES:

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: May 20, 1992

## 4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 8, 1992

## 5. FILED WITH:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 1, 1992

**Nature of Emergency:** These regulations incorporate amendments to the Virginia Medical Scholarship Program that were enacted by the 1992 Virginia General Assembly, and that become effective July 1, 1992.

Promulgation of these regulations on the effective date of the amendments is of particular importance to carrying out the legislative intent of the amendments, to provide an incentive to medical students from Southwest Virginia attending the James H. Quillan College of Medicine at East Tennessee State University to become committed to the practice of medicine in medically underserved area of Southwest Virginia.

The regulations must be in the hands of the guidance and financial aid staff of the participating medical schools at the earliest possible date for their use in informing incoming 1992-93 students of the benefits available under the Virginia Medical Scholarship Program.

The amendments identify the cities and counties of Southwest Virginia. Residents of Southwest Virginia that attend James H. Quillan College of Medicine at East Tennessee State University are eligible to receive three scholarships of those funded by the 1992 General Assembly. These regulations amend regulations governing the Virginia Medical Scholarship Program which were adopted and became effective July 3, 1991.

**Purpose:** To amend the Regulations Governing the Virginia Medical Scholarship Program in order to make scholarship funds available for three medical students from Southwest Virginia attending the James H. Quillan College of Medicine at East Tennessee State University during the forthcoming academic year, and so that compliance with the amended law is possible on July 1, 1992.

VR 355-40-100.E. Regulations Governing the Virginia Medical Scholarship Program.

## PART I. GENERAL INFORMATION.

### § 1.1. Authority

Title 32.1, Chapter 6, § 32.1-122.6 B of the Code of Virginia requires the State Board of Health, after consultation with the Medical College of Virginia, the University of Virginia School of Medicine, and the Medical College of Hampton Roads, to promulgate regulations to administer the Virginia Medical Scholarship Program.

### § 1.2. Purpose.

These regulations set forth the criteria for eligibility, circumstances under which awards will be made, and the process for awarding Virginia medical scholarships to medical students; the general terms and conditions applicable to the obligation of each recipient of a medical scholarship to practice medicine in a medically underserved area of Virginia, as identified by the Board of Health by regulation, or to practice medicine in a designated state facility as defined in these regulations; and penalties for a recipient's failure to fulfill the practice requirements of the Virginia Medical Scholarship Program. These regulations and the Regulations for Determining



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Virginia Medically Underserved Areas supersede and replace Definitions of "Practice of Family Medicine" and "Areas of Need" under State Medical Scholarship Program which were adopted by the Board of Health and became effective December 1, 1979 amend regulations of the same title which became effective July 3, 1991 .

## § 1.3. Administration.

The State Health Commissioner, as executive officer of the Board of Health, shall administer this program. Any requests for variance from these regulations shall be considered on an individual basis by the board in regular session.

## § 1.4. Applicability.

These regulations shall apply to all recipients who begin fulfillment of their scholarship obligation on July 1, 1990, or later; provided that approval given by the Commissioner prior to the effective date of these regulations shall remain in full force and effect.

## § 1.5. Effective date.

These emergency regulations shall be effective on June 1, 1991 July 1, 1992 .

## PART II. DEFINITIONS.

### § 2.1. Definitions.

Unless the context clearly indicates a contrary interpretation, the words and terms used in these regulations shall have the following meanings:

"Accredited internship" means a graduate medical education program of one year duration accredited by the Liaison Committee on Graduate Medical Education.

"Accredited residency" means a graduate medical education program in family practice medicine, general internal medicine, pediatric medicine or obstetrics and gynecology accredited by the Liaison Committee on Graduate Medical Education.

"Approved by the medical school from which the graduate matriculated" means that medical school affirms that the graduate has accepted placement in an accredited residency or internship at a hospital or institution located in Virginia, or affirms that such placement has been accepted in a program not located in Virginia due to such placement through the match.

"Board" or "Board of Health" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Designated state facility" means a facility operated by

the Virginia Departments of Corrections, Youth and Family Services, or Mental Health, Mental Retardation and Substance Abuse Services.

"Interest at the prevailing bank rate for unsecured debt" means the prime lending rate as published in the Wall Street Journal on the last day of the month in which the decision to repay is communicated to the commissioner by the recipient, plus two percentage points.

"The match" means the National Resident Matching Program, a nationwide system by which medical school graduates are placed in graduate medical education programs by mutual agreement.

"Medically underserved area" means a geographic area in Virginia designated by the State Board of Health in accordance with the rules and regulations for the identification of medically underserved areas.

"Practice" means the practice of medicine by a recipient in one of the designated primary care specialties in a specific geographic area determined to be fulfillment of fulfill the recipient's scholarship obligation.

"Primary care" means the specialties of family practice medicine, general internal medicine, pediatric medicine, or obstetrics and gynecology.

"Recipient" or "scholarship recipient" means an eligible medical student or graduate medical student who enters into a contract with the commissioner and receives one or more scholarship awards via the Virginia Medical Scholarship Program.

"Southwest Virginia" means those cities and counties in Virginia that are located in Planning Districts 1, 2, and 3 ; 4, and 5 ; they include: Alleghany County, Bland County, Botetourt County, City of Bristol, Buchanan County, Carroll County, City of Clifton Forge, City of Covington, Craig County, Dickenson County, Floyd County, Giles County, City of Galax, Grayson County, Lee County, Montgomery County, City of Norton, Pulaski County, City of Radford, City of Roanoke, Roanoke County, Russell County, City of Salem, Scott County, Smyth County, Tazewell County, Washington County, Wise County, and Wythe County.

"Virginia medical scholarship" means an award of \$10,000 made to a student enrolled in a Virginia participating medical school or to a graduate student of a Virginia participating medical school pursuing the first year of graduate training at a hospital or institution approved by the Virginia participating medical school that the graduate attended as a medical student and for which the medical student or graduate medical student entered a contractual obligation to repay.

"Virginia Participating medical school" means the Eastern Virginia Medical School of the Medical College of Hampton Roads, or the Medical College of Virginia of the Virginia Commonwealth University, or the School of

Medicine of the University of Virginia , or the Quillen School of Medicine of East Tennessee State University .

## PART III. SCHOLARSHIP AWARDS.

### § 3.1. Eligible applicants.

Any currently enrolled student in full-time attendance at a *Virginia participating* medical school or a graduate of such school who has accepted placement in, but not entered the first year of an accredited internship or accredited residency approved by the medical school from which the graduate matriculated, shall be eligible for the Virginia medical scholarship. Preference for the scholarship award shall be given to: residents of the Commonwealth over nonresidents; residents from medically underserved areas of Virginia as determined by the Board of Health in accordance with the provisions of its regulations for that purpose; and students or first year graduates from racial minorities. Additionally, preference shall be given to first-year graduates serving in approved internships or primary care residencies in Virginia over first-year graduates in approved out-of-state internships or residencies. *Virginia medical scholarships available for medical students enrolled at the Quillen School of Medicine of East Tennessee State University shall only be awarded to matriculating students from southwest Virginia.*

### § 3.2. Scholarship amount.

A Virginia medical scholarship award shall be \$10,000 for each academic year and shall be awarded to the recipient upon or following the recipient's execution of a contract with the commissioner for scholarship repayment.

### § 3.3. Distribution of scholarships.

Annually, by May 1 of each calendar year, the commissioner shall inform the deans of the *Virginia participating* medical schools of the number of medical school scholarships that are available for the schools' medical students during the next academic year. The annual number of medical scholarships available for award at each *Virginia participating* medical school shall be uniformly distributed among the schools, and shall be equal, and shall be based upon funds appropriated by the Virginia General Assembly ; *except that the number of Virginia medical scholarships available for medical students from southwest Virginia attending the Quillen School of Medicine of East Tennessee State University shall be limited to the number established by the Virginia General Assembly by law .* The deans of the respective *Virginia participating* medical schools shall annually nominate qualified students or first-year residents, in accordance with the criteria for preference enumerated in § 3.1 of these regulations, to receive scholarships. The number of nominees submitted to the commissioner at this time will not exceed the number of scholarships that are available for each medical school. The State Health Commissioner shall award scholarships to the nominees of

the deans at the *Virginia participating* medical schools in accordance with the number of scholarships available for each medical school. Any scholarships that have not been awarded following the initial annual distribution among the medical schools shall be available for redistribution to qualified students in any of the medical schools at the discretion of an awards committee consisting of the commissioner, who shall serve as chairman and ex officio member without vote, and the deans of the medical schools or their designees. The awards committee shall convene for this purpose only when the scholarships available to one or more of the medical school exceed the number of qualified nominees by the dean(s). A scholarship shall be awarded to qualified students based upon majority vote of the awards committee. Individual scholarship recipients may be nominated for and receive a maximum of five scholarships.

## PART IV. CONTRACTS.

### § 4.1. Contract provisions.

Prior to the award of a scholarship, the commissioner shall enter into a contract with the recipient. The contract shall:

1. Provide that the recipient will pursue the medical course of the school nominating the recipient for the award until the recipient's graduation or will pursue the recipient's first year of primary care graduate training in an accredited internship or residency program approved by the school nominating the recipient for the award and, upon completing a term not to exceed three\* years as an intern or resident in an approved program, will promptly begin and thereafter continuously engage in full-time primary care practice in a medically underserved area of Virginia, or in a designated state facility, for a period of years equal to the number of annual scholarships received. At any time prior to entering practice, the scholarship recipient shall be allowed to select a future practice location from the listing of medically underserved areas maintained by the board, and the recipient shall be allowed to fulfill the scholarship repayment obligation in the preselected medically underserved area. However, after making an initial selection of a medically underserved area in which to practice, the recipient may not alter the decision until the recipient is fully prepared to enter practice, at which time the recipient must choose from the current list of medically underserved areas maintained by the board or the preselected medically underserved area.

2. Provide that the recipient repaying the scholarship obligation by practicing primary care medicine in a medically underserved area will provide services to persons who are unable to pay for the service and will participate in all government sponsored insurance programs designed to assure access of covered persons

# Emergency Regulations

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to medical care services.

3. Provide that the recipient repaying the scholarship obligation by practicing primary care medicine on a full-time basis in a medically underserved area will maintain office hours convenient for the population of the area to have access to the recipient's services.

4. Provide that the recipient will not voluntarily obligate himself for more than the minimum period of military service required of physicians by the laws of the United States;

5. Provide that upon completion of the minimum period of military service, the recipient will promptly begin and thereafter continuously engage in full-time primary care practice in a medically underserved area of Virginia, or in a designated state facility, for the period of years equal to the number of scholarships received.

6. Provide for termination of the contract by the recipient while the recipient is enrolled in medical school, upon the recipient's notice and immediate repayment to the Commonwealth of the total amount of the scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured debt, computed from the date of receipt of funds by the recipient.

7. Provide that if the recipient fails to maintain satisfactory academic progress, the recipient may, upon certification of the commissioner, be relieved of the contract obligation to engage in full-time primary care practice in a medically underserved area, or in a designated state facility, upon repayment to the Commonwealth of the total amount of scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured debt, computed from the date of receipt of funds by the recipient.

8. Provide that if the recipient becomes permanently disabled so as not to be able to engage in primary care practice, the recipient may, upon certification of the commissioner, be relieved of the obligation under the contract to engage in full-time primary care practice in an underserved area, or in a designated state facility, upon repayment to the Commonwealth of the total amount of scholarship funds received plus interest on such amount computed at 8.0% per annum from the date of receipt of scholarship funds. For recipients completing part of the practice obligation prior to becoming permanently disabled, the total amount of scholarship funds received, and owed, shall be reduced by the amount of the annual scholarship award multiplied by the number of years practiced. Unusual hardship may be reviewed for variance by the board on a case-by-case basis.

9. Provide that if the recipient expires prior to entering primary care practice or subsequent to

entering practice in a designated medically underserved area or state facility, the scholarship indebtedness shall be forgiven.

10. Provide that any recipient of a scholarship, who fails or refuses to fulfill the obligation to practice primary care medicine in a medically underserved area or designated state facility for a period of years equal to the number of annual scholarships received, shall reimburse the Commonwealth three times the total amount of the scholarship funds received plus interest on the tripled obligation amount at the prevailing bank rate of interest for similar amounts of unsecured debt.

11. Provide that for a recipient who fulfills part of the contractual obligation by practicing primary care medicine in a medically underserved area, or in a designated state facility, for one or more years, the total amount of scholarship funds received, and owed, shall be reduced by the amount of the annual scholarship multiplied by the number of years practiced in the appropriate area or facility, and the remainder tripled as provided in subdivision 10 of this section. Partial years of practice may be credited beyond the one year minimum practice requirement.

## § 4.2. Repayment.

A. Unless repayment is forgiven as specified in subdivision 9 of § 4.1 or by special variance as provided in subdivisions 6, 7 and 8 of § 4.1 all scholarships shall be repaid to the Commonwealth, either by the recipient's practice of primary care medicine in a medically underserved area, or designated state facility, or through cash payments as specified in subdivisions 10 and 11 of § 4.1.

### B. Repayment by practice.

It is the intent of the Virginia Medical Scholarship Program that recipients repay their scholarship obligation by practice. Each recipient electing to repay by practice shall notify the commissioner in writing of his proposed practice location not more than 30 days after completing his approved residency program. After receiving written approval of his practice location from the commissioner, the recipient shall begin his approved practice not more than 90 days after completing his primary care residency program. A recipient will receive one year of credit toward fulfillment of his scholarship obligation for each 12 months of full-time (minimum of 40 hours per week) continuous primary care practice. Absences from the practice in excess of seven weeks per 12-month practice period for maternity leave, illness, vacation, or any other purpose shall not be credited toward repayment and will extend the recipient's total obligation by the number of weeks of excess absence. Any recipient who partially completes a scholarship obligation by practicing for one year or longer in an approved practice will be required to fulfill the remainder of the scholarship obligation by cash

repayment in accordance with subsection C of this section. Credit for partial years of service, beyond the one-year minimum practice requirement, will be applied toward fulfillment of the scholarship obligation.

### C. Cash repayment.

Cash repayment by recipients who terminate their contracts prior to the completion of training shall be made in accordance with subdivisions 6 and 7 of § 4.1 and by recipients who become disabled before fulfilling the practice obligation in accordance with subdivision 8 of § 4.1. Cash repayment by recipients who otherwise fail or refuse to fulfill their practice obligation shall be made in accordance with subdivisions 10 and 11 of § 4.1.

### D. Cash repayment amount.

The full amount to be repaid by a recipient who fails or refuses to fulfill the practice obligation shall be determined in the following manner: the annual amount of the scholarship for the year the recipient obtained the scholarship multiplied by three, plus interest (current bank rate of interest on a similar amount of unsecured debt) calculated from the date of receipt of funds by the recipient until the scholarship is fully repaid. Repeat the above calculation for each scholarship that the recipient obtained and add the sums of the calculations to determine the total amount due to be repaid to the Commonwealth.

### E. Cash repayment schedule.

Any scholarship to be repaid in cash payments due to the recipient's failure to enter into an approved practice shall be repaid within two years of the completion of the recipient's graduate training. Any scholarship to be repaid in cash payments due after partial repayment by practice shall be paid within two years of the recipient's departure from his approved practice. Failure of any recipient to complete a schedule of cash repayments within the required two years or to enter the practice of primary care medicine in a medically underserved area, or designated state facility, shall be cause for the commissioner to refer the matter to the Attorney General for disposition. The Attorney General shall take such action as the Attorney General deems proper to ensure reimbursement to the Commonwealth. If court action is required to collect a delinquent scholarship account, the recipient shall be responsible for the court costs and reasonable attorney's fees incurred by the Commonwealth in such collection.

## PART V. RECORDS AND REPORTING.

### § 5.1. Reporting requirements.

Reporting requirements of medical schools and scholarship recipients are as follows:

1. Each ~~Virginia~~ participating medical school shall maintain accurate records of the status of scholarship recipients until the recipients graduate from medical school and during any postgraduate year that a scholarship is awarded. The medical schools shall provide a report listing the status of each recipient annually to the commissioner.

2. Each scholarship recipient shall, during the post-scholarship award period as an intern or resident, report his location and status to the commissioner and to the medical school where he received scholarship award(s) annually, during the month of July. In addition, each scholarship recipient shall, during his period of obligated practice, report his status annually to the commissioner. The report shall include sufficient information as requested by the commissioner to verify compliance with the practice requirements of the scholarship contract. Additionally, any scholarship recipient shall immediately inform the commissioner of any change in his practice location or change in his practice status. For purposes of this provision, notification within 10 days of any such change shall be considered immediate notification.

\* NOTE: A variance (of one additional year) to the maximum three-year residency limitation will be available to medical scholarship recipients who choose to complete an obstetrics/gynecology residency program upon their request.

## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Title of Regulation: Board for Waste Management Facility Operators Regulations.

Statutory Authority: § 54.1-2211 of the Code of Virginia.

Effective Dates: July 7, 1992 through July 6, 1993.

### Preamble:

*The Board for Waste Management Facility Operators is promulgating emergency regulations, as required by § 9-6.14:5 of the Code of Virginia, regarding the interim certification of waste management facility operators.*

*Pursuant to § 54.1-2211 of the Code of Virginia, the Board for Waste Management Facility Operators is mandated to certify all persons acting as waste management facility operators by January 1, 1992. In order to meet this statutory requirement, the Board must promulgate emergency regulations immediately.*

*The emergency regulations governing the certification of waste management facility operators, will be in effect until January 1993, the anticipated effective date of the final regulation.*

# Emergency Regulations

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APPROVED:

/s/ Bonnie S. Salzman  
Department of Commerce  
Date: June 12, 1992

/s/ Lawrence H. Framme, III  
Secretary of Economic Development  
Date: June 22, 1992

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 6, 1992

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 7, 1992

Board for Waste Management Facility Operators  
Regulations.

PART I.  
GENERAL.

§ 1.1. Definitions.

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

"Board" means the Board for Waste Management Facility Operators.

"Department" means the Department of Commerce.

"In charge" means the designation of any person by the owner to have duty and authority to operate or modify the operation of a waste management facility.

"Interim certification" means the method of regulation for a temporary time period whereby the Commonwealth, through the issuance of interim certification, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation which is unlawful to practice without interim certification.

"Operation" means any waste management facility which is under construction, treating, processing, storing or disposing of solid waste, or in the act of securing a facility for closure.

"Owner" means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, firm or company organized or existing under the laws of this Commonwealth or any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain a waste management facility in the Commonwealth.

"Person" means an individual, corporation, partnership,

association, governmental body, municipal corporation or any other legal entity.

"Site" means within the vicinity of all land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of solid waste. This term includes adjacent land within the property boundary used for the utility systems such as repair, storage, shipping, or processing areas, or other areas incident to the management of solid waste.

"Solid waste" means any of those materials defined as 'solid waste' in Part III of the Solid Waste Management Regulations (VR 672-20-10) promulgated by the Virginia Department of Waste Management.

"Supervisory/operational experience" means skill or knowledge obtained by employment which includes responsible, technical, or operational direction of a solid waste management facility or a portion thereof.

"Waste management facility" means a site used for planned treatment, storage, or disposal of non-hazardous solid waste.

"Waste management facility operator" means any person, including an owner, who is in charge of the actual, on-site operation of a waste management facility during any period of operation.

§ 1.2. Interim Certification Required.

A. For the purposes of these regulations, the individual acting as a waste management facility operator is the individual employed by the facility owner, and whose responsibilities include supervision of on-site activities that normally require the individual to be at the waste management facility on each day of operation. This is not intended to include individuals whose duties do not include the actual operation or direct supervision of a waste management facility.

B. All individuals acting as a waste management facility operator in the Commonwealth after January 1, 1993, shall hold a valid interim certification issued by the board. The interim certification shall be valid until January 1, 1994 or when the person has been issued full certification whichever comes first.

C. The holder of interim certification is not automatically entitled to any subsequent certification upon the expiration of the interim certificate, but must meet standards established by the Board.

§ 1.3. Qualifications for Certification.

The Board shall issue interim certification only after an individual has met, through a completed application and addendum, all education and/or experience requirements set forth in these regulations.

# Emergency Regulations

A. All individuals seeking interim certification shall be at least eighteen years of age.

B. All individuals seeking interim certification shall meet one of the following requirements:

1. Three years of full-time supervisory/operational experience managing a waste management facility since January 1989.

2. Two years of full-time supervisory/operational experience managing a waste management facility since January 1989 and a high school diploma or GED equivalent.

3. One year of full-time supervisory/operational experience managing a waste management facility since January 1989 and an Associate's Degree or at least 60 completed semester hours or equivalent from an accredited institution of higher learning.

4. Six months of full-time supervisory/operational experience managing a waste management facility since January 1989 and a Bachelor's Degree.

C. For the purposes of these regulations, a year of full-time employment is defined as 1760 hours per year or 220 work days per year.

D. For the purposes of these regulations, experience requirements claimed on the application for interim certification shall be verified by the individual's supervisor(s) or personnel officer on the provided form.

E. For the purposes of these regulations, education requirements claimed on the application for interim certification shall be verified by the attendee's educational institution or authorizing jurisdiction on the provided form or in the form of an official transcript. Diplomas will not be accepted for verification of degree or graduation.

## § 1.4. Application Procedures.

A. Applicants for interim certification shall complete a general application form and all applicable addendum forms. The applications are provided by the department upon request.

Addendum forms shall include but not be limited to:

1. Verification of experience form.

2. Verification of degree or graduation form.

B. Failure to provide a complete application of all applicable addenda may result in a denial of approval. The failure to provide complete information may be interpreted as misrepresentation and may result in disciplinary action as defined in Part II of these regulations.

## § 1.5. Disclosure.

A. Any individual seeking interim certification shall disclose any other operator or related certification issued by any other state(s) on the provided application.

B. Any individual seeking interim certification shall disclose on the application any felony convictions or final order actions issued by an administrative body or court regarding environmental violations or crimes resulting in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

C. Any certified operator shall notify the board in writing within thirty days any felony convictions or final order actions issued by an administrative body or court regarding environmental violations or crimes resulting in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

## § 1.6. Fees.

A. All fees are non-refundable and shall not be prorated.

B. An application shall not be deemed complete and shall not be processed without the required fee.

C. The required application fee for an interim certification shall be \$85.00

D. All checks shall be made payable to the Treasurer of Virginia.

E. Receipt and deposit of fees submitted with applications do not in any way indicate interim certification.

## § 1.7. Change of status.

A. The certified individual shall provide written notification of any change of address to the Department within thirty days.

B. The certified individual shall provide written notification and proof within of any change of name within thirty days.

C. The interim certification issued by the Board shall not be transferred or otherwise reassigned.

## § 1.8. Renewal of interim certification.

Interim certification is not renewable. All individuals with interim certification shall meet the requirements for full certification to continue to practice as a solid waste management facility operator after January 1, 1994.

## PART II. STANDARDS OF CONDUCT AND DISCIPLINARY

# Emergency Regulations

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## ACTION.

### § 2.1. Prohibited Acts.

A. The following are grounds for disciplinary action by the Board:

1. The interim certificate holder violates or induces another person to violate any provisions of Chapters 1, 2, 3 and 22.1 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.
2. The interim certificate issued to a solid waste management facility operator was obtained through fraudulent means or misrepresentation.
3. Having been found guilty by the Board, an administrative body or by a court of any material misrepresentation in the course of performing his operating duties.
4. Having been convicted or found guilty, regardless of jurisdiction of any felony or violation which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having elapsed. Any plea of *nolo contendere* shall be considered a conviction for the purposes of this regulation. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as *prima facie* evidence of such conviction.
5. Failing to inform the Board in writing within thirty days of pleading guilty or *nolo contendere* or being convicted or found guilty of any felony which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.
6. Gross negligence, or a continued pattern of incompetence, in the practice as a waste management facility operator.
7. Violating the permit conditions for the facility, or violating any federal, state or local laws or regulations which result in the significant harm or an imminent and substantial threat of significant harm to human health or the environment.

B. Any individual whose interim certification is revoked under this section shall not be eligible to apply for interim certification or full certification for a period of one year from the effective date of the final order of revocation. The individual shall meet all education, experience and training requirements, complete the application and submit the required fee for consideration as a new applicant.

§ 2.2. Denial, suspension or revocation of interim certification.

### A. Denial of Initial Interim Certification.

1. The Board, in its discretion, may deny an applicant approval for interim certification for any reason specified in § 2.1 of these regulations, for nonpayment of fees or any incomplete application.
2. The applicant may request the Board to reconsider their initial decision, in writing, within thirty days of the applicant's notification of the denial.
3. If the Board's initial decision of denial is reconfirmed, the Board will notify the applicant in writing outlining the reasons for denial. The response may also include any necessary steps that can be taken by the applicant to ensure compliance with these regulations.
4. All appeals for denied applications for certification shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.)

### B. Suspension and Revocation of Certification.

1. The Board, in its discretion, may suspend or revoke the interim certification of an individual for any reason specified in § 2.1 of these regulations.
2. The Board shall conduct disciplinary proceedings in accordance with the Administrative Process Act (§ 9-4.14:1 et seq.)
3. Any individual certified by the Board who violates any statute or provision of these regulations and is not criminally prosecuted, shall be subject to a monetary penalty. The Board shall determine the monetary penalty which shall not exceed \$1000.00 for each violation.

REGISTRAR OF REGULATIONS  
92 JUL -7 PM 3:01

FOR OFFICE USE ONLY

LIC. # \_\_\_\_\_  
DATE \_\_\_\_\_  
CODE \_\_\_\_\_

Commonwealth of Virginia  
Department of Commerce  
P. O. Box 11066  
Richmond, VA 23230

FOR OFFICE USE ONLY

FEE AMT. \_\_\_\_\_  
CLASS FEE \_\_\_\_\_

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

APPLICATION FOR INTERIM OPERATOR CERTIFICATION

COMPLETE ENTIRE APPLICATION. ALL INFORMATION MUST BE TYPEWRITTEN OR CLEARLY PRINTED IN INK. SUBMIT FEE OF \$ 85 AT TIME OF APPLICATION. CHECK OR MONEY ORDER SHOULD BE MADE PAYABLE TO THE TREASURER OF VIRGINIA. ALL FEES ARE NONREFUNDABLE AND WILL NOT BE PRORATED. ACCEPTANCE OF FEE AND APPLICATION DOES NOT GUARANTEE CERTIFICATION.

I. GENERAL APPLICANT INFORMATION

NAME \_\_\_\_\_  
(last) (first) (mi)  
HOME ADDRESS \_\_\_\_\_  
HOME PHONE ( ) \_\_\_\_\_ SSN \_\_\_\_\_  
DATE OF BIRTH \_\_\_\_\_

II. EMPLOYMENT HISTORY Complete this section for all employment since January 1989. Send Verification of Employment Form to each employer listed. (Use additional sheets if necessary)

CURRENT EMPLOYER

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

DATES OF EMPLOYMENT FROM \_\_\_\_\_ TO \_\_\_\_\_

SUPERVISOR \_\_\_\_\_

PREVIOUS EMPLOYER

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

DATES OF EMPLOYMENT FROM \_\_\_\_\_ TO \_\_\_\_\_

SUPERVISOR \_\_\_\_\_

PREVIOUS EMPLOYER

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

DATES OF EMPLOYMENT FROM \_\_\_\_\_ TO \_\_\_\_\_

SUPERVISOR \_\_\_\_\_

III. EDUCATION HISTORY Please complete. Send Verification of Education form to the institution for highest level completed or have official transcripts sent directly to the Board at the above address.

GRADE SCHOOL: Circle highest year completed: 1 2 3 4 5 6 7 8  
Name and location of school for last year completed \_\_\_\_\_

HIGH SCHOOL: Circle highest year completed: 9 10 11 12  
Name and location of school for last year completed \_\_\_\_\_

Diploma? \_\_\_\_\_ YES \_\_\_\_\_ NO Date of graduation \_\_\_\_\_  
High school equivalency (GED)? \_\_\_\_\_ YES \_\_\_\_\_ NO

COLLEGE/UNIVERSITY: Circle highest year completed 1 2 3 4  
Name of college/university and location for last year completed or degree awarding institution \_\_\_\_\_

Major and minor area of study \_\_\_\_\_  
Degree earned \_\_\_\_\_ Date \_\_\_\_\_  
Semester \_\_\_\_\_ or \_\_\_\_\_ quarter credit hours completed.

IV. APPLICANT HISTORY/BACKGROUND (Use additional sheets if necessary)

A. Are you licensed or certified by any other state or jurisdiction as a solid waste facility operator?

\_\_\_\_\_ YES \_\_\_\_\_ NO

If YES, indicate for each certification/license:  
Where held \_\_\_\_\_

Certification/license number \_\_\_\_\_

Date of expiration \_\_\_\_\_

Include copy of each certification/license.



Are you licensed or certified by additional other state or jurisdiction as a solid waste facility operator?

\_\_\_ YES \_\_\_ NO

If YES, indicate for each certification/license:

Where held \_\_\_\_\_

Certification/license number \_\_\_\_\_

Date of expiration \_\_\_\_\_

Include copy of each certification/license.

B. Have you ever had a solid waste facility operator certification/license revoked or suspended?

\_\_\_ YES \_\_\_ NO

If YES, indicate:

Location/jurisdiction \_\_\_\_\_

Reason \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

C. Have you ever had any final order actions against you issued by an administrative body or court regarding an environmental violation or crime which resulted in significant harm to the environment or human health?

\_\_\_ YES \_\_\_ NO

If YES, indicate:

Violation \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Jurisdiction/court \_\_\_\_\_

Date of action \_\_\_\_\_

Sanction/penalty \_\_\_\_\_

D. Have you ever pleaded guilty, entered a plea of nolo contendere or been convicted of any felony regarding environmental violations or crimes resulting in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, either in Virginia or any other jurisdiction?

\_\_\_ YES \_\_\_ NO

If YES, explain \_\_\_\_\_

\_\_\_\_\_

I hereby certify by my signature, that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application. In submitting this application, I certify that I have read and understand the contents of the Virginia Board for Waste Management Facility Operators Regulations and the Department of Waste Management Regulations listed below.

I understand that Section 54.1-111(6) of the Code of Virginia, makes it unlawful to materially misrepresent facts in an application for a certificate, and that violations of this section may result in criminal prosecution which could result in one year in jail and/or up to a \$2,500 fine.

NAME \_\_\_\_\_ DATE \_\_\_\_\_

(Signature of applicant)

Department of Waste Management Regulations:

- Solid Waste Management Regulations (VR 672-20-10)
- Infectious Waste Management Regulations (VR 672-40-01)
- Yard Waste Composting Facility Regulations (VR 672-20-32)

REGISTRAR OF REGULATIONS  
92 JUL -7 PM 3: 01

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

DEPARTMENT OF COMMERCE  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230

VERIFICATION OF EMPLOYMENT

I. TO BE COMPLETED BY APPLICANT

Complete one verification form for each employer. Please submit this entire form to past supervisors and a current supervisor for certification of experience.

NAME \_\_\_\_\_  
(Last) (First) (MI)

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

EMPLOYER \_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

BUSINESS PHONE (\_\_\_\_) \_\_\_\_\_

DATES OF EMPLOYMENT:  
FROM \_\_\_\_\_ TO \_\_\_\_\_

JOB TITLE \_\_\_\_\_

FULL/COMPLETE DESCRIPTION OF ACTUAL JOB DUTIES PERFORMED: (Use additional sheets as required)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAME OF SUPERVISOR \_\_\_\_\_

TITLE OF SUPERVISOR \_\_\_\_\_

Signature of applicant \_\_\_\_\_

II. TO BE COMPLETED BY EMPLOYER

Dates of employment:

I certify that the above applicant:

\_\_\_\_ (Is)/Was employed on the dates indicated.

\_\_\_\_ The applicant (is) was employed: from \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_ Other \_\_\_\_\_

Job description:

The job description indicated above is: (Please check appropriate statement) Use additional sheets as required.

\_\_\_\_ Accurate and complete

\_\_\_\_ Should include the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ Should not include the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAME OF CERTIFYING INDIVIDUAL \_\_\_\_\_

TITLE \_\_\_\_\_

CURRENT/FORMER SUPERVISOR? (Circle correct status)

Signature \_\_\_\_\_ Date \_\_\_\_\_

After completion of this form, PLEASE SEND IT DIRECTLY TO THE ADDRESS BELOW:

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

DEPARTMENT OF COMMERCE  
3600 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS <sup>REGISTER OF CONSULTANTS</sup>

DEPARTMENT OF COMMERCE  
3608 WEST BROAD STREET  
RICHMOND, VIRGINIA 23230

92 JUL -7 PM 3:01

VERIFICATION OF EDUCATION/DEGREE GRANTED

I. TO BE COMPLETED BY APPLICANT

NAME \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_  
\_\_\_\_\_

HOME PHONE (\_\_\_\_) \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_ SSN \_\_\_\_\_

NAME OF INSTITUTION \_\_\_\_\_

DATE(S) ATTENDED \_\_\_\_\_

DEGREE \_\_\_\_\_ OR \_\_\_\_\_ SEMESTER \_\_\_\_\_ QUARTER HOURS COMPLETED

SIGNATURE OF APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

After completion of the above section, send this form to the high school, GED issuing institution, college or university listed above. Please request that the following certification be completed and that this form be returned directly to the Board at the above address. If you have not completed a college degree, request an official transcript to be sent to the above address.

II. TO BE COMPLETED BY EDUCATIONAL INSTITUTION OR AUTHORIZING JURISDICTION

CERTIFICATION

I hereby certify that the above named applicant has graduated from this school/institution:

DEGREE \_\_\_\_\_ MAJOR \_\_\_\_\_

DATE RECEIVED \_\_\_\_\_

OFFICIAL SEAL

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Official Title

\_\_\_\_\_  
Date

# STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, June 23, 1992

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS920112

Ex Parte: In the matter of  
adopting Revised Rules Governing  
Minimum Standards for Medicare  
Supplement Policies

## ORDER ADOPTING REGULATION

WHEREAS, by order entered herein April 30, 1992, the Commission ordered that a hearing be held in the Commission's Courtroom on June 2, 1992, for the purpose of considering the adoption of a revised regulation proposed by the Bureau of Insurance ("Bureau") entitled "Revised Rules Governing Minimum Standards for Medicare Supplement Policies";

WHEREAS, the Commission's Hearing Examiner conducted the aforesaid hearing on behalf of the Commission;

WHEREAS, the Hearing Examiner has filed his report in his matter wherein he found that the regulation, as amended, should be adopted by the Commission and he recommended that the Commission enter its order adopting the proposed amended regulation; and

THE COMMISSION, having considered the record herein, the comments of interested persons, the report and recommendation of its Hearing Examiner, is of the opinion that the regulation, as amended, should be adopted;

THEREFORE, IT IS ORDERED that the regulation entitled "Revised Rules Governing Minimum Standards for Medicare Supplement Policies" which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective July 30, 1992.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the adoption of the regulation by mailing of this Order together with a copy of the revised regulation to all companies licensed to sell Medicare supplement insurance in the Commonwealth of Virginia.

Rules Governing Minimum Standards for Medicare Supplement Policies (Insurance Regulation No. 35)

### § 1. Purpose.

The purpose of this regulation is to provide for the reasonable standardization of coverage and simplification

of terms and benefits of Medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and to provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare.

### § 2. Authority.

This regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-223, 38.2-514, 38.2-3516 through 38.2-3520, 38.2-3600 through 38.2-3609, 38.2-4214, and 38.2-4215 of the Code of Virginia.

### § 3. Effective Date.

This regulation shall be effective on July 30, 1992.

### § 4. Applicability and Scope.

A. Except as otherwise specifically provided in Sections 8, 12, 13 and 21, this regulation shall apply to:

(1) All Medicare supplement policies delivered or issued for delivery in this Commonwealth on or after the effective date hereof, and

(2) All certificates issued under group Medicare supplement policies which certificates have been delivered or issued for delivery in this Commonwealth.

B. This regulation shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

### § 5. Definitions.

For purposes of this regulation:

A. "Applicant" means:

(1) In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits, and

(2) In the case of a group Medicare supplement policy, the proposed certificateholder.

B. "Certificate" means any certificate delivered or issued for delivery in this Commonwealth under a group Medicare supplement policy.

C. "Certificate Form" means the form on which the certificate is delivered or issued for delivery by the issuer.

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D. "Issuer" includes insurance companies, fraternal benefit societies, health service plans, health maintenance organizations, and any other entity delivering or issuing for delivery in this Commonwealth Medicare supplement policies or certificates.

E. "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

F. "Medicare Supplement Policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of health service plans or health maintenance organizations, other than a policy issued pursuant to a contract under Section 1876 or Section 1833 of the federal Social Security Act (42 U.S.C. Section 1395 et. seq.) or an issued policy under a demonstration project authorized pursuant to amendments to the federal Social Security Act, which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.

G. "Policy Form" means the form on which the policy is delivered or issued for delivery by the issuer.

## § 6. Policy Definitions and Terms.

No policy or certificate may be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless such policy or certificate contains definitions or terms which conform to the requirements of this section.

A. "Accident," "Accidental Injury," or "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

(1) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(2) Such definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

B. "Benefit Period" or "Medicare Benefit Period" shall not be defined more restrictively than as defined in the Medicare program.

C. "Convalescent Nursing Home," "Extended Care Facility," or "Skilled Nursing Facility" shall not be defined

more restrictively than as defined in the Medicare program.

D. "Health Care Expenses" means expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

Such expenses shall not include:

- (1) Home office and overhead costs;
- (2) Advertising costs;
- (3) Commissions and other acquisition costs;
- (4) Taxes;
- (5) Capital costs;
- (6) Administrative costs; and
- (7) Claims processing costs.

E. "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

F. "Medicare" shall be defined in the policy and certificate. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

G. "Medicare Eligible Expenses" shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

H. "Physician" shall not be defined more restrictively than as defined in the Medicare program.

I. "Sickness" shall not be defined to be more restrictive than the following:

"Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force."

The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

## § 7. Policy Provisions.

A. Except for permitted preexisting condition clauses as described in Section 8A(1) and Section 9A(1) of this regulation, no policy or certificate may be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy if such policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

B. No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

C. No Medicare supplement policy or certificate in force in the Commonwealth shall contain benefits which duplicate benefits provided by Medicare.

## § 8. Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to July 30, 1992.

No policy or certificate may be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

A. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(4) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

(a) Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured,

other than the nonpayment of premium; or

(b) Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

(5)

(a) Except as authorized by the Commission, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(b) If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in Paragraph (5)(d), the issuer shall offer certificateholders an individual Medicare supplement policy. The issuer shall offer the certificateholder at least the following choices:

(i) An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

(ii) An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in Section 8B of this regulation.

(c) If membership in a group is terminated, the issuer shall:

(i) Offer the certificateholder such conversion opportunities as are described in Subparagraph (b); or

(ii) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(d) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

B. Minimum Benefit Standards.

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(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent (90%) of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible [\$100];

(7) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

## § 9. Benefit Standards for Policies or Certificates Issued or Delivered on or After July 30, 1992.

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this Commonwealth on or after July 30, 1992. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit standards.

A. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which

medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes provided that loss ratios are being met.

(4) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(5) Each Medicare supplement policy shall be guaranteed renewable and

(a) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual; and

(b) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(c) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Section 9A(5)(e), the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder)

(i) Provides for continuation of the benefits contained in the group policy, or

(ii) Provides for such benefits as otherwise meets the requirements of this subsection.

(d) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall

(i) Offer the certificateholder the conversion opportunity described in Section 9A(5)(c), or

(ii) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(e) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the

succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(7)

(a) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate-holder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of such policy or certificate within ninety (90) days after the date the individual becomes entitled to such assistance. Upon receipt of timely notice, the issuer shall return to the policyholder or certificateholder that portion of the premium attributable to the period of Medicaid eligibility, subject to adjustment for paid claims.

(b) If such suspension occurs and if the policyholder or certificate-holder loses entitlement to such medical assistance, such policy or certificate shall be automatically reinstated (effective as of the date of termination of such entitlement) as of the termination of such entitlement if the policyholder or certificateholder provides notice of loss of such entitlement within ninety (90) days after the date of such loss and pays the premium attributable to the period, effective as of the date of termination of such entitlement.

(c) Reinstitution of such coverages:

(i) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

(ii) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of such suspension; and

(iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been

suspended.

## B. Standards for Basic ("Core") Benefits Common to All Benefit Plans

Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic "core" package, but not in lieu thereof.

(1) Coverage of Part A Medicare Eligible Expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) Coverage of Part A Medicare Eligible Expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(3) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the Diagnostic Related Group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

(4) Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(5) Coverage for the coinsurance amount of Medicare Eligible Expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

C. Standards for Additional Benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Section 10 of this regulation.

(1) Medicare Part A Deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(2) Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(3) Medicare Part B Deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(4) Eighty Percent (80%) of the Medicare Part B



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Excess Charges: Coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(5) One Hundred Percent (100%) of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(6) Basic Outpatient Prescription Drug Benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar (\$250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars (\$1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(7) Extended Outpatient Prescription Drug Benefit: Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar (\$250) calendar year deductible to a maximum of three thousand dollars (\$3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(8) Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars (\$250), and a lifetime maximum benefit of fifty thousand dollars (\$50,000). For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(9) Preventive Medical Care Benefit: Coverage for the following preventive health services:

(a) An annual clinical preventive medical history and physical examination that may include tests and services from Subparagraph (b) and patient education to address preventive health care measures.

(b) Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(1) Fecal occult blood test and/or digital rectal examination;

(2) Mammogram;

(3) Dipstick urinalysis for hematuria, bacteriuria and proteinuria;

(4) Pure tone (air only) hearing screening test, administered or ordered by a physician;

(5) Serum cholesterol screening (every five (5) years);

(6) Thyroid function test;

(7) Diabetes screening.

(c) Influenza vaccine administered at any appropriate time during the year and Tetanus and Diphtheria booster (every ten (10) years).

(d) Any other tests or preventive measures determined appropriate by the attending physician. Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars (\$120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(10) At-Home Recovery Benefit: Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

(a) For purposes of this benefit, the following definitions shall apply:

(i) "Activities of daily living" include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(ii) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(iii) "Home" shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(iv) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except

each consecutive 4 hours in a 24-hour period of services provided by a care provider is one visit.

(b) Coverage Requirements and Limitations

(i) At-home recovery services provided must be primarily services which assist in activities of daily living.

(ii) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(iii) Coverage is limited to:

(I) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

(II) The actual charges for each visit up to a maximum reimbursement of forty dollars (\$40) per visit;

(III) One thousand six hundred dollars (\$1,600) per calendar year;

(IV) Seven (7) visits in any one week;

(V) Care furnished on a visiting basis in the insured's home;

(VI) Services provided by a care provider as defined in this section;

(VII) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit.

(c) Coverage is excluded for:

(i) Home care visits paid for by Medicare or other government programs; and

(ii) Care provided by family members, unpaid volunteers or providers who are not care providers.

(11) New or Innovative Benefits: An issuer may, with the prior approval of the Commission, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that

otherwise complies with the applicable standards. Such new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

§ 10. Standard Medicare Supplement Benefit Plans.

A. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic "core" benefits, as defined in Section 9B of this regulation.

B. No groups, packages or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this state, except as may be permitted in Section 9C(11) of this regulation.

C. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans "A" through "J" listed in this subsection and conform to the definitions in Section 5 of this regulation. Each benefit shall be structured in accordance with the format provided in Sections 9B and 9C and list the benefits in the order shown in this subsection. For purposes of this section, "structure, language, and format" means style, arrangement and overall content of a benefit.

D. An issuer may use, in addition to the benefit plan designations required in subsection C, other designations to the extent permitted by law.

E. Make-up of benefit plans:

(1) Standardized Medicare supplement benefit plan "A" shall be limited to the Basic ("Core") Benefits Common to All Benefit Plans, as defined in Section 9B of this regulation.

(2) Standardized Medicare supplement benefit plan "B" shall include only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible as defined in Section 9C(1).

(3) Standardized Medicare supplement benefit plan "C" shall include only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible and Medically Necessary Emergency Care in a Foreign Country as defined in Sections 9C(1), (2), (3) and (8) respectively.

(4) Standardized Medicare supplement benefit plan "D" shall include only the following: The Core Benefit (as defined in Section 9B of this regulation), plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in an

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Foreign Country and the At-Home Recovery Benefit as defined in Sections 9C(1), (2), (8) and (10) respectively.

(5) Standardized Medicare supplement benefit plan "E" shall include only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medically Necessary Emergency Care in a Foreign Country and Preventive Medical Care as defined in Sections 9C(1), (2), (8) and (9) respectively.

(6) Standardized Medicare supplement benefit plan "F" shall include only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible, the Skilled Nursing Facility Care, the Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country as defined in Sections 9C(1), (2), (3), (5) and (8) respectively.

(7) Standardized Medicare supplement benefit plan "G" shall include only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Eighty Percent (80%) of the Medicare Part B Excess Charges, Medically Necessary Emergency Care in a Foreign Country, and the At-Home Recovery Benefit as defined in Sections 9C(1), (2), (4), (8) and (10) respectively.

(8) Standardized Medicare supplement benefit plan "H" shall consist of only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Basic Prescription Drug Benefit and Medically Necessary Emergency Care in a Foreign Country as defined in Sections 9C(1), (2), (6) and (8) respectively.

(9) Standardized Medicare supplement benefit plan "I" shall consist of only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible, Skilled Nursing Facility Care, One Hundred Percent (100%) of the Medicare Part B Excess Charges, Basic Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country and At-Home Recovery Benefit as defined in Sections 9C(1), (2), (5), (6), (8) and (10) respectively.

(10) Standardized Medicare supplement benefit plan "J" shall consist of only the following: The Core Benefit as defined in Section 9B of this regulation, plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, Extended Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign

Country, Preventive Medical Care and At-Home Recovery Benefit as defined in Sections 9C(1), (2), (3), (5), (7), (8), (9) and (10) respectively.

## § 11. Open Enrollment.

A. No issuer shall deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this Commonwealth, nor discriminate in the pricing of such a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant where an application for such policy or certificate is submitted during the six (6) month period beginning with the first month in which an individual (who is 65 years of age or older) first enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an insurer shall be made available to all applicants who qualify under this subsection without regard to age.

B. Subsection A shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was otherwise diagnosed during the six (6) months before it became effective.

## § 12. Standards for Claims Payment.

A. An issuer shall comply with section 1882(c)(3) of the Social Security Act (as enacted by section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Pub. L. No. 100-203) by:

(1) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;

(2) Notifying the participating physician or supplier and the beneficiary of the payment determination;

(3) Paying the participating physician or supplier directly;

(4) Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number and a central mailing address to which notices from a Medicare carrier may be sent;

(5) Paying user fees for claim notices that are transmitted electronically or otherwise; and

(6) Providing to the Secretary of Health and Human Services, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

B. Compliance with the requirements set forth in

Subsection A above shall be certified on the Medicare supplement insurance experience reporting form.

## § 13. Loss Ratio Standards and Refund or Credit of Premium.

### A. Loss Ratio Standards

(1) Medicare Supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

(a) At least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies, or

(b) At least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies, calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for such period and in accordance with accepted actuarial principles and practices.

(2) All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

### B. Refund or Credit Calculation

(1) An issuer shall collect and file with the Commission by May 31 of each year the data contained in the reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

(2) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(3) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience

loss ratio and the amount to be refunded or credited exceeds a de minimis level. Such refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

### C. Annual filing of Premium Rates.

An issuer of Medicare supplement policies and certificates issued before or after the effective date of this regulation in this Commonwealth shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the Commission in accordance with the filing requirements and procedures prescribed by the Commission. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. Such demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years.

As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this Commonwealth shall file with the Commission, in accordance with the applicable filing procedures of this Commonwealth:

(1) (a) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. Such supporting documents as necessary to justify the adjustment shall accompany the filing.

(b) An issuer shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or certificate as will conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for such Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(c) If an issuer fails to make premium adjustments acceptable to the Commission, the Commission may

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order premium adjustments, refunds or premium credits deemed necessary to achieve the loss ratio required by this section.

(2) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. Such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

## D. Public Hearings

The Commission may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of this regulation if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for such reporting period. Public notice of such hearing shall be furnished in a manner deemed appropriate by the Commission.

## § 14. Filing and Approval of Policies and Certificates and Premium Rates.

A. An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this Commonwealth unless the policy form or certificate form has been filed with and approved by the Commission in accordance with filing requirements and procedures prescribed by the Commission.

B. An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the Commission in accordance with the filing requirements and procedures prescribed by the Commission.

## C.

(1) Except as provided in Paragraph (2) of this subsection, an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(2) An issuer may offer, with the approval of the Commission, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

(a) The inclusion of new or innovative benefits;

(b) The addition of either direct response or agent marketing methods;

(c) The addition of either guaranteed issue or underwritten coverage;

(d) The offering of coverage to individuals eligible for Medicare by reason of disability.

(3) For the purposes of this section, a "type" means an individual policy or a group policy.

## D.

(1) Except as provided in Paragraph (1)(a), an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the Commission. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months.

(a) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the Commission in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the Commission, the issuer shall no longer offer for sale the policy form or certificate form in this Commonwealth.

(b) An issuer that discontinues the availability of a policy form or certificate form pursuant to Subparagraph (a) shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the Commission of the discontinuance. The period of discontinuance may be reduced if the Commission determines that a shorter period is appropriate.

(2) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this subsection.

(3) A change in the rating structure or methodology shall be considered a discontinuance under Paragraph (1) unless the issuer complies with the following requirements:

(a) The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and resultant rates.

(b) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The Commission may

approve a change to the differential which is in the public interest.

E.

(1) Except as provided in Paragraph (2), the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in Section 13 of this regulation.

(2) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

§ 15. Permitted Compensation Arrangements.

A. An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than two hundred percent (200%) of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

B. The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for no fewer than five (5) renewal years.

C. No issuer or other entity shall provide compensation to its agents or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

D. For purposes of this section, "compensation" includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including but not limited to bonuses, gifts, prizes, awards and finders fees.

§ 16. Required Disclosure Provisions.

A. General Rules.

(1) Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of such provision shall be consistent with the type of contract issued. Such provision shall be appropriately captioned and shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

(2) Except for riders or endorsements by which the

issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

(3) Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import.

(4) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(5) Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificateholder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have all premiums made for the policy refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

(6) Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person(s) eligible for Medicare by reason of age shall provide to such applicants a Medicare Supplement Buyer's Guide in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12 point type. Delivery of the Buyer's Guide shall be made whether or not such policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this regulation. Except in the case of direct response issuers, delivery of the Buyer's Guide shall be made to the applicant at the time of application and acknowledgement of receipt of the Buyer's Guide shall be obtained by the issuer. Direct response issuers shall

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deliver the Buyer's Guide to the applicant upon request but not later than at the time the policy is delivered.

## B. Notice Requirements.

(1) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the Commission. Such notice shall:

(a) Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate, and

(b) Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare.

(2) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(3) Such notices shall not contain or be accompanied by any solicitation.

## C. Outline of Coverage Requirements for Medicare Supplement Policies.

(1) Issuers shall provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of such outline from the applicant; and

(2) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

(3) The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no

less than twelve (12) point type. All plans A-J shall be shown on the cover page, and the plan(s) that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

(4) The following items shall be included in the outline of coverage in the order prescribed below.

**[COMPANY NAME]**  
 Outline of Medicare Supplement Coverage—Cover Page:  
 Benefit Plan(s) \_\_\_\_\_ [insert letter(s) of plan(s) being offered]

Medicare supplement insurance can be sold in only ten standard plans. This chart shows the benefits included in each plan. Every company must make available Plan "A". Some plans may not be available in your state.

**BASIC BENEFITS:** Included in all Plans.  
 Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.  
 Medical Expenses: Part B coinsurance (20% of Medicare-approved expenses).  
 Blood: First three pints of blood each year.

A	B	C	D	E	F	G	H	I	J
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible				Part B Deductible
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery			At-Home Recovery		At-Home Recovery	At-Home Recovery
							Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)
				Preventive Care					Preventive Care

**PREMIUM INFORMATION [Boldface Type]**

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

**DISCLOSURES [Boldface Type]**

Use this outline to compare benefits and premiums among policies.

**READ YOUR POLICY VERY CAREFULLY [Boldface Type]**

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

**RIGHT TO RETURN POLICY [Boldface Type]**

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

**POLICY REPLACEMENT [Boldface Type]**

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

**NOTICE [Boldface Type]**

This policy may not fully cover all of your medical costs.

[for agents:]  
 Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]  
 [insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult "The Medicare Handbook" for more details.



**PLAN A**

**MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]**

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to Section 10D of this regulation.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Commission.]

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: - While using 60 lifetime reserve days - Once lifetime reserve days are used: - Additional 365 days - Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0  \$0	\$0 \$163 a day  \$326 a day  100% of Medicare Eligible Expenses  \$0	\$652 (Part A Deductible) \$0  \$0  \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 \$0 \$0	\$0 Up to \$81.50 a day All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**PLAN B**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: - While using 60 lifetime reserve days - Once lifetime reserve days are used: - Additional 365 days - Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0 \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0 \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 \$0 \$0	\$0 Up to \$81.50 a day All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**PLAN B**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: - While using 60 lifetime reserve days - Once lifetime reserve days are used: - Additional 365 days - Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0 \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0 \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 \$0 \$0	\$0 Up to \$81.50 a day All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**PLAN B**

**MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR**

\*Once you have been billed \$100 of Medicare–Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% \$0	\$0 20% \$0	\$100 (Part B Deductible) \$0 All Costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>CLINICAL LABORATORY SERVICES – BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

**PARTS A & B**

<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> –Medically necessary skilled care services and medical supplies –Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$100 (Part B Deductible) \$0
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**PLAN C**

**MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: – While using 60 lifetime reserve days – Once lifetime reserve days are used: – Additional 365 days – Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0 \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses \$0	\$0 \$0 \$0 All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare–approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

**PLAN C**

**MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR**

\*Once you have been billed \$100 of Medicare–Approved amounts for covered services (which are noted with an asterisk, your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT.</b> such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment. First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% \$0	\$100 (Part B Deductible) 20% \$0	\$0 \$0 All Costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$100 (Part B Deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES – BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

**PARTS A & B**

<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> – Medically necessary skilled care services and medical supplies – Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$100 (Part B Deductible) 20%	\$0 \$0 \$0
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**OTHER BENEFITS – NOT COVERED BY MEDICARE**

<b>FOREIGN TRAVEL – NOT COVERED BY MEDICARE</b> Medically necessary emergency care service beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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**PLAN D**

**MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: – While using 60 lifetime reserve days – Once lifetime reserve days are used: – Additional 365 days – Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0  \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0  \$0 All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare–approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN D (continued)

PARTS A & B

PLAN D

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 80%	\$0 20%	\$100 (Part B Deductible) \$0 All Costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

(continued)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> - Medically necessary skilled care services and medical supplies - Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan - Benefit for each visit - Number of visits covered (must be received within 8 weeks of last Medicare Approved visit) - Calendar year maximum	\$0 \$0 \$0	Actual Charge to \$40 a visit Up to the number of Medicare Approved visits, not to exceed 7 each week \$1,600	Balance

OTHER BENEFITS - NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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**PLAN E**

**MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: – While using 60 lifetime reserve days – Once lifetime reserve days are used: – Additional 365 days – Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0  \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses  \$0	\$0 \$0  \$0  \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**PLAN E**

**MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR**

\*Once you have been billed \$100 of Medicare—Approved amounts for covered services (which are noted with an asterisk, your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% \$0	\$0 20% \$0	\$100 (Part B Deductible) \$0 All Costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>CLINICAL LABORATORY SERVICES – BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

**PARTS A & B**

<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> – Medically necessary skilled care services and medical supplies – Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$100 (Part B Deductible) \$0
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(continued)

PLAN F

MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: - While using 60 lifetime reserve days - Once lifetime reserve days are used: - Additional 365 days - Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0  \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

PLAN E (continued)

OTHER BENEFITS – NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>FOREIGN TRAVEL – NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
<b>PREVENTIVE MEDICAL CARE BENEFIT – NOT COVERED BY MEDICARE</b> Annual physical and preventive tests and services such as: fecal occult blood tests, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare First \$120 each calendar year Additional charges	\$0 \$0	\$120 \$0	\$0 All Costs

**PLAN F**

**MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR**

\*Once you have been billed \$100 of Medicare—Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% \$0	\$100 (Part B Deductible) 20% 100%	\$0 \$0 \$0
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$100 (Part B Deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES – BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

**PARTS A & B**

<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> —Medically necessary skilled care services and medical supplies —Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$100 (Part B Deductible) 20%	\$0 \$0 \$0
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**OTHER BENEFITS – NOT COVERED BY MEDICARE**

<b>FOREIGN TRAVEL – NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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**PLAN G**

**MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0 \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0  \$0 All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance



PLAN G (continued)

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> - Medically necessary skilled care services and medical supplies - Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100%   \$0  80%	\$0   \$0  20%	\$0   \$100 (Part B Deductible)  \$0
<b>AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE</b> Home care certified by your doc- tor, for personal care during recovery from an injury or sick- ness for which Medicare approved a Home Care Treatment Plan - Benefit for each visit  - Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)  - Calendar year maximum	\$0   \$0  \$0  \$0	Actual Charge to \$40 a visit  Up to the number of Medicare Approved vis- its, not to exceed 7 each week \$1,600	Balance

OTHER BENEFITS - NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip out- side the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime max- imum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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PLAN G

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)</b>	\$0  80% \$0	\$0  20% 80%	\$100 (Part B Deductible) \$0 20%
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

(continued)

PLAN H

MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: - While using 60 lifetime reserve days - Once lifetime reserve days are used: - Additional 365 days - Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0  \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses  \$0	\$0 \$0  \$0  \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN H

MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment. First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% \$0	\$0 20% \$0	\$100 (Part B Deductible) \$0 All Costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>CLINICAL LABORATORY SERVICES – BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> - Medically necessary skilled care services and medical supplies - Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 \$0 80%	\$0 \$0 20%	\$0 \$100 (Part B Deductible) \$0
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(continued)

**PLAN H (continued)**  
**OTHER BENEFITS - NOT COVERED BY MEDICARE**

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
<b>BASIC OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE</b> First \$250 each calendar year Next \$2,500 each calendar year Over \$2,500 each calendar year	\$0 \$0 \$0	\$0 50% - \$1,250 calendar year maximum benefit \$0	\$250 50% All Costs

**PLAN I**  
**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: - While using 60 lifetime reserve days - Once lifetime reserve days are used: - Additional 365 days - Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0  \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses \$0	\$0 \$0  \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

PLAN I

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% \$0	\$0 20% 100%	\$100 (Part B Deductible) \$0 \$0
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

(continued)

PLAN I (continued)

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> - Medically necessary skilled care services and medical supplies - Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$100 (Part B Deductible) \$0
<b>AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan - Benefit for each visit - Number of visits covered (must be received within 8 weeks of last Medicare Approved visit) - Calendar year maximum	\$0 \$0	Actual Charge to \$40 a visit Up to the number of Medicare Approved visits, not to exceed 7 each week \$1,600	Balance

OTHER BENEFITS - NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b> Medically necessary emergency care service beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges*	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
<b>BASIC OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE</b> First \$250 each calendar year Next \$2,500 each calendar year Over \$2,500 each calendar year	\$0 \$0 \$0	\$0 50% - \$1,250 calendar year maximum benefit \$0	\$250 50%
			All Costs

PLAN J

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: - While using 60 lifetime reserve days - Once lifetime reserve days are used: - Additional 365 days - Beyond the Additional 365 days	All but \$652 All but \$163 a day  All but \$326 a day  \$0  \$0	\$652 (Part A Deductible) \$163 a day  \$326 a day  100% of Medicare Eligible Expenses  \$0	\$0 \$0  \$0  \$0  All Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$81.50 a day \$0	\$0 Up to \$81.50 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN J

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare--Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% \$0	\$100 (Part B Deductible) 20% 100%	\$0 \$0 \$0
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$100 (Part B Deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> - Medically necessary skilled care services and medical supplies - Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$100 (Part B Deductible) 20%	\$0 \$0 \$0
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(continued)

PLAN J (continued)

PARTS A & B (continued)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE (cont'd)</b> <b>AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care beginning during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan -Benefit for each visit  -Number of visits covered (must be received within 8 weeks of last Medicare Approved visit) -Calendar year maximum	\$0  \$0  \$0	Actual Charges to \$40 a visit Up to the number of Medicare Approved visits, not to exceed 7 each week \$1,600	Balance

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b> Medically necessary emergency care service beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
<b>EXTENDED OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE</b> First \$250 each calendar year Next \$6,000 each calendar year  Over \$6,000 each calendar year	\$0 \$0  \$0	\$0 50% - \$3,000 calendar year maximum benefit  \$0	\$250 50%  All Costs
<b>PREVENTIVE MEDICAL CARE BENEFIT - NOT COVERED BY MEDICARE</b> Annual physical and preventive tests and services such as: fecal occult blood tests, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare First \$120 each calendar year Additional charges	\$0 \$0	\$120 \$0	\$0 All Costs

# State Corporation Commission

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## D. Notice Regarding Policies or Certificates Which Are Not Medicare Supplement Policies.

Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy; or a policy issued pursuant to a contract under Section 1876 or Section 1833 of the Federal Social Security Act (42 U.S.C. 1395 et seq.), disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy or other policy identified in Section 4.B of this regulation, issued for delivery in this Commonwealth to persons eligible for Medicare by reason of age shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. Such notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. Such notice shall be in no less than twelve (12) point type and shall contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company."

## § 17. Requirements for Application Forms and Replacement Coverage.

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

### [Statements]

- (1) You do not need more than one Medicare supplement policy.
- (2) If you are 65 or older, you may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.
- (3) The benefits and premiums under your Medicare supplement policy will be suspended during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within 90 days of losing Medicaid eligibility.
- (4) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning Medicaid.

### [Questions]

To the best of your knowledge,

(1) Do you have another Medicare supplement policy or certificate in force (including health care service contract, health maintenance organization contract)?

(a) If so, with which company?

(2) Do you have any other health insurance policies that provide benefits which this Medicare supplement policy would duplicate?

(a) If so, with which company?

(b) What kind of policy?

(3) If the answer to question 1 or 2 is yes, do you intend to replace these medical or health policies with this policy [certificate]?

(4) Are you covered by Medicaid?

B. Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold which are still in force.

(2) List policies sold in the past five (5) years which are no longer in force.

C. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

D. Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

E. The notice required by Subsection D above for an issuer shall be provided in substantially the following form in no less than ten (10) point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide thirty (30) days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY ISSUER, AGENT [OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. The replacement of insurance involved in this transaction does not duplicate coverage, to the best of my knowledge. The replacement policy is being purchased for the following reason(s) (check one):

- Additional benefits.
No change in benefits, but lower premiums.
Fewer benefits and lower premiums.
Other. (please specify)

- 1. If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

(Signature of Agent, or Other Representative)\*

[Typed Name and Address of Issuer, or Agent]

(Applicant's Signature)

(Date)

\*Signature not required for direct response sales.



# State Corporation Commission

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## § 18. Filing Requirements for Advertising.

An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this Commonwealth whether through written, radio or television medium to the Commission for review.

## § 19. Standards for Marketing.

A. An issuer, directly or through its producers, shall:

- (1) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.
- (2) Establish marketing procedures to assure excessive insurance is not sold or issued.
- (3) Display prominently by type, stamp or other appropriate means, on the first page of the policy the following:

“Notice to buyer: This policy may not cover all of your medical expenses.”

- (4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.
- (5) Establish auditable procedures for verifying compliance with this Subsection A.

B. In addition to the practices prohibited in Chapter 5 of Title 38.2 §§ 38.2-500 et. seq. The following acts and practices are prohibited:

- (1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.
- (2) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.
- (3) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

C. The terms “Medicare Supplement,” “Medigap,” “Medicare Wrap-Around” and words of similar import

shall not be used unless the policy is issued in compliance with this regulation.

## § 20. Appropriateness of Recommended Purchase and Excessive Insurance.

A. In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

B. Any sale of Medicare supplement coverage that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

## § 21. Reporting of Multiple Policies.

A. On or before March 1 of each year, an issuer shall report in the format prescribed in Appendix B the following information for every individual resident of this Commonwealth for which the issuer has in force more than one Medicare supplement policy or certificate:

- (1) Policy and certificate number, and
- (2) Date of issuance.

B. The items set forth above must be grouped by individual policyholder.

## § 22. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates.

A. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.

B. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six (6) months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods.

## § 23. Severability.

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Appendix A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR

Type \_\_\_\_\_ SMSBP(w) \_\_\_\_\_  
 FOR THE STATE OF \_\_\_\_\_  
 Company Name \_\_\_\_\_  
 NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_  
 Address \_\_\_\_\_  
 Person Completing This Exhibit \_\_\_\_\_  
 Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR

Type \_\_\_\_\_ SMSBP(w) \_\_\_\_\_  
 FOR THE STATE OF \_\_\_\_\_  
 Company Name \_\_\_\_\_  
 NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_  
 Address \_\_\_\_\_  
 Person Completing This Exhibit \_\_\_\_\_  
 Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

line	(a) Earned Premium (x)	(b) Incurred Claims (y)
1 Current Year's Experience		
a. Total (all policy years)		
b. Current year's issues (z)		
c. Net (for reporting purposes = 1a - 1b)	-----	-----
2 Past Year's Experience (All Policy Years)	-----	-----
3 Total Experience (Net Current Year + Past Year's Experience)	-----	-----
4 Refund last year (Excluding Interest)		
5 Previous Since Inception (Excluding interest)		
6 Refunds Since Inception (Excluding Interest)		
7 Benchmark Ratio Since Inception (See Worksheet for Ratio 1)		
8 Experienced Ratio Since Inception		
Total Actual Incurred Claims (line 3, col b) = Ratio 2		
Total Earned Prem. (line 3, col a) - Refunds Since Inception (line 6)		
9 Life Years Exposed Since Inception		
If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.		
10 Tolerance Permitted (obtained from credibility table)		

11 Adjustment to Incurred Claims for Credibility

Ratio 3 = Ratio 2 + Tolerance

If Ratio 3 is more than Benchmark Ratio (ratio 1), a refund or credit to premium is not required.

If Ratio 3 is less than the Benchmark Ratio, then proceed.

12 Adjusted Incurred Claims =

[Total Earned Premiums (line 3, col a) - Refunds Since Inception (Line 6)]  
 X Ratio 3 (Line 11)

13 Refund = Total Earned Premiums (line 3, col a) - Refunds Since Inception (line 6) -

Adjusted Incurred Claims (line 12)  
 Benchmark Ratio (Ratio 1)

If the amount on the line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

Medicare Supplement Credibility Table

Life Years Exposed Since Inception	Tolerance
10,000 +	0.0%
5,000 - 9,999	5.0%
2,500 - 4,999	7.5%
1,000 - 2,499	10.0%
500 - 999	15.0%

If less than 500, no credibility.

**REPORTING FORM FOR THE CALCULATION OF  
BENCHMARK RATIO SINCE INCEPTION  
FOR INDIVIDUAL POLICIES  
FOR CALENDAR YEAR \_\_\_\_\_**

TYPE \_\_\_\_\_ SMSBP(p) \_\_\_\_\_  
 FOR THE STATE OF \_\_\_\_\_  
 Company Name \_\_\_\_\_  
 NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_  
 Address \_\_\_\_\_  
 Person Completing This Exhibit \_\_\_\_\_  
 Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

**MEDICARE SUPPLEMENT REFUND CALCULATION FORM  
FOR CALENDAR YEAR \_\_\_\_\_**

Type \_\_\_\_\_ SMSBP(w) \_\_\_\_\_  
 FOR THE STATE OF \_\_\_\_\_  
 Company Name \_\_\_\_\_  
 NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_  
 Address \_\_\_\_\_  
 Person Completing This Exhibit \_\_\_\_\_  
 Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

- (w) "SMSBP" = Standardized Medicare Supplement Benefit Plan
- (x) Includes modal loadings and fees charged.
- (y) Excludes Active Life Reserves.
- (z) This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios"

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name - Please Type

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

(a) Year	(b) Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(k) Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		3.170		0.771		0.77
5		4.175		0.567		3.998		0.782		0.8
6		4.175		0.567		4.754		0.792		0.82
7		4.175		0.567		5.445		0.802		0.84
8		4.175		0.567		6.075		0.811		0.87
9		4.175		0.567		6.650		0.818		0.88
10		4.175		0.567		7.176		0.824		0.88
11		4.175		0.567		7.655		0.828		0.88
12		4.175		0.567		8.093		0.831		0.88
13		4.175		0.567		8.493		0.834		0.89
14		4.175		0.567		8.684		0.837		0.89
15		4.175		0.567				0.838		0.89
Total:		(k):	-----	(l):	-----	(m):	-----	(n):	-----	

Benchmark Ratio Since Inception:  $(i + n) / (k + m)$ :

- (s): Year 1 is the current calendar year - 1
- Year 2 is the current calendar year - 2
- (etc).
- (Example: If the current year is 1991, then:  
Year 1 is 1990, Year 2 is 1989, etc.)

(b): For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

(o): These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

(p): "SMSBP" = Standardized Medicare Supplemental Benefit Plan

REPORTING FORM FOR THE CALCULATION OF  
BENCHMARK RATIO SINCE INCEPTION  
FOR GROUP POLICIES  
FOR CALENDAR YEAR \_\_\_\_\_

TYPE \_\_\_\_\_ SMSBP(p) \_\_\_\_\_  
FOR THE STATE OF \_\_\_\_\_  
Company Name \_\_\_\_\_  
NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_  
Address \_\_\_\_\_  
Person Completing This Exhibit \_\_\_\_\_  
Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

(a) Year	(b) Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(k) Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.4
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.67
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77
Total:		(k):	-----	(l):	-----	(m):	-----	(n):	-----	

Benchmark Ratio Since Inception:  $(l + n) / (k + m)$

(a): Year 1 is the current calendar year - 1  
Year 2 is the current calendar year - 2  
(etc.)  
(Example: If the current year is 1991, then:  
Year 1 is 1990, Year 2 is 1989, etc.)

(o): These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

(b): For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

(p): \*SMSBP\* = Standardized Medicare Supplemental Benefit Plan

Appendix B

FORM FOR REPORTING  
MEDICARE SUPPLEMENT POLICIES

Company Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Number \_\_\_\_\_

Due: March 1, annually

The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.

Policy and Certificate#	Date of Issuance

Signature \_\_\_\_\_  
Name and Title (please type) \_\_\_\_\_  
Date \_\_\_\_\_

# State Corporation Commission

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STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 24, 1992

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS920112

Ex Parte: In the matter  
of adopting Revised Rules Governing  
Minimum Standards for Medicare  
Supplement Policies

## AMENDING ORDER

IT APPEARING that the Revised Rules Governing minimum Standards for Medicare Supplement Policies attached to the Commission's Order Adopting Regulation contained a typographical error on page 17 of the regulation;

THEREFORE, IT IS ORDERED that page 17 of the Commission's Rules Governing Minimum Standards for Medicare Supplement Policies, which is attached hereto and made a part hereof, be, and it is hereby, amended.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give further notice of the amendment of page 17 of the Commission's Rules Governing Minimum Standards for Medicare Supplement Policies by mailing a copy of this Order and the amended page to all companies licensed to write Medicare supplement insurance in the Commonwealth of Virginia.

anticipated refunds or credits) provided under the policy form or certificate form:

- (a) At least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies, or
- (b) At least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies,

calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for such period and in accordance with accepted actuarial principles and practices.

(2) All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that

the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

## B. Refund or Credit Calculation

(1) An issuer shall collect and file with the Commission by May 31 of each year the data contained in the reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

(2) If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

(3) A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. Such refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

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# STATE LOTTERY DEPARTMENT

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## DIRECTOR'S ORDER NUMBER SEVENTEEN (92)

"WATCH 'N WIN"; FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Watch 'n Win" game rules for the Virginia Lottery and commercial television consortium promotional program to be conducted from Monday, July 6, 1992 through Friday, July 31, 1992. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson  
Director  
Date: July 2, 1992

# MARINE RESOURCES COMMISSION

## FINAL REGULATIONS

### MARINE RESOURCES COMMISSION

**NOTICE:** The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

**Title of Regulation:** VR 450-01-0037. Pertaining to Speckled Trout and Red Drum.

**Statutory Authority:** §§ 28.1-23 and 28.1-50 of the Code of Virginia.

**Effective Date:** July 1, 1992.

#### Preamble:

*This regulation establishes minimum size limits for the taking and/or possession of speckled trout and red drum by commercial and recreational fishermen. The purpose of the minimum size limits is to protect the spawning stocks and increase yield in the fishery. This regulation was originally implemented in May, 1986, in response to the recommendations of the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plans for Speckled Trout and Red Drum. The goal of these plans is to perpetuate the speckled trout and red drum resources in fishable abundance throughout their range and generate the greatest utilization over time. In February, 1992, more conservative regulations on red drum were added to respond to overfishing problems identified by the South Atlantic Fishery Management Council. These regulations are designed to increase protection of young red drum in order to rebuild the depleted spawning stock. In May, 1992, additional restrictions were placed on the harvest of speckled trout in an effort to maintain those stocks in fishable abundance.*

VR 450-01-0037. Pertaining to Speckled Trout and Red Drum.

#### § 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-50 of the Code of Virginia.

B. This regulation amends VR 450-01-0037, "Pertaining to Speckled Trout and Red Drum," promulgated and made effective on June 1, 1986 March 1, 1992 .

C. The possession limit of one fish red drum over 27 inches established by this regulation, supersedes the possession limit for red drum described in § 28.1-50 of the Code of Virginia.

D. The effective date of this regulation is March July 1, 1992.

#### § 2. Purpose.

The purpose of this regulation is to protect and rebuild the spawning stocks of speckled trout and red drum, minimizing the possibility of recruitment failure, and to increase yield in their fisheries.

#### § 3. Size limits.

A. ~~Speckled trout.~~ It shall be unlawful for any person to take, catch, or possess any speckled trout less than ~~12~~ 14 inches in length *provided however, the catch of speckled trout by pound net or haul seine may consist of up to 5.0%, by weight, of speckled trout less than 14 inches in length .*

B. ~~Red drum.~~ It shall be unlawful for any person to take, catch or possess any red drum less than 18 inches in length or more than one red drum greater than 27 inches in length.

C. Length is measured in a straight line from tip of nose to tip of tail.

#### § 4. Bag limit limits .

A. *It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand-line to take, catch, or possess more than 10 speckled trout per day.*

A. B. It shall be unlawful for any person to take or catch more than five red drum per day, only one of which may exceed 27 inches in length.

B. C. It shall be unlawful for any person to possess more than one red drum in excess of 27 inches in length at any time.

#### § 5. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

\* \* \* \* \*

**Title of Regulation:** VR 450-01-0050. Pertaining to Grey Trout (Weakfish).

**Statutory Authority:** § 28.1-23 of the Code of Virginia.

**Effective Date:** July 1, 1992.

#### Preamble:

*This regulation establishes a minimum size limit, catch limits, and gear restrictions for grey trout.*

# Marine Resources Commission

VR 450-01-0050. Pertaining to Grey Trout (Weakfish).

§ 1. Authority, repeal of prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. This regulation repeals VR 450-01-0048 amends VR 450-01-0050 which was promulgated by the Marine Resources Commission and made effective May 16, 1988 August 1, 1988 .

C. The effective date of this regulation is August 1, 1988 July 1, 1992 .

§ 2. Purpose.

The purpose of this regulation is to conserve Virginia's grey trout stocks, to reduce the possibility of growth overfishing, and to prevent the wastage of undersized fish achieve a 25% reduction in the annual exploitation of grey trout in Virginia waters, thereby reducing the probability of recruitment failure and stock collapse and to allow for a rebuilding of the spawning stock. This regulation responds to Amendment No. 1 of the Weakfish Fishery Management Plan of the Atlantic States Marine Fisheries Commission .

§ 3. Definition.

"Grey Trout (Weakfish)" shall include any fish of the species *Cynoscion regalis*.

§ 4. Minimum size limit, tolerance limits, tolerances .

A. It shall be unlawful for any person to take, catch, or possess any quantity of fish of any species which consists of more than 10% of grey trout less than nine inches (9") in length. It shall be unlawful for any person fishing with pound net or haul seine to take, catch, or possess any amount of grey trout which consists of more than 10%, by weight, grey trout less than 10 inches in length.

B. Whenever any person has possession of more than 100 pounds of fish, the possession of which might be unlawful due to the percentage of grey trout less than nine inches (9") in length contained therein, a lot of 100 pounds may be separated from the whole quantity thereof by the Marine Patrol Officer for purposes of determining whether more than 10%, by weight, are grey trout less than nine inches (9") in length. If more than 10%, by weight, are grey trout less than nine inches (9") in length, then the person shall be presumed guilty of having violated this regulation. It shall be unlawful for any person fishing with gill nets to take, catch, or possess any grey trout less than 12 inches in length.

C. Whenever any person has possession of less than 100 pounds of fish, the possession of which might be unlawful due to the percentage of grey trout less than nine inches (9") in length contained therein, the Marine Patrol Officer

shall count the total number of fish in possession for purposes of determining whether more than 10%, by count, are grey trout less than nine inches (9") in length. If more than 10%, by count, are grey trout less than nine inches (9") in length, then the person shall be presumed guilty of having violated this regulation. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to take, catch, or possess any grey trout less than 12 inches in length.

D. Length is measured in a straight line from the tip of the nose to the tip of the tail.

§ 5. Gear restrictions.

A. It shall be unlawful for any person utilizing a boat or vessel to take or catch fish by gill net, to have on board, possess, or land grey trout in a vessel equipped with more than 8,400 feet of gill net. It shall be unlawful for any person possessing grey trout to utilize or have overboard more than 8,400 feet of gill net.

B. It shall be unlawful for any trawl boat or vessel to land grey trout in Virginia while possessing on board any trawl net having a cod-end mesh less than three inches, stretched measure.

§ 6. Daily bag limit.

A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel or hand line to take, catch or possess more than 15 grey trout per day. Any grey trout taken after the bag limit of 15 fish has been reached shall be returned to the water immediately.

B. When fishing from any boat or vessel, the daily bag limit shall be equal to the number of persons on board the boat or vessel multiplied by 15. Retention of the legal number of grey trout is the responsibility of the vessel captain or owner.

§ 5. § 7. ~~Exemption~~ Exemptions from size provision.

The provisions of this regulation shall not apply to persons in possession of undersized trout while in the conduct of a retail seafood business nor to licensed crab pot fishermen in possession of undersized trout purchased as bait.

§ 6. § 8. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner



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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution.

#### Governor's Comment:

The intent of this regulation is to protect the public's health and welfare through the use of the most current technical and scientific information available and to ensure that state regulations conform with federal requirements. Pending public comment, I recommend approval of this regulation.

/s/ Lawrence Douglas Wilder  
Governor  
Governor  
Date: July 6, 1992

#### Governor's Comment:

As the regulations conform to amendments to the Code and enhance public convenience, I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 6, 1992

### DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Title of Regulation: VR 470-05-01. Certification of Case Management.

#### Governor's Comment:

I have no objection to these amendments.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 7, 1992

### STATE LOTTERY DEPARTMENT

Title of Regulation: VR 447-01-2. Administration Regulations.

#### Governor's Comment:

As the regulations conform to amendments to the Code and clarify procurement procedures, I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 6, 1992

\* \* \* \* \*

Title of Regulation: VR 447-02-1. Instant Game Regulations.

#### Governor's Comment:

As the regulations conform to amendments to the Code and enhance public convenience, I recommend approval pending public comment.

/s/ Lawrence Douglas Wilder  
Governor  
Date: July 6, 1992

\* \* \* \* \*

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

# The Legislative RECORD

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## Coal and Energy Commission

◆  
June 16, 1992, Richmond

Featured at the first 1992 meeting of the Coal and Energy Commission were presentations on federal energy legislation, the Wilder administration's energy conservation program, and the energy conservation and load management study underway at the Virginia State Corporation Commission. The commission also received a report on the status of a clean coal technology project's federal grant.

### Update: Federal Energy Legislation

John Randolph from the Virginia Center for Coal and Energy Research (VCCER) reported on the status of pending federal energy legislation. The House and Senate have passed energy bills (H.R. 776 and S. 2166) in the current session establishing new federal energy policies and standards in the areas of alternative fuels, renewable energy, natural gas

pipeline licensing, electrical power transmission, and coal research and technology. The bills were outgrowths of a national energy strategy proposed by the Bush administration, targeting energy conservation, development and utilization of new energy production technologies, and more efficient use of existing, finite energy resources. Dr. Randolph presented a report on the strategy in 1991. Both House and Senate versions developed along similar lines, but there remain some key differences to be worked out in a recently appointed conference committee.

Dr. Randolph emphasized the legislation's impact on Virginia and other coal producing states. In amendments proposed to the Public Utility Holding Company Act (PUHCA), for example, the House bill guarantees access by independent power producers to utility-owned transmission lines. If enacted, this provision could dramatically alter the electric power wholesale market. It would probably enhance the viability of constructing non-utility electrical generation plants in Virginia's coal fields. However, it also seems likely that such plants would compete for utility customers with natural-gas-fired plants operated by independents in the midwest. Guaranteed transmission line access is not part of the Senate bill and, therefore, should generate considerable conference committee debate. Transmission cost pricing remains an area that needs further clarification. The Federal Energy Regulatory Commission (FERC) will be involved in setting the transmission rates. However, the eventual pricing formula will determine whether guaranteed access will result in any meaningful benefit to independent generators.

Both bills continue federal encouragement for the development of clean coal and other advanced coal technologies. Title 13, §§ 1312 and 1314, of H.R. 776 focus on coalbed methane gas recovery. Modeled after the legislation contained in the Virginia Gas and Oil Act, this provision encourages other states, includ-

ing West Virginia and Kentucky, to adopt similar legislation. The House version also includes funding for studies of the coal export market; coal as a diesel fuel substitute and as a chemical feedstock; and an examination of coal transportation rates.

The House bill extends the abandoned mine land reclamation program; mine operator contributions will be extended from 1995 to 2010. Coal re-mining is authorized by the House bill without some of the usual land reclamation obligations that would otherwise accompany conventional mining operations. Additionally, surface mining subsidence repairs are mandated under the House bill. Such repairs are currently mandatory under federal law for subsurface mining only. Replacement of water lost through mining activities is required under the bill for both surface and subsurface mining operations.

Finally, both House and Senate bills encourage energy conservation and utility load management. Both have provisions furnishing funding to state public service commissions for conservation and load management programs. The House version furnishes \$100,000 per year; the Senate version, \$500,000.

## Implementation of State Energy Plan

Kathy J. Reynolds, assistant director for administration of the Department of Mines, Minerals and Energy (DMME), presented an update on the department's implementation of the Virginia Energy Plan. The plan was announced on August 20, 1991, and was first presented to the commission at the November 1991 meeting.

DMME is responsible as lead agency under the plan for implementing about 60% of the strategies envisioned over the plan's three year term. The department is also charged with working with the other state agencies, all of whom are required to become involved with energy conservation and energy management.

Ms. Reynolds outlined three areas where the energy plan will produce improvements: reduced consumption of finite energy resources, enhanced environmental protection, and increased fiscal responsibility. In the first year of the process, the department is focusing its activities on enabling other state and local agencies to enhance their own energy efficiency. In

the second year of the plan, the department will be working with state agencies to alter their programs in ways that will enhance the energy efficiency of their client groups. In the third year, the department plans to focus on public outreach to businesses and consumers.

The plan contains two goals: (i) increasing energy efficiency and conservation in state government and by its clients and (ii) advancing renewable and alternative energy sources in Virginia. Under the first goal, Ms. Reynolds reported several accomplishments, including the Institutional Conservation Program, a matching state and local government plan to retrofit eligible schools and hospitals. In 1991, \$2.2 million in grants for improvements were awarded. The final recommendations for technical assistance awards for 1992, totalling \$157,000, have recently been completed. These funds are used by institutions to conduct audits and energy planning. An additional \$1.6 million of grants will be awarded in August 1992 under this program. Awards will be capped at \$100,000 per facility in order to provide funds for as many facilities as possible.

The Energy-Rated Homes of Virginia is a program administered by DMME to provide for energy audits of homes. It is currently being tested at eight homes in Manassas and eventually will be tested in 50 homes. The tests will show whether the audit provides homeowners with useful information in improving energy efficiency. Once the program's software has been tested satisfactorily, it will be made available across the state. DMME is assisting in the creation of a nonprofit organization to administer the program. The organization will work with mortgage lenders and real estate appraisers to enable home buyers to qualify for a larger mortgage on a house with greater energy efficiency, based on the lower utility costs that will be incurred. Virginia is one of 13 states working with the Department of Energy on an energy-rated home project.

Another area in which DMME has been active is the integration of energy management into state agencies. The department's role is to enable agencies to save money by reducing energy waste. Energy managers have been designated in 95 state agencies. In the next step, DMME will provide the energy managers with training. After areas of potential savings are identified, the energy managers will implement them and track the savings generated. The energy plan calls for a 25% reduction in energy use by state agencies by 1998. Computer software developed by DMME for measuring energy savings is being tested in eight state agencies and is expected to be operational in all agencies by next year.

Ms. Reynolds identified the financing of energy improvements at state agencies as a critical issue in implementing the Plan. A task force consisting of DMME, the Department of General Services (DGS), and the Office of Planning and Budget recommended approaches agencies can use to finance the implementation of energy improvements. First, the task force developed a model request for proposal that would allow agencies to use performance contracting, whereby the agency contracts with an energy service company. The energy service company will identify savings and finance recommended energy improvements. Second, DMME is recommending the use of master leasing, in which energy-saving equipment can be financed over an extended period. Third, DMME is recommending a general fund capital outlay appropriation of \$5 million, to be used to pay for state agencies to implement low cost energy improvements with high savings returns. The costs for projects will not exceed \$150,000 per facility and will pay for themselves within five years.

The second goal of the energy plan — advancing renewable and alternative energy sources — has two objectives, one dealing with alternatively fueled vehicles and the other increasing the awareness of renewable and alternative energy sources through education and outreach strategies. Accomplishments under this goal include financing a grant program for alternatively fueled vehicles under which \$340,000 was awarded to six localities to convert 70 vehicles to compressed natural gas (CNG).

A second project in this area involves demonstrating renewable technologies in the operations of state agencies. Eight agencies were awarded grants totaling \$328,000 to be used for demonstration of solar technologies, electric cars, and other renewable technologies.

Ms. Reynolds then advised the commission of efforts of other agencies in implementing strategies under the energy plan. These include VDOT, which has converted 50 fleet vehicles to CNG, DGS, which allows preferential parking assignments for car poolers at state facilities, and the Department of Waste Management, which has received 126 agency recycling plans.

Future department activities include the design of a low-maintenance methane digester that would harvest the biogas generated at Carroll Foods' pig operations, and the completion of their clean coal technology study focusing on removing barriers to the use of coal in the state. DMME has been participating with several other states on a waste wood study, which should be completed by early July. Finally, the department is working with the State Corporation Commission (SCC) on task forces looking at mechanisms for encouraging information on energy conservation and at cost-effectiveness testing in building demand-side management programs. The department is in the process of identifying projects in Virginia that may be eligible for \$25 million to be made available by the Department of Energy.

### Energy Conservation and Load Management

The pending federal energy legislation encourages utility-focused energy conservation and load management (CLM) programs by providing federal dollars to state public service commissions in aid of CLM programs. However, the SCC is apparently ahead of the curve, having concluded a two-year preliminary study of CLM opportunities for Virginia utilities.

Richard Williams, director of the SCC's Division of Economics and Finance, provided an extensive report to the commission on the SCC's CLM activities. Growing interest in CLM, also known as demand side management (or DSM), stems from a general trend toward energy conservation coupled with the increasingly problematic nature of establishing new generating facilities or erecting new transmission lines. CLM/DSM programs treat increased energy efficiency as a potential offset to increasing supply to meet growth in demand.

Energy conservation programs anticipate actual reductions in energy consumption. Consumption reduction is usually the result of customer investment in capital improvements (e.g., insulation, high-efficiency lighting, and energy-efficient motors). Load management involves utility and customer planning to shift electrical usage to a lower demand period, or to interrupt usage during periods of high demand. Load management may not reduce consumption; that is not its objective. Ideally, load management spreads usage over a 24-hour period, thus reducing peak demand and the need for additional generating capacity.

A vital component to integrated resource planning — that is, the use of demand side and supply side options — is utilities' peak demand forecasting capability. Peak demand is the greatest demand placed on utilities' output capacity during a specified period of time. A second component is the commitment of utility regulators to integrated resource planning in a comprehensive and consistent manner. It is to the latter component that the SCC study was directed.

The SCC's preliminary CLM study resulted in a March 1992 SCC order that contemplates action in the following areas:

- The SCC, reversing a policy established in 1970, will permit gas and electric utilities to use promotional allowances (i.e., rebates) for energy-conserving equipment, subject to review and approval by the commission.
- Permitting the cost of DSM programs to be recovered through the rate base with a return on investment.
- Virginia Power has been ordered to implement an experimental bidding program for demand side programs.
- Public dissemination of all available information concerning CLM programs.

Mr. Williams noted that the order is the beginning of the SCC's long-term commitment to CLM study. The SCC's next goal is completion of a study (now in progress) examining means of determining the cost effectiveness of CLM programs. A task force drawn from electric and gas companies, environmental groups, consumer groups, and others is working with the SCC staff to review various cost/benefit tests for CLM program effectiveness.

One cost/benefit test that the commission will not accept at this time is one commonly referred to as the "societal test" (i.e., the societal costs and benefits of a CLM program). One component of the societal test subject to sharp debate is external environmental costs. That element presumes environmental costs separate and apart from utilities' expenses in complying with current state and federal environmental statutes and regulations (e.g., societal costs allocable to the consumption of natural resources — fossil fuels — and pollutant emissions). The SCC believes that it lacks statutory authority to quantify such costs or to include adjustments in utility rates for such factors. The task force expects to conclude its work in October 1992.

**Update on the Tom's Creek Project**

At its meeting in January, the coal subcommittee of the commission received a report on the Tom's Creek Integrated Gasification Combined Cycle Demonstration Plant proposed by TAMCO Power Partners. James L. VanLanen of Coastal Power Production Company, a partner in TAMCO, advised the commission that TAMCO was awarded a \$109 million construction grant from the Department of Energy under its Clean Coal Technology Program in September 1991. The cost of the power plant is now estimated to be \$370 million, up from the \$219.1 million cost estimated in January. The schedule calls for a three-year demonstration period commencing in 1998.

The configuration of the power plant has been revised since it was originally presented to the commission. The total output from the combined plant has been increased from 107 MW to 186 MW. The original configuration of one turbine fueled by gasified coal and another fueled by natural gas has been amended, with the new configuration calling for the second turbine to be fueled by conventional pulverized coal. The estimated coal consumption from the combined plant has increased from 156,950 tons per year to 575,000 tons per year.

Recipients of grants under the Clean Coal Technology Program have one year to reach a cooperative agreement with DOE. TAMCO must show that the project is commercially viable and is not merely a research and develop-

ment project. According to Mr. VanLanen, TAMCO must satisfy two conditions before signing the cooperative agreement with DOE: (i) arranging for the wheeling of its power to a customer (ii) and negotiating a long-term commitment for the purchase of its power. The first of these conditions was satisfied in April 1992 when Appalachian Power Company agreed to wheel power product at the Tom's Creek Project to Virginia Power on a reliable basis and at a reasonable rate.

The second condition, a power purchase agreement with Virginia Power, has not been satisfied. Mr. VanLanen identified two hurdles to negotiating an agreement. The first, a decline in the estimated demand for electrical power, was addressed by an offer to postpone the project from 1995-96 to 1998-99. The second hurdle, involving the pricing of the power, has been problematic. Mr. VanLanen focused on avoidance of the "gas risk"—the effects of runaway gas prices—as a benefit of the project.

TAMCO has reviewed a number of options to obtain a contract with Virginia Power, including purchasing an existing power purchase contract and joining with one of the three private projects currently in arbitration with Virginia Power. Mr. VanLanen stressed that time for satisfying the conditions and for finalizing a cooperative agreement with DOE is running out. Members of the commission expressed concern that a cancellation of the grant would have an adverse effect on Virginia's coal industry and the potential for economic development in Southwest Virginia. Other members expressed concern that forcing Virginia Power to contract with private power producers outside of its competitive bidding process could result in the subsidization of a favored project by all ratepayers.

The commission appointed a subcommittee to meet with Virginia Power, the SCC, and other interested parties regarding efforts to satisfy the remaining conditions which are preventing TAMCO from finalizing its cooperative agreement with DOE.



The Honorable A. Victor Thomas, *Chairman*  
*Legislative Services contact:* Franklin D. Munyan

## **SB 412/HB 1186 and SB 333/HB 642: Workers' Compensation Insurance Subcommittee**



*June 11, 1992, Richmond*

A special subcommittee of members from the Senate Commerce and Labor Committee and the House Corporations, Insurance and Banking Committee met in Richmond to discuss legislation carried over until the 1993 Session relating to the regulation of workers' compensation insurance rates.

**1992 Session**

Identical bills were considered by the Senate Committee on Commerce and Labor and the House Corporations, Insurance and Banking Committee in the form of SB 412/HB 1186 and SB 333/HB 642. Each committee carried over its respective legislation until the 1993 Session with the intention of jointly studying the issues presented by the measures during the interim. The panel convened its first meeting on June 11. Testimony and discussion focused on SB 412/HB 1186.

**Legislative Proposals**

Under current law, workers' compensation insurance rates are set by the State Corporation Commission (SCC) through a "prior approval" process whereby rates are subject to actuarial review and approval by order of the SCC. A hearing before the SCC is held as a result of application by the National Council on Compensation Insurance (NCCI), a rate service organization that files "final rates" on behalf of all insurers writing workers' compensation insurance. Final rates include provisions for "prospective loss costs," which are estimates of future loss payments (and include claims handling and legal defense costs), as well as provisions for other expenses (e.g., overhead, agent commissions) and profit. Evidence is presented to the SCC by, among others, NCCI, the Office of the Attorney General, and the SCC's Bureau of Insurance. Upon completion of a hearing, the SCC either (i) approves the filing as submitted or with any modifications it deems appropriate or (ii) disapproves the filing.

As introduced, SB 412/HB 1186 would limit NCCI to filing only prospective loss costs and supplementary rate information on behalf of workers' compensation insurers under a "delayed effect" statute, which requires that filings be made at least 60 days prior to their effective date and be subject to actuarial review. Insurers would be required to make separate final rate filings with the SCC based on their own general expense experience and desired profit. Thus, prospective loss costs filed by the NCCI would be subject to actuarial review by the SCC pursuant to the delayed effect provisions of Chapter 19 of Title 38.2, but expenses and profits would be filed by individual insurers under Chapter 19's "file and use" provisions, which provide for filings to be effective on or after the date

they are received without actuarial review. However, under the proposal, the final rate (including expense and profit information) would be subject to actuarial review if the SCC were to declare this line of insurance noncompetitive pursuant to Chapter 19.

**Workers' Compensation Insurance Market**

Proponents of the legislation testified that its intent is to combat concerns about the state of the market in the Commonwealth. Citing USF&G Corporation's recent departure from the workers' compensation insurance market in Virginia, insurance industry representatives asserted that insurers may become increasingly reluctant to offer workers' compensation insurance to Virginia employers because of "sub-standard profits."

One source of the problem, according to testimony, is the growth of the Virginia Workers' Compensation Insurance Plan, or the "assigned risk pool," which consists of those insureds (i.e., employers) who are unable to obtain insurance in the open, or "voluntary," market. The assigned risk pool accounted for approximately 4% of insureds in 1984; the present figure is about 18%. Under Virginia law, insurance companies writing workers' compensation insurance are required to underwrite the assigned risk pool in an amount proportionate to their market share in the voluntary market. Thus, it was asserted, the absence of adequate profits is leading to a growing reluctance to write workers' compensation insurance in the voluntary market, which has resulted in growth of the assigned risk pool. The subcommittee was told that the assigned risk pool — formed to provide a safety net for employers that could not obtain coverage elsewhere (so-called "bad risks") — is insuring an ever-increasing number of employers of "average" risk, because insurers are reluctant to write coverage for them.

Insurance industry representatives also indicated that SB 412/HB 1186 would effectively make competition, rather than government oversight, the chief regulator of insurance rates. Proponents of the legislation pointed out that workers' compensation insurance is one of a very few lines of insurance in which the rates are completely set by the SCC, rather than through competitive forces.

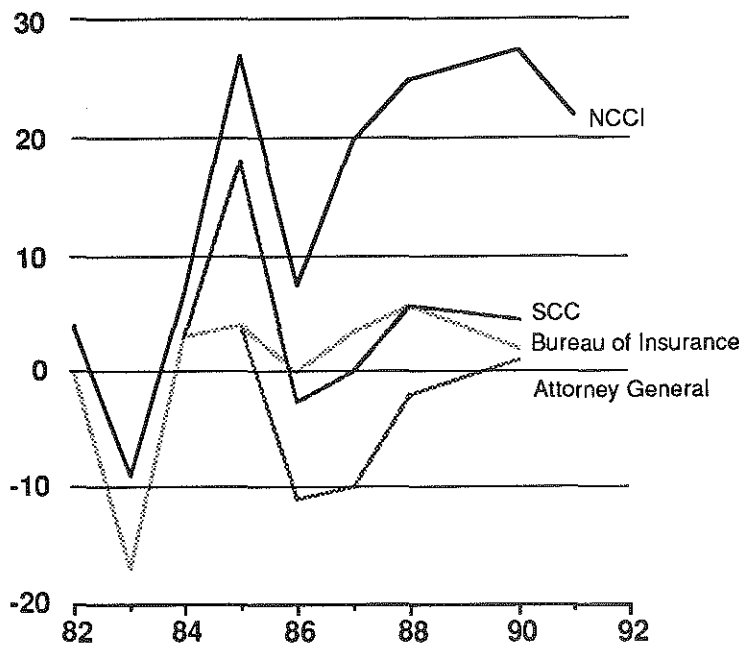


Figure 1. NCCI rate requests and percentage adjustments recommended by Bureau of Insurance and the Office of Attorney General and allowed by SCC. Source: Office of the Attorney General. NOTE: No rate requests in 1989.

A contrasting position was presented by representatives of the Office of the Attorney General, who told the members of the special subcommittee that the regulatory framework that has been in place for over 40 years is serving the Commonwealth well. According to testimony, the Commonwealth's average employer cost of workers' compensation insurance is one of the lowest in the country.

Opponents of the legislation asserted that current regulation of workers' compensation insurance has kept rates at reasonable levels because the SCC has disallowed large portions of NCCI rate requests. Figure 1 compares recent NCCI rate requests and the percentage adjustment subsequently allowed by the SCC with the percentages recommended by the Bureau of Insurance and the Office of the Attorney General.

Regarding the proposal's impact on the assigned risk pool, opponents of the legislation

testified that while insurers claim that the measure would reduce the size of the risk pool, they have failed to provide evidence to support their claim. While all parties agree that a growing assigned risk pool is a problem that needs attention, opponents of the legislation pointed out that the experience of states that have adopted systems similar to the one proposed by SB 412/HB 1186 has not demonstrated that such an approach would help to alleviate the problems associated with Virginia's assigned risk pool.

### Future Meetings

The subcommittee intends to convene its second meeting subsequent to the late July public hearings before the SCC on NCCI's pending rate request. Recommendations regarding the carry-over legislation, if any, will be made to the Senate Committee on Commerce and Labor and the House Corporations, Insurance and Banking Committee at the 1993 Session.



The Honorable Richard L. Saslaw, *Chairman*  
The Honorable Alson H. Smith, Jr., *Chairman*

*Legislative Services contact:* Mark C. Pratt

## HJR 178: Joint Subcommittee Studying the Necessity for Improvements in Erosion and Sediment Control Programs



*June 22, 1992, Richmond*

At its initial meeting, the joint subcommittee elected Delegate Tayloe Murphy as chairman and Senator Joseph Gartlan as vice-chairman. The joint subcommittee requested that groups representing local government, the building industry, the general contracting industry, soil and water conservation districts, and environmental interests submit nominations for membership on an advisory council. The agenda for the first meeting focused on acquainting members with the current Erosion and Sediment Control Law, a review of the 171 local erosion and sediment control programs conducted by the Division of Soil and Water Conservation, and the detrimental effects of sedimentation on water quality in the Chesapeake Bay.

### State Law and Local Programs

Staff presented an initial study describing the Erosion and Sediment Control Law of 1973. Under the framework of the state law, 170 localities and one soil and water conservation district have adopted local programs. The system of local program adoption, administration and enforcement has resulted in a lack of statewide program uniformity. Legislative reasons for variations in programs include permitted variations in the local ordinances implementing the programs, provisions allowing several localities to regulate land-disturbing activities relating to simple family home construction outside of subdivision development, and the absence of legislative authority for the Soil and Water Conservation Board to require localities to enforce their programs.

The relationship between the state and localities under the Erosion and Sediment Control Law was compared to their relationship under provisions of the mineral mining program and the Chesapeake Bay Preservation Act. The mineral mining program allows qualifying localities to be "waivered"

from the state program and administer their own local programs. The Department of Mines, Minerals and Energy retains oversight, however, and may regain authority over waived programs if a locality fails to comply with or enforce the state requirements. Under the Bay Act, the local assistance board is authorized to take administrative and legal actions to ensure compliance by localities with the act.

### Rating Local Programs

James W. Cox, chief of the Bureau of Technical Services of the Division of Soil and Water Conservation, presented the subcommittee with a report on the division's review of the 171 local erosion and sediment control programs. After describing the process for the division's on-site review of the local programs, Mr. Cox explained the rating system adopted to measure the degree to which programs comply with state law and regulations in the areas of the adequacy of the ordinance, plan review and permitting, inspection, and enforcement. Using a rating scale of zero to five points in each of the four areas (a maximum score of 20), the board premised that an "adequate" score was 15.

The results indicate that 23% of the programs obtained an adequate overall score as of April 1, 1991. A subsequent resurveying of certain programs has increased the percentage of adequate programs to 28%. The division also concluded that as of April 1991, only 47% of the ordinances implementing local programs had been updated to comply with changes in the state law effective July 1, 1988. Inspection and enforcement were found to be the weakest elements of the programs. The division concluded that additional analysis of the law is necessary in order to streamline implementation of changes to the law and to bring all programs up to an adequate standard.

### Chesapeake Bay Water Quality

Russell W. Baxter, Virginia Director of the Chesapeake Bay Foundation, discussed the importance of fully implemented and effective erosion and sediment control programs in protecting Virginia's water resources. The lessons learned in the Bay programs can be applied to state efforts to protect the quality of other state waters.

Water problems associated with erosion include the effects of sediment deposition, nutrient overenrichment, toxic pollution and conventional pollution. Sedimentation clouds the water, thereby blocking sunlight needed by submerged aquatic vegetation, which serves as food and habitat for many species. Suspended solids can clog the gills of small fish and invertebrates, smother oysters and clams, and make it more difficult for oyster spat to set.

Nutrients such as nitrogen and phosphorous are the principal pollutants in the Bay system. Fifty to sixty percent of nutrient overenrichment in the Bay comes from nonpoint sources, and much of that comes from erosion and sedimentation. Because phosphorous binds to soil particles, efforts to control nonpoint sources of phosphorous have focused on erosion and sediment control. Though not as effective as with phosphorous, erosion and sediment control programs also capture some of the nitrogen associated with surface runoff.

Toxic pollution can be traced to sediment deposition. The Bay program's toxic reduction strategy recognizes that efforts to control nutrients and sediment transport will contribute to the control of toxics in the Bay. Mr. Baxter noted that certain toxic chemicals, particularly pesticides, bind to soil particles and enter waters through erosion.

Conventional pollutants (including oxygen-demanding pollutants, suspended solids, acidity levels, temperature pollution, and bacterial contaminants) enter the water as the result of erosion and sedimentation. Conventional pollutants cause many of the same water quality problems attributed to nutrient overenrichment and toxics.

The joint subcommittee scheduled its next meeting for August 6th in Harrisonburg. Topics to be discussed include examples of how existing programs are not working and specific problems found in the division's evaluations of local programs.



The Honorable W. Tayloe Murphy, Jr.,  
Chairman

Legislative Services contact:  
Franklin D. Munyan



## HB 896: Water Loss Resulting from Deep Coal Mining

May 11, 1992, Richmond

Members of a subcommittee of the House Mining and Mineral Resources Committee met to study HB 896, relating to replacement of water supplies interrupted, diminished, diverted, or contaminated by mining activities.

The legislation would require responsible operators of subsurface coal mines to replace water supplies damaged by their mining operation. Currently, operators of surface mining operations are required to replace the water supply of any surface owner detrimentally affected by the mine operation, but there is no comparable provision for deep mine operations.

### Roundtable Discussions

The subcommittee was briefed by Richard C. Collins of the Institute for Environmental Negotiations at the University of Virginia on the roundtable discussions conducted on this issue commencing in November 1990. The water replacement issue had been the focus of 10 meetings of the roundtable, which was comprised of representatives from the coal industry, environmental groups, and citizens.

The roundtable had apparently reached an agreement in principle in November 1991, but discussions broke down in January 1992 after reviewing proposed legislation drafted by roundtable participants.

Mr. Collins identified several issues on which the roundtable members attempted to reach a consensus, including the effect of prior deeds conveying water rights by surface owners, allocation of the burden of proof in determining whether a loss of water is caused by a mining operation, the need for temporary replacement of water supplies pending a determination of responsibility, whether compensating for the decline of a property value should be an alternative to providing a permanent replacement source of water, and the use of binding arbitration as an alternative to court proceedings.

### Future Meeting

The subcommittee considered asking that the roundtable members reconvene to determine whether they can reach a consensus on these issues. The subcommittee members agreed to hold an informational meeting and public hearing in Southwest Virginia prior to deciding whether the roundtable should be asked to reconvene.

The Honorable Ford C. Quillen, *Chairman*

*Legislative Services contact:* Franklin D. Munyan

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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*.

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# GENERAL NOTICES/ERRATA

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**Symbol Key †**

† Indicates entries since last publication of the Virginia Register

## GENERAL NOTICES

### NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

#### DEPARTMENT OF HEALTH PROFESSIONS (BOARD OF)

##### † Notice to the Public

Invitation to Comment on the Efficacy of Continuing Education in the Prevention or Reduction of Transmission of Infectious Diseases

Senate Joint Resolution No. 111 of the 1992 Session of the Virginia General Assembly requests regulatory boards within the Department of Health Professions to "study and report on the efficacy of continuing education in the prevention of transmission of contagious diseases, including but not limited to, adherence to universal precautions and sterilization-disinfection procedures." The resolution directs the department to report its findings and recommendations to the Governor and the General Assembly by January 1, 1993.

The Department and Board of Health Professions invite comments on the resolution from interested individuals, agencies or organizations. Written comments should be addressed to the individual identified below, and must be received by 5 p.m., August 31, 1992.

Russell Porter, Research Associate  
Virginia Department of Health Professions  
1601 Rolling Hills Drive, Suite 200  
Richmond, Virginia 23229-5005  
Telephone (804) 662-9904, FAX (804) 662-9943

#### DEPARTMENT OF LABOR AND INDUSTRY

##### † Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U.S. Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918

(Docket H-020 A)

Air Contaminants

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Notice of proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to amend its existing air contaminant standards that set permissible exposure limits (PELs) for the maritime, construction and agriculture industry sectors. In this notice, OSHA is proposing to issue more protective exposure limits for approximately 210 substances currently regulated in the construction and maritime industries and add new exposure limits for approximately 160 chemicals to protect these workers.

OSHA is also proposing that employees in agriculture be covered by these PELs as well as by approximately 220 additional limits which currently exist in general industry, maritime and construction, but do not exist for the agricultural industry. By appropriations act rider, only employees of farms with more than 10 employees are covered by OSHA standards. New or more protective limits will substantially reduce significant risk of material impairment of health for construction, maritime and agriculture workers and are technologically and economically feasible for those industries.

The proposed changes will add a new § 1915.1000 for shipyards, a new § 1917.1000 for marine terminals and a new § 1918.1000 for longshoring, along with necessary conforming amendments. Section 1926.55 will be revised for construction and new § 1928.1000 will be added for agriculture.

TEXT: Full text of the proposed rulemaking can be found in Volume 57, No. 114, pg. 26002 (June 12, 1992) of the Federal Register.

## General Notices/Errata

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**DATES:** Comments on proposed changes: Postmarked on or before September 25, 1992. Notices of Intention to Appear at informal rulemaking hearings: Postmarked on or before September 11, 1992. Individuals wishing to comment or appear: See Section VIII of Federal Register for specific requirements.

Parties requesting more than 10 minutes for their presentation at the informal public hearing and parties who will submit documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence, postmarked on or before September 25, 1992. The informal rulemaking hearing is scheduled for October 20-30, 1992, in Washington, DC, for November 17-20, 1992, in San Diego, California, and on December 8-11, 1992, in Des Moines, Iowa.

**ADDRESSES:** Written comments on the proposal should be submitted to the Docket Officer, Docket No. H-020A, Room N-2634, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, D.C. 20210, telephone (202) 523-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219.

Notice of intention to appear, testimony and documentary evidence to be submitted at the hearing are to be sent to Mr. Tom Hall, OSHA Division of Consumer Affairs, Docket No. H-020A, Room N-3647, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8615.

The hearing will be held in Washington, DC, in the Auditorium, Frances Perkins Department of Labor Building, Third and Constitution Avenue, NW. The informal public hearing will begin at 9:30 a.m. The hearing in San Diego will be held at the Holiday Inn on the Bay, 1355 North Harbor Drive, San Diego, CA 92101, telephone (619) 232-3861. The hearing in Des Moines will be held at the Holiday Inn Des Moines, 1050 Sixth Avenue, Des Moines, Iowa 50314, telephone (515) 283-0151.

**FOR FURTHER INFORMATION CONTACT:** James F. Foster, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N-3649, 200 Constitution Ave., Washington, DC 20210, telephone (202) 523-8151.

### † Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the

following Federal OSHA notice:

U.S. Department of Labor  
Occupational Safety and Health Administration  
29 CFR Part 1910, 1915, and 1926  
(Docket H-71)  
Occupational Exposure to Methylene Chloride

**AGENCY:** Occupational Safety and Health Administration (OSHA)

**ACTION:** Notice of informal public hearing of federal proposed rulemaking; reopening of written comment period.

**SUMMARY:** This notice schedules informal public hearings concerning OSHA's proposal (56 FR 57036, November 7, 1991) to modify the existing provisions for controlling employee exposure to methylene chloride. The agency requests that interested parties present testimony and evidence regarding the issues raised by the proposed standard and by this hearing notice. In addition, this notice reopens the rulemaking record so federal OSHA can receive additional comments regarding the proposed rule.

**TEXT:** Full text of the proposed rulemaking can be found in Volume 57, No. 111, pg. 24438 (June 9, 1992) of the Federal Register.

**DATES:** All informal public hearings will begin at 9:30 a.m. on the first day of the hearing and at 9 a.m. on each succeeding day. The two informal public hearings are scheduled to begin on the following dates:

Washington, DC: September 16, 1992  
San Francisco, CA: October 14, 1992

Notices of intention to appear at the informal public hearings must be postmarked by August 24, 1992.

Testimony and all evidence which will be introduced into the hearing record must be postmarked by August 24, 1992, for the Washington, DC, hearing and by September 22, 1992, for the San Francisco, CA, hearing.

Comments must be postmarked by August 24, 1992.

**ADDRESSES:** Notices of intention to appear at the hearing and testimony and documentary evidence which will be introduced into the hearing record must be submitted in quadruplicate to Mr. Tom Hall, Occupational Safety and Health Administration, Division of Consumer Affairs, room N-3647, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8615.

Comments should be submitted in quadruplicate to: The Docket Office, Docket No. H-71, Room N-2634, U.S.

Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-7894.

An additional copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219.

Comments limited to 10 pages or less in length also may be transmitted by facsimile to (202) 523-5046, provided that the original and three copies of the comment are sent to the Docket Officer thereafter.

The locations of the informal public hearings are as follows:

WASHINGTON, DC: The Auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210;

SAN FRANCISCO, CA: The Coil Room, Holiday Inn, Financial District, 750 Kearny St., San Francisco, CA 94108, telephone (415) 433-6600.

**FOR FURTHER INFORMATION CONTACT: Hearings:** Mr. Tom Hall, OSHA, Division of Consumer Affairs, U.S. Department of Labor, Room N-3647, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8615.  
**Proposal:** Mr. James F. Foster, Office of Public Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3647, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-8151.

### † Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U.S. Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1904

(Docket R-01)

Reporting of Fatality or Multiple Hospitalization Accidents

AGENCY: Occupational Safety and Health Administration (OSHA)

ACTION: Notice of proposed federal rulemaking.

**SUMMARY:** The Occupational Safety and Health Administration proposes to revise 29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Accidents. The proposal would make four changes to the current reporting requirements: First, whereas, the present rule only applies to employment accidents which result in one or more fatalities or hospitalizations of five or more employees, the proposed rule would expand this reporting requirement to cover accidents resulting in hospitalizations of three or more employees. Second, the proposal would require the employer to report accidents within eight hours of their occurrence, instead of the current 48-hour time frame. Third, if the employer does not learn of the reportable accident at the time the accident occurs, the employer would then be required to report it within eight hours after learning of the fatality or hospitalizations. Fourth, whether or not an accident is immediately reportable, if it results in the death of an employee within six months after the accident, OSHA proposes that the employer report that death within eight hours after learning of it.

**TEXT:** Full text of the proposed rulemaking can be found in Volume 57, No. 97, pg. 21222 (May 19, 1992) of the Federal Register.

**DATES:** Comments on proposed changes: Postmarked by August 17, 1992.

**ADDRESSES:** Comments on the proposal should be submitted in quadruplicate to the Docket Officer, Docket No. R-01, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-1463.

An additional copy should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth St., Richmond, VA 23219.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Newell, Occupational Safety and Health Administration, Room N-3507, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 523-1463.

### † Notice to the Public

The Safety and Health Codes Board adopted the following Federal OSHA Standards at its meeting on June 9, 1992:

1. Process Safety Management of Highly Hazardous Chemicals, § 1910.119

Effective date of the Standard is September 15, 1992.

2. Amendment to Explosives and Blasting Agents, § 1910.109

Effective date of the amendment is September 15, 1992.

3. Administrative Stay to Process Safety Management of Highly Hazardous Chemicals, § 1910.119

# General Notices/Errata

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Effective date of the Administrative Stay to the Standard is June 10, 1992.

Effective date for the following provisions of the Stay is December 15, 1992:

- operating procedures ¶paragraph (f)!;
- contractors ¶paragraph (h)!;
- mechanical integrity ¶paragraph (j)!; and
- management of change ¶paragraph (l)!.

4. Amendment to Occupational Exposure to Formaldehyde, § 1910.1048

Effective date of the Amendment is August 27, 1992.

The effective dates for the following provisions of the Formaldehyde Amendment are:

Effective date for respiratory protection ¶paragraph (g)! is November 25, 1992.

Effective date for engineering and work practice controls ¶paragraph (d)! is August 27, 1993.

Effective date for medical removal protection ¶paragraph (1)! is February 15, 1993.

Effective date for hazard communication ¶paragraph (m)! is February 15, 1993.

Effective date for periodic training ¶paragraph (n)! is October 15, 1992.

Contact person for further information: John J. Crisanti, Director of Office of Enforcement Policy, telephone (804) 786-2384.

## VIRGINIA CODE COMMISSION

### NOTICE TO STATE AGENCIES

**Change of Address:** Our new 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 do not follow-up with a mailed copy. Our FAX number is: 371-0169.

### FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not

have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

#### FORMS:

- NOTICE of INTENDED REGULATORY ACTION - RR01
- NOTICE of COMMENT PERIOD - RR02
- PROPOSED (Transmittal Sheet) - RR03
- FINAL (Transmittal Sheet) - RR04
- EMERGENCY (Transmittal Sheet) - RR05
- NOTICE of MEETING - RR06
- AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
- DEPARTMENT of PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

## ERRATA

### DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-70-17. Child Support Enforcement Program.**

Publication Date: 8:19 VA.R. 3396-3412 June 15, 1992.

Correction to final regulation:

Page 3397, § 1.1, definition of "ADC," lines 6 through 10, delete the following text:

"established under Title IV-E of the Social Security Act. This is a category of financial assistance paid on behalf of children who otherwise meet the eligibility criteria for ADC and who are in the custody of the local social service agencies."

# CALENDAR OF EVENTS

## Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## VIRGINIA CODE COMMISSION

### EXECUTIVE

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

**September 8, 1992** – Written comments may be submitted through this date.

**September 30, 1992 - 1 p.m.** – Public Hearing  
1100 Bank Street, 2nd Floor Boardroom, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to **adopt** regulations entitled: **VR 115-02-02:1. Rules and Regulations Governing the Prevention, Control and Eradication of Tuberculosis in Bovidae, Cervidae, and Capridae in Virginia** and repeal regulations entitled **VR 115-02-02. Rules and Regulations Governing the Prevention, Control and Abatement of Bovine Tuberculosis of Cattle in Virginia**. The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of (a) all classes of bovidae (not just cattle), (b) all cervidae (many of the deer), and (c) all capridae (goats); (ii) considering alternative ways of disposing of tuberculosis-infected animals; and (iii) a proposal to shorten the time in which a report must be made to the State Veterinarian when tuberculosis is suspected.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737

of the Code of Virginia.

**Contact:** Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

\* \* \* \* \*

**September 8, 1992** – Written comments may be submitted through this date.

**September 30, 1992 - 1 p.m.** – Public Hearing  
1100 Bank Street, Washington Building, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to **adopt** regulations entitled: **VR 115-02-03:1. Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Bovidae in Virginia** and repeal regulations entitled **VR 115-02-03. Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Cattle in Virginia**. The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of all classes of bovidae (not just cattle), (ii) a proposal to add definitions to the regulation to be specific in terms of precisely which bovidae must be tested for brucellosis, (iii) a proposal to expand instances in which a test for brucellosis is required, not just when there is a change of ownership.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

**Contact:** Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

\* \* \* \* \*

**September 8, 1992** – Written comments may be submitted through this date.

**September 30, 1992 - 1 p.m.** – Public Hearing  
1100 Bank Street, Washington Building, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to **adopt** regulations entitled: **VR 115-02-12:1. Rules and Regulations Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds in Virginia** and repeal regulations entitled **VR 115-02-12.**

# Calendar of Events

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**Rules and Regulations Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds in Virginia.** The purpose of this action is to review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions governing the importation of cervidae—most varieties of deer; (ii) repealing provisions requiring a permit for the importation of psittacine (parrot-like) birds and repealing provisions requiring that they be treated for psittacosis; (iii) repealing provisions requiring South American camelids of the genus *Lama* to be tested for bluetongue; (iv) requiring rabies vaccination for cats entering the Commonwealth; (v) adding importation requirements for bison, to treat them more consistently with cattle; and (vi) relaxing certain requirements pertaining to feeder cattle.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Contact: Dr. W. M. Sims, Jr., State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481.

## DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIR POLLUTION CONTROL BOARD)

**July 27, 1992 - 9 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

A meeting to (i) discuss public participation procedures, (ii) consider two open burning ordinances; and (iii) hear a status report on the work of the Advisory Board on Air Pollution.

Contact: Dr. Kathleen Sands, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-2722.

**July 30, 1992 - 6:30 p.m. – Open Meeting**  
Wickham Building, Board of Supervisors Meeting Room, Hanover, Virginia. ☐

A meeting to receive public comment on the issue of Purgo, Inc. application to construct and operate a soil remediation facility at their location on Route 1, 2.5 miles north of the Route 30 intersection. Comments may be written or oral.

Contact: Mr. Gary Graham, Environmental Engineer, Department of Air Pollution Control, Region 5, Arboretum V, 9210 Arboretum Parkway, Richmond, VA 23236-3472, telephone (804) 323-2409.

\* \* \* \* \*

**July 31, 1992 –** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation amendments concern provisions covering new and modified stationary source permits. The proposed amendments revise the permit regulations for nonattainment areas (i) by redefining the definitions of “major stationary source,” “net emissions increase,” “nonattainment pollutant,” and “significant”; (ii) by adding provisions concerning offsets, including the new offset ratios required; (iii) by adding provisions regarding de minimis increases and modification alternatives; and (iv) by making sources of nitrogen oxides subject to the same requirements as sources of volatile organic compounds. The proposed amendments also revise the permit regulations by expanding the opportunity for public participation for major source and major modification permit applications. Provisions have been added to the permit regulations concerning conformity with certain local ordinances, shutdown and reactivation of sources, transfer of permits, and revocation and enforcement of permits. The amendments also provide increases in some of the levels used to exempt certain sources.

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

Written comments may be submitted until July 31, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

\* \* \* \* \*

**July 31, 1992 –** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation amendments require owners of gasoline dispensing facilities, pumping more than 10,000 gallons per month, in certain localities in the Richmond and Northern Virginia areas to install and operate Stage II vapor recovery systems. An exemption has been allowed for facilities pumping 50,000 gallons per month or less that are owned by independent small business gasoline marketers. Stage II systems must be installed between January 1, 1993, and November 15, 1994, depending on date of facility construction and amount of gasoline pumped monthly.

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

Contact: Ellen Snyder, Policy Analyst, Department of Air

# Calendar of Events

Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177.

\* \* \* \* \*

**July 31, 1992** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9.6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation amendments concern provisions covering emission standards for volatile organic compounds (VOC) and nitrogen oxides (NOX) from stationary sources located in certain localities in Northern Virginia, Richmond and Hampton Roads areas. The proposal (i) will require owners of stationary sources to report the levels of emissions from the sources in order to assess compliance with emission and air quality standards and (ii) will require owners of specified major stationary sources to limit VOC and NOX emissions to a level resultant from the use of reasonably available control technology (RACT) and necessary for the protection of public health and welfare.

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

Written comments may be submitted until July 31, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

**Contact:** Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

\* \* \* \* \*

**August 26, 1992 - 7 p.m.** – Public Hearing  
State Water Control Board Office Building, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

**September 14, 1992** – 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 Air Pollution Control Board intends to amend **VR 120-01. Regulations for the Control and Abatement of Air Pollution - Public Participation Procedures (Appendix E).** The regulation amendments revise the public participation guidelines to: allow for supplemental public participation, change and expand the information provided in the notice of intended regulatory action and notice of public comment, and require the preparation of additional supporting documentation and analyses.

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

**Contact:** Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

\* \* \* \* \*

**NOTICE:** The written comments date has been extended to **September 18, 1992.**

**September 2, 1992 - 10 a.m.** - Public Hearing  
State Capitol Building, House Room One, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend **VR 120-01. Regulations for the Control and Abatement of Air Pollution (PARTS I and II).** The regulation amendments clarify the provisions relating to (i) making case decisions with regard to process, (ii) statutory basis and appeals; (iii) establish criteria for determining confidential information; and (iv) update various provisions to conform to code changes.

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

Written comments may be submitted until close of business September 18, 1992.

**Contact:** Robert A. Mann, Director, Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

**July 30, 1992 - 10 a.m.** – Open Meeting  
State Water Control Board Room, 4900 Cox Road, Innsbrook, Glen Allen, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by July 23, 1992.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

\* \* \* \* \*

**August 26, 1992 - 7 p.m.** - Public Hearing  
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.  
**September 14, 1992 - 4 p.m.** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1



# Calendar of Events

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of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to repeal regulations entitled: **VR 173-01-00 Public Participation Guidelines** and adopt regulations entitled: **VR 173-01-00:1. Public Participation Guidelines**. The purpose of the proposed action is to repeal VR 173-01-00 Public Participation Guidelines and adopt VR 173-01-00:1 Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Chesapeake Bay Local Assistance Board, and (iii) require the performance of certain analyses.

Statutory Authority: § 9-6.14:7.1 of the Code of Virginia

**Contact:** C. Scott Crafton, Chesapeake Bay Local Assistance Board, Suite 701, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or 1-800-243-7229/TDD ☎

† **September 24, 1992 - 10 a.m. - Open Meeting**  
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia.

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by September 17, 1992.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll free 1-800-243-7229/TDD ☎

## Central Area Review Committee

† **July 27, 1992 - 10 a.m. - Open Meeting**  
General Assembly Building, Third Floor, East Conference Room, 9th and Broad Streets, Richmond, Virginia.

The Review Committee will review Chesapeake Bay Preservation Area programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

**Contact:** Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll free

1-800-243-7229/TDD ☎

## DEPARTMENT OF COMMERCE (BOARD OF)

† **July 31, 1992 - 9 a.m. - Open Meeting**  
The Radisson Hotel Hampton, 700 Settlers Landing Road, Hampton, Virginia.

A regular quarterly meeting of the board. Among items expected to be discussed will be final board conclusions and recommendations for HJR 365 (Study of electronic security alarm businesses); citizen members appointed to regulatory boards; the agency's rules of practice for hearing officers; the new 150-hour requirement for CPA candidates to sit for the exam; the agency's 1993 legislative proposals; and election of the next board chair and vice-chair.

**Contact:** Alvin D. Whitley, Secretary to the Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8564.

\* \* \* \* \*

**August 5, 1992 - 10 a.m. - Public Hearing**  
Department of Commerce, Room 395, 3600 West Broad Street, Richmond, Virginia.

**September 11, 1992 -** 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 Department of Commerce intends to repeal regulations entitled: **VR 190-01-1. Rules and Regulations Governing Employment Agencies** and adopt regulations entitled: **VR 190-01-1:1. Rules and Regulations Governing Employment Agencies**. The proposed regulation requires the licensure of employment agencies and the registration of individuals who act as employment counselors at those businesses. This regulation applies to approximately 42 licensed employment agencies and approximately 200 employment counselors. There is no requirement under the current regulation that employment counselors be registered and therefore the figure of 200 employment counselors is an estimate based upon information received from the industry.

The proposed regulation separates entry, renewal and reinstatement requirements. It also separates standards of conduct from standards of practice. The regulation has been completely rewritten and reorganized. Certain requirements for receipts, records and contracts deleted from the statute are included in the proposed regulation. Fees throughout the regulation have been adjusted in order to conform with the requirements of § 54.1-113 of the Code of Virginia to assure that the expenses of this program are adequately covered by revenues generated from the regulants. Other increases or decreases in fees are explained in the appropriate text.

Statutory Authority: § 54.1-1302 of the Code of Virginia

Contact: David E. Dick, Assistant Director, Department of Commerce, Employment Agencies, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2194.

## COMPENSATION BOARD

† July 29, 1992 - 5 p.m. - Open Meeting  
† August 26, 1992 - 5 p.m. - Open Meeting  
† September 30, 1992 - 5 p.m. - Open Meeting  
Ninth Street Office Building, Room 913/913A, 9th Floor,  
202 North Ninth Street, Richmond, Virginia.

A routine meeting to conduct business of the board.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206, telephone (804) 786-3886 or (804) 786-3886/TDD ☎

## DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

August 26, 1992 - 7 p.m. - Public Hearing  
State Water Control Board, Board Room, 4900 Cox Road,  
Innsbrook Corporate Center, Glen Allen, Virginia.  
September 14, 1992 - Written comments may be submitted  
through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Conservation and Recreation intends to adopt regulations entitled: **VR 215-00-00. Regulatory Public Participation Procedures.** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation.

The purpose of the proposed action is to adopt VR 215-00-00. Regulatory Public Participation Procedures which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 215-00-00. Regulatory Public Participation Procedures require an expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Board, and require the performance of certain analyses.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-107 of the Code of Virginia

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570.

\* \* \* \* \*

August 26, 1992 - 7 p.m. - Public Hearing  
State Water Control Board, Board Room, 4900 Cox Road,  
Innsbrook Corporate Center, Glen Allen, Virginia.  
September 14, 1992 - 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 Department of Conservation and Recreation intends to a repeal regulations entitled: **VR 215-01-00. Public Participation Guidelines** and adopt regulations entitled: **VR 217-00-00. Regulatory Public Participation Procedures.** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulation, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation. The purpose of the proposed action is to repeal VR 215-01-00, Public Participation Guidelines and adopt VR 217-00-00 Regulatory Public Participation Procedures, which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 217-00-00. Regulatory Public Participation Procedures (i) require an expanded notice of intended regulatory action (NOIRA), (ii) require that either a summary or a copy of comments received in response to the NOIRA be submitted to the Department, and (iii) require the performance of certain analyses.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Contact: Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570

## Falls of the James Scenic River Advisory Board

† September 18, 1992 - Noon - Open Meeting  
City Hall, Planning Commission Conference Room, Fifth  
Floor, Richmond, Virginia.

A meeting to review river issues and programs.

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**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

## BOARD OF CORRECTIONS

**August 19, 1992 - 10 a.m. – Open Meeting**  
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☎

A regular monthly meeting to consider such matters as may be presented to the board.

**Contact:** Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

## BOARD FOR COSMETOLOGY

**July 27, 1992 - 9 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

**July 28, 1992 - 9 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Regulatory review.

**Contact:** Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2175.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES

### Criminal History Records Improvement Task Force

† **July 28, 1992 - 9 a.m. – Open Meeting**  
† **July 29, 1992 - 9 a.m. – Open Meeting**  
Sheraton Inn, Route 29, Charlottesville, VA.

A meeting to continue an assessment of and planning for improvements to criminal history records of the Commonwealth.

**Contact:** Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

## BOARD OF DENTISTRY

**August 7, 1992 - 8 a.m. – Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive,

Richmond, Virginia. ☎

Formal hearings.

**August 14, 1992 - 8 a.m. – Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☎

Informal conferences.

**Contact:** Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA, telephone (804) 662-9906.

## GOVERNOR'S ADVISORY COMMISSION ON THE DILLON RULE AND LOCAL GOVERNMENT

**August 6, 1992 - 9:30 a.m. – Open Meeting**  
General Assembly Building, 6th Floor, Richmond, Virginia. ☎

Work session of the commission to develop recommendations based on public input from public hearings.

**Contact:** Paul Grasewicz, Assistant Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-7893.

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**July 30, 1992 - 8 a.m. – Open Meeting**  
James Monroe Building, 101 North Fourteenth Street, Conference Rooms D and E, Richmond, Virginia. ☎  
(Interpreter for deaf provided if requested)

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. Public comment will not be received at the meeting.

**Contact:** Dr. Margaret Roberts, Executive Director, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

\* \* \* \* \*

**July 29, 1992 - 6 p.m. – Public Hearing**  
School of Education, Virginia Commonwealth University, Oliver Hall, Room 4084, 1015 West Main Street, Richmond, Virginia.

**August 29, 1992 –** Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to repeal existing regulations entitled: VR 270-01-0052, Standards for Approval of Teacher Preparation Programs in Virginia, and

adopt new regulations entitled **VR 270-01-0052:1. Regulations Governing Approved Programs for Virginia Institutions of Higher Education.** The proposed regulations state the criteria for the approval of programs to train teachers, administrators, and other school personnel in Virginia colleges and universities. The current regulations, VR 270-01-0052, Standards for Approval of Teacher Preparation Programs in Virginia, are being repealed.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

**Contact:** Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH

† **August 4, 1992 - 5:30 p.m.** – Open Meeting  
Fire Station No. 1, 500 South Glebe Road, Arlington, Virginia.

A general business meeting.

**Contact:** Thomas M. Hawkins, Jr., Chairman, 2100 Clarendon Blvd., Suite 400, Fire Department Administration, Arlington, VA 22201, telephone (703) 358-3365 or (703) 558-2096/TDD TELE

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

† **September 3, 1992 - 5:30 p.m.** – Open Meeting  
† **October 1, 1992 - 5:30 p.m.** – Open Meeting  
Chesterfield County Administration Building, 10,001 Ironbridge Road, Room 502, Chesterfield, Virginia.

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

**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 - WINCHESTER

**August 5, 1992 - 3 p.m.** – Open Meeting  
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A general meeting.

**Contact:** L.A. Miller, Fire Chief, Winchester Fire and

Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 662-2298.

## COUNCIL ON THE ENVIRONMENT

† **August 26, 1992 - 7 p.m.** – Public Hearing  
State Water Control Board, Board Room, 4900 Cox Road, Glen Allen, Virginia.  
**September 25, 1992** – 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 Council on the Environment intends to **repeal** regulations entitled: **VR 305-01-001. Public Participation Guidelines** and adopt regulations entitled: **VR 305-01-001:1. Public Participation Guidelines.** The proposed action is to adopt Public Participation Guidelines that establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines that are consistent with those of other agencies within the Natural Resources Secretariat.

## STATEMENT

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations.

Substance and Purpose: The purpose of the proposed action is to establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion during all phases of the regulatory process, and to establish guidelines which are consistent with those of other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines require additional information as part of the notice of intended regulatory action (NOIRA) and the Notice of Public Comment (NOPC) including a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and comments on the costs and benefits of the alternatives.

Estimated impact: No financial impact on regulated entities or the public is expected from the adoption of the proposed guidelines since the guidelines only impose requirements on the council. Regulated entities and the public should benefit from the proposed adoption in that the guidelines used by the different natural resources agencies will be consistent, and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will be expanded and required.

Issues: To date the following issues have been raised in

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light of the proposed adoption of these guidelines: (i) caution should be used in relying on cost/benefit analyses to evaluate and select a final alternative when developing substantive regulations; (ii) concern that an agency's ability to adopt regulations on an emergency basis is not foreclosed in the final guidelines; (iii) interest in seeing that the final guidelines reflect as closely as possible the special needs of the individual agencies.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1206 F of the Code of Virginia.

Contact: Hannah Crew, Assistant Administrator, Council on the Environment, Suite 900, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-4500.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† August 4, 1992 - 9 a.m. -- Open Meeting  
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia.

A board meeting. Public comment period will be during the first 30 minutes of the meeting beginning at 10 a.m.

State written examination will begin at 9 a.m. with the board meeting immediately following.

A formal hearing will be held at 1 p.m.

† August 5, 1992 - 9 a.m. -- Open Meeting  
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia.

Informal hearings.

† August 18, 1992 - 9 a.m. -- Open Meeting  
Martinsville City Hall, 55 W. Church Street, Counsel Chambers, 2nd Floor, Martinsville, Virginia.

Formal hearing.

† September 1, 1992 - 9 a.m. -- Open Meeting  
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia.

A board meeting. Public comment period will be during the first 30 minutes of the meeting.

† September 2, 1992 - 9 a.m. -- Open Meeting  
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia.

Informal hearings.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

## BOARD OF GAME AND INLAND FISHERIES

† August 27, 1992 - 9:30 a.m. -- Open Meeting  
4010 West Broad Street, Richmond, Virginia.

Committees of the Board of Game and Inland Fisheries will meet, beginning at 9:30 a.m. with the Wildlife and Boat Committee, followed by the Planning Committee, Finance Committee, Law and Education Committee and ending with the Liaison Committee. Each Committee will review those agenda items appropriate to its authority, and make recommendations to the full Board for the adoption and/or the advertisement of such at their August 28 meeting.

During the Wildlife and Boat Committee meeting, staff will present the proposed migratory waterfowl seasons, based on the U.S. Fish and Wildlife Service framework. In addition, a discussion will be held on the disabled hunting and fishing license policy, and a proposed name change for the Trojan Wildlife Management Area to the Princess Anne Wildlife Management Area. Proposed fish regulation changes will also be discussed.

† August 28, 1992 - 9:30 a.m. -- Open Meeting  
4010 West Broad Street, Richmond, Virginia.

The board will meet to adopt the 1992-93 migratory waterfowl seasons and to propose fish regulation changes. The fish regulation proposals will be advertised for public comment. After public input is received, these proposals will be presented to the board for adoption as final regulations at its October 17, 1992, public meeting to be held on Virginia's Eastern Shore.

Other general and administrative matters, as necessary will be discussed, and appropriate actions will be taken.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 367-1000.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

August 10, 1992 - 1 p.m. -- Public Hearing  
Peninsula Health District Auditorium, 416 J. Clyde Morris Boulevard, Newport News, Virginia.

August 11, 1992 - 1 p.m. -- Public Hearing  
Roanoke Municipal Building, 215 Church Avenue SW, Room 415, Roanoke, Virginia.

August 14, 1992 - 1 p.m. -- Public Hearing  
Prince William Department of Social Services, 7987 Ashton Avenue, Manassas, Virginia.

**August 18, 1992 - 1 p.m. - Public Hearing**  
James Monroe Building, Conference Room C, Richmond, Virginia.

**September 14, 1992 -** Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Medical Care Services.** The purpose of the proposed action to amend the regulations that establish charges and provide guidelines for determining eligibility for services provided by the Department of Health.

Statutory Authority: § 32.1-11 of the Code of Virginia.

**Contact:** Dave Burkett, Administrator, Department of Health, P.O. Box 2448, Room 237, Richmond, VA 23218, telephone (804) 371-4089.

## BOARD OF HEALTH PROFESSIONS

† **August 20, 1992 - 9 a.m. - Open Meeting**  
General Assembly Building, House Room C, 910 Capitol Square, Richmond, Virginia.

The board invites public comments in the review of the House Joint Resolution No. 41 of the 1992 Session of the General Assembly "to investigate the feasibility and desirability of establishing a program of certifying or otherwise assessing the credentials of persons, particularly therapists, who provide mental health treatment to victims of sexual assault and social assault offenders." Oral testimony should be limited to five minutes and may be accompanied by written documents of any length. Please call contact person for testimony reservation. All written comments must be received at this address no later than 5 p.m. August 31, 1992.

**Contact:** Russell Porter, Research Associate, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

## Research Committee Task Force

† **August 19, 1992 - 2 p.m. - Open Meeting**  
General Assembly Building, House Room 5 West, 910 Capitol Square, Richmond, Virginia

The committee will meet to review policies and procedures related to regulatory management of health care providers licensed or certified by the Department of Health Professions whose ability to practice safely is, or may be, impaired by chemical dependency. This meeting is open to the public, but no public comments will be accepted at this meeting.

**Contact:** Russell Porter, Research Associate, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**July 28, 1992 - 9:30 a.m. - Open Meeting**  
**August 25, 1992 - 9:30 a.m. - Open Meeting**  
† **September 22, 1992 - 9:30 a.m. - Open Meeting**  
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Virginia Room, Richmond, Virginia.

A regular monthly meeting.

**Contact:** Kim Schulte Barnes, Information Officer, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

\* \* \* \* \*

**September 11, 1992 -** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The regulations will implement the statutory changes made to § 9-160 (3) of the Code of Virginia regarding the council's Commercial Diversification Survey and implement the requirement that the council collect IRS Form 990s from not-for-profit health care institutions.

Statutory Authority: §§ 9-160 (3), 9-160 (5) and 9-164 (2) of the Code of Virginia.

**Contact:** John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## DEPARTMENT OF HISTORIC RESOURCES

† **August 26, 1992 - 7 p.m. - Public Hearing**  
State Water Control Board Office, 4900 Cox Road, Glen Allen, Virginia.

**September 30, 1992 -** 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 Department of Historic Resources intends to adopt regulations entitled: **VR 392-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines that establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all

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phases of the regulatory process and establish guidelines that are consistent with those of other agencies within the Natural Resources Secretariat.

## STATEMENT

**Basis and statutory authority:** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 10.1-2202 of the Code of Virginia authorizes the Director of the Department of Historic Resources to adopt regulations necessary to carry out his duties as State Historic Preservation Officer to include, at a minimum, the criteria and procedures for nominating properties to the National Park Service for inclusion in the National Register of Historic Places or for designation as National Historic Landmarks.

**Substance:** Specifically, the proposed guidelines require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. The proposal requires that the department prepare a summary of comments received. In addition, the proposal requires that certain analyses be performed, a statement of the performance of the analyses be included in the notice of public comment period, and the analyses be available to the public upon request.

**Estimated impact:** No financial impact on regulated entities or the public is expected from the adoption of the proposed Public Participation Guidelines since the guidelines only impose requirements on the director. Regulated entities and the public should benefit from the proposed adoption in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

**Issues:** In addition to the issue of whether or not the director should adopt the proposed guidelines, public participation to date has raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? Should the director have any discretion to forego a public meeting during the NOIRA public comment period? Should dissemination of the NOPC in multiple newspapers be mandatory rather than at the department's discretion? Can public participation guidelines accurately recognize the costs or other impacts of proposed regulatory actions?

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2202 of the Code of Virginia.

**Contact:** H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

## Board of Historic Resources

† **August 26, 1992 - 7 p.m.** – Public Hearing  
State Water Control Board Office, 4900 Cox Road, Glen Allen, Virginia.

**September 30, 1992** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Historic Resources intends to adopt regulations entitled: **VR 390-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines that establish, in regulation, various provisions to ensure that interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines that are consistent with those of other agencies within the Natural Resources Secretariat.

## STATEMENT

**Basis and statutory authority:** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and development of its regulations. Section 10.1-2205 of the Code of Virginia authorizes the Board of Historic Resources to adopt regulations necessary to carry out its duties to include, at a minimum, the criteria and procedures for designating properties for inclusion in the Virginia Landmarks Register.

**Substance:** The proposed guidelines require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. The proposal requires that the department prepare a summary of comments received. In addition, the proposal requires that certain analyses be performed, a statement of the performance of the analyses be included in the notice of public comment period, and the analyses be available to the public upon request.

**Estimated impact:** No financial impact on regulated entities or the public is expected from the adoption of the proposed Public Participation Guidelines since the guidelines only impose requirements on the board and department. Regulated entities and the public should benefit from the proposed adoption in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and

be required by regulation.

**Issues:** In addition to the issue of whether or not the board should adopt the proposed guidelines, public participation to date has raised, among other things, the following issues: Should ad hoc advisory committees be established for all regulatory actions and if not, under what criteria should the decision to establish an ad hoc advisory committee be made? Should the director have any discretion to forego a public meeting during the NOIRA public comment period? Should dissemination of the NOPC in multiple newspapers be mandatory rather than at the department's discretion? Can public participation guidelines accurately recognize the costs or other impacts of proposed regulatory actions?

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2205 of the Code of Virginia.

**Contact:** H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

† August 19, 1992 - 10 a.m. – Open Meeting  
General Assembly Building, Senate Room A, Richmond, Virginia.

A general business meeting to include the consideration of the following properties for the Virginia Landmarks Register:

1. Annandale, Botetourt Co.
2. Blandy Experimental Farm, Clarke Co.
3. Samuel Miller House, Lynchburg
4. Whitehurst House, Virginia Beach
5. Chuckatuck Historic District, Suffolk
6. Driver Historic District, Suffolk
7. Holland Historic District, Suffolk
8. Whaleyville Historic District, Suffolk
9. The Pocahontas Historic District as a National Historic Landmark, Tazewell County

**Contact:** Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## State Review Board

† August 18, 1992 - 10 a.m. – Open Meeting  
General Assembly Building, Senate Room A, Richmond, Virginia.

A meeting to consider the nomination of the following properties to the National Register of Historic Places:

1. Annandale, Botetourt Co.
2. Blandy Experimental Farm, Clarke Co.
3. Samuel Miller House, Lynchburg
4. Whitehurst House, Virginia Beach
5. Chuckatuck Historic District, Suffolk
6. Driver Historic District, Suffolk

7. Holland Historic District, Suffolk
8. Whaleyville Historic District, Suffolk
9. The Pocahontas Historic District as a National Historic Landmark, Tazewell County

**Contact:** Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## CENTER FOR INNOVATIVE TECHNOLOGY

† August 6, 1992 - 2:30 p.m. – Open Meeting  
Continuous Electron Beam Accelerator Facility, Newport News, Virginia.

A general meeting.

**Contact:** Michael P. Gleason, Director of Communications, Center for Innovative Technology, CIT Building, No. 600, 2214 Rock Hill Rd., Herndon, VA 22070, telephone (703) 689-3013.

## DEPARTMENT OF LABOR AND INDUSTRY

### Migrant and Seasonal Farmworkers Board

July 29, 1992 - 10 a.m. – Open Meeting  
State Capitol Building, House Room 1, Richmond, Virginia. ☎

A regular meeting. The Subcommittee on the Complaint Resolution Process will meet immediately following the regular board meeting.

**Contact:** Marilyn Mandel, Director, Office of Planning and Policy Analysis, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2385.

## LAND EVALUATION ADVISORY COUNCIL

August 26, 1992 - 10 a.m. – Open Meeting  
September 11, 1992 - 10 a.m. – Open Meeting  
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☎

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space landuse and the use value assessment program.

**Contact:** David E. Jordan, Acting Property Tax Director, Virginia Department of Taxation, Property Tax Division, P.O. Box 1-K, Richmond, VA 23201, telephone (804) 367-8020.



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## LONGWOOD COLLEGE

### Board of Visitors

**July 27, 1992 - 9 a.m.** - Open Meeting  
Longwood College, Virginia Room, Ruffner Building,  
Farmville, Virginia. ☒

A meeting to conduct routine business of the board.

**Contact:** William F. Dorrill, President, President's Office,  
201 High St., Longwood College, Farmville, VA 23909-1899,  
telephone (804) 395-2001.

## STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

**July 27, 1992 - 10 a.m.** - Open Meeting  
**NOTE: CHANGE IN AUGUST MEETING DATE**  
† **August 28, 1992 - 10 a.m.** - Open Meeting  
State Lottery Department, 2201 West Broad Street,  
Richmond, Virginia. ☒

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

**Contact:** Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

\* \* \* \* \*

**July 27, 1992** - Written comments may be submitted through this date.  
**July 27, 1992 - 10 a.m.** - Public Hearing  
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-01-2. Administration Regulations.** These proposed amendments will conform to legislative intent and make technical and housekeeping changes.

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

**Contact:** Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

\* \* \* \* \*

**July 27, 1992** - Written comments may be submitted through this date.  
**July 27, 1992 - 10 a.m.** - Public Hearing  
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-1.**

**Instant Game Regulations.** These amendments promulgate emergency regulations regarding prize payments, conform to legislative intent, and address housekeeping and technical changes.

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

**Contact:** Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

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**July 27, 1992** - Written comments may be submitted through this date.  
**July 27, 1992 - 10 a.m.** - Public Hearing  
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-2. On-Line Game Regulations.** These amendments promulgate emergency subscription regulations, conform to legislative intent, and make housekeeping and technical changes.

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

**Contact:** Barbara L. Robertson, Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

## MARINE RESOURCES COMMISSION

**July 28, 1992 - Noon** - Public Hearing  
Virginia Marine Resources Commission, Fourth Floor, 2600 Washington Avenue, Newport News, Virginia.

The commission invites public comment on proposed regulation amendments concerning the fall 1992 striped bass season and the spring 1993 fyke net fishery for striped bass.

**Contact:** Deborah R. McCalester, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2248.

**July 28, 1992 - Noon** - Public Hearing  
Virginia Marine Resources Commission, Fourth Floor, 2600 Washington Avenue, Newport News, Virginia.

The commission invites public comment on a proposal to limit entry to the commercial pound net fishery.

**Contact:** Deborah R. McCalester, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2248.

**July 28, 1992 - 9:30 a.m.** - Open Meeting  
† **August 25, 1992 - 9:30 a.m.** - Open Meeting  
† **September 22, 1992 - 9:30 a.m.** - Open Meeting  
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for 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: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

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**August 26, 1992 - 7 p.m. - Public Hearing**  
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

**September 11, 1992 -** 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 Marine Resources Commission intends to amend regulations entitled: **VR 450-01-0045. Public Participation Procedures.** The proposed amendments will (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia

**Contact:** Robert W. Grabb, Chief, Habitat Management, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

## BOARD OF MEDICINE

### Credentials Committee

**August 15, 1992 - 8 a.m. - Open Meeting**  
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia, in open and executive session; and (iii) discuss any other items which may come before the committee. Public comments will not be received.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9923.

### Executive Committee

**August 14, 1992 - 9 a.m. - Open Meeting**  
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) review closed cases; (ii) review cases/files requiring administrative action; and (iii) consider any other items which may come before the committee. Public comments will not be received.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9923.

### Joint Committees on Acupuncture

† **September 17, 1992 - Noon - Open Meeting**  
1601 Rolling Hills Drive, Surry Building, Board Room 3, Richmond, Virginia.

The joint Committees on Acupuncture will review proposed regulations pursuant to § 54.1-2956.9 of the Code of Virginia for the practice of acupuncture by acupuncturists in Virginia, and propose recommendations to the full board. The Chairman may entertain public comments.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, Virginia Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9923.

### MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

† **August 6, 1992 - 7 p.m. - Open Meeting**  
† **September 3, 1992 - 7 p.m. - Open Meeting**  
502 South Main Street No. 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before it for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

**Contact:** Lisa Ann Peacock, Program Director, 502 S. Main

# Calendar of Events

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St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

## VIRGINIA MILITARY INSTITUTE

### Board of Visitors

† **September 5, 1992 - 8:30 a.m.** – Open Meeting.  
Virginia Military Institute, Smith Hall Board Room,  
Lexington, Virginia.

A regular meeting of the VMI Board of Visitors to conduct the following business: (i) election of president, (ii) committee appointment, (iii) committee reports.

An opportunity for public comment will be provided immediately after the Superintendent's comments (about 9 a.m.).

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206, FAX (703) 464-7660.

## DEPARTMENT OF MOTOR VEHICLES

**August 28, 1992** – Written comments may be submitted through this date.

**August 31, 1992 - 9:30 a.m.** – Public Hearing  
Department of Motor Vehicles, 2300 West Broad Street,  
Monticello Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to repeal regulations entitled: **VR 485-10-9001. Commercial Driver Training Schools Regulations** and adopt regulations entitled: **VR 485-10-9001:1. Commercial Driver Training Schools Regulations**. Pursuant to § 46.2-1703 of the Code of Virginia, the Commissioner of the Department of Motor Vehicles intends to repeal existing regulations (VR 485-10-9001) and adopt new regulations, VR 485-10-9001:1, pertaining to commercial driver training schools. The proposed regulations will establish the licensing and regulatory provisions for commercial driver training schools and instructors. These regulations may affect any person, group or organization involved or associated with commercial driver training school instruction. Anyone wishing to comment on the proposed regulations may do so by contacting M. E. Smith, Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, or by calling (804) 367-2447 on or before August 3, 1992.

Statutory Authority: §§ 46.2-203 and 46.2-1703 of the Code of Virginia.

**Contact:** M. E. Smith, Program Manager, Department of

Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-2447.

## VIRGINIA MUSEUM OF NATURAL HISTORY

### Board of Trustees

† **August 1, 1992 - 9 a.m.** – Open Meeting  
Virginia Museum of Natural History, 1001 Douglas Avenue,  
Martinsville, Virginia.

The meeting will include reports from the executive, finance, outreach, marketing, personnel, planning/facilities, and research and collections committees.

Public comment will be received following approval of the minutes of the May meeting.

**Contact:** Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8638/TDD ☎

## BOARD OF NURSING

**July 27, 1992 - 9 a.m.** – Open Meeting

**July 28, 1992 - 9 a.m.** – Open Meeting

**July 29, 1992 - 9 a.m.** – Open Meeting

Department of Health Professions, Conference Room 1,  
1601 Rolling Hills Drive, Richmond, Virginia. ☒  
(Interpreter for deaf provided upon request)

A meeting to consider matters related to nursing education programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board.

Public comment will be received during an open forum session beginning at 11 a.m. on Monday, July 27, 1992.

**Contact:** Corinne F. Dorsey, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

## VIRGINIA OUTDOORS FOUNDATION

**August 3, 1992 - 10:30 a.m.** – Open Meeting  
Sheraton Hotel, Fredericksburg, Virginia. ☒

A general business meeting.

**Contact:** Tyson B. VanAuken, Executive Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-5539.

## BOARD OF PHARMACY

### NOTE: CHANGE IN MEETING TIME

**July 28, 1992 - 8:30 a.m. – Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive,  
Conference Room 2, Richmond, Virginia.

Informal conferences.

**July 30, 1992 - 9 a.m. – Open Meeting**  
Department of Health Professions, 1601 Rolling Hills Drive,  
Conference Room 4, Richmond, Virginia.

Formulation of board regulations necessary to implement 1992 legislation pursuant to the "Notice of Intended Regulatory Action" published on June 29, 1992.

**Contact:** Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

## BOARD OF PSYCHOLOGY

**August 15, 1992 –** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Psychology intends to amend regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The proposed regulations establish requirements governing the practice of psychology in the Commonwealth. They include requirements necessary for licensure; criteria for the examinations; standards of practice; and procedures for the disciplining of psychologists. The proposed regulations respond to a biennial review conducted in accordance with Executive Order 5 (86) of Governor Gerald L. Baliles. The review of the regulations resulted in revisions to existing regulations. All relevant documents are available for inspection at the office of the Board of Psychology, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9913.

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

**Contact:** Evelyn B. Brown, Executive Director, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229, telephone (804) 662-9913.

## REAL ESTATE APPRAISER BOARD

**August 18, 1992 - 10 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia.

A general business meeting.

**Contact:** Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2175.

## REAL ESTATE BOARD

**July 28, 1992 - 10:00 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia.

The board will meet to conduct a formal hearing: File No. 91-00332, Real Estate Board v. Eve A. Freedlander.

**Contact:** Susie Winslow, Legal Assistant, Department of Commerce, 3600 W. Broad St., Fifth Floor, Richmond, VA 23230, telephone (804) 367-2393.

† **August 6, 1992 - 9 a.m. – Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia.

A meeting to conduct board business including review of applications, disciplinary cases, correspondence, etc.

**Contact:** Joan L. White, Assistant Director, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8552.

## INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

### Coordinating Committee

**August 21, 1992 - 8:30 a.m. – Open Meeting**  
**September 18, 1992 - 8:30 a.m. – Open Meeting**  
Office of the Coordinator, Interdepartmental Regulation,  
1603 Santa Rosa Road, Tyler Building, Suite 208,  
Richmond, Virginia. ☐

A regular meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

**Contact:** John J. Allen, Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**August 19, 1992 - 2 p.m. – Open Meeting**  
**August 20, 1992 - if necessary - 9 a.m. – Open Meeting**  
Department of Social Services, 8007 Discovery Drive,  
Richmond, Virginia. ☐

A work session and formal business meeting of the board.

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**Contact:** Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

## BOARD OF SOCIAL WORK

**September 13, 1992** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Work intends to amend regulations entitled: **VR 620-01-2. Regulations Governing the Practice of Social Work.** The proposed regulations establish standards of practice for social work, supervised experience and examination for licensure and record keeping.

Statutory Authority: Chapter 31 of Title 54.1 of the Code of Virginia.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229, telephone (804) 662-9914.

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**August 26, 1992 - 7 p.m.** – Public Hearing

State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

**September 14, 1992** – 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 Virginia Soil and Water Conservation Board intends to repeal existing regulations entitled: **VR 625-00-00. Public Participation Guidelines** and adopt new regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Procedures.** Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested persons in the formation and developments of its regulations. Such guidelines shall not only be utilized prior to the formation and drafting of the proposed regulations, but shall also be utilized during the entire formation, promulgation and final adoption process of a regulation. The purpose of the proposed action is to repeal the existing Public Participation Guidelines and adopt VR 625-00-00:1. Regulatory Public Participation Procedures, which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish procedures which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed VR 625-00-00:1. Regulatory Public Participation Procedures require an

expanded notice of intended regulatory action, require that either a summary or a copy of comments received in response to the NOIRA be submitted to the board, and require the performance of certain analyses.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-502, 10.1-603.18, 10.1-605, and 10.1-637 of the Code of Virginia

**Contact:** Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570

## DEPARTMENT OF STATE POLICE

**August 28, 1992** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to amend regulations entitled: **VR 545-01-03. Standards and Specifications for the Stickers or Decals Used by Counties, Cities and Towns in Lieu of License Plates.** This revision will make the standards and specifications for stickers and decals used in lieu of license plates consistent with existing state law and motor vehicle safety inspection rules and regulations with regards to placement.

Statutory Authority: §§ 46.2-1052 and 52-8.4 of the Code of Virginia.

**Contact:** Captain J. P. Henries, Safety Officer, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

## VIRGINIA COUNCIL ON TEENAGE PREGNANCY PREVENTION

**August 6, 1992 - 10 a.m.** – Open Meeting

Virginia Housing Development Authority, 601 Belvidere Street, Richmond, Virginia. ☒

A quarterly business meeting.

**Contact:** Harriet M. Russell, Director, PPLS, Department of Mental Health, Mental Retardation and Substance Services, 109 Governor St., Richmond, VA 23230, telephone (804) 786-1530.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

**August 10, 1992 - 1 p.m.** – Public Hearing

Highway Auditorium, 1221 East Broad Street, Richmond, Virginia.

**August 17, 1992** – 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 Commonwealth Transportation Board intends to amend regulations entitled: **VR 385-01-5. Hazardous Materials Transportation Rules and Regulations at Bridge-Tunnel Facilities.** The Department of Transportation is authorized by §§ 33.1-12(3) and 33.1-49 of the Code of Virginia to regulate use of state highways and the interstate system to protect the safety to traffic. The proposed amendments to the Hazardous Materials Transportation Manual (i) change the regulations to allow vehicles which use natural gas (or gases with similar properties) as fuel to use the tunnel facilities in the Commonwealth; and (ii) change the regulations pertaining to the conditions under which low-pressure liquid oxygen can be transported through tunnel facilities in the Commonwealth.

Amending the manual allows Virginia to keep its regulations up-to-date with new chemicals and how they may be used or transported. Without these amendments, natural gas-powered vehicles and carriers of low-pressure liquid oxygen not in conformance with the amendments will be unable to use the tunnels.

Statutory Authority: §§ 33.1-12(3) and 33.1-49 of the Code of Virginia.

Written comments may be submitted until August 17, 1992, to Mr. J.L. Butner, Traffic Engineering Division, Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

**Contact:** C.A. Abernathy, Transportation Engineer, Traffic Engineering Division, Virginia Department of Transportation, Room 206, Highway Annex, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2889.

† **August 19, 1992 - 2 p.m. - Open Meeting**  
Virginia Department of Transportation, Board Room, 1401 E. Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Work session of the Commonwealth Transportation Board and the Department of Transportation Staff.

**Contact:** John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

† **August 21, 1992 - 10 a.m. - Open Meeting**  
Virginia Department of Transportation, Board Room, 1401 E. Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A 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.

**Contact:** John G. Milliken, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

## TRANSPORTATION SAFETY BOARD

**September 10, 1992 - 9:30 a.m. - Open Meeting**  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.

This meeting will deal exclusively with the distribution of USDOT Funds for approved grant requests.

**Contact:** William H. Leighty, Deputy Commissioner, Transportation Safety, DMV, 2300 W. Broad St., Richmond, VA 23219, telephone (804) 367-6614 or (804) 367-1752/TDD

## GOVERNOR'S COMMISSION ON VIOLENT CRIME

**August 6, 1992 - 10 a.m. - Open Meeting**  
General Assembly Building, House Room D, Richmond, Virginia. ☒

Second meeting of commission. Guest speakers.

**Contact:** Kris Ragan, Special Assistant to Secretary Rollins, Secretary of Public Safety, Ninth Street Office Bldg., 6th Floor, Richmond, VA 23219, telephone (804) 786-5351.

## VIRGINIA RACING COMMISSION

† **September 16, 1992 - 9:30 a.m. - Public Hearing**  
Marion Dupont Scott Equine Center, 542 Old Waterford Road, Leesburg, Virginia.

**September 28, 1992 -** 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 Virginia Racing Commission intends to adopt regulations entitled: **VR 662-04-04. Virginia Breeders Fund.** The purpose of the proposed regulation is to establish the conditions under which the Virginia Breeders Funds shall be disbursed to Stallion owners, breeders and owners of racehorses.

## STATEMENT

Statement of purpose: This regulation, VR 662-04-04. Virginia Breeders Fund, sets forth the conditions under which the Virginia Breeders Fund shall be disbursed to

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stallion owners, breeders and owners of Virginia-bred racehorses. This regulation is essential so that the native industry of horse breeding may be strengthened.

## Estimated impact:

1. Entities affected: Stallion owners, breeders and owners of Virginia-bred racehorses will be directly affected. Criteria have been defined whereby the owners of stallions and broodmares may be considered eligible for awards from the Virginia Breeders Fund and owners of Virginia-bred racehorses may be eligible to race their horses in races restricted to Virginia-breds. Also, a registration procedure has been delineated in the regulation to accomplish the purposes of the Virginia Breeders Fund. It should be noted that representatives of the various breed associations have participated in the development of this regulation.

In the January 1, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of the regulation pertaining to establishment of procedures for the Virginia Breeders Fund. The commission allocated time during its regular monthly commission meetings for the drafting of this regulation pertaining to the Virginia Breeders Fund. During these meetings, counsel from the Attorney General's Office was present and commented upon the various drafts. Copies of the drafts were made available to all requesting them, and copies were distributed to the commission's advisory group, which includes representatives of the Virginia Thoroughbred Association, the Virginia Harness Horsemen's Association, the Virginia Quarter Horse Association, the Virginia Steeplechase Association, and breeders of Arabian horses.

This regulation represents a consensus of the commissioners and the parties who participated in the drafting process. This regulation delineates the attributes necessary for a horse to be considered a Virginia-bred and the qualifications necessary for a stallion or broodmare to be eligible for awards from the Virginia Breeders Fund.

## 2. Fiscal impact:

a. Cost to affected entities: There will be no costs to stallion owners, breeders and owners of racehorses in regards to the administration of the Virginia Breeders Fund. There will be no fees assessed because the cost of administering the fund to the commission will be deducted from the fund.

b. Cost to the commission: There will be some costs to the commission for administering a rather elaborate registration procedure mandated by this regulation. The costs could range from \$50,000 to \$100,000 per fiscal year, depending upon the extent of regulation required to ensure compliance with the regulation.

c. Source of commission funds: The cost to the

commission for administering the regulation will be deducted from the Virginia Breeders Fund. This fund is derived by taking one percent from the pari-mutuel handle generated on the pari-mutuel wagering at the racetrack and satellite facilities.

Legal authority: Section 59.1-369 of the Code of Virginia authorizes the commission to promulgate regulations and establish conditions under which horse racing and pari-mutuel wagering shall be conducted.

Need: This regulation is essential for the proper administration of the Virginia Breeders Fund. Procedures must be in place so that horses may be determined eligible for races restricted to Virginia-breds and whether the stallion owners and breeders qualify for payment of awards from the fund.

Small business impact: There will be substantial positive impact on small businesses that supply goods and services to the horse breeding farms located in Virginia. The payment of awards from the fund will revive the horse breeding industry in Virginia and provide for substantial employment opportunities. It will also provide incentive to keep farming operations viable.

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

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

## VIRGINIA RESOURCES AUTHORITY

**August 11, 1992 - 9 a.m. - Open Meeting**  
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of its July 14, 1992, meeting; (ii) review the Authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting.

Public comments will be received at the beginning of the meeting.

**September 15, 1992 - 9 a.m. - Open Meeting**  
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of its August 11, 1992, meeting; (ii) review the Authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting.

Public comments will be received at the beginning of the meeting.

**Contact:** Mr. Shockley D. Gardner, Jr., 909 E. Main St., Suite 707, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX number (804) 644-3109.

## VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

**August 5, 1992 - Noon** – Open Meeting  
Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia.

Luncheon at noon, general session at 2 p.m. and executive committee meeting at 3:30 p.m.

**August 6, 1992 - 8:30 a.m.** – Open Meeting  
Jefferson Hotel, Franklin and Adams Streets, Richmond, Virginia.

Business session.

**Contact:** George S. Orr, Jr., Virginia Council on Vocational Education, 7420-A Whitepine R., Richmond, VA 23237, telephone (804) 275-6218.

## VIRGINIA VOLUNTARY FORMULARY BOARD

**September 10, 1992 - 10:30 a.m.** – Open Meeting  
1100 Bank Street, Washington Building, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4236.

## DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

**July 29, 1992 - 1 p.m.** – Open Meeting  
Tidewater Community College, Virginia Beach Campus, 1700 College Crescent, Virginia Beach, Virginia. (Interpreter for deaf provided upon request)

**July 30, 1992 - 1 p.m.** – Open Meeting  
Lord Fairfax Community College, Room 12, Route 11, Middletown, Virginia. (Interpreter for deaf provided upon request)

**August 4, 1992 - 1 p.m.** – Open Meeting  
Virginia Highland Community College, SR 372 off Route 40, Exit 14 off I-81, Abingdon, Virginia. (Interpreter for deaf provided upon request)

**August 5, 1992 - 10 a.m.** – Open Meeting  
Danville Community College, Wyatt Room 206, 1008 South Main Street, Danville, Virginia. (Interpreter for deaf provided upon request)

**August 6, 1992 - 1 p.m.** – Open Meeting  
Piedmont Virginia Community College, Exit 121A Off I-64, Charlottesville, Virginia. (Interpreter for deaf provided upon request)

Representatives from the Department of Waste Management will be explaining the proposed changes and additions, including the new subtitle D requirements, to the Virginia Solid Waste Management Regulations, VR 672-20-10.

**Contact:** Michael P. Murphy, Environmental Program Manager, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3237 or (804) 371-8737/TDD ☎

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**August 26, 1992 - 7 p.m.** - Public Hearing  
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

**September 14, 1992** – 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 Virginia Waste Management Board intends to repeal existing regulations entitled: **VR 672-01-1. Public Participation Guidelines.** and adopt new regulations entitled: **VR 672-01-1:1. Public Participation Guidelines.** The purpose of the proposed action is to repeal the existing regulations and adopt Public Participation Guidelines which establish, in regulation, various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the proposed guidelines require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the costs on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. The proposal requires that either a summary or a copy of comments received in response to the Notice of Intended Regulatory Action be submitted to the Waste Management Board. In addition, the proposal requires that certain analyses be performed, a statement of the performance of the analyses be included in the notice of public comment period, and the analyses be available to the public upon request.



# Calendar of Events

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402 (11) of the Code of Virginia

**Contact:** Mary Clark German, Public Information Officer, 11th Floor, Monroe Building, 101 North 14th St., Richmond, VA 23219, telephone (804) 225-2992.

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† **September 1, 1992 - 1 p.m.** – Public Hearing  
Wytheville Community College, Grayson Hall Commons, Wytheville, Virginia.

† **September 2, 1992 - 9 a.m.** – Public Hearing  
Central Virginia Community College, Auditorium (Room 2123), Lynchburg, Virginia.

† **September 15, 1992 - 2 p.m.** – Public Hearing  
James City County Board Room, 101-C Mounts Bay Road, Williamsburg, Virginia.

† **September 16, 1992 - 1 p.m.** – Public Hearing  
Culpeper County Board Room, 135 West Cameron Street, Culpeper, Virginia.

**September 25, 1992** – 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 Virginia Waste Management Board intends to amend regulations entitled: **VR 672-20-10. Solid Waste Management Regulations.** The Virginia Waste Management Board and the Director of the Department of Waste Management propose to amend the Virginia Solid Waste Management Regulations (VR 672-20-10) to incorporate changes in the Virginia Waste Management Act enacted by the General Assembly, to bring Virginia regulations in compliance with the newly promulgated federal Criteria for Municipal Solid Waste Landfills (Part 258, Title 40, Code of Federal Regulations), and to reflect the department's experience with the administration of its regulations gained since 1988.

## STATEMENT

**Basis:** Section 10.1-1402(11) of the Virginia Waste Management Act contained in Chapter 14, Title 10.1, Code of Virginia authorizes the Virginia Waste Management Board to issue regulations as may be necessary to carry out its powers and duties required by the Act.

**Purpose:** The Virginia Waste Management Board and the Director of the Department of Waste Management propose to amend the regulation entitled "Solid Waste Management Regulations" (VR 672-20-10) to incorporate changes in the Virginia Waste Management Act enacted by the General Assembly, to bring the Virginia regulations into compliance with the newly promulgated federal Criteria for Municipal Solid Waste Landfills, and to reflect the Department's experience with the administration of the Virginia Solid

Waste Management Regulations gained since 1988.

**Substance and issues:** The proposed Amendment 1 contains the changes necessary to reflect amendments to the Virginia Waste Management Act enacted by the 1989, 1990, 1991, and 1992 sessions of the General Assembly which include the increased penalties for noncomplying facilities, new requirements for disclosure statements to be submitted by the owners or operators of the solid waste management facilities on behalf of their key personnel, statutory prohibition of the disposal of lead acid batteries, extension of the compliance deadlines for the construction of landfill liners, and adoption of the federally mandated capping standards for facilities undergoing closure.

The changes required by the newly promulgated federal Criteria for Municipal Solid Landfills (Part 258, Title 40, Code of Federal Regulations) will significantly affect the siting, the operation and the design of all sanitary landfills starting on October 9, 1993. These regulations are designed to offer considerable regulatory flexibility to the states that adopt the minimum federal requirements and are able to show the United States Environmental Protection Agency (EPA) that their regulatory program meet the requirements of EPA's State and Tribal Implementation Rule. Ability to tailor the state program to its environmental conditions will greatly benefit the citizens and the regulated community.

Since the promulgation of the Virginia Solid Waste Management Regulations in December 1988, it was determined that many procedures contained in the regulations can be streamlined to provide for faster and more efficient administration of the program. To achieve this simplification, it is proposed that the permitting and variance procedures be substantially amended. Additionally, it was found that many design and operational performance requirements were either overly broad and gave insufficient guidance to the regulated community, or were too restrictive in their scope thus limiting the exercise of the normal professional judgment on the part of the applicant.

**Impact:** The number and type of the solid waste management facilities that may be affected by the proposed changes are shown below.

Type of Facility	Government Owned	Privately Owned	TOTAL
Sanitary Landfill	128	6	134
Construction/ Debris Landfill	10	26	36
Industrial Landfill	2	35	37
Other	20	9	29
TOTAL	160	76	236

The majority of the proposed changes dictated by the legislature was designed to lessen the fiscal impact on the regulated community by deferring the deadlines or reducing the regulatory requirements. The remainder of

the statutory changes were designed to enhance the ability of the department to enforce the regulations thus reducing the fiscal impact on its program by discouraging the noncompliance and simplifying the procedural requirements.

Adoption of the changes required to bring the Virginia program in line with the federal requirements would enable the department to issue variances to the federal standards. The ability to tailor the program to conditions prevailing in the Commonwealth would offer considerable flexibility in achieving the environmental goals in a more efficient manner and at a lesser cost to the regulated community. At the same time, it should be understood that many irreducible federal standards will increase the costs of compliance to the facilities and the costs of administering the program. Such increases are unavoidable and are independent to the changes promulgated by the department.

The overall effect of the discretionary changes would be to reduce the compliance and the administrative costs by streamlining the administrative procedures or by the removal of the ambiguities associated with the vague or unattainable performance standards.

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

Written comments may be submitted until September 25, 1992, to Wladimir Gulevich, Department of Waste Management, Monroe Building, 11th Floor, 101 N. 14th Street, Richmond, Virginia 23219.

**Contact:** Michael P. Murphy, Environmental Programs Manager, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3237.

\* \* \* \* \*

† **September 15, 1992 - 12:30 p.m.** – Public Hearing  
James City County Board Room, 101-C Mounts Bay Road,  
Williamsburg, Virginia.

**September 25, 1992** – 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 Virginia Waste Management Board intends to amend regulations entitled: **VR 672-10-1. Virginia Hazardous Waste Management Regulations.** Since the adoption of Amendment 11 of the Virginia Hazardous Waste Management Regulations on March 7, 1991, with an effective date of July 1, 1991, the United States Environmental Protection Agency made a significant number of changes to its regulations. During the period from July 1, 1990 to June 30, 1991, EPA promulgated regulations dealing with wood preserving operations, industrial boilers and furnaces, and added a number of new listings. EPA also made a number of corrections to the toxicity characteristic rule and continued with its promulgation of land disposal

requirements. These and other less far-reaching changes require prompt regulatory action by the Commonwealth. At the same time, the Commonwealth is also going back and incorporating a portion of the mining waste changes which were made by EPA in January 1990. Because of pending litigation, these changes were not incorporated into Amendment 11. Furthermore, because of a recent court decision, only a portion of these changes are proposed to be included in Amendment 12 at this time. Several of the changes included in proposed Amendment 12 are intended to make certain provisions no more stringent than their federal counterparts; these include changes regarding delistings, changes impacting upon "clean closures," the closed-loop recycling exclusion, transporter requirements, and notification requirements for minor permit modifications.

## STATEMENT

**Basis:** Section 10.1-1402(11) of the Virginia Waste Management Act contained in Chapter 14, Title 10.1, Code of Virginia authorizes the Virginia Waste Management Board to issue regulations as may be necessary to carry out its powers and duties required by the Act and consistent with the federal statutes and regulations.

**Purpose:** The Virginia Waste Management Board and the Director of the Department of Waste Management propose to amend the existing Virginia Hazardous Waste Management Regulations (VR 672-10-1) to continue the effective monitoring of the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth. By regulating these activities the Commonwealth protects public health, natural resources and the environment. By maintaining the equivalence of its regulations with those issued by the United States Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA), the Commonwealth remains eligible to carry out its own hazardous waste management program instead of the federal program.

**Substance and issues:** All substantive modifications and additions proposed to be contained in Amendment 12 to the Virginia Hazardous Waste Management Regulations are being made in response to changes made by EPA in the federal regulation implementing RCRA and HSWA. In order to maintain its authorization to conduct the hazardous waste program in Virginia, the department is required by federal statute to update its regulations and conform them to the more stringent federal requirement on an annual basis; less stringent federal changes are optional. Proposed Amendment 12 contains certain changes that were adopted by EPA between July 1, 1990 to June 30, 1991. The proposed amendment will also include a portion of the mining waste changes made by EPA on January 23, 1990. These changes were not included in Amendment 11 because of litigation and will not be included in their entirety now because of a December

# Calendar of Events

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1991 DC Circuit Court remand of a portion of the rules to EPA.

## Adoption of more stringent federal regulations.

A majority of the changes proposed in Amendment 12 involve more stringent federal regulations which will either affect companies already regulated or will extend the regulations to those previously unregulated. The corresponding federal requirements appearing in the Federal Register resulting in more stringent regulation are as follows:

January 23, 1990: Mining/mineral processing waste determinations not picked up previously in Amendment 11. (Not included in its entirety due to court remand on light-weight aggregate and chloride-ilmenite processes; these wastes remain excluded until further EPA action.)

November 2, 1990: Petroleum refining listings F037 and F038 (and as corrected in the December 17, 1990 and revised in the May 13, 1991 Federal Registers).

December 6, 1990: Wood preserving listings and drip pad standards (and as stayed in the June 13, 1991 and February 18, 1992 Federal Registers and as amended in the July 1, 1991 Federal Register).

February 21, 1991: Industrial boiler and furnace requirements, redefinition of incinerator, provisions for sludge dryers, carbon regeneration units, infrared and plasma arc incinerators (and as corrected in the July 17, 1991 Federal Register).

June 13, 1991: Final determination on mining/mineral processing wastes (see also description for January 23, 1990 entry and court remand).

## Reductions in regulatory burden in federal regulations.

A number of EPA requirements resulting in reductions in regulatory burdens are proposed to be included in Amendment 12. The inclusion of these changes is not required by federal statute and remains optional.

February 13, 1991: Optional administrative stay of toxicity characteristic of CFCs.

May 1, 1991: Optional administrative stay for portion of the K069 listing.

**Note:** Certain other optional changes and/or stays are also being included and are referenced under the category of more stringent federal regulation for clarity and ease of cross-referencing.

## Corrections, clarifications, and other changes in the federal regulations.

January 31, 1991: Technical amendment and correction

of errors to land disposal requirements; F039 listing amended.

April 26, 1991: Correction of June 1990 VOC rule.

**Note:** Certain corrections and/or amendments are also being included and are referenced under the category of more stringent federal regulation for clarity and ease of cross-referencing.

## Other Changes.

Certain changes are also being proposed within Amendment 12 to correct either past oversights or typographical errors or to eliminate a number of provisions which are more stringent than the federal requirements and are no longer viewed as necessary. Of the more far-reaching, they are as follows (not including simple typographical and/or referencing errors):

Correct for a previous omission of a § 265.4 Imminent Hazard Provision equivalent within Part IX (already correctly included in Part X).

Clarify that supplemental permit fees pertinent to land-based facilities apply to any units requiring groundwater monitoring and that those pertinent to incinerators will also now apply to furnaces and boilers.

Extension of permit inspection requirements in § 11.5 B 5, to drip pads (EPA oversight).

Elimination of the definitions of contaminant and contamination in Part I to allow the use of health-based standards.

Elimination of the clarifying language contained in paragraph e of the § 3.1 A 10 closed-loop recycle exclusion; not needed as already contained in EPA guidance and Federal Register preamble language.

Changes in Part XIV to eliminate the need to seek an additional delisting form the Director after having successfully petitioned EPA, where applicable.

Changes in Part XI to allow notification of minor permit modifications within 7 days after the change takes place rather than 14 days before as presently required.

Changes in § 7.6 G 2 to allow transporters and generators to work together to redirect shipments rather than to have them automatically returned to generators location.

## Impact:

### Number and type of regulated entities:

550	Generators
3810	Small quantity generators
1500	Conditionally exempt small quantity generators
75	Treatment, storage and disposal facilities
300	Transporters

## Projected costs to regulated entities:

A number of the changes proposed to be contained in Amendment 12 are the result of federal regulations required by HSWA. While these HSWA changes do significantly impact upon portions of the regulated community, the increased costs and/or burdens are already being borne by these handlers since the federal requirements are enforceable in Virginia and other states and are independent of Virginia regulations. These HSWA provisions include the following: boiler and furnace regulations; land disposal requirements; the F032, F037, and F038 listings.

The plasma arc and infrared incinerator provisions were merely clarifications that such units are already subject to the regulations as incinerators and as such do not result in increased burdens.

For non-HSWA changes, since the failure to promulgate provisions equivalent to these other federal changes would result in the reversion of the hazardous waste program to EPA, the regulated community will be expected to bear the added costs under either scenario. Regarding the wood preserving listings, a number of these wastes may already be regulated as a result of the toxicity characteristic rule. The majority of the cost associated with the wood preserving rules appear to be related to drip pad construction. By incorporating a number of optional provisions into proposed Amendment 12 such as stays of listings, technical standards, etc., the otherwise added increased costs should be kept to a minimum.

By incorporating the optional stay regarding the applicability of the toxicity characteristic rule to certain chlorofluorocarbons, this will assist in reducing possible negative impacts associated with recycling of CFCs, help to discourage venting, and allow consideration of an orderly phase-out of CFCs and transition to CFC substitutes.

By eliminating the definitions of contaminant and contamination, facilities may request that health-based cleanup standards be included in their closure plans. The actual impact of this change in achieving "closure by removal" or "decontamination" will be highly site-specific depending upon the number and type of constituents in question as well as other site-specific characteristics. Any requests for such standards would have to be accompanied by a site-specific demonstration described in the March 19, 1987 Federal Register, pgs. 8704-8709 (see EPA's Interpretation of the "Remove or Decontaminate" Standard).

By eliminating the duplicative requirement of pursuing a delisting from the Director after having successfully petitioned EPA, delistings would become effective immediately upon issuance by EPA. This would eliminate the current time lag of approximately six months processing time which could be translated into treatment, storage, and/or disposal savings or more timely facility start-up, as applicable. (The six-month period is that time

it took the Director to review, advertise for public comment, and ultimately grant the two petitions referenced in Appendix 3.8).

## Projected cost to agency for implementation and enforcement:

The amounts of federal grants made available to the Department have generally increased over the years and have been sufficient to reimburse the Commonwealth for its implementation of the program.

## Source of funds:

The sources and the amounts of funds available to the Department will not be affected by the proposed amendment, with the exception that should it not be issued, the loss of the authorization to conduct the program would result in the loss of \$1.7 million in federal grant funds.

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

Contact: Karol A. Akers, Policy and Planning Manager, DWM, 101 N. 14th St., 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

## STATE WATER CONTROL BOARD

**August 12, 1992 - 2 p.m. – Open Meeting**  
Harrisonburg City Council Chambers, Municipal Building,  
345 South Main Street, Harrisonburg, Virginia.

**August 13, 1992 - 9 a.m. – Open Meeting**  
University of Virginia Southwest Center, Highway 19N,  
Abingdon, Virginia.

**August 13, 1992 - 3 p.m. – Open Meeting**  
Roanoke County Administration Center Community Room,  
3738 Brambleton Avenue, SW, Roanoke, Virginia.

**August 18, 1992 - 9 a.m. – Open Meeting**  
State Water Control Board Offices, Board Room, 4900 Cox  
Road, Innsbrook Corporate Center, Glen Allen, Virginia.

**August 18, 1992 - 3 p.m. – Open Meeting**  
Virginia Beach City Council Chambers, City Hall Building,  
2nd Floor, Courthouse Drive, Virginia Beach, Virginia.

**August 24, 1992 - 1 p.m. – Open Meeting**  
Prince William County Boardroom, 1 County Complex,  
McCourt Building, 4850 Davis Ford Road, Prince William,  
Virginia.

A meeting to receive comments and answer questions of the public on the State Water Control Board's intent to consider the adoption of VR 680-01-01, Fees for Permits and Certificates.

Contact: Ms. Pat Woodson, Policy Analyst, State Water

# Calendar of Events

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Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5166.

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**August 12, 1992 - 7 p.m. – Open Meeting**  
Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

**August 13, 1992 - 7 p.m. – Open Meeting**  
Northampton County Circuit Court, Business Route 13, Eastville, Virginia.

**August 19, 1992 - 7 p.m. – Open Meeting**  
James City County, Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

A meeting to receive comments and answer questions of the public on the proposed repeal of VR 680-13-01, Rules of the Board and Standards for Water Wells and the proposed adoption of VR 680-13-07, Ground Water Withdrawal Regulations.

**Contact:** Mr. Terry Wagner, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5203.

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**August 18, 1992 - 7 p.m. – Open Meeting**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, SW, Roanoke, Virginia.

**August 20, 1992 - 7 p.m. – Open Meeting**  
Prince William County, Board Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

**August 24, 1992 - 7 p.m. – Open Meeting**  
James City County, Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

A meeting to receive views and comments and answer questions of the public regarding the proposed amendments of VR 680-13-03, Petroleum Underground Storage Tank Financial Responsibility Requirements and the proposed adoption of VR 680-13-06, Virginia Petroleum Storage Tank Fund Requirements.

**Contact:** Ms. Mary-Ellen Kendall, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5195.

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**August 17, 1992 - 7 p.m. – Open Meeting**  
State Water Control Board Offices, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

**August 19, 1992 - 7 p.m. – Open Meeting**  
Norfolk City Council Chambers, 1006 City Hall Building,

810 Union Street, Norfolk, Virginia.

**August 20, 1992 - 7 p.m. – Open Meeting**  
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, SW, Roanoke, Virginia.

**August 24, 1992 - 7 p.m. – Open Meeting**  
County of Prince William, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

A meeting to receive views and comments and answer questions of the public regarding VR 680-14-12, Aboveground Storage Tanks Registration Requirements, VR 680-14-13, Aboveground Storage Tanks Prevention Standards and Operational Requirements, and VR 680-14-14, Aboveground Storage Tanks Financial Responsibility Requirements.

**Contact:** David T. Ormes, Office of Spill Response and Remediation, State Water Control Board, P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 527-5197.

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**August 18, 1992 - 3 p.m. – Public Hearing**  
Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

**August 20, 1992 - 3 p.m. – Public Hearing**  
County of Prince William Board Room, McCourt Building, 1 County Complex, 4850 Davis Ford Road, Prince William, Virginia.

**August 24, 1992 - 3 p.m. – Public Hearing**  
James City County Board of Supervisors Room, Building C, 101 C Mounts Bay Road, Williamsburg, Virginia.

**September 14, 1992 – 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 680-14-11. Corrective Action Plan (CAP) General Permit**. The purpose of the proposed regulation is to establish a general permit for categories of UST cleanup sites.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.34:9 of the Code of Virginia.

Written comments may be submitted until September 14, 1992 to Ms. Doneva Dalton, Hearing Reporter, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

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**August 26, 1992 - 7 p.m. – Public Hearing**  
State Water Control Board Offices, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen.  
**September 14, 1992 - 4 p.m. –** 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 680-40-01. Public Participation Guidelines** and adopt regulations entitled: **VR 680-40-01:1. Public Participation Guidelines**. The purpose of the proposed action is to repeal existing Public Participation Guidelines and adopt new regulations which establish various provisions to ensure interested persons have the necessary information to comment on regulatory actions in a meaningful fashion and establish guidelines consistent with other agencies within the Natural Resources Secretariat.

Statutory Authority: § 62.1-44.15 (7) of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 14, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

## VIRGINIA WORKERS' COMPENSATION COMMISSION

**August 26, 1992 - 10 a.m. – Open Meeting**  
1000 DMV Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Pursuant to House Bill No. 739 amending § 65.2-801 of the Code of Virginia, the Virginia Workers' Compensation Commission is developing regulations for its program for individual self-insurance for workers' compensation. Individuals or organizations may obtain copies of the regulation for the person listed below, and may provide either written or oral comments. Written comments must be delivered to the Commission prior to the date of the hearing, and requests to provide oral comments must also be delivered prior to the date of the hearing.

**Contact:** Lois Tunstall, Administrative Staff Specialist, Virginia Workers' Compensation Commission, 1000 DMV Dr., Richmond, VA 23220, telephone (804) 367-0580.

## BOARD OF YOUTH AND FAMILY SERVICES

**August 24, 1992 - 10 a.m. – Open Meeting**

† **September 10, 1992 - 10 a.m. – Open Meeting**  
Peaks of Otter, Bedford, Virginia.  
Virginia Beach, Virginia.

† **October 8, 1992 - 10 a.m. – Open Meeting**  
Department of Youth and Family Services, 700 Centre, Richmond, Virginia.

A general business meeting.

**Contact:** Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0700.

## LEGISLATIVE

### BLUE RIDGE ECONOMIC DEVELOPMENT COMMISSION

† **August 17, 1992 - 10 a.m. – Public Hearing**  
Central Virginia Community College, Room 2123 (Auditorium), 3506 Wards Road, Lynchburg, Virginia.

A meeting and public hearing. (HJR 107)

**Contact:** Edie T. Conley, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### JOINT SUBCOMMITTEE STUDYING EROSION AND SEDIMENT CONTROL

† **August 6, 1992 - 2 p.m. – Open Meeting**  
James Madison University, Wilson Hall, Harrisonburg, Virginia.

The subcommittee will meet for the purpose of a business session.

**Contact:** Franklin Munyan, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

† **August 6, 1992 - 7 p.m. – Public Hearing**  
James Madison University, Convocation Center, Harrisonburg, Virginia.

A public hearing to hear comments and recommendations on erosion and sediment control. Persons wishing to speak should contact Dawn Smith, Committee Operations, 9th and Broad Streets, Richmond, Virginia (804) 786-7681.

**Contact:** Franklin Munyan, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

# Calendar of Events

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## **SUBCOMMITTEE OF THE HOUSE COMMITTEE ON GENERAL LAWS TO STUDY THE DESIRABILITY OF LEGALIZING RIVERBOAT GAMBLING**

† **August 24, 1992 - 1 p.m.** – Open Meeting  
General Assembly Building, House Room C, 910 Capitol  
Street, Richmond, Virginia.

The subcommittee will meet to study the desirability of legalizing riverboat gambling; assess the potential for increased revenues to localities in the Commonwealth; and determine the type, scope, controls, administration and legislation necessary to protect the public interest and produce maximum revenues if such were the decision.

**Contact:** Maria J.K. Everett, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## **HOUSE COURTS OF JUSTICE SUBCOMMITTEE**

† **August 6, 1992 - 10 a.m.** – Open Meeting  
General Assembly Building, House Room C, 910 Capitol  
Street, Richmond, Virginia.

Second meeting of the interim to review capital cases and procedural safeguards (special subcommittee appointed by Chairman of House of Delegates Courts of Justice Committee).

**Contact:** Oscar Brinson, Senior Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## **VIRGINIA HOUSING STUDY COMMISSION**

**July 31, 1992 - 10 a.m.** – Public Hearing  
Mills Godwin Auditorium, Life Sciences Building, Old Dominion University, Norfolk, Virginia.

**July 31, 1992 - 1 p.m.** – Public Hearing  
Mills Godwin Auditorium, Life Sciences Building, Old Dominion University, Norfolk, Virginia.

**August 13, 1992 - 10 a.m.** – Public Hearing  
Nursing Building (CN125), Northern Virginia Community College, Route 236 (Little River Turnpike), Annandale, Virginia.

**August 13, 1992 - 1:30 p.m.** – Public Hearing  
Nursing Building (CN125), Northern Virginia Community College, Route 236 (Little River Turnpike), Annandale, Virginia.

† **August 17, 1992 - 10 a.m.** – Public Hearing  
General Assembly Building, House Room C, Ninth and Broad Streets, Richmond, Virginia.

† **August 17, 1992 - 1 p.m.** – Public Hearing  
General Assembly Building, House Room C, Ninth and Broad Streets, Richmond, Virginia.

A public hearing on housing issues in Virginia, the Virginia Condominium Act, and HJR 163 (Homelessness in Virginia).

July 31 and August 17

10 a.m. - Noon – General housing issues and HJR 163

1 p.m. - 3 p.m. – Virginia Condominium Act

August 13

10 a.m. - Noon – Virginia Condominium Act

1:30 p.m. - 3:30 p.m. – General housing issues and HJR 163

† **September 22, 1992 - 2 p.m.** – Open Meeting

† **September 23, 1992 - 9 a.m.** – Open Meeting  
Wintergreen, Virginia

1992 Virginia Housing Study Commission legislative work session.

**Contact:** Nancy M. Ambler, Executive Director, Virginia Housing Study Commission, 601 S. Belvidere St., Richmond, VA (804) 225-3797.

## **HOUSE COMMITTEE ON MILITIA AND POLICE**

† **September 10, 1992 - 11 a.m.** – Open Meeting  
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia.

The full House Committee on Militia and Police will meet in a work session to discuss "State Police Recruitment Policies."

**Contact:** Oscar Brinson, Senior Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

† **September 10, 1992 - 1 p.m.** – Public Hearing  
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia.

A public hearing which will focus on Code sections relating to firearms. Persons wishing to speak should contact Lois V. Johnson, House of Delegates, Committee Operations, General Assembly Building, Richmond, Virginia 23219.

**Contact:** Oscar Brinson, Senior Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING THE VIRGINIA PUBLIC PROCUREMENT ACT

† August 4, 1992 - 10 a.m. - Open Meeting  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.

First meeting of the interim. (HJR 106)

Contact: Edie Conley, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING STATUTES OF LIMITATIONS AND ACCRUAL OF CAUSES OF ACTION

† August 18, 1992 - 1 p.m. - Open Meeting  
General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia.

Subcommittee will meet to discuss draft of proposed legislation. (HJR 173)

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT LEGISLATIVE SUBCOMMITTEE ON POLLUTION PREVENTION

August 3, 1992 - 10 a.m. - Open Meeting  
General Assembly Building, Senate Room B, Richmond, Virginia.

An open meeting. (SJR 103)

Contact: Thomas C. Gilman, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone, (804) 786-3838 or Frank Munyan, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING VEHICLES POWERED BY CLEAN FUELS

† August 4, 1992 - 1:30 p.m. - Open Meeting  
Capitol Building, House Room 2, Richmond, Virginia.

First meeting of the interim for continued study.

Contact: Alan B. Wambold, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## VIRGINIA CODE COMMISSION

† August 19, 1992 - 9:30 a.m. - Open Meeting

General Assembly Building, 6th Floor Conference Room, 910 Capitol Street, Richmond, Virginia.

The Commission will continue with the revision of the Commonwealth's election laws (Title 24.1 of the Code of Virginia).

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Building, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

† September 16, 1992 - 9:30 a.m. - Open Meeting  
Location to be announced.

The Commission will continue with its revision of the election laws (Title 24.1 of the Code of Virginia).

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

† September 17, 1992 - 9:30 a.m. - Open Meeting  
Location to be announced.

The Commission will continue with its discussion of competitive negotiable bidding for the Code of Virginia and a proposed code of administrative regulations.

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

† October 21, 1992 - 9:30 a.m. - Open Meeting

† October 22, 1992 - 9:30 a.m. - Open Meeting  
Location to be announced.

The Commission will begin working on the revision of the ABC laws. (Title 4 of the Code of Virginia.)

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## VIRGINIA COMMISSION ON YOUTH

August 24, 1992 - 1 p.m. - Public Hearing  
Virginia Beach Center for the Arts, 2200 Parks Avenue, Price Auditorium, Virginia Beach, Virginia. ☒ (Interpreter for deaf provided upon request)

September 22, 1992 - 1 p.m. - Public Hearing  
Mary Washington College, 1301 College Avenue, Dodd Auditorium, Fredericksburg, Virginia. ☒ (Interpreter for deaf provided upon request)

A public hearing to solicit testimony relating to Juvenile Crime and Youth Prevention Programs. The Juvenile Crime testimony will be used as part of the study from HJR 36 on Serious Juvenile Offenders and the Youth Prevention Programs testimony will be used



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as background for the oversight of the Comprehensive Services Act for At-Risk Youth and Families (HB 935 and SB 171). A separate time slot has been set aside for each topic. The time slots are: 1 p.m-3 p.m Juvenile Crime and 4 p.m-6 p.m Youth Prevention Programs.

**Contact:** Mary Simmons, Staff Assistant, Commission on Youth, General Assembly Bldg., Suite 517 B, 910 Capitol St., Richmond, VA 23219, telephone (804) 371-2481.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### July 27

Air Pollution Control Board, State  
† Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
Cosmetology, Board for  
Longwood College  
- Board of Visitors  
Lottery Department, State  
Nursing, Board of

#### July 28

Cosmetology, Board for  
† Criminal History Records Improvement Task Force  
Health Services Cost Review Council, Virginia  
Marine Resources Commission  
Nursing, Board of  
Pharmacy, Board of  
Real Estate Board

#### July 29

† Compensation Board  
† Criminal History Records Improvement Task Force  
Nursing, Board of  
Waste Management, Department of

#### July 30

Air Pollution Control, Department of  
Education, Board of  
Pharmacy, Board of  
Waste Management, Department of

#### July 31

† Commerce, Board of

#### August 1

† Museum of Natural History, Virginia  
- Board of Trustees

#### August 3

Outdoors Foundation, Virginia  
Pollution Prevention, Joint Legislative Subcommittee  
on

#### August 4

† Emergency Planning Committee, Local - Arlington

County/City of Falls Church

† Funeral Directors and Embalmers, Board of  
† Vehicles Powered by Clean Fuels, Joint  
Subcommittee Studying  
† Virginia Public Procurement Act, Joint  
Subcommittee Studying  
Waste Management, Department of

#### August 5

Emergency Planning Committee, Local - Winchester  
Funeral Directors and Embalmers, Board of  
Vocational Education, Virginia Council on  
Waste Management, Department of

#### August 6

Dillon Rule and Local Government, Governor's  
Advisory Commission on  
† Erosion and Sediment Control, Joint Subcommittee  
Studying  
† Funeral Directors and Embalmers, Board of  
† House Courts of Justice Subcommittee  
† Center for Innovative Technology  
† Middle Virginia Board of Directors and the Middle  
Virginia Community Corrections Resources Board  
Teenage Pregnancy Prevention, Virginia Council for  
Violent Crime, Governor's Commission on  
Vocational Education, Virginia Council on  
Waste Management, Department of

#### August 7

Dentistry, Board of

#### August 11

Virginia Resources Authority

#### August 12

Water Control Board, State

#### August 13

Water Control Board, State

#### August 14

Dentistry, Board of  
Medicine, Board of  
- Executive Committee

#### August 15

Medicine, Board of  
- Credentials Committee

#### August 17

† Blue Ridge Economic Development Commission  
Water Control Board, State

#### August 18

† Funeral Directors and Embalmers, Board of  
† Historic Resources, Department of  
- State Review Board  
Real Estate Appraiser Board  
† Statutes of Limitations and Accrual of Cause of  
Action, Joint Subcommittee Studying

# Calendar of Events

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Water Control Board, State

## August 19

† Commonwealth Transportation Board  
Corrections, Board of  
† Health Professions, Board of  
† Historic Resources, Board of  
Social Services, State Board of  
† Virginia Code Commission  
Water Control Board, State

## August 20

† Health Professions, Board of

## August 21

† Commonwealth Transportation Board  
Residential Facilities for Children, Interdepartmental  
Regulation of  
- Coordinating Committee

## August 24

† General Laws, House Committee  
- Subcommittee Studying Desirability of Legalizing  
Riverboat Gambling  
Water Control Board, State

## August 25

Health Services Cost Review Council, Virginia  
† Marine Resources Commission

## August 26

Chesapeake Bay Local Assistance Board  
† Compensation Board  
† Historic Resources, Board of  
† Historic Resources, Department of  
Land Evaluation Advisory Council, State  
Workers' Compensation Commission, Virginia

## August 27

† Game and Inland Fisheries, Board of

## August 28

† Game and Inland Fisheries, Board of  
† Lottery Department, State

## September 1

† Funeral Directors and Embalmers, Board of

## September 2

† Funeral Directors and Embalmers, Board of

## September 3

† Emergency Planning Committee, Local - Chesterfield  
County  
† Middle Virginia Board of Directors and the Middle  
Virginia Community Corrections Resources Board

## September 5

† Virginia Military Institute  
- Board of Visitors

## September 10

† House Committee on Militia and Police  
Transportation Safety Board  
Voluntary Formulary Board, Virginia  
† Youth and Family Services, Board of

## September 11

Land Evaluation Advisory Council, State

## September 15

Virginia Resources Authority

## September 16

† Real Estate Board  
† Virginia Code Commission

## September 17

† Board of Medicine  
- Joint Committees on Acupuncture  
† Virginia Code Commission

## September 18

† Falls of the James Scenic River Advisory Board  
Residential Facilities for Children, Interdepartmental  
Regulation of

## September 22

† Health Services Cost Review Council, Virginia  
† Housing Study Commission, Virginia  
† Marine Resources Commission

## September 23

† Housing Study Commission, Virginia

## September 24

† Chesapeake Bay Local Assistance Board

## September 30

† Compensation Board

## October 1

† Emergency Planning Committee, Local - Chesterfield  
County

## October 8

† Youth and Family Services, Board of

## October 21

† Virginia Code Commission

## October 22

† Virginia Code Commission

## PUBLIC HEARINGS

## July 27

Lottery Department, State

# Calendar of Events

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- July 28**  
Marine Resources Commission
- July 29**  
Education, Department of
- July 31**  
Housing Study Commission, Virginia
- August 5**  
Commerce, Department of
- August 6**  
† Erosion and Sediment Control, Joint Subcommittee Studying
- August 10**  
Health, Department of  
Transportation, Department of
- August 11**  
Health, Department of
- August 13**  
Housing, Study Commission, Virginia
- August 14**  
Health, Department of
- August 17**  
† Blue Ridge Economic Development Commission  
Housing Study Commission, Virginia
- August 18**  
Health, Department of  
Water Control Board, State
- August 20**  
Water Control Board, State
- August 24**  
Water Control Board, State  
Youth, Virginia Commission on
- August 26**  
Air Pollution Control, Department of  
Chesapeake Bay Local Assistance Board  
Conservation and Recreation, Department of  
- Board of Conservation and Recreation  
† Environment, Council on the  
† Historic Resources, Department of  
- Board of Historic Resources  
Marine Resources Commission  
Soil and Water Conservation Board  
Waste Management, Department of  
Water Control Board, State
- August 31**  
Motor Vehicles, Department of
- September 1**
- † Waste Management, Department of
- September 2**  
Air Pollution Control, Department of  
† Waste Management, Department of
- September 10**  
† House Committee on Militia and Police
- September 15**  
† Waste Management, Department of
- September 16**  
† Virginia Racing Commission  
† Waste Management, Department of
- September 22**  
Youth, Virginia Commission on
- September 30**  
Agriculture and Consumer Services, Board of