

---

# THE VIRGINIA REGISTER INFORMATION PAGE

---

**THE VIRGINIA REGISTER** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. **THE VIRGINIA REGISTER** has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in **THE VIRGINIA REGISTER OF REGULATIONS**. In addition, **THE VIRGINIA REGISTER** is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative committee, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day extension

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

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

## EMERGENCY REGULATIONS

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

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation; and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

## CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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

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

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

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations.

---

---

# PUBLICATION DEADLINES AND SCHEDULES

---

This schedule is available on the *Register's* Internet home page (<http://legis.state.va.us/codecomm/register/regindex.htm>).

---

## August 1998 through June 1999

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
14:23	July 15, 1998	August 3, 1998
14:24	July 29, 1998	August 17, 1998
14:25	August 12, 1998	August 31, 1998
14:26	August 26, 1998	September 14, 1998
<b>FINAL INDEX - Volume 14</b>		<b>October 1998</b>
15:1	September 9, 1998	September 28, 1998
15:2	September 23, 1998	October 12, 1998
15:3	October 7, 1998	October 26, 1998
15:4	October 21, 1998	November 9, 1998
15:5	November 4, 1998	November 23, 1998
15:6	November 17, 1998 ( <b>Tuesday</b> )	December 7, 1998
15:7	December 2, 1998	December 21, 1998
<b>INDEX 1 - Volume 15</b>		<b>January 1999</b>
15:8	December 15, 1998 ( <b>Tuesday</b> )	January 4, 1999
15:9	December 29, 1998 ( <b>Tuesday</b> )	January 18, 1999
15:10	January 13, 1999	February 1, 1999
15:11	January 27, 1999	February 15, 1999
15:12	February 10, 1999	March 1, 1999
15:13	February 24, 1999	March 15, 1999
15:14	March 10, 1999	March 29, 1999
<b>INDEX 2 - Volume 15</b>		<b>April 1999</b>
15:15	March 24, 1999	April 12, 1999
15:16	April 7, 1999	April 26, 1999
15:17	April 21, 1999	May 10, 1999
15:18	May 5, 1999	May 24, 1999
15:19	May 19, 1999	June 7, 1999
15:20	June 2, 1999	June 21, 1999
<b>INDEX 3 - Volume 15</b>		<b>July 1999</b>

\*Filing deadlines are Wednesdays unless otherwise specified.

---

# TABLE OF CONTENTS

---

## CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Title 2. Agriculture .....	3352
Title 4. Conservation and Natural Resources .....	3352
Title 6. Criminal Justice and Corrections.....	3357
Title 8. Education.....	3357
Title 9. Environment .....	3358
Title 10. Finance and Financial Institutions .....	3359
Title 11. Gaming.....	3359
Title 12. Health .....	3359
Title 13. Housing .....	3360
Title 16. Labor and Employment .....	3361
Title 18. Professional and Occupational Licensing .....	3362
Title 19. Public Safety.....	3364
Title 20. Public Utilities and Telecommunications.....	3364
Title 21. Securities and Retail Franchising .....	3364
Title 22. Social Services .....	3365
Title 24. Transportation and Motor Vehicles .....	3367

## NOTICES OF INTENDED REGULATORY ACTION

### TITLE 8. EDUCATION

State Board of Education.....	3368
-------------------------------	------

### TITLE 9. ENVIRONMENT

State Air Pollution Control Board .....	3368
Virginia Waste Management Board.....	3372
State Water Control Board.....	3375

### TITLE 12. HEALTH

State Board of Health .....	3377
-----------------------------	------

### TITLE 13. HOUSING

Board of Housing and Community Development.....	3378
Manufactured Housing Board.....	3379

### TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Cemetery Board.....	3380
Department of Professional and Occupational Regulation .....	3380
Board for Waste Management Facility Operators .....	3381

## PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

### TITLE 9. ENVIRONMENT

State Air Pollution Control Board.....	3382
--	------

### TITLE 12. HEALTH

Department of Medical Assistance Services .....	3385
State Mental Health, Mental Retardation and Substance Abuse Services Board.....	3385

### TITLE 16. LABOR AND EMPLOYMENT

Department of Labor And Industry - Safety and Health Codes Board.....	3386
--	------

### TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board for Contractors.....	3387
Board of Dentistry .....	3387
Board of Funeral Directors and Embalmers.....	3388
Board of Pharmacy .....	3389
Board of Social Work .....	3389
Board of Veterinary Medicine.....	3389

## PROPOSED REGULATIONS

### TITLE 9. ENVIRONMENT

#### STATE AIR POLLUTION CONTROL BOARD

Regulations for the Control and Abatement of Air Pollution (Rev. A97). .....	3390
Ambient Air Quality Standards (repealing 9 VAC 5-30- 20). .....	3390

---

# Table of Contents

---

Air Pollution Episode Prevention (amending 9 VAC 5-70-40)..... 3390

Regulations for the Control and Abatement of Air Pollution (Rev. E97). ..... 3392

Existing Stationary Sources (amending 9 VAC 5-40-880, 9 VAC 5-40-890, 9 VAC 5-40-900, 9 VAC 5-40-940, and 9 VAC 5-40-1040). ..... 3392

Regulations for the Control and Abatement of Air Pollution (Rev. L97)..... 3395

Existing Stationary Sources (amending 9 VAC 5-40-1660, 9 VAC 5-40-1670, 9 VAC 5-40-1690, 9 VAC 5-40-1750, 9 VAC 5-40-1770, and 9 VAC 5-40-1810)..... 3395

Regulations for the Control and Abatement of Air Pollution (Rev. B97). ..... 3399

Existing Stationary Sources (repealing 9 VAC 5-40-5350 through 9 VAC 5-40-5480). ..... 3399

## TITLE 12. HEALTH

### **DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

Home Infusion Therapy/Bundling Services and Supplies..... 3401

Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-160 and 12 VAC 30-50-210). ..... 3401

Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-30 and 12 VAC 30-80-40)..... 3401

### **STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD**

Mandatory Standards for Community Mental Health Programs (REPEALING). (12 VAC 35-140-10 et seq.) .. 3413

Mandatory Standards for Community Mental Retardation Programs (REPEALING). (12 VAC 35-150-10 et seq.) .. 3414

Mandatory Standards for Community Substance Abuse Programs (REPEALING). (12 VAC 35-160-10 et seq.) .. 3415

## TITLE 14. INSURANCE

### **STATE CORPORATION COMMISSION**

#### **Bureau of Insurance**

Rules Governing Settlement Agents (amending 14 VAC 5-395-10, 14 VAC 5-395-30, and 14 VAC 5-395-50)..... 3416

## TITLE 16. LABOR AND EMPLOYMENT

### **DEPARTMENT OF LABOR AND INDUSTRY**

#### **Safety and Health Codes Board**

Boiler and Pressure Vessel Rules and Regulations (amending 16 VAC 25-50-10, 16 VAC 25-50-20, 16 VAC 25-50-70, 16 VAC 25-50-80, 16 VAC 25-50-90, 16 VAC 25-50-120, 16 VAC 25-50-150, 16 VAC 25-50-190, 16 VAC 25-50-240, 16 VAC 25-50-250, 16 VAC 25-50-270, 16 VAC 25-50-290, 16 VAC 25-50-350, 16 VAC 25-50-360, 16 VAC 25-50-370, 16 VAC 25-50-380, 16 VAC 25-50-390, 16 VAC 25-50-430, 16 VAC 25-50-440 and 16 VAC 25-50-480)..... 3417

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### **BOARD FOR CONTRACTORS**

Tradesman Rules and Regulations (amending 18 VAC 50-30-10, 18 VAC 50-30-20, 18 VAC 50-30-30, 18 VAC 50-30-40, 18 VAC 50-30-50, 18 VAC 50-30-60, 18 VAC 50-30-70, 18 VAC 50-30-80, 18 VAC 50-30-90, 18 VAC 50-30-100, 18 VAC 50-30-120, 18 VAC 50-30-130, 18 VAC 50-30-140, 18 VAC 50-30-150, 18 VAC 50-30-170, 18 VAC 50-30-190 and 18 VAC 50-30-200)..... 3436

### **BOARD OF DENTISTRY**

Virginia Board of Dentistry Regulations (amending 18 VAC 60-20-10, 18 VAC 60-20-20, 18 VAC 60-20-30, 18 VAC 60-20-50, 18 VAC 60-20-60, 18 VAC 60-20-70, 18 VAC 60-20-80, 18 VAC 60-20-90, 18 VAC 60-20-110, 18 VAC 60-20-120, 18 VAC 60-20-130, 18 VAC 60-20-140, 18 VAC 60-20-170, 18 VAC 60-20-180, 18 VAC 60-20-190, 18 VAC 60-20-220, 18 VAC 60-20-230, and 18 VAC 60-20-240; adding 18 VAC 60-20-15, 18 VAC 60-20-16, and 18 VAC 60-20-195; repealing 18 VAC 60-20-150 and 18 VAC 60-20-160). .... 3451

Virginia Board of Dentistry Regulations (amending 18 VAC 60-20-20 and 18 VAC 60-20-30)..... 3463

### **BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

Regulations of the Board of Funeral Directors and Embalmers (amending 18 VAC 65-20-70; repealing 18 VAC 65-20-80, 18 VAC 65-20-90 and 18 VAC 65-20-100). .... 3467

Resident Trainee Program for Funeral Service (amending 18 VAC 65-40-40; repealing 18 VAC 65-40-60, 18 VAC 65-40-70 and 18 VAC 65-40-80)..... 3467

Regulations of the Board of Funeral Directors and Embalmers (amending 18 VAC 65-20-10, 18 VAC 65-20-50, 18 VAC 65-20-60, 18 VAC 65-20-70, 18 VAC 65-20-110 through 18 VAC 65-20-150, 18 VAC 65-20-170, 18 VAC 65-20-240, 18 VAC 65-20-350, 18 VAC 65-20-400, 18 VAC 65-20-440, 18 VAC 65-20-500, 18 VAC 65-20-510, 18 VAC 65-20-530, 18 VAC 65-20-540, 18 VAC 65-20-550, 18 VAC 65-20-560, 18 VAC 65-20-580, 18 VAC 65-20-590, 18 VAC 65-

20-630, and 18 VAC 65-20-700; adding 18 VAC 65-20-235; repealing 18 VAC 65-20-20, 18 VAC 65-20-30, 18 VAC 65-20-40, 18 VAC 65-20-80, 18 VAC 65-20-90, 18 VAC 65-20-100, 18 VAC 65-20-160, 18 VAC 65-20-180 through 18 VAC 65-20-230, 18 VAC 65-20-250 through 18 VAC 65-20-340, 18 VAC 65-20-360 through 18 VAC 65-20-390, 18 VAC 65-20-410, 18 VAC 65-20-430, 18 VAC 65-20-450 through 18 VAC 65-20-490, 18 VAC 65-20-520, 18 VAC 65-20-600, 18 VAC 65-20-610, 18 VAC 65-20-620, and 18 VAC 65-20-640 through 18 VAC 65-20-690). .....3479

Regulations for Preneed Funeral Planning (amending 18 VAC 65-30-10, 18 VAC 65-30-50, 18 VAC 65-30-60, 18 VAC 65-30-70, 18 VAC 65-30-80, 18 VAC 65-30-90, 18 VAC 65-30-110, 18 VAC 65-30-140, 18 VAC 65-30-170, 18 VAC 65-30-180, and 18 VAC 65-30-200; adding 18 VAC 65-30-220 and 18 VAC 65-30-230; repealing 18 VAC 65-30-20, 18 VAC 65-30-30, 18 VAC 65-30-40, 18 VAC 65-30-150, 18 VAC 65-30-160, 18 VAC 65-30-190, and 18 VAC 65-30-210). .....3503

Resident Trainee Program for Funeral Service (amending 18 VAC 65-40-10, 18 VAC 65-40-40, 18 VAC 65-40-90, 18 VAC 65-40-110, 18 VAC 65-40-130, 18 VAC 65-40-160, 18 VAC 65-40-180, 18 VAC 65-40-200, 18 VAC 65-40-210, 18 VAC 65-40-220, 18 VAC 65-40-250, 18 VAC 65-40-280, 18 VAC 65-40-300, 18 VAC 65-40-320, 18 VAC 65-40-330, and 18 VAC 65-40-340; adding 18 VAC 65-40-170, 18 VAC 65-40-201; repealing 18 VAC 65-40-20, 18 VAC 65-40-30, 18 VAC 65-40-50, 18 VAC 65-40-60, 18 VAC 65-40-70, 18 VAC 65-40-80, 18 VAC 65-40-100, 18 VAC 65-40-120, 18 VAC 65-40-140, 18 VAC 65-40-150, 18 VAC 65-40-170, 18 VAC 65-40-190, 18 VAC 65-40-200, 18 VAC 65-40-230, 18 VAC 65-40-240, 18 VAC 65-40-260, 18 VAC 65-40-270, 18 VAC 65-40-290, 18 VAC 65-40-310, and 18 VAC 65-40-350 through 18 VAC 65-40-630). .....3517

## BOARD OF PHARMACY

Virginia Board of Pharmacy Regulations (amending 18 VAC 110-20-10, 18 VAC 110-20-20, 18 VAC 110-20-30, 18 VAC 110-20-40, 18 VAC 110-20-50, 18 VAC 110-20-60, 18 VAC 110-20-70, 18 VAC 110-20-90, 18 VAC 110-20-140, 18 VAC 110-20-150, 18 VAC 110-20-170, 18 VAC 110-20-190, 18 VAC 110-20-200, 18 VAC 110-20-210, 18 VAC 110-20-220, 18 VAC 110-20-230, 18 VAC 110-20-240, 18 VAC 110-20-270, 18 VAC 110-20-280, 18 VAC 110-20-290, 18 VAC 110-20-330, 18 VAC 110-20-350, 18 VAC 110-20-360, 18 VAC 110-20-390, 18 VAC 110-20-400, 18 VAC 110-20-420, 18 VAC 110-20-470, 18 VAC 110-20-500, 18 VAC 110-20-540, 18 VAC 110-20-550, 18 VAC 110-20-570, 18 VAC 110-20-580, 18 VAC 110-20-590, 18 VAC 110-20-620, 18 VAC 110-20-640, and 18 VAC 110-20-680; adding 18 VAC 110-20-355, 18 VAC 110-20-395, 18 VAC 110-20-555, 18 VAC 110-20-621, and 18 VAC 110-20-622; repealing 18 VAC 110-20-260 and 18 VAC 110-20-650). .....3529

## BOARD OF SOCIAL WORK

Regulations Governing the Practice of Social Work (amending 18 VAC 140-20-10, 18 VAC 140-20-30, 18 VAC 140-20-40, 18 VAC 140-20-50, 18 VAC 140-20-60, 18 VAC 140-20-70, 18 VAC 140-20-110, 18 VAC 140-20-150; adding 18 VAC 140-20-35, 18 VAC 140-20-37 and 18 VAC 140-20-45; repealing 18 VAC 140-20-80 and 18 VAC 140-20-90).3558

## BOARD OF VETERINARY MEDICINE

Regulations Governing the Practice of Veterinary Medicine (amending 18 VAC 150-20-10, 18 VAC 150-20-30, 18 VAC 150-20-70, 18 VAC 150-20-100, 18 VAC 150-20-110, 18 VAC 150-20-120, 18 VAC 150-20-130, 18 VAC 150-20-140, 18 VAC 150-20-180, 18 VAC 150-20-190, 18 VAC 150-20-200 and 18 VAC 150-20-210; adding 18 VAC 150-20-75, 18 VAC 150-20-115, 18 VAC 150-20-185, 18 VAC 150-20-195 and 18 VAC 150-20-205; repealing 18 VAC 150-20-40, 18 VAC 150-20-50, 18 VAC 150-20-60, 18 VAC 150-20-80, 18 VAC 150-20-90, 18 VAC 150-20-150, 18 VAC 150-20-160 and 18 VAC 150-20-170)..... 3577

## FINAL REGULATIONS

### TITLE 9. ENVIRONMENT

#### STATE WATER CONTROL BOARD

Petroleum Underground Storage Tank Financial Responsibility Requirements (amending 9 VAC 25-590-10 through 9 VAC 25-590-230, and Appendices I, II, and V through X; adding 9 VAC 25-590-240, 9 VAC 25-590-250, 9 VAC 25-590-260, and Appendix XI). ..... 3607

### TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

#### COMMONWEALTH TRANSPORTATION BOARD

Minimum Standards of Entrances to State Highways (amending 24 VAC 30-71-10, 24 VAC 30-71-80 and 24 VAC 30-71-130). ..... 3633

24 VAC 30-350-10. Administrative Manual/Procurement and Surplus Property Manual. .... 3635

## FORMS

#### DEPARTMENT OF MINES, MINERALS AND ENERGY

Minerals Other Than Coal Surface Mining Regulations (4 VAC 25-30-10 et seq.)..... 3637

Safety and Health Regulations for Mineral Mining (4 VAC 25-30-10 et seq.)..... 3637

---

# Table of Contents

---

## **GOVERNOR**

<u>EXECUTIVE ORDER NUMBER ELEVEN (98)</u>	
Governor's Advisory Board of Economists.....	3639
<u>EXECUTIVE ORDER NUMBER TWELVE (98)</u>	
Assigning Responsibility for Participation in Federal "Superfund" Program .....	3639
<u>EXECUTIVE ORDER NUMBER THIRTEEN (98)</u>	
State Employee Fraud, Waste, and Abuse Hotline .....	3640
<u>EXECUTIVE ORDER NUMBER FOURTEEN (98)</u>	
Designation of Housing Credit Agency Under Federal Tax Reform Act of 1986.....	3640
<u>EXECUTIVE ORDER NUMBER FIFTEEN (98)</u>	
Creating the New Partnership Commission .....	3641
<u>EXECUTIVE ORDER NUMBER SIXTEEN (98)</u>	
Continuing Certain Emergency Declarations Due to Natural Disasters in the Commonwealth.....	3642
<u>EXECUTIVE ORDER NUMBER SEVENTEEN (98)</u>	
Purchase, Assignment, and Use of State-Owned Vehicles .....	3642
<u>EXECUTIVE ORDER NUMBER EIGHTEEN (98)</u>	
Designation of Executive Branch Officers and Employees Required to File Financial Disclosure Statements.....	3643
<u>EXECUTIVE ORDER NUMBER NINETEEN (98)</u>	
Establishing the Governor's Commission on Physical Fitness and Sports .....	3644
<u>EXECUTIVE ORDER NUMBER TWENTY (98)</u>	
Exempting Certain Staff Positions from the Personnel Act .....	3645
<u>EXECUTIVE ORDER NUMBER TWENTY-ONE (98)</u>	
Continuing the Governor's Initiative Against Narcotics Trafficking (Giant) .....	3645
<u>EXECUTIVE ORDER NUMBER TWENTY-TWO (98)</u>	
Delegation Of Authority Conferred By Chapters 781, 789, 849, 892, 894, and 896, 1992 Acts of Assembly; Chapter 5, 1994 Acts of Assembly, Special Session 1; and Chapter 464, 1998 Acts of Assembly, as Amended by Chapter 1, 1998 Acts of Assembly, Special Session 1.....	3646

<u>EXECUTIVE ORDER NUMBER TWENTY-THREE (98)</u>	
Continuation of Virginia Coastal Resources Management Program.....	3646
<u>EXECUTIVE ORDER NUMBER TWENTY-FOUR (98)</u>	
Review of Emergency Regulations Proposed by State Agencies .....	3648
<u>EXECUTIVE ORDER NUMBER TWENTY-FIVE (98)</u>	
Development and Review of Regulations Proposed by State Agencies .....	3649
<u>EXECUTIVE ORDER NUMBER TWENTY-SIX (98)</u>	
Maintaining a Lean, Efficient and Effective Government Work Force .....	3656

## **SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS**

Department of Social Services.....	3657
------------------------------------	------

## **GENERAL NOTICES/ERRATA**

### **STATE CORPORATION COMMISSION**

#### **Bureau of Insurance**

<u>ADMINISTRATIVE LETTERS</u>	
Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS), 14 VAC 5-180-10 (formerly Regulation Number 34) (1998-3).....	3658
Legislation Enacted by the 1998 Virginia General Assembly (1998-5) .....	3658
Analysis of Excess Capital and Surplus Investments (1998-6) .....	3670
Holding Company Registration - Form B Filings Due July 15, 1998 (1998-7).....	3679

### **DEPARTMENT OF ENVIRONMENTAL QUALITY**

Notice Regarding One Year Delay of Clean Fuel Fleet Program Requirements.....	3680
---	------

### **VIRGINIA INFORMATION PROVIDERS NETWORK**

Notice Regarding Commonwealth Calendar Available on the Internet.....	3681
---	------

**VIRGINIA CODE COMMISSION**

Notice to Subscribers.....3681

Notice to State Agencies.....3682

Forms for Filing Material for Publication in *The Virginia Register of Regulations* .....3682

ERRATA

**STATE WATER CONTROL BOARD**

Facility and Aboveground Storage Tank (AST) Regulation. (9 VAC 25-91-10 et seq.) .....3682

Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation. (9 VAC 25-101-10 et seq.) ....3682

**CALENDAR OF EVENTS**

EXECUTIVE

Open Meetings and Public Hearings .....3683

LEGISLATIVE

Open Meetings and Public Hearings .....3710

CHRONOLOGICAL LIST

Open Meetings .....3712

Public Hearings .....3714

# CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 1998 VAC Supplement includes final regulations published through *Virginia Register* Volume 14, Issue 10 dated February 2, 1998). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 2. Agriculture</b>			
2 VAC 5-180-10	Amended	14:19 VA.R. 2666	7/8/98
2 VAC 5-180-20	Amended	14:19 VA.R. 2667	7/8/98
2 VAC 5-180-30	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-50	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-60	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-80	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-90	Amended	14:19 VA.R. 2669	7/8/98
2 VAC 5-180-120	Amended	14:19 VA.R. 2669	7/8/98
2 VAC 5-205-10 through 2 VAC 5-205-110	Added	14:19 VA.R. 2670	7/8/98
2 VAC 5-390-180	Amended	14:14 VA.R. 2136	3/1/98
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 15-290-140	Amended	14:16 VA.R. 2357	7/1/98
4 VAC 20-260-20	Amended	14:15 VA.R. 2231	3/13/98
4 VAC 20-280-10	Amended	14:16 VA.R. 2357	3/31/98
4 VAC 20-345-10	Added	14:15 VA.R. 2236	3/1/98
4 VAC 20-345-20	Added	14:15 VA.R. 2236	3/1/98
4 VAC 20-345-20	Amended	14:18 VA.R. 2513	5/4/98
4 VAC 20-345-30	Added	14:15 VA.R. 2236	3/1/98
4 VAC 20-345-40	Added	14:15 VA.R. 2237	3/1/98
4 VAC 20-345-40	Amended	14:18 VA.R. 2513	5/4/98
4 VAC 20-380-30	Amended	14:16 VA.R. 2357	3/31/98
4 VAC 20-380-60	Amended	14:16 VA.R. 2358	3/31/98
4 VAC 20-395-10 through 4 VAC 20-395-40	Added	14:22 VA.R. 3205-3206	7/1/98
4 VAC 20-500-40	Amended	14:14 VA.R. 2137	3/1/98
4 VAC 20-560-10	Amended	14:18 VA.R. 2514	5/1/98
4 VAC 20-560-20	Amended	14:18 VA.R. 2514	5/1/98
4 VAC 20-560-40	Amended	14:18 VA.R. 2515	5/1/98
4 VAC 20-560-50	Amended	14:18 VA.R. 2516	5/1/98
4 VAC 20-620-50	Amended	14:16 VA.R. 2358	4/1/98
4 VAC 20-620-60	Amended	14:16 VA.R. 2358	4/1/98
4 VAC 20-880-40	Amended	14:14 VA.R. 2137	3/1/98
4 VAC 20-880-40	Amended	14:18 VA.R. 2516	5/1/98
4 VAC 20-880-50	Amended	14:14 VA.R. 2138	3/1/98
4 VAC 20-880-50	Amended	14:18 VA.R. 2517	5/1/98
4 VAC 20-910-45	Amended	14:12 VA.R. 1915	1/30/98
4 VAC 20-950-30	Amended	14:16 VA.R. 2358	4/1/98
4 VAC 20-950-45	Added	14:12 VA.R. 1915	1/30/98
4 VAC 20-950-45	Amended	14:16 VA.R. 2359	4/1/98
4 VAC 20-960-30	Amended	14:16 VA.R. 2359	4/1/98
4 VAC 20-960-45	Added	14:16 VA.R. 2359	4/1/98
4 VAC 20-1000-10	Added	14:12 VA.R. 1916	1/30/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-1000-20	Added	14:12 VA.R. 1916	1/30/98
4 VAC 20-1000-30	Added	14:12 VA.R. 1916	1/30/98
4 VAC 20-1000-40	Added	14:12 VA.R. 1916	1/30/98
4 VAC 25-40-10	Amended	14:17 VA.R. 2428	7/1/98
4 VAC 25-40-20	Repealed	14:17 VA.R. 2430	7/1/98
4 VAC 25-40-25	Added	14:17 VA.R. 2430	7/1/98
4 VAC 25-40-30	Repealed	14:17 VA.R. 2430	7/1/98
4 VAC 25-40-40	Amended	14:17 VA.R. 2430	7/1/98
4 VAC 25-40-50	Amended	14:17 VA.R. 2430	7/1/98
4 VAC 25-40-60	Repealed	14:17 VA.R. 2431	7/1/98
4 VAC 25-40-70	Amended	14:17 VA.R. 2431	7/1/98
4 VAC 25-40-80	Repealed	14:17 VA.R. 2431	7/1/98
4 VAC 25-40-90	Amended	14:17 VA.R. 2431	7/1/98
4 VAC 25-40-100	Amended	14:17 VA.R. 2431	7/1/98
4 VAC 25-40-110	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-120	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-130	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-140	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-145	Added	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-180	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-200	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-210	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-220	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-250	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-270	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-300	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-310	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-320	Repealed	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-350	Amended	14:17 VA.R. 2432	7/1/98
4 VAC 25-40-385	Added	14:17 VA.R. 2433	7/1/98
4 VAC 25-40-388	Added	14:17 VA.R. 2433	7/1/98
4 VAC 25-40-390	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-400	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-440	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-450	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-460	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-490	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-500	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-510	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-520	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-530	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-540	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-550	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-590	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-630	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-660	Amended	14:17 VA.R. 2434	7/1/98
4 VAC 25-40-670	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-690	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-710	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-720	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-730	Repealed	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-750	Repealed	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-770	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-780	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-790	Amended	14:17 VA.R. 2436	7/1/98

---

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

---

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-40-800	Amended	14:17 VA.R. 2436	7/1/98
4 VAC 25-40-810	Amended	14:17 VA.R. 2437	7/1/98
4 VAC 25-40-820	Amended	14:17 VA.R. 2437	7/1/98
4 VAC 25-40-830	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-870	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-880	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-890	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-895	Added	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-900	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-910	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-920	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-930	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-940	Repealed	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-960	Repealed	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-970	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1030	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1060	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1070	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1090	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1100	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1130	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1140	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1180	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1200	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1210	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1220	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1250	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1260	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1280	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1300	Repealed	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1310	Repealed	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1320	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1340	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1350	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1370	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1490	Repealed	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1540	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1550	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1560	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1580	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1590	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1670	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1685	Added	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1690	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1740	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1780	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1785	Added	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-1810	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-1880	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-1940	Repealed	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2010	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2015	Added	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2040	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2080	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2100	Amended	14:17 VA.R. 2442	7/1/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-40-2140	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2170	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2180	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2210	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2220	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2250	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2260	Repealed	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2270	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2280	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2300	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2340	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2390	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2400	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2410	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2420	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2440	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2450	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2480	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2490	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2500	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2510	Repealed	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2530	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2540	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2550	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2590	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2610	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2650	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2660	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2680	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2700	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2720	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2750	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2760	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2770	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2790	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2800	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2810	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2820	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2850	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2870	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2880	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2910	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2915	Added	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2920	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2930	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2980	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-3000	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-3030	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3050	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3070	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3080	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3110	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3120	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3160	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3170	Amended	14:17 VA.R. 2447	7/1/98

---

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

---

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-40-3220	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3230	Repealed	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3240	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3280	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3290	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3300	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3310	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3320	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3325	Added	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3328	Added	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3330	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3340	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3350	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3420	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3430	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3450	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3460	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3475	Added	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3478	Added	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3590	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3595	Added	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3620	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3660	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3680	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3690	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3700	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3710	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3720	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3830	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3840	Amended	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3855	Added	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3890	Amended	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3930	Amended	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3955	Added	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3958	Added	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-3980	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-3990	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4060	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4090	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4100	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4110	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4140	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4160	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4220	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4230	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4260	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4280	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4290	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4320	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4330	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4350	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4430	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4440	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4460	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4540	Amended	14:17 VA.R. 2452	7/1/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-40-4590	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4650	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4750	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4770	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4910	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4920	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4970	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4980	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-5040	Repealed	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-5050	Repealed	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5060	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5070	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5120	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5170	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5180	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5200	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5210	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5230	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5290	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5310	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5320	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5330	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5340	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5370	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5400	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5450	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5470	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5550	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5580	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5590	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5630	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5660	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5670	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5680	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5690	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5710	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5720	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5730	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5740	Repealed	14:17 VA.R. 2456	7/1/98
4 VAC 25-40-5750	Added	14:17 VA.R. 2456	7/1/98
4 VAC 25-40-5760	Added	14:17 VA.R. 2456	7/1/98
4 VAC 25-40-5770	Added	14:17 VA.R. 2457	7/1/98
4 VAC 25-40-5780	Added	14:17 VA.R. 2457	7/1/98
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 15-60-10 through	Repealed	14:17 VA.R. 2457	9/1/98
6 VAC 15-60-100			
6 VAC 15-61-10 through	Added	14:17 VA.R. 2457	9/1/98
6 VAC 15-61-300			
<b>Title 8. Education</b>			
8 VAC 20-20-750	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-20-770	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-20-780	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-20-790	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-21-425	Added	14:20 VA.R. 2754	7/22/98
8 VAC 20-21-430	Added	14:20 VA.R. 2755	7/22/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 20-21-435	Added	14:20 VA.R. 2756	7/22/98
8 VAC 20-21-440	Added	14:20 VA.R. 2757	7/22/98
8 VAC 20-21-445	Added	14:20 VA.R. 2758	7/22/98
<b>Title 9. Environment</b>			
9 VAC 5-20-203	Amended	14:11 VA.R. 1804	4/1/98
9 VAC 5-20-204	Amended	14:11 VA.R. 1804	4/1/98
9 VAC 5-20-205	Amended	14:11 VA.R. 1805	4/1/98
9 VAC 5-20-220	Added	14:11 VA.R. 1812	4/1/98
9 VAC 5-20-230	Added	14:11 VA.R. 1812	4/1/98
9 VAC 5-50-400	Amended	14:11 VA.R. 1807	4/1/98
9 VAC 5-60-60	Amended	14:11 VA.R. 1807	4/1/98
9 VAC 5-60-90	Amended	14:11 VA.R. 1807	4/1/98
9 VAC 5-60-100	Amended	14:11 VA.R. 1808	4/1/98
9 VAC 5-80-40	Repealed	14:11 VA.R. 1813	4/1/98
9 VAC 5-80-800	Added	14:11 VA.R. 1820	4/1/98
9 VAC 5-80-810	Added	14:11 VA.R. 1820	4/1/98
9 VAC 5-80-820	Added	14:11 VA.R. 1822	4/1/98
9 VAC 5-80-830	Added	14:11 VA.R. 1823	4/1/98
9 VAC 5-80-840	Added	14:11 VA.R. 1823	4/1/98
9 VAC 5-80-850	Added	14:11 VA.R. 1823	4/1/98
9 VAC 5-80-860	Added	14:11 VA.R. 1825	4/1/98
9 VAC 5-80-870	Added	14:11 VA.R. 1825	4/1/98
9 VAC 5-80-880	Added	14:11 VA.R. 1825	4/1/98
9 VAC 5-80-890	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-900	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-910	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-920	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-930	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-940	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-950	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-960	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-970	Added	14:11 VA.R. 1827	4/1/98
9 VAC 5-80-980	Added	14:11 VA.R. 1827	4/1/98
9 VAC 5-80-990	Added	14:11 VA.R. 1828	4/1/98
9 VAC 5-80-1000	Added	14:11 VA.R. 1828	4/1/98
9 VAC 5-80-1010	Added	14:11 VA.R. 1828	4/1/98
9 VAC 5-80-1020	Added	14:11 VA.R. 1829	4/1/98
9 VAC 5-80-1030	Added	14:11 VA.R. 1830	4/1/98
9 VAC 5-80-1040	Added	14:11 VA.R. 1831	4/1/98
9 VAC 5-190-80	Erratum	14:12 VA.R. 1937	--
9 VAC 25-31-800	Erratum	14:12 VA.R. 1937	--
9 VAC 25-31-800	Erratum	14:17 VA.R. 2477	--
9 VAC 25-31-840	Erratum	14:12 VA.R. 1937	--
9 VAC 25-31-900	Erratum	14:17 VA.R. 2477	--
9 VAC 25-31-920	Amended	14:16 VA.R. 2360	5/27/98
9 VAC 25-90-10 through 9 VAC 25-90-70	Repealed	14:18 VA.R. 2517	6/24/98
9 VAC 25-91-10 through 9 VAC 25-91-220	Added	14:18 VA.R. 2518	6/24/98
9 VAC 25-100-10 through 9 VAC 25-100-70	Repealed	14:18 VA.R. 2547	6/24/98
9 VAC 25-101-10 through 9 VAC 25-101-70	Added	14:18 VA.R. 2547	6/24/98
9 VAC 25-130-10 through 9 VAC 25-130-100	Repealed	14:18 VA.R. 2517	6/24/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-140-10 through 9 VAC 25-140-110	Repealed	14:18 VA.R. 2518	6/24/98
9 VAC 25-196-50	Erratum	14:12 VA.R. 1937	--
9 VAC 25-196-70	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-20	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-110	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-140	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-350	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-370	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-390	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-400	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-450	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-540	Erratum	14:12 VA.R. 1937	--
<b>Title 10. Finance and Financial Institutions</b>			
10 VAC 5-60-40	Amended	14:14 VA.R. 2139	3/10/98
10 VAC 5-60-50	Amended	14:14 VA.R. 2139	3/10/98
10 VAC 5-70-20	Amended	14:14 VA.R. 2140	3/10/98
10 VAC 5-70-30	Amended	14:14 VA.R. 2140	3/10/98
10 VAC 5-70-50	Amended	14:14 VA.R. 2140	3/10/98
<b>Title 11. Gaming</b>			
11 VAC 10-70-20	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-30	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-40	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-50	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-60	Amended	14:11 VA.R. 1832	3/19/98
11 VAC 10-70-70	Amended	14:11 VA.R. 1832	3/19/98
11 VAC 10-70-80	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-70-110	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-70-170	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-70-180	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-90-10	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-20	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-30	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-40	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-50	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-60	Amended	14:11 VA.R. 1836	3/19/98
11 VAC 10-180-10	Amended	14:22 VA.R. 3207	8/20/98
11 VAC 10-180-20	Amended	14:22 VA.R. 3207	8/20/98
11 VAC 10-180-30	Amended	14:22 VA.R. 3208	8/20/98
11 VAC 10-180-50	Amended	14:22 VA.R. 3209	8/20/98
11 VAC 10-180-60	Amended	14:22 VA.R. 3211	8/20/98
11 VAC 10-180-70	Amended	14:22 VA.R. 3212	8/20/98
11 VAC 10-180-80	Amended	14:22 VA.R. 3213	8/20/98
11 VAC 10-180-90	Amended	14:22 VA.R. 3213	8/20/98
<b>Title 12. Health</b>			
12 VAC 5-210-10	Amended	14:15 VA.R. 2237	6/1/98
12 VAC 5-210-20	Amended	14:15 VA.R. 2243	6/1/98
12 VAC 5-220-10	Amended	14:12 VA.R. 1917	4/2/98
12 VAC 5-220-105	Added	14:12 VA.R. 1920	4/2/98
12 VAC 5-220-150	Amended	14:12 VA.R. 1920	4/2/98
12 VAC 5-220-180	Amended	14:12 VA.R. 1920	4/2/98
12 VAC 5-220-200	Amended	14:12 VA.R. 1921	4/2/98
12 VAC 5-220-230	Amended	14:12 VA.R. 1923	4/2/98
12 VAC 5-220-280	Amended	14:12 VA.R. 1924	4/2/98
12 VAC 5-220-290	Amended	14:12 VA.R. 1925	4/2/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-220-385	Amended	14:12 VA.R. 1925	4/2/98
12 VAC 5-220-500	Amended	14:12 VA.R. 1926	4/2/98
12 VAC 30-20-170	Amended	14:21 VA.R. 2889	8/5/98
12 VAC 30-50-30	Amended	14:18 VA.R. 2568	7/1/98
12 VAC 30-50-70	Amended	14:18 VA.R. 2568	7/1/98
12 VAC 30-50-100	Amended	14:18 VA.R. 2571	7/1/98
12 VAC 30-50-100 emer	Amended	14:22 VA.R. 3270	7/1/98 - 6/30/99
12 VAC 30-50-105	Amended	14:18 VA.R. 2573	7/1/98
12 VAC 30-50-105 emer	Amended	14:22 VA.R. 3272	7/1/98 - 6/30/99
12 VAC 30-50-140	Amended	14:12 VA.R. 1926	4/1/98
12 VAC 30-50-140	Amended	14:18 VA.R. 2574	7/1/98
12 VAC 30-50-150	Amended	14:12 VA.R. 1927	4/1/98
12 VAC 30-50-160	Amended	14:18 VA.R. 2564	7/1/98
12 VAC 30-50-160	Amended	14:21 VA.R. 2890	8/5/98
12 VAC 30-50-200	Amended	14:18 VA.R. 2579	7/1/98
12 VAC 30-50-220	Amended	14:18 VA.R. 2569	7/1/98
12 VAC 30-50-229.1	Added	14:18 VA.R. 2581	7/1/98
12 VAC 30-50-540	Amended	14:18 VA.R. 2575	7/1/98
12 VAC 30-50-550	Added	14:18 VA.R. 2576	7/1/98
12 VAC 30-50-560	Added	14:18 VA.R. 2577	7/1/98
12 VAC 30-50-570	Added	14:18 VA.R. 2578	7/1/98
12 VAC 30-60-20 emer	Amended	14:22 VA.R. 3273	7/1/98 - 6/30/99
12 VAC 30-60-25 emer	Amended	14:22 VA.R. 3274	7/1/98 - 6/30/99
12 VAC 30-60-40	Amended	14:12 VA.R. 1928	4/1/98
12 VAC 30-60-40	Amended	14:21 VA.R. 2892	8/5/98
12 VAC 30-60-90	Repealed	14:17 VA.R. 2465	6/10/98
12 VAC 30-60-120	Amended	14:12 VA.R. 1929	4/1/98
12 VAC 30-60-320	Amended	14:21 VA.R. 2894	8/5/98
12 VAC 30-60-340	Amended	14:21 VA.R. 2897	8/5/98
12 VAC 30-70-200 through 12 VAC 30-70-500 emer	Amended	14:22 VA.R. 3275-3297	7/1/98 - 6/30/99
12 VAC 30-70-440	Repealed	14:15 VA.R. 2248	6/1/98
12 VAC 30-70-441	Added	14:15 VA.R. 2248	6/1/98
12 VAC 30-80-30	Amended	14:12 VA.R. 1933	4/1/98
12 VAC 30-80-30	Amended	14:18 VA.R. 2582	7/1/98
12 VAC 30-80-170 emer	Amended	14:22 VA.R. 3299	7/1/98 - 6/30/99
12 VAC 30-90-52	Amended	14:22 VA.R. 3220	8/19/98
12 VAC 30-90-264	Amended	14:21 VA.R. 2899	8/5/98
12 VAC 30-90-266	Added	14:22 VA.R. 3220	8/19/98
12 VAC 30-90-290	Amended	14:21 VA.R. 2902	8/5/98
12 VAC 30-90-330	Added	14:22 VA.R. 3221	8/19/98
12 VAC 30-100-120	Amended	14:18 VA.R. 2583	7/1/98
12 VAC 30-120-360	Amended	14:18 VA.R. 2584	7/1/98
12 VAC 30-120-360 emer	Amended	14:22 VA.R. 3300	7/1/98 - 6/30/99
12 VAC 30-120-370	Amended	14:18 VA.R. 2585	7/1/98
12 VAC 30-120-370 emer	Amended	14:22 VA.R. 3301	7/1/98 - 6/30/99
12 VAC 30-120-385	Added	14:18 VA.R. 2587	7/1/98
12 VAC 30-120-410	Amended	14:18 VA.R. 2587	7/1/98
12 VAC 30-120-420	Amended	14:18 VA.R. 2587	7/1/98
12 VAC 30-120-490 through 12 VAC 30-120-550	Added	14:18 VA.R. 2590	7/1/98
<b>Title 13. Housing</b>			
13 VAC 5-51-135 emer	Added	14:18 VA.R. 2605	4/27/98 - 4/26/99
13 VAC 5-61-440	Amended	14:18 VA.R. 2600	7/1/98
13 VAC 10-10-20	Amended	14:17 VA.R. 2466	5/1/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 10-20-20	Amended	14:17 VA.R. 2467	5/1/98
13 VAC 10-40-100	Amended	14:11 VA.R. 1838	1/28/98
13 VAC 10-40-110	Amended	14:11 VA.R. 1839	1/28/98
13 VAC 10-40-120	Amended	14:11 VA.R. 1839	1/28/98
13 VAC 10-40-130	Amended	14:11 VA.R. 1839	1/28/98
13 VAC 10-40-140	Amended	14:11 VA.R. 1841	1/28/98
13 VAC 10-40-190	Amended	14:11 VA.R. 1842	1/28/98
13 VAC 10-40-210	Amended	14:11 VA.R. 1843	1/28/98
13 VAC 10-40-230	Added	14:11 VA.R. 1843	1/28/98
13 VAC 10-130-30	Amended	14:17 VA.R. 2468	5/1/98
13 VAC 10-140-20	Amended	14:17 VA.R. 2469	5/1/98
13 VAC 10-180-50	Amended	14:14 VA.R. 2141	3/4/98
13 VAC 10-180-60	Amended	14:14 VA.R. 2142	3/4/98
<b>Title 16. Labor and Employment</b>			
16 VAC 10-20-10	Amended	14:20 VA.R. 2759	7/1/98
16 VAC 10-20-20	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-30	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-40	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-50	Repealed	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-60	Repealed	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-70	Repealed	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-80	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-90	Repealed	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-100	Repealed	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-110	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-140	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-150	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-160	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-170	Amended	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-180	Repealed	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-190	Amended	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-200	Amended	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-210	Repealed	14:20 VA.R. 2763	7/1/98
16 VAC 10-20-220	Repealed	14:20 VA.R. 2763	7/1/98
16 VAC 10-20-230	Repealed	14:20 VA.R. 2764	7/1/98
16 VAC 10-20-240	Amended	14:20 VA.R. 2764	7/1/98
16 VAC 10-20-250	Repealed	14:20 VA.R. 2765	7/1/98
16 VAC 10-20-260	Repealed	14:20 VA.R. 2765	7/1/98
16 VAC 10-20-270	Repealed	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-275	Added	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-280	Amended	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-290	Repealed	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-300	Amended	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-310 through 16 VAC 10-20-460	Repealed	14:20 VA.R. 2767-2770	7/1/98
16 VAC 25-90-1910.94	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.111	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.134	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.134	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.139	Added	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.156	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.252	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.261	Erratum	14:17 VA.R. 2477	6/1/98
16 VAC 25-90-1910.1001	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1003	Amended	14:15 VA.R. 2250	6/1/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-90-1910.1003	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1017	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1018	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1025	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1025	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1027	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1028	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1028	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1029	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1043	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1044	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1045	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1045	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1047	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1048	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1048	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1050	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1050	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1051	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1052	Amended	14:14 VA.R. 2151	5/1/98
16 VAC 25-90-1910.1052	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1052	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-175-1926.1101	Amended	14:22 VA.R. 3222	9/1/98
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 25-21-70	Amended	14:11 VA.R. 1845	4/1/98
18 VAC 30-20-10	Amended	14:14 VA.R. 2155	4/29/98
18 VAC 30-20-20	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-30	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-40	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-45	Added	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-50	Amended	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-60	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-70	Amended	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-80	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-90	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-100	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-110	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-120	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-130	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-140	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-150	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-160	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-170	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-180	Amended	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-190	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-200	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-210	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-220	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-240	Amended	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-250	Repealed	14:14 VA.R. 2160	4/29/98
18 VAC 30-20-260	Repealed	14:14 VA.R. 2160	4/29/98
18 VAC 30-20-270	Repealed	14:14 VA.R. 2160	4/29/98
18 VAC 30-20-280	Amended	14:14 VA.R. 2160	4/29/98
18 VAC 60-20-105	Added	14:18 VA.R. 2602	6/24/98
18 VAC 76-10-10	Amended	14:11 VA.R. 1845	1/22/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-20-10	Amended	14:21 VA.R. 2904	8/5/98
18 VAC 85-20-20	Amended	14:21 VA.R. 2904	8/5/98
18 VAC 85-20-21	Added	14:21 VA.R. 2904	8/5/98
18 VAC 85-20-22	Added	14:21 VA.R. 2904	8/5/98
18 VAC 85-20-30	Amended	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-60	Repealed	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-70	Repealed	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-105	Added	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-110	Repealed	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-120	Amended	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-121	Added	14:21 VA.R. 2906	8/5/98
18 VAC 85-20-122	Added	14:21 VA.R. 2906	8/5/98
18 VAC 85-20-131	Added	14:21 VA.R. 2908	8/5/98
18 VAC 85-20-140	Amended	14:21 VA.R. 2908	8/5/98
18 VAC 85-20-150	Amended	14:21 VA.R. 2909	8/5/98
18 VAC 85-20-160	Repealed	14:21 VA.R. 2909	8/5/98
18 VAC 85-20-170	Repealed	14:21 VA.R. 2910	8/5/98
18 VAC 85-20-180	Repealed	14:21 VA.R. 2910	8/5/98
18 VAC 85-20-190	Repealed	14:21 VA.R. 2911	8/5/98
18 VAC 85-20-200	Repealed	14:21 VA.R. 2911	8/5/98
18 VAC 85-20-210	Amended	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-230	Amended	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-240	Amended	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-250	Repealed	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-260	Repealed	14:21 VA.R. 2913	8/5/98
18 VAC 85-20-270	Repealed	14:21 VA.R. 2913	8/5/98
18 VAC 85-40-10	Amended	14:21 VA.R. 2915	8/5/98
18 VAC 85-40-20	Amended	14:21 VA.R. 2915	8/5/98
18 VAC 85-40-40	Amended	14:21 VA.R. 2915	8/5/98
18 VAC 85-40-50	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-40-60	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-40-70	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-40-80	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-50-10	Amended	14:21 VA.R. 2923	8/5/98
18 VAC 85-50-50	Amended	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-55	Amended	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-57	Amended	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-101	Added	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-115	Amended	14:21 VA.R. 2925	8/5/98
18 VAC 85-50-116	Added	14:21 VA.R. 2925	8/5/98
18 VAC 85-50-170	Amended	14:21 VA.R. 2925	8/5/98
18 VAC 85-80-10	Amended	14:21 VA.R. 2934	8/5/98
18 VAC 85-80-40	Amended	14:21 VA.R. 2934	8/5/98
18 VAC 85-80-50	Amended	14:21 VA.R. 2934	8/5/98
18 VAC 85-80-60	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 85-80-70	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 85-80-80	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 85-80-120	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 110-20-210	Amended	14:15 VA.R. 2253	5/13/98
18 VAC 120-30-100	Amended	14:11 VA.R. 1846	4/1/98
18 VAC 125-20-30	Amended	14:11 VA.R. 1851	4/1/98
18 VAC 135-20-10	Amended	14:20 VA.R. 2771	9/1/98
18 VAC 135-20-20	Amended	14:20 VA.R. 2771	9/1/98
18 VAC 135-20-30	Amended	14:20 VA.R. 2772	9/1/98
18 VAC 135-20-40	Amended	14:20 VA.R. 2773	9/1/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 135-20-45	Added	14:20 VA.R. 2773	9/1/98
18 VAC 135-20-50	Amended	14:20 VA.R. 2773	9/1/98
18 VAC 135-20-60	Amended	14:20 VA.R. 2774	9/1/98
18 VAC 135-20-80	Amended	14:20 VA.R. 2774	9/1/98
18 VAC 135-20-90	Amended	14:20 VA.R. 2775	9/1/98
18 VAC 135-20-100	Amended	14:20 VA.R. 2775	9/1/98
18 VAC 135-20-110	Amended	14:20 VA.R. 2776	9/1/98
18 VAC 135-20-120	Amended	14:20 VA.R. 2776	9/1/98
18 VAC 135-20-150	Amended	14:20 VA.R. 2776	9/1/98
18 VAC 135-20-160	Amended	14:20 VA.R. 2776	9/1/98
18 VAC 135-20-170	Amended	14:20 VA.R. 2777	9/1/98
18 VAC 135-20-180	Amended	14:20 VA.R. 2777	9/1/98
18 VAC 135-20-190	Amended	14:20 VA.R. 2778	9/1/98
18 VAC 135-20-200	Amended	14:20 VA.R. 2779	9/1/98
18 VAC 135-20-210	Amended	14:20 VA.R. 2779	9/1/98
18 VAC 135-20-220	Amended	14:20 VA.R. 2780	9/1/98
18 VAC 135-20-240	Amended	14:20 VA.R. 2780	9/1/98
18 VAC 135-20-250	Amended	14:20 VA.R. 2780	9/1/98
18 VAC 135-20-260	Amended	14:20 VA.R. 2780	9/1/98
18 VAC 135-20-270	Amended	14:20 VA.R. 2781	9/1/98
18 VAC 135-20-280	Amended	14:20 VA.R. 2781	9/1/98
18 VAC 135-20-290	Amended	14:20 VA.R. 2781	9/1/98
18 VAC 135-20-300	Amended	14:20 VA.R. 2782	9/1/98
18 VAC 135-20-310	Amended	14:20 VA.R. 2782	9/1/98
18 VAC 135-20-320	Amended	14:20 VA.R. 2783	9/1/98
18 VAC 135-20-350	Amended	14:20 VA.R. 2783	9/1/98
18 VAC 135-20-360	Amended	14:20 VA.R. 2783	9/1/98
18 VAC 135-20-370	Amended	14:20 VA.R. 2784	9/1/98
18 VAC 135-20-380	Amended	14:20 VA.R. 2784	9/1/98
18 VAC 135-20-390	Amended	14:20 VA.R. 2784	9/1/98
18 VAC 135-20-400	Amended	14:20 VA.R. 2785	9/1/98
18 VAC 135-20-410	Amended	14:20 VA.R. 2785	9/1/98
18 VAC 135-20-420	Repealed	14:20 VA.R. 2785	9/1/98
18 VAC 135-20-430	Repealed	14:20 VA.R. 2785	9/1/98
18 VAC 135-20-440	Repealed	14:20 VA.R. 2785	9/1/98
<b>Title 19. Public Safety</b>			
19 VAC 30-20-10	Amended	14:11 VA.R. 1853	3/18/98
19 VAC 30-20-70	Amended	14:11 VA.R. 1853	3/18/98
19 VAC 30-20-80	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-20-140	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-20-150	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-20-160	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-170-05	Added	14:22 VA.R. 3225	7/1/98
19 VAC 30-170-10	Amended	14:22 VA.R. 3225	7/1/98
19 VAC 30-170-20	Amended	14:22 VA.R. 3225	7/1/98
19 VAC 30-170-30	Amended	14:22 VA.R. 3226	7/1/98
19 VAC 30-170-40	Amended	14:22 VA.R. 3227	7/1/98
19 VAC 30-170-50	Amended	14:22 VA.R. 3228	7/1/98
19 VAC 30-170-60	Added	14:22 VA.R. 3228	7/1/98
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-310-10	Amended	14:15 VA.R. 2253	3/24/98
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-10-40	Amended	14:22 VA.R. 3240	7/1/98
21 VAC 5-20-10	Amended	14:22 VA.R. 3240	7/1/98
21 VAC 5-20-70	Amended	14:22 VA.R. 3241	7/1/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
21 VAC 5-20-80	Amended	14:22 VA.R. 3241	7/1/98
21 VAC 5-20-230	Amended	14:22 VA.R. 3243	7/1/98
21 VAC 5-20-290	Amended	14:22 VA.R. 3243	7/1/98
21 VAC 5-20-300	Amended	14:22 VA.R. 3243	7/1/98
21 VAC 5-30-20	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-50	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-60	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-70	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-80	Amended	14:22 VA.R. 3245	7/1/98
21 VAC 5-40-20	Amended	14:22 VA.R. 3245	7/1/98
21 VAC 5-40-30	Amended	14:22 VA.R. 3246	7/1/98
21 VAC 5-40-100	Amended	14:22 VA.R. 3247	7/1/98
21 VAC 5-40-120	Amended	14:22 VA.R. 3249	7/1/98
21 VAC 5-80-10	Amended	14:22 VA.R. 3249	7/1/98
21 VAC 5-80-40	Amended	14:22 VA.R. 3250	7/1/98
21 VAC 5-80-140	Amended	14:22 VA.R. 3250	7/1/98
21 VAC 5-80-160	Amended	14:22 VA.R. 3251	7/1/98
21 VAC 5-80-170	Amended	14:22 VA.R. 3253	7/1/98
21 VAC 5-80-210	Amended	14:22 VA.R. 3253	7/1/98
21 VAC 5-80-220	Amended	14:22 VA.R. 3254	7/1/98
21 VAC 5-80-250	Added	14:22 VA.R. 3255	7/1/98
21 VAC 5-85-10	Amended	14:13 VA.R. 1976	2/17/98
21 VAC 5-85-10	Amended	14:15 VA.R. 2259	3/24/98
21 VAC 5-85-10	Amended	14:22 VA.R. 3256	7/1/98
21 VAC 5-120-10 through 21 VAC 5-120-110	Added	14:22 VA.R. 3261-3264	7/1/98
<b>Title 22. Social Services</b>			
22 VAC 15-30-10	Amended	14:21 VA.R. 2942	9/1/98
22 VAC 15-30-20	Amended	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-30	Amended	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-40	Repealed	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-50	Amended	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-60	Repealed	14:21 VA.R. 2947	9/1/98
22 VAC 15-30-70	Amended	14:21 VA.R. 2948	9/1/98
22 VAC 15-30-80	Amended	14:21 VA.R. 2948	9/1/98
22 VAC 15-30-90	Amended	14:21 VA.R. 2948	9/1/98
22 VAC 15-30-100	Amended	14:21 VA.R. 2949	9/1/98
22 VAC 15-30-110	Amended	14:21 VA.R. 2949	9/1/98
22 VAC 15-30-120	Amended	14:21 VA.R. 2949	9/1/98
22 VAC 15-30-130	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-140	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-150	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-160	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-170	Amended	14:21 VA.R. 2951	9/1/98
22 VAC 15-30-180	Amended	14:21 VA.R. 2951	9/1/98
22 VAC 15-30-190	Amended	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-200	Amended	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-210	Repealed	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-220	Repealed	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-230	Amended	14:21 VA.R. 2953	9/1/98
22 VAC 15-30-240	Repealed	14:21 VA.R. 2953	9/1/98
22 VAC 15-30-250	Amended	14:21 VA.R. 2954	9/1/98
22 VAC 15-30-260	Amended	14:21 VA.R. 2954	9/1/98
22 VAC 15-30-270	Repealed	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-280	Amended	14:21 VA.R. 2955	9/1/98

---

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

---

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 15-30-290	Amended	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-300	Repealed	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-310	Amended	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-320	Amended	14:21 VA.R. 2956	9/1/98
22 VAC 15-30-330	Amended	14:21 VA.R. 2957	9/1/98
22 VAC 15-30-340	Amended	14:21 VA.R. 2958	9/1/98
22 VAC 15-30-350	Amended	14:21 VA.R. 2958	9/1/98
22 VAC 15-30-360	Amended	14:21 VA.R. 2959	9/1/98
22 VAC 15-30-370	Amended	14:21 VA.R. 2959	9/1/98
22 VAC 15-30-380	Amended	14:21 VA.R. 2959	9/1/98
22 VAC 15-30-390	Amended	14:21 VA.R. 2960	9/1/98
22 VAC 15-30-400	Repealed	14:21 VA.R. 2960	9/1/98
22 VAC 15-30-410	Amended	14:21 VA.R. 2961	9/1/98
22 VAC 15-30-420	Repealed	14:21 VA.R. 2961	9/1/98
22 VAC 15-30-430	Amended	14:21 VA.R. 2961	9/1/98
22 VAC 15-30-440	Amended	14:21 VA.R. 2962	9/1/98
22 VAC 15-30-450	Repealed	14:21 VA.R. 2963	9/1/98
22 VAC 15-30-451	Added	14:21 VA.R. 2965	9/1/98
22 VAC 15-30-460	Repealed	14:21 VA.R. 2963	9/1/98
22 VAC 15-30-461	Added	14:21 VA.R. 2965	9/1/98
22 VAC 15-30-470	Repealed	14:21 VA.R. 2964	9/1/98
22 VAC 15-30-471	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-480	Repealed	14:21 VA.R. 2964	9/1/98
22 VAC 15-30-481	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-484	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-487	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-490	Amended	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-500	Amended	14:21 VA.R. 2967	9/1/98
22 VAC 15-30-510	Amended	14:21 VA.R. 2968	9/1/98
22 VAC 15-30-520	Amended	14:21 VA.R. 2968	9/1/98
22 VAC 15-30-530	Repealed	14:21 VA.R. 2969	9/1/98
22 VAC 15-30-540	Amended	14:21 VA.R. 2969	9/1/98
22 VAC 15-30-550	Amended	14:21 VA.R. 2969	9/1/98
22 VAC 15-30-560	Amended	14:21 VA.R. 2970	9/1/98
22 VAC 15-30-570	Amended	14:21 VA.R. 2970	9/1/98
22 VAC 15-30-575	Added	14:21 VA.R. 2970	9/1/98
22 VAC 15-30-580	Amended	14:21 VA.R. 2971	9/1/98
22 VAC 15-30-590	Amended	14:21 VA.R. 2971	9/1/98
22 VAC 15-30-600	Amended	14:21 VA.R. 2972	9/1/98
22 VAC 15-30-610	Amended	14:21 VA.R. 2972	9/1/98
22 VAC 15-30-620	Amended	14:21 VA.R. 2973	9/1/98
22 VAC 15-30-630	Amended	14:21 VA.R. 2973	9/1/98
22 VAC 15-30-640	Amended	14:21 VA.R. 2974	9/1/98
22 VAC 15-30-650	Amended	14:21 VA.R. 2975	9/1/98
22 VAC 15-30-660	Amended	14:21 VA.R. 2975	9/1/98
22 VAC 15-30-670	Amended	14:21 VA.R. 2975	9/1/98
22 VAC 15-30-680	Repealed	14:21 VA.R. 2976	9/1/98
22 VAC 15-30-690	Repealed	14:21 VA.R. 2976	9/1/98
22 VAC 15-30-700	Repealed	14:21 VA.R. 2977	9/1/98
22 VAC 15-30-710	Repealed	14:21 VA.R. 2977	9/1/98
22 VAC 15-30-720	Repealed	14:21 VA.R. 2978	9/1/98
22 VAC 15-30-730	Repealed	14:21 VA.R. 2978	9/1/98
22 VAC 15-40-10 through 22 VAC 15-40-730	Repealed	14:21 VA.R. 2990	9/1/98

---

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

---

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 24. Transportation</b>			
24 VAC 30-71-160	Erratum	14:13 VA.R. 2011	--
24 VAC 30-71-170	Erratum	14:13 VA.R. 2028	--
24 VAC 30-170-10	Amended	14:13 VA.R. 1992	4/15/98
24 VAC 30-380-10	Amended	14:13 VA.R. 1992	2/24/98
24 VAC 30-390-10	Amended	14:13 VA.R. 1992	2/24/98

---

# NOTICES OF INTENDED REGULATORY ACTION

---

## Symbol Key

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

---

## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled: **8 VAC 20-80-10 et seq. Regulations Governing Special Education Programs for Children With Disabilities in Virginia.** The purpose of the proposed action is to revise the special education regulations in accordance with the 1997 amendments to the federal Individuals with Disabilities Education Act and incorporate the Special Education Program Standards, 8 VAC 20-570-10 et seq., into these regulations. The agency intends to hold a public hearing on the proposed regulations after publication.

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

Public comments may be submitted until August 20, 1998, to Cathy Pomfrey, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2402, FAX (804) 371-8796, toll-free 1-800-292-3820 or 1-800-422-1098 or 371-2822/TTY ☎

**Contact:** H. Douglas Cox, Director, Office of Special Education and Student Services, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2402, FAX (804) 371-8796, toll-free 1-800-292-3820 or 1-800-422-1098 or 371-2822/TTY ☎

VA.R. Doc. No. R98-276; Filed June 30, 1998, 12:01 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled: **8 VAC 20-350-10 et seq. Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits.** The purpose of the proposed action is to (i) reorganize and simplify the regulations, (ii) respond to changes made in the Code of Virginia, and (iii) address conformity and compliance with current standards impacting the schools for children with disabilities. The agency intends to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 22.1-321 of the Code of Virginia.

Public comments may be submitted until August 21, 1998.

**Contact:** Carol Buchanan, Specialist, Department of Education, Proprietary Schools Unit, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2100, FAX

(804) 786-0809, toll-free 1-800-422-2083 or 1-800-422-1098/TTY ☎

VA.R. Doc. No. R98-277; Filed June 30, 1998, 12:01 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to consider repealing regulations entitled: **8 VAC 20-570-10 et seq. Special Education Program Standards.** The purpose of the proposed action is to repeal the current program standards and incorporate them, in revised form, into the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, 8 VAC 20-80-10 et seq. The agency intends to hold a public hearing on the proposed regulations after publication.

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

Public comments may be submitted until August 20, 1998, to Cathy Pomfrey, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2402, FAX (804) 371-8796, toll-free 1-800-292-3820 or 1-800-422-1098 or 371-2822/TTY ☎

**Contact:** H. Douglas Cox, Director, Office of Special Education and Student Services, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2402, FAX (804) 371-8796, toll-free 1-800-292-3820 or 1-800-422-1098 or 371-2822/TTY ☎

VA.R. Doc. No. R98-275; Filed June 30, 1998, 12:01 p.m.

---

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider **repealing** regulations entitled: **9 VAC 5-150-10 et seq. Regulation for Transportation Conformity** and **promulgating** regulations entitled: **9 VAC 5-151-10 et seq. (Rev. U97) Regulation for Transportation Conformity.** The purpose of the proposed action is to develop a new regulation (9 VAC 5 Chapter 151) which will streamline criteria and procedures for the transportation planning organization to determine whether federally-funded transportation plans, programs, and projects are in conformance with state plans for attaining and maintaining national ambient air quality standards in maintenance and

---

## Notices of Intended Regulatory Action

---

nonattainment areas. These areas include Northern Virginia, Richmond, and Hampton Roads. The previous regulation (9 VAC 5 Chapter 150) concerning this matter is proposed for repeal.

**Public Meeting:** A public meeting will be held by the department in the Training Room, Department of Environmental Quality Central Office, 629 East Main Street, Richmond, Virginia, at 10 a.m. on Thursday, August 20, 1998, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m., Friday, August 21, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

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

One of the primary goals of the federal Clean Air Act (Act) is the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). These standards, designed to protect public health and welfare, apply to six pollutants, including ozone. Ozone is formed when volatile organic compounds and nitrogen oxides in the air react together in the presence of sunlight. The National Ambient Air Quality Standard for ozone was established by the U.S. Environmental Protection Agency (EPA) to protect the health of the general public with an adequate margin of safety. When concentrations of ozone in the ambient air exceed the federal standard, the area is considered to be out of compliance and is classified as "nonattainment." Numerous counties and cities within the Northern Virginia, Richmond, and Hampton Roads areas were initially identified as ozone nonattainment areas but since then localities in the Richmond and Hampton Roads areas have been reassigned as maintenance areas.

Virginia is required by the Act to develop a State Implementation Plan (SIP) to ensure that nonattainment areas will come into compliance with the federal ozone standard. Failure to develop adequate programs to meet the

ozone standard (i) will result in continued violations of the standard; (ii) may result in assumption of the program by EPA, at which time the Commonwealth would lose authority over matters affecting its citizens; and (iii) may result in the imposition of sanctions by EPA, such as more restrictive requirements on new major industrial facilities and loss of federal funds for highway construction. Furthermore, if a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent air pollution control requirements.

Section 176(c) of the Act states, "No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to a [State Implementation Plan]." This requires metropolitan planning organizations (MPOs) and the United States Department of Transportation (DOT) to make determinations that federally funded transportation plans, programs, and projects conform with Virginia's SIP. "Conformity" means that the activity conforms to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards, and will not (i) cause or contribute to any new violation of any standard in any area, (ii) increase the frequency or severity of any existing violation of any standard in any area, or (iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The Act ties conformity to attainment and maintenance of the NAAQS. Thus, a transportation activity must not adversely affect implementation of the SIP or the timely attainment and maintenance of the NAAQS. The Act emphasizes reconciling the emissions from transportation activities with the SIP rather than simply providing for the implementation of SIP measures. This integration of transportation activities and air quality planning is intended to protect the integrity of the SIP by helping to ensure that SIP emissions growth projections are not exceeded, emissions reduction targets are met, and maintenance efforts are not undermined.

EPA promulgated a rule (58 FR 62188, November 24, 1993) which established the criteria and procedures governing the determination of conformity for all federally funded transportation plans, programs, and projects in nonattainment areas. In response to this promulgation, the board adopted 9 VAC 5 Chapter 150 on August 13, 1996. On August 15, 1997, (62 FR 43779) EPA promulgated a new version of its transportation conformity rule which significantly restructures the program. This new rule requires Virginia to submit to EPA, by August 15, 1998, a revision to the SIP that establishes conformity criteria and procedures consistent with the new transportation conformity rule promulgated by EPA. The new EPA rule provides more clarity and flexibility to the existing transportation conformity program.

The transportation conformity rule requires MPOs and DOT to make conformity determinations on metropolitan

---

# Notices of Intended Regulatory Action

---

transportation plans and transportation improvement programs (TIPs) before they are adopted, approved, or accepted. In addition, highway or transit projects which are funded or approved by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) must be found to conform before they are approved or funded by DOT or an MPO.

Alternatives: Alternatives to the proposed regulation are being considered by the department. The department has tentatively determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory action. The alternatives being considered by the department are discussed below.

1. Adopt a new regulation to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulatory action: to provide clarity and additional flexibility to the existing transportation conformity program.
2. Make alternative regulatory requirements to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it would not provide for the additional flexibility and clarification of the existing program.
3. Take no action to adopt the new regulation and continue to process transportation conformity analysis according to the existing rule. This option is not being selected because it would not give states and local governments more authority in selecting the performance measures used as tests of conformity and more discretion when a transportation plan does not conform to a SIP.

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

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

Section 176 of the federal Clean Air Act requires that transportation plans, programs and projects which are funded or approved under Title 23 USC or the Federal Transit Act conform with state or federal air quality implementation plans.

Section 176(c)(1) of the Act states, "No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to a [State Implementation Plan]." This requires metropolitan planning organizations (MPOs) and the United States Department of Transportation (DOT) to make determinations that federally funded transportation plans, programs, and projects conform with Virginia's SIP. "Conformity" means that the activity conforms to the SIP's purpose of eliminating or reducing the severity and number

of violations of the NAAQS and achieving expeditious attainment of such standards, and will not (i) cause or contribute to any new violation of any standard in any area, (ii) increase the frequency or severity of any existing violation of any standard in any area, or (iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The Act ties conformity to attainment and maintenance of the NAAQS. Section 176(c)(2) requires that a transportation activity must not adversely affect implementation of the SIP or the timely attainment and maintenance of the NAAQS. The Act emphasizes reconciling the emissions from transportation activities with the SIP rather than simply providing for the implementation of SIP measures. This integration of transportation activities and air quality planning is intended to protect the integrity of the SIP by helping to ensure that SIP emissions growth projections are not exceeded, emissions reduction targets are met, and maintenance efforts are not undermined.

Sections 176(c)(4)(A) and (B) require EPA to promulgate criteria and procedures for demonstrating and assuring conformity of federal actions to a SIP. Section 176(c)(4)(C) then requires states to submit a SIP revision containing the criteria and procedures.

40 CFR Part 51 subpart T of the Code of Federal Regulations establishes the criteria and procedures governing the determination of conformity for all federally funded transportation plans, programs, and projects in nonattainment areas. Virginia is required to submit to EPA a revision to the SIP that establishes conformity criteria and procedures consistent with the transportation conformity rule promulgated by EPA. DOT and MPOs are required to make conformity determinations on metropolitan transportation plans and transportation improvement programs (TIPs) before they are adopted, approved, or accepted. In addition, highway or transit projects which are funded or approved by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) must be found to conform before they are approved or funded by DOT or an MPO.

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

Public comments may be submitted until 4:30 p.m., Friday, August 21, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

VA.R. Doc. No. R98-268; Filed June 30, 1998, 9:27 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-**

### **170-10 et seq. Regulation for General Administration.**

The purpose of the proposed action is to establish requirements to govern the use of mediation and alternative dispute resolution in regulation development and permit issuance.

**Public Meeting:** A public meeting will be held by the department in the first floor training room, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 9 a.m. on Monday, August 10, 1998, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee, or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee, or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m., Tuesday, August 11, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

**Need:** Beginning in the early 1970s, federal, state, and local governments have increasingly used mediation and other consensus-building tools as an alternative to more traditional means of resolving disputes. These consensus-building tools are intended to supplement, not replace, conventional legislative, judicial, administrative, or regulatory mechanisms. The benefits of alternative dispute resolution (ADR) are many:

1. ADR achieves results satisfactory to all parties. Since each party learns to search for common ground and to recognize similar interests in the other parties, the traditional "hero vs. villain" illusion of adversarial disputes is avoided. Because the eventual solution is beneficial to all parties rather than to only one, the process produces mutual satisfaction in all parties, rather than winners and losers. Studies by the American Arbitration Association show that 80% of participants were satisfied with their ADR programs regardless of process or outcome.
2. ADR saves money. For instance, a single mediation undertaken by the New Jersey Center for Public Dispute Resolution to settle a dispute with the federal government over the state's emergency transport system avoided a potential loss of \$20 million in federal funds.

3. ADR accelerates the decision-making process. Because the concerned parties have a vested interest in achieving a speedy settlement, resolutions are generally reached in much less time through ADR than is required for resolutions to be reached through more traditional means.

4. ADR decreases the load on the court system. For instance, Cincinnati's Institute of Justice Private Complaint Program has reduced the municipal court's caseload by a third every year since 1974, with nearly half of the referred cases settled out of court and others being referred to noncourt agencies. Government decision-makers sometimes perceive litigation as a politically safer option than ADR since the court can be blamed for any undesirable outcome. These decision-makers, however, have much more control over the outcome through ADR than through litigation. Furthermore, they can still exercise their right to a court settlement if ADR fails.

5. ADR is politically advantageous to the involved parties by enhancing their reputation for consensus building and problem solving. Because ADR has developed only over the course of the past two decades, some local government officials and other small-group representatives are unaware of its existence or question its legitimacy as a problem-solving tool appropriate to the inherently conservative atmosphere of government. But ADR is not the same as binding arbitration: its use is neither an admission of failure nor an abdication of authority, but a demonstration that the involved parties are sufficiently dedicated to the public good to be willing to compromise in order to reach a solution.

A large number of the issues settled through ADR are environmental ones. Dispute resolution centers in New Jersey, Massachusetts, Minnesota, New York, New Mexico, Georgia, Florida, and many other states have initiated important discussions and facilitated agreements involving complex and controversial issues like the establishment of regional sewage treatment facilities, the siting of solid waste disposal facilities, the disposal of hazardous waste, the cleanup of a Superfund site, the spraying of herbicides, the adoption of environmental standards, and the siting of underground storage tanks. A well-known example of the successful use of mediation to address an environmental problem is the decade-long public battle over the development of Hawaii's first state water code, which pitted developers against environmentalists, large landowners against small ones, and the counties against the state. This battle produced one legislative stalemate after another to the frustration of all parties but was finally resolved through mediation conducted by Hawaii's Program on Alternative Dispute Resolution.

An example of what happens without ADR is the case of the Hampton-Roads refinery in Virginia. The refinery was proposed in 1970, discussed for over a decade, but never built. Contributing to the failure of the project were badly timed changes in the permitting process, understaffing of the State Air Pollution Control Board, statutory vagueness, siting

---

# Notices of Intended Regulatory Action

---

disagreements, lack of communication within the Army Corps of Engineers, angry citizens, gubernatorial dissatisfaction with the progress of the project, the involvement of the federal government through both the Department of the Interior and the military, and the expiration of the initially issued permits. At the end of the failed project, the company's expenses were over \$6 million, with about half of that in legal fees. The Army Corps of Engineers' bill for legal fees was at least that amount. This case is a good example of the many such environmental disputes which die of exhaustion rather than being settled fairly and thoughtfully. Millions of dollars and thousands of labor years were squandered without an equitable settlement.

One way for Virginia to avoid this situation in the future is to adopt regulations that enable it to implement § 10.1-1186.3 of the Code of Virginia.

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

1. Amend the regulations to satisfy the provisions of the law. This option is being considered because it meets the stated purpose of the regulatory action: to comply with the mandate of § 10.1-1186.3 of the Code of Virginia that requires the adoption of regulations for the use of mediation or alternative dispute resolution in the development of a regulation or in the issuance of a permit.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because it does not meet the stated purpose of the regulatory action.
3. Take no action to amend the regulations. This option is not being considered because it does not meet the stated purpose of the regulatory action.

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

Applicable Statutory Requirements: Section 10.1-1186.3 A of the Code of Virginia allows the State Air Pollution Control Board to use mediation and alternative dispute resolution to resolve underlying issues, to reach a consensus, or to compromise on contested issues related to the development of a regulation or to the issuance of a permit. Section 10.1-1186.3 D of the Code of Virginia specifies that the board shall adopt regulations in accordance with the Administrative Process Act for the implementation of § 10.1-1186.3. These regulations are to include (i) standards and procedures for the conduct of mediation and dispute resolution, (ii) the appointment and function of a neutral; and (iii) procedures to protect the confidentiality of papers, work product, or other materials.

Statutory Authority: § 10.1-1186.3 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Tuesday, August 11, 1998, to the Director, Office of Program

Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TDD ☎

VA.R. Doc. No. R98-254; Filed June 15, 1998, 2:26 p.m.

## VIRGINIA WASTE MANAGEMENT BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **9 VAC 20-15-10 et seq. Mediation and Alternative Dispute Resolution.** The purpose of the proposed action is to establish requirements to govern the use of mediation and alternative dispute resolution in regulation development and permit issuance.

Public Meeting: A public meeting will be held by the department in the first floor training room, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 9 a.m. on Monday, August 10, 1998, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee, or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee, or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m., Tuesday, August 11, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

Need: Beginning in the early 1970s, federal, state, and local governments have increasingly used mediation and other consensus-building tools as an alternative to more traditional means of resolving disputes. These consensus-building tools are intended to supplement, not replace, conventional legislative, judicial, administrative, or regulatory mechanisms. The benefits of alternative dispute resolution (ADR) are many:

---

## Notices of Intended Regulatory Action

---

1. ADR achieves results satisfactory to all parties. Since each party learns to search for common ground and to recognize similar interests in the other parties, the traditional "hero vs. villain" illusion of adversarial disputes is avoided. Because the eventual solution is beneficial to all parties rather than to only one, the process produces mutual satisfaction in all parties, rather than winners and losers. Studies by the American Arbitration Association show that 80% of participants were satisfied with their ADR programs regardless of process or outcome.

2. ADR saves money. For instance, a single mediation undertaken by the New Jersey Center for Public Dispute Resolution to settle a dispute with the federal government over the state's emergency transport system avoided a potential loss of \$20 million in federal funds.

3. ADR accelerates the decision-making process. Because the concerned parties have a vested interest in achieving a speedy settlement, resolutions are generally reached in much less time through ADR than is required for resolutions to be reached through more traditional means.

4. ADR decreases the load on the court system. For instance, Cincinnati's Institute of Justice Private Complaint Program has reduced the municipal court's caseload by a third every year since 1974, with nearly half of the referred cases settled out of court and others being referred to noncourt agencies. Government decision-makers sometimes perceive litigation as a politically safer option than ADR since the court can be blamed for any undesirable outcome. These decision-makers, however, have much more control over the outcome through ADR than through litigation. Furthermore, they can still exercise their right to a court settlement if ADR fails.

5. ADR is politically advantageous to the involved parties by enhancing their reputation for consensus building and problem solving. Because ADR has developed only over the course of the past two decades, some local government officials and other small-group representatives are unaware of its existence or question its legitimacy as a problem-solving tool appropriate to the inherently conservative atmosphere of government. But ADR is not the same as binding arbitration: its use is neither an admission of failure nor an abdication of authority, but a demonstration that the involved parties are sufficiently dedicated to the public good to be willing to compromise in order to reach a solution.

A large number of the issues settled through ADR are environmental ones. Dispute resolution centers in New Jersey, Massachusetts, Minnesota, New York, New Mexico, Georgia, Florida, and many other states have initiated important discussions and facilitated agreements involving complex and controversial issues like the establishment of regional sewage treatment facilities, the siting of solid waste disposal facilities, the disposal of hazardous waste, the clean-up of a Superfund site, the spraying of herbicides, the

adoption of environmental standards, and the siting of underground storage tanks. A well-known example of the successful use of mediation to address an environmental problem is the decade-long public battle over the development of Hawaii's first state water code, which pitted developers against environmentalists, large landowners against small ones, and the counties against the state. This battle produced one legislative stalemate after another to the frustration of all parties but was finally resolved through mediation conducted by Hawaii's Program on Alternative Dispute Resolution.

An example of what happens without ADR is the case of the Hampton-Roads refinery in Virginia. The refinery was proposed in 1970, discussed for over a decade, but never built. Contributing to the failure of the project were badly timed changes in the permitting process, understaffing of the State Air Pollution Control Board, statutory vagueness, siting disagreements, lack of communication within the Army Corps of Engineers, angry citizens, gubernatorial dissatisfaction with the progress of the project, the involvement of the federal government through both the Department of the Interior and the military, and the expiration of the initially issued permits. At the end of the failed project, the company's expenses were over \$6 million, with about half of that in legal fees. The Army Corps of Engineers' bill for legal fees was at least that amount. This case is a good example of the many such environmental disputes which die of exhaustion rather than being settled fairly and thoughtfully. Millions of dollars and thousands of labor years were squandered without an equitable settlement.

One way for Virginia to avoid this situation in the future is to adopt regulations that enable it to implement § 10.1-1186.3 of the Code of Virginia.

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

1. Amend the regulations to satisfy the provisions of the law. This option is being considered because it meets the stated purpose of the regulatory action: to comply with the mandate of § 10.1-1186.3 of the Code of Virginia that requires the adoption of regulations for the use of mediation or alternative dispute resolution in the development of a regulation or in the issuance of a permit.

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because it does not meet the stated purpose of the regulatory action.

3. Take no action to amend the regulations. This option is not being considered because it does not meet the stated purpose of the regulatory action.

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

---

# Notices of Intended Regulatory Action

---

Applicable Statutory Requirements: Section 10.1-1186.3 A of the Code of Virginia allows the State Air Pollution Control Board to use mediation and alternative dispute resolution to resolve underlying issues, to reach a consensus, or to compromise on contested issues related to the development of a regulation or to the issuance of a permit. Section 10.1-1186.3 D of the Code of Virginia specifies that the board shall adopt regulations in accordance with the Administrative Process Act for the implementation of § 10.1-1186.3. These regulations are to include (i) standards and procedures for the conduct of mediation and dispute resolution, (ii) the appointment and function of a neutral; and (iii) procedures to protect the confidentiality of papers, work product, or other materials.

Statutory Authority: § 10.1-1186.3 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Tuesday, August 11, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

VA.R. Doc. No. R98-253; Filed June 15, 1998, 2:26 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **9 VAC 20-170-10 et seq. Transportation of Solid and Medical Wastes on State Waters.** The purpose of the proposed action is to satisfy the provisions of § 10.1-1454.1 of the Code of Virginia. The cited provision is an amendment to the statutes as a result of House Bill No. 816 passed by the 1998 General Assembly.

Public Meeting: A public meeting will be held by the department in the first floor training room, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 10 a.m. on August 11, 1998, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be in the group, notify the agency contact in writing by 4:30 p.m. on August 14, 1998, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be in the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop the proposed regulation for department consideration through the collaborative approach of regulatory negotiation and consensus.

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

Need: The proposed regulation will establish a permits by rule requirement for facilities receiving nonhazardous solid wastes and regulated medical waste from a ship, barge or other vessel. It will also establish specific requirements governing the commercial transport of nonhazardous solid wastes and regulated medical waste upon the navigable waters of the Commonwealth and the loading and off-loading of ships, barges and other vessels transporting such wastes. Ships, barges or vessels, and the containers holding wastes have to be designed, constructed, loaded, operated and maintained so as to prevent the escape of liquids, waste and odors and to prevent the loss or spillage of waste in the event of accident.

Therefore, the proposed regulatory action is essential to protect the health, safety and welfare of the citizens of the Commonwealth. It is also essential to protect the Commonwealth's environment and natural resources from pollution, impairment or destruction.

Alternatives: The following alternatives to the proposed regulation are being considered by the department:

1. Adopt the proposed regulation. This option is being selected because it will satisfy the statutory mandates.
2. Take no action to adopt the regulation. Consequently, in the absence of the permitting program as required by the law, it could prohibit any solid waste management facilities from receiving nonhazardous solid wastes or regulated medical waste from a ship, barge and other vessel transporting such wastes upon the navigable waters of the Commonwealth. Further, in the absence of any specific requirements as mandated by the statutes, it could prohibit the commercial transport of nonhazardous solid wastes and regulated medical waste upon the navigable waters of the Commonwealth. This option is not being selected because it would not be constitutional and the statutory mandates would not be fulfilled.

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

Applicable Statutory Requirements: The contemplated regulation is mandated by state law. Specifically, § 10.1-1454.1 of the Code of Virginia charges the Virginia Waste Management Board to develop regulations governing the commercial transport, loading and off-loading of nonhazardous solid wastes (except scrap metal, dredged material and source-separated recyclables) and regulated medical waste by ship, barge or other vessel upon navigable waters of the Commonwealth. The statutes also require the regulation to include the following provisions: (i) to establish a permits by rule requirement for the receiving facilities; (ii) to establish specific requirements for ships, barges or other vessels, and containers to prevent the escape of wastes,

---

# Notices of Intended Regulatory Action

---

liquids, and odors, and to prevent spillage in the event of an accident; (iii) to establish a fee, payable by the owner or operator of any ship, barge or other vessel, to recover the administrative and enforcement costs, and to assess a permit fee for the owner or operator of a receiving facility; and (iv) to require the owners and operators of ships, barges, and other vessels to demonstrate financial responsibility as a condition of operation.

Statutory Authority § 10.1-1454.1 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on August 14, 1998.

**Contact:** Lily Choi, Environmental Engineer Senior, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4054 or FAX (804) 698-4032.

VA.R. Doc. No. R98-255; Filed June 15, 1998, 2:26 p.m.

## STATE WATER CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **9 VAC 25-15-10 et seq. Mediation and Alternative Dispute Resolution**. The purpose of the proposed action is to establish requirements to govern the use of mediation and alternative dispute resolution in regulation development and permit issuance.

**Public Meeting:** A public meeting will be held by the department in the first floor training room, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 9 a.m. on Monday, August 10, 1998, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee, or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee, or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m., Tuesday, August 11, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

**Need:** Beginning in the early 1970s, federal, state, and local governments have increasingly used mediation and other consensus-building tools as an alternative to more traditional means of resolving disputes. These consensus-building tools are intended to supplement, not replace, conventional legislative, judicial, administrative, or regulatory mechanisms. The benefits of alternative dispute resolution (ADR) are many:

1. ADR achieves results satisfactory to all parties. Since each party learns to search for common ground and to recognize similar interests in the other parties, the traditional "hero vs. villain" illusion of adversarial disputes is avoided. Because the eventual solution is beneficial to all parties rather than to only one, the process produces mutual satisfaction in all parties, rather than winners and losers. Studies by the American Arbitration Association show that 80% of participants were satisfied with their ADR programs regardless of process or outcome.
2. ADR saves money. For instance, a single mediation undertaken by the New Jersey Center for Public Dispute Resolution to settle a dispute with the federal government over the state's emergency transport system avoided a potential loss of \$20 million in federal funds.
3. ADR accelerates the decision-making process. Because the concerned parties have a vested interest in achieving a speedy settlement, resolutions are generally reached in much less time through ADR than is required for resolutions to be reached through more traditional means.
4. ADR decreases the load on the court system. For instance, Cincinnati's Institute of Justice Private Complaint Program has reduced the municipal court's caseload by a third every year since 1974, with nearly half of the referred cases settled out of court and others being referred to noncourt agencies. Government decision-makers sometimes perceive litigation as a politically safer option than ADR since the court can be blamed for any undesirable outcome. These decision-makers, however, have much more control over the outcome through ADR than through litigation. Furthermore, they can still exercise their right to a court settlement if ADR fails.
5. ADR is politically advantageous to the involved parties by enhancing their reputation for consensus building and problem solving. Because ADR has developed only over the course of the past two decades, some local government officials and other small-group representatives are unaware of its existence or question its legitimacy as a problem-solving tool appropriate to the inherently conservative atmosphere of government. But ADR is not the same as binding arbitration: its use is neither an admission of failure nor an abdication of authority, but a demonstration that the involved parties are sufficiently dedicated to the public good to be willing to compromise in order to reach a solution.

---

# Notices of Intended Regulatory Action

---

A large number of the issues settled through ADR are environmental ones. Dispute resolution centers in New Jersey, Massachusetts, Minnesota, New York, New Mexico, Georgia, Florida, and many other states have initiated important discussions and facilitated agreements involving complex and controversial issues like the establishment of regional sewage treatment facilities, the siting of solid waste disposal facilities, the disposal of hazardous waste, the clean-up of a Superfund site, the spraying of herbicides, the adoption of environmental standards, and the siting of underground storage tanks. A well-known example of the successful use of mediation to address an environmental problem is the decade-long public battle over the development of Hawaii's first state water code, which pitted developers against environmentalists, large landowners against small ones, and the counties against the state. This battle produced one legislative stalemate after another to the frustration of all parties but was finally resolved through mediation conducted by Hawaii's Program on Alternative Dispute Resolution.

An example of what happens without ADR is the case of the Hampton-Roads refinery in Virginia. The refinery was proposed in 1970, discussed for over a decade, but never built. Contributing to the failure of the project were badly timed changes in the permitting process, understaffing of the State Air Pollution Control Board, statutory vagueness, siting disagreements, lack of communication within the Army Corps of Engineers, angry citizens, gubernatorial dissatisfaction with the progress of the project, the involvement of the federal government through both the Department of the Interior and the military, and the expiration of the initially issued permits. At the end of the failed project, the company's expenses were over \$6 million, with about half of that in legal fees. The Army Corps of Engineers' bill for legal fees was at least that amount. This case is a good example of the many such environmental disputes which die of exhaustion rather than being settled fairly and thoughtfully. Millions of dollars and thousands of labor years were squandered without an equitable settlement.

One way for Virginia to avoid this situation in the future is to adopt regulations that enable it to implement § 10.1-1186.3 of the Code of Virginia.

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

1. Amend the regulations to satisfy the provisions of the law. This option is being considered because it meets the stated purpose of the regulatory action: to comply with the mandate of § 10.1-1186.3 of the Code of Virginia that requires the adoption of regulations for the use of mediation or alternative dispute resolution in the development of a regulation or in the issuance of a permit.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because it does not meet the stated purpose of the regulatory action.

3. Take no action to amend the regulations. This option is not being considered because it does not meet the stated purpose of the regulatory action.

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

Applicable Statutory Requirements: Section 10.1-1186.3 A of the Code of Virginia allows the State Air Pollution Control Board to use mediation and alternative dispute resolution to resolve underlying issues, to reach a consensus, or to compromise on contested issues related to the development of a regulation or to the issuance of a permit. Section 10.1-1186.3 D of the Code of Virginia specifies that the board shall adopt regulations in accordance with the Administrative Process Act for the implementation of § 10.1-1186.3. These regulations are to include (i) standards and procedures for the conduct of mediation and dispute resolution, (ii) the appointment and function of a neutral; and (iii) procedures to protect the confidentiality of papers, work product, or other materials.

Statutory Authority: § 10.1-1186.3 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Tuesday, August 11, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Dr. Kathleen Sands, Policy Analyst, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

VA.R. Doc. No. R98-259; Filed June 15, 1998, 2:26 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-260-10 et seq. Water Quality Standards.** The purpose of the proposed action is to receive comments from the public on whether the board should (i) propose amendments to the numerical criteria for metals to include the Environmental Protection Agency's dissolved conversion factors for metals (9 VAC 25-260-140 B); (ii) propose amendments to the mixing zone section (9 VAC 25-260-20 B) of the regulation to provide specific protection to endangered and threatened species; (iii) propose updates to the listing of endangered species (9 VAC 25-260-110); and (iv) consider whether the requirements of the antidegradation policy (9 VAC 25-260-30) should apply to all state activities, including nonpoint source activities.

Intent: These issues may have a significant impact on activities in the Commonwealth and DEQ intends to provide the public every avenue of public participation, beginning with this Notice of Intended Regulatory Action, in order to ensure the amendments are necessary to protect aquatic life

---

# Notices of Intended Regulatory Action

---

and provide for the maintenance of water quality in the Commonwealth of Virginia.

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

**Need:** The Environmental Protection Agency submitted comments to the Department of Environmental Quality stating that recent amendments to the Water Quality Standards would not meet federal approval unless the subject matters listed above were addressed. At its meeting on September 25, 1997, the State Water Control Board directed the staff to publish this Notice of Intended Regulatory Action so that the issues could be presented to the public.

**Alternatives:** DEQ could allow the Environmental Protection Agency to promulgate amendments to Virginia's water quality standards to address the four issues. This is the least favorable alternative since it is preferable to promulgate regulations that are tailored to meet Virginia's needs. EPA has never had to promulgate water quality regulations for Virginia in the past.

There may be various alternatives to address the Environmental Protection Agency's concerns regarding endangered species. For example, smaller mixing zones (rather than no mixing zones) could be specified for endangered and threatened species waters or the regulation could "grandfather" existing mixing zones and only apply the new protection requirements for endangered species to new discharges. Regarding the listing of endangered and threatened species, the list could contain only federal species or both federal and state listed species. DEQ has technical concerns regarding the dissolved metals conversion factors. Therefore, one alternative to address this need would be for DEQ to do the necessary research to resolve these concerns before adopting the conversion factors.

**Request for Comments:** Comments are requested on the intended regulatory action, to include any ideas to assist the agency in the development of the proposal. Comments are requested on the costs and benefits of the stated alternatives or other alternatives. DEQ also requests comments as to whether the agency should use the participatory approach to assist the agency in the development of the proposal. The participatory approach is defined as a method for the use of (i) standing advisory committees, (ii) ad hoc advisory groups or panels, (iii) consultation with groups or individuals registering interest in working with the agency, or (iv) any combination thereof.

**Public Meetings:** Public meetings will be held on Wednesday, September 9, 1998, at 7 p.m. and Thursday, September 10, 1998, at 2 p.m. at the Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia 23220.

**Statutory Authority:** § 62.1-44.15 (3a) of the Code of Virginia.

Public comments may be submitted until September 18, 1998, to Dr. Alan J. Anthony, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

**Contact:** Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111.

VA.R. Doc. No. R98-266; Filed June 30, 1998, 9:27 a.m.

---

## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider promulgating regulations entitled: **12 VAC 5-212-10 et seq. Procedures and Policies for Administering the Commonwealth Neurotrauma Initiative Trust Fund.** The purpose of the proposed action is to carry out a 1997 legislative directive (Chapter 567 of the 1997 Acts of Assembly) by developing regulations that establish procedures and policies for soliciting and receiving applications for moneys in the Commonwealth Neurotrauma Initiative (CNI) Trust Fund, and criteria for reviewing and ranking such applications. The purpose of the CNI Trust Fund is to prevent traumatic spinal cord and brain injuries and to improve the treatment and care of Virginians with such injuries. The agency does not intend to hold a public hearing on the proposed regulation after publication.

**Statutory Authority:** §§ 32.1-12 and 32.1-73.4 of the Code of Virginia.

Public comments may be submitted until August 20, 1998.

**Contact:** Douglas R. Harris, Administrative Law Advisor, Department of Health, Office of the Commissioner, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3561, FAX (804) 786-4616 or toll-free 1-800-828-1120/TTY ☎

VA.R. Doc. No. R98-263; Filed June 25, 1998, 12:11 p.m.

---

# Notices of Intended Regulatory Action

---

## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-21-10 et seq. Virginia Certification Standards.** The purpose of the proposed action is to review the regulations and amend provisions that are found to be no longer necessary or overly restrictive and to amend the regulations as required by General Assembly action and to put before the public for comment suggested changes submitted to the Board of Housing and Community Development. Those provisions may include, but are not limited to, amending the regulation regarding certificates of competence and training requirements for code officials and assistants. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-137 of the Code of Virginia.

Public comments may be submitted until August 21, 1998.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170, FAX (804) 371-7092 or (804) 371-7089/TTY ☎

VA.R. Doc. No. R98-273; Filed July 1, 1998, 12:10 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-31-10 et seq. Virginia Amusement Device Regulations.** The purpose of the proposed action is to review the regulations and amend provisions that are found to be no longer necessary or overly restrictive and as required by General Assembly action and to put before the public for comment suggested changes submitted to the Board of Housing and Community Development. The proposed amendments may include, but are not limited to, amending the regulation by updating to more recent standards of the American National Standards Institute (ANSI) and the American Society for Testing and Materials (ASTM) relating to amusement devices. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Public comments may be submitted until August 21, 1998.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501

N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170, FAX (804) 371-7092 or (804) 371-7089/TTY ☎

VA.R. Doc. No. R98-271; Filed July 1, 1998, 12:11 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code.** The purpose of the proposed action is to review the regulations and amend provisions that are found to be no longer necessary or overly restrictive and as required by General Assembly action and to put before the public for comment suggested changes submitted to the Board of Housing and Community Development. The proposed amendments may include, but are not limited to: (i) amending the regulation to clarify the appointment procedures of local assistant (deputy) fire marshals as set forth in legislation, (ii) considering requiring the code official to enforce maintenance provisions of the code regarding replacement of smoke detectors in R-2 buildings, (iii) considering amending the time allowed to become certified by the board following appointment as a code official, and (iv) considering amending the regulation to address a potential safety problem with an already installed fire sprinkler device which may not function properly during a fire situation. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 27-97 of the Code of Virginia.

Public comments may be submitted until August 21, 1998.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170, FAX (804) 371-7092 or (804) 371-7089/TTY ☎

VA.R. Doc. No. R98-270; Filed July 1, 1998, 12:12 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-61-10 et seq. Virginia Uniform Statewide Building Code.** The purpose of the proposed action is to review the regulations and amend provisions that are found to be no longer necessary or overly restrictive and as required by General Assembly action and to put before the public for comment suggested changes submitted to the Board of Housing and Community Development. The proposed amendments may include, but are not limited to: (i) requiring an additional sign for handicap parking stating the penalty as required by statute, (ii) amending and adding definitions to comport with legislation regarding farm structures and buildings, (iii) codifying the recommendations in the board's 1998 report to the Governor and the General Assembly (House Document No. 29) regarding exterior insulation and finish systems (EIFS), (iv) considering

---

# Notices of Intended Regulatory Action

---

amending the building code regarding accessibility standards for renovation projects, (v) implementing expedited plan review as recommended by the board's ad hoc committee, (vi) considering requiring certain smoke detectors be replaced in R-2 buildings, (vii) considering adoption of the radon gas provisions in the CABO 1 & 2 Family Dwelling Code, and (viii) considering amending the time allowed to become certified by the board following appointment as a code official. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-98 of the Code of Virginia.

Public comments may be submitted until August 21, 1998.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170, FAX (804) 371-7092 or (804) 371-7089/TTY ☎

VA.R. Doc. No. R98-274; Filed July 1, 1998, 12:12 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-91-10 et seq. Virginia Industrialized Building Safety Regulations.** The purpose of the proposed action is to delete or amend provisions that are found to be no longer necessary or overly restrictive, to amend the regulations as required by General Assembly action, and to put before the public for comment suggested changes submitted to the Board of Housing and Community Development. Those provisions may include but are not limited to (i) deleting the section regarding the requirement for "warning signs" on unregistered industrialized buildings offered for sale by dealers in Virginia and (ii) deleting the section regarding the requirement for the building manufacturer to include the name and model numbers of appliances in industrialized buildings. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-137 of the Code of Virginia.

Public comments may be submitted until September 3, 1998.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170, FAX (804) 371-7092 or (804) 371-7089/TTY ☎

VA.R. Doc. No. R98-297; Filed July 14, 1998, 12:02 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-111-10 et seq. Enterprise Zone Program Regulations.** The purpose of the proposed action

is to provide clearer guidance regarding the state enterprise zone program incentives that stimulate new job creation and private investment in designated distressed enterprise zones. Amendments will give clearer guidelines for businesses in qualifying for the use of these incentives.

In 1995, the General Assembly made significant legislative changes to the enterprise zone program. Since that time, it has been discovered that more guidance is needed to ensure that the program is operating as efficiently and fairly as possible. These proposed regulations are to provide this guidance to the localities and businesses that benefit from the enterprise zone program.

The proposed regulations are needed to enable the enterprise zone program to operate efficiently and economically. Three of the four state incentives provided in the program are structured as tax credits. In addition, there are fiscal limits placed on the amount of credits that can be authorized. It has come to the board's attention that there is a considerable amount of confusion concerning the requirements and operation of the program. Many of the program clients have indicated that the current regulations do not clearly address the many issues surrounding program qualification and have requested clarification. There have been several questions concerning what types of businesses are eligible for this program and how these businesses can qualify. It is the board's desire to ensure that the regulations provide clear and understandable guidelines by addressing all issues concerning the performance of the program. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-273 of the Code of Virginia.

Public comments may be submitted until September 4, 1998.

**Contact:** M. Shea Hollifield, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7030 or FAX (804) 371-7093.

VA.R. Doc. No. R98-298; Filed July 14, 1998, 12:02 p.m.

## MANUFACTURED HOUSING BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Manufactured Housing Board intends to consider amending regulations entitled: **13 VAC 6-20-10 et seq. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.** The purpose of the proposed action is to review the regulations and amend provisions that are found to be no longer necessary or overly restrictive. The proposed amendments may include, but are not limited to: (i) amending the regulations to allow the Manufactured Housing Board to require tests/examinations for licensure as dealers, brokers, or salespersons; (ii) adding a provision which would allow a licensed regulant to obtain a temporary location license if needed; (iii) in 13 VAC 6-20-

---

# Notices of Intended Regulatory Action

---

180, Penalties; notice to regulant, changing "Transaction Recovery Fund assessment" to "monetary penalty"; (iv) deleting unnecessary requirements from 13 VAC 6-20-210 and 13 VAC 6-20-220 concerning dealer/manufacturer sales agreements; and (v) reviewing 13 VAC 6-20-250 for possible deletion as restriction of trade. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-85.18 of the Code of Virginia.

Public comments may be submitted until August 21, 1998.

**Contact:** Curtis L. Mclver, Associate Director, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160, FAX (804) 371-7092 or (804) 371-7089/TTY ☎

VA.R. Doc. No. R98-272; Filed July 1, 1998, 12:10 p.m.

---

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### CEMETERY BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Cemetery Board intends to consider promulgating regulations entitled: **18 VAC 47-10-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines for soliciting input of interested parties in the formation and development of the Cemetery Board's regulations. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-2313 of the Code of Virginia (Chapter 721 of the 1998 Acts of Assembly).

Public comments may be submitted until August 6, 1998.

**Contact:** Karen O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-8548/TTY ☎

VA.R. Doc. No. R98-250; Filed June 15, 1998, 2:55 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Cemetery Board intends to consider promulgating regulations entitled: **18 VAC 47-20-10 et seq. Cemetery Board Regulations.** The purpose of the proposed action is to implement the provisions of Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia (Cemetery Operators, Perpetual Care Trust Funds and Preneed Burial Contracts) enacted by the 1998 General

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

Statutory Authority: § 54.1-2313 of the Code of Virginia (Chapter 721 of the 1998 Acts of Assembly).

Public comments may be submitted until August 6, 1998.

**Contact:** Karen O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-8548/TTY ☎

VA.R. Doc. No. R98-260; Filed June 9, 1998, 11:23 a.m.

## DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Professional and Occupational Regulation intends to consider amending regulations entitled: **18 VAC 120-10-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to amend the regulation by removing the terms "employment counselors" and "polygraph examiner" to enable the regulation to apply to all regulatory programs administered by the Director of the Department of Professional and Occupational Regulation, including the Professional Boxing and Wrestling Events program mandated by Senate Bill 157 (Chapter 895 of the 1998 Acts of Assembly). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-831 of the Code of Virginia (Chapter 895 of the 1998 Acts of Assembly).

Public comments may be submitted until August 6, 1998.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R98-251; Filed June 15, 1998, 2:29 p.m.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Professional and Occupational Regulation intends to consider promulgating regulations entitled: **18 VAC 120-40-10 et seq. Virginia Professional Boxing and Wrestling Events Regulations.** The purpose of the proposed action is to promulgate regulations for the newly created boxing and wrestling events regulatory program mandated by Senate Bill 157 (1998). The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-831 of the Code of Virginia (Chapter 895 of the 1998 Acts of Assembly).

---

# Notices of Intended Regulatory Action

---

Public comments may be submitted until August 6, 1998.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R98-252; Filed June 15, 1998, 1:32 p.m.

## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waste Management Facility Operators intends to consider amending regulations entitled: **18 VAC 155-10-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to determine from public comment the effectiveness and continued need for the existing regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Public comments may be submitted until September 3, 1998.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R98-279; Filed July 8, 1998, 10:42 a.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waste Management Facility Operators intends to consider amending regulations entitled: **18 VAC 155-20-10 et seq. Waste Management Facility Operators Regulations.** The purpose of the proposed action is to determine from public comment the effectiveness and continued need for the existing regulations. The board will solicit public comment, with specific emphasis on the the following subjects:

1. Should the CPE requirement be either eliminated or amended?
2. Which state agency should decide when a licensed operator is required -- the boards administered by the Department of Environmental Quality or the Board for Waste Management Facility Operators administered by the Department of Professional and Occupational Regulation?
3. What is considered a "substantial change" to a training course in 18 VAC 155-20-230 E?

4. Should the seven-year experience requirement to qualify for licensure in lieu of facility specific training be modified or eliminated?

5. Should the sections dealing with reciprocity and reinstatement be amended?

6. Elimination of all references to "Interim Certification" since this is no longer applicable.

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

Statutory Authority: § 54.1-2211 of the Code of Virginia.

Public comments may be submitted until September 3, 1998.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R98-278; Filed July 8, 1998, 10:42 a.m.

---

# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

---



## PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

This section gives notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

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

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until  
4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-30-10 et seq. and 9 VAC 5-70-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. A97)**. The regulation amendments concern provisions covering total suspended particulate (TSP) ambient air quality standards. The proposed action is to remove references to TSP from 9 VAC 5 Chapter 30, Ambient Air Quality Standards, and from 9 VAC 5 Chapter 70, Air Pollution Episodes.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

---

## Public Comment Periods - Proposed Regulations

---

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Environmental Program Planner, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. B97) (repealing Article 38, 9 VAC 5-40-5350 through 9 VAC 5-40-5480. Emission Standards for Dry Cleaning Systems (Rule 4-38))**. The amendments concern provisions covering perchloroethylene dry cleaning source emissions. The proposed action is to repeal the existing regulation.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

---

## Public Comment Periods - Proposed Regulations

---

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: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. E97)**. The regulation amendments concern provisions covering fuel burning equipment. The regulation has been revised in order to clarify the fact that internal combustion engines (stationary combustion turbines) are considered to be fuel burning equipment, and that stationary internal combustion engines have been specifically exempted from this rule.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Environmental Program Planner, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. L97)**. The amendments concern provisions covering pulp and paper mills. The regulation has been revised to clarify the rule's applicability.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

---

# Public Comment Periods - Proposed Regulations

---

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

---

## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **Home Infusion Therapy/Bundling Services and Supplies: 12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care and Service and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this proposal is to simplify the billing procedures of durable medical equipment providers and pharmacy providers when they are providing home infusion therapy services/bundling services and supplies (intravenous therapy, respiratory therapy and service agreements on equipment). This simplification will make providers' initial billing process easier and quicker but will also make it easier for DMAS to conduct postpayment reviews of providers' records.

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

Public comments may be submitted until the close of business on October 2, 1998, to Lynda Hamm, R.N., Division of Provider Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-3146.

### STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health,

---

# Public Comment Periods - Proposed Regulations

---

Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-140-10 et seq. Mandatory Standards for Community Mental Health Program.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community mental health programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

\*\*\*\*\*

**October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-150-10 et seq. Mandatory Standards for Community Mental Retardation Programs.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community mental retardation programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

\*\*\*\*\*

**October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-160-10 et seq. Mandatory Standards for Community Substance Abuse Programs.** The Department of

Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community substance abuse programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.



## TITLE 16. LABOR AND EMPLOYMENT

### DEPARTMENT OF LABOR AND INDUSTRY

#### Safety and Health Codes Board

**August 31, 1998 - 7 p.m.** – Public Hearing  
City Hall, 9027 Center Street, Council Chambers, Manassas, Virginia.

**September 1, 1998 - 7 p.m.** – Public Hearing  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

**September 2, 1998 - 7 p.m.** – Public Hearing  
Roanoke County Administration Center, 6204 Bernard Drive, Board of Supervisors' Meeting Room, Roanoke, Virginia.

**September 3, 1998 - 7 p.m.** – Public Hearing  
City Hall, 810 Union Street, City Council Chambers, Norfolk, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **16 VAC 25-50-10 et seq. Boiler and Pressure Vessel Rules and Regulations.** The proposed amendments incorporate the transfer of authority for setting various fee amounts from statute to regulation, and adopt several changes recommended individually or jointly by the regulated community, the National Board of Boiler and Pressure Vessel Inspectors, or the Chief Boiler and Pressure Vessel Inspector of the Commonwealth.

The proposed amendments also direct commonwealth inspectors to inspect uninsured boilers and pressure vessels in those geographic areas or limited time periods within which commercial services would not be

---

# Public Comment Periods - Proposed Regulations

---

available, set out the chief inspector's criteria for determining unavailability, and establish rates for certification inspections conducted by commonwealth inspectors. These changes eliminate a criticism of the current privatized inspection system and are directed by Chapter 212, 1997 Acts of Assembly.

Also included in these proposed amendments are changes suggested by the department's regulatory review and a request by the department to require the national board "R" and "VR" stamp certification for organizations performing repairs and alterations to boilers and pressure vessels, and the repair and resetting of safety valves. Current regulation requires that all boilers and pressure vessels be designed, constructed and installed in accordance with the ASME Boiler and Pressure Vessel Code. However, the ASME code does not establish standards for repair or alteration of these objects once they have been code stamped and installed.

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Public comments may be submitted until October 2, 1998, to Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia 23219.

**Contact:** Fred P. Barton, Boiler Chief Inspector, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-3262, FAX (804) 371-6524 or (804) 786-2376/TTY ☎



## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR CONTRACTORS

**August 18, 1998 - 7 p.m.** – Public Hearing  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4W, Richmond, Virginia.

**August 20, 1998 - 7 p.m.** – Public Hearing  
Roanoke County Board of Supervisors, 5204 Bernard Drive, Supervisor's Meeting Room, Roanoke, Virginia.

**October 2, 1998** - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to amend regulations entitled: **18 VAC 50-30-10 et seq. Board for Contractors Tradesman Rules and Regulations.** The proposed amendments add backflow prevention device workers to the trades regulated by the Tradesman Program. The voluntary, statewide certification program for backflow prevention device workers mandated by the General Assembly will enable

such workers to practice in different areas of the Commonwealth without having to apply for certification in each jurisdiction separately. Except for fees for the new program, there are no changes in the current fee structure of the Tradesman Program. Some editorial changes are also made.

Statutory Authority: §§ 54.1-201, 54.1-1102 and Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 2, 1998, to George O. Bridewell, Administrator, Board for Contractors, 3600 West Broad Street, Richmond, Virginia 23230.

**Contact:** Geralde W. Morgan, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166 or FAX (804) 367-2474.

### BOARD OF DENTISTRY

**September 18, 1998 - 1 p.m.** – Public Hearing  
The Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled: **18 VAC 60-20-10 et seq. Virginia Board of Dentistry Regulations.** Amendments are proposed pursuant to Executive Order 15 (94), which called for clarification, simplification, and where possible, a reduction in the regulatory burden. The proposed amendments allow dentists to delegate acts which are not specifically reserved for dentists/dental hygienists and which are consistent with the training and experience of the assistant.

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

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or FAX (804) 662-9943.

\* \* \* \* \*

**September 18, 1998 - 1 p.m.** – Public Hearing  
The Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled: **18 VAC 60-20-10 et seq. Virginia Board of Dentistry Regulations.** Amendments are proposed to increase fees for

---

## Public Comment Periods - Proposed Regulations

---

licensees of the Board of Dentistry in order to comply with a statutory mandate for the agency to raise revenues sufficient to meet expenses.

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

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or FAX (804) 662-9943.

### BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-20-10 et seq. Board of Funeral Directors and Embalmers Regulations and 18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service.** Amendments are proposed to increase fees for licensees of the Board of Funeral Directors and Embalmers in order to comply with a statutory mandate for the agency to raise revenues sufficient to meet expenses.

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

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

\*\*\*\*\*

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-20-10 et seq. Regulations of the Board of Funeral Directors and Embalmers.** Amendments are proposed pursuant to Executive Order 15 (94), which called for clarification, simplification and, where possible, a reduction in the regulatory burden. Regulations which are duplicative of provisions of the Code of Virginia or the Funeral Industry Rule of the Federal Trade Commission are eliminated.

Statutory Authority: §§ 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia.

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

\*\*\*\*\*

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-30-10 et seq. Regulations for Preneed Funeral Planning.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. The proposed amendments will eliminate the requirement for prior approval by the board of any preneed contract and disclosure statements.

Statutory Authority: §§ 54.1-2400, 54.1-2803 and 54.1-2820 of the Code of Virginia.

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

\*\*\*\*\*

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. Amendments will eliminate duplicative regulations and requirements such as a certain number of funerals and embalmings in one calendar year in one funeral establishment.

Statutory Authority: §§ 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq. ) of Title 54.1 of the Code of Virginia.

**Contact:** Elizabeth Young-Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad

---

# Public Comment Periods - Proposed Regulations

---

St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

## BOARD OF PHARMACY

**August 18, 1998 - 9 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20-10 et seq. Virginia Board of Pharmacy Regulations.** Amendments are proposed pursuant to Executive Order 15 (94) to clarify and simplify the regulations and to conform them to current pharmacy practice.

Statutory Authority: §§ 54.1-2400, 54.1-3307 and 54.1-3312 of the Code of Virginia.

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

## BOARD OF SOCIAL WORK

**September 11, 1998 - 10 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Work intends to amend regulations entitled: **18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work.** The purpose of the proposed amendment is to clarify and reformat the regulations and include an endorsement provision to expedite licensure of applicants with lengthy experience licensed in other jurisdictions and to comply with a statutory mandate enacted by the 1994 General Assembly by endorsing regulations promulgated by the Board of Psychology for voluntary certification of licensees as sex offender treatment providers.

Statutory Authority: § 54.1-2400 and Chapter 37 (§ 54.1-3700 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

## BOARD OF VETERINARY MEDICINE

**September 17, 1998 - 9 a.m.** – Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. The proposed amendments will streamline requirements for veterinary facilities, clarify the practice of surgery, allow continuing education through journals or information networks, and specify that continuing education must pertain to clinical areas of practice.

Statutory Authority: §§ 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

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

---

# 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.

---

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **Regulations for the Control and Abatement of Air Pollution (Rev. A97).**

**9 VAC 5-30-10 et seq. Ambient Air Quality Standards (repealing 9 VAC 5-30-20).**

**9 VAC 5-70-10 et seq. Air Pollution Episode Prevention (amending 9 VAC 5-70-40).**

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

Public Hearing Date: September 17, 1998 - 9 a.m.

Public comments may be submitted until 4:30 p.m. on October 6, 1998

(See Calendar of Events section for additional information)

Basis: Section 10.1-1308 of the Virginia Air Pollution Control Law authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

Purpose: The purpose of the regulation is to limit particulate matter in the ambient air to a specified level necessary to protect public health, safety, and welfare. The repeal of TSP portions of the regulations is being proposed because the TSP requirements have been determined to be no longer required by federal mandate and no longer essential to protect the health, safety or welfare of citizens. This determination was made pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Substance: The major provisions of the proposal are summarized below:

1. References to TSP are removed from 9 VAC 5 Chapter 30, Ambient Air Quality Standards.
2. References to TSP are removed from 9 VAC 5 Chapter 70, Air Pollution Episodes.

Issues: The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. Public: The public will benefit from cost savings and more efficient use of resources. Because PM<sub>10</sub> analysis is more comprehensive than TSP analysis, more complete and accurate information will be maintained. New sources will not have to perform unnecessary analyses; sources currently controlling TSP have the option of remodeling for PM<sub>10</sub> if they wish. Further, PM<sub>10</sub> control is more protective of public health and welfare than TSP control. There are no disadvantages associated with this action to the public.

2. Department: The department will benefit from more comprehensive and useful analyses of particulate matter; additional labor associated with implementation of out-of-date standards will be saved. There are no disadvantages associated with this action to the department.

### Department of Planning and Budget's Economic Impact

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

Summary of the proposed regulation. The Department of Environmental Quality (DEQ) has concluded that the total suspended particulate (TSP) standard is no longer mandated by state or federal law and is not essential to protect the health, safety, and welfare of citizens or for the efficient and economical performance of some governmental function. Thus, the agency proposes repealing the standard.

Estimated economic impact. Starting in 1972, TSP was regulated as a criteria pollutant under federal law. In 1987, the TSP standard was replaced by regulations limiting ambient concentrations of small particulate matter known as PM<sub>10</sub>. Small particulate matter is primarily responsible for the health and safety effects of particulate emissions. Larger particles are of concern more for their impact on visibility. The regulation of PM<sub>10</sub> was implemented in a way that ensured that the focus on PM<sub>10</sub> would not serve to increase emissions of larger particulates.

Since these regulations are still effective, a number of sources must continue testing their air emissions for TSP in addition to the requirement that they test for PM<sub>10</sub>. Newer sources or sources that have been modified since the PM<sub>10</sub> standards were implemented do not have to test for TSP. Thus, only older sources operating under old permits will be affected by this change. DEQ does not have an estimate of the number of sources affected nor of the annual cost to these sources of the TSP sampling.

The replacement of the TSP standard with the PM<sub>10</sub> standard does not imply an increase in emissions of larger particulates. Thus, the elimination of the TSP standard is

not expected to have any negative impact on air quality. Since there are no costs imposed by eliminating the standard, the savings in sampling costs constitute a net economic benefit for Virginia. The magnitude of this benefit cannot readily be estimated at this time.

Businesses and entities affected. Theoretically, this change could affect all large, stationary sources of particulate emissions. However, in practice, only older sources that have not had significant permit revisions since the PM<sub>10</sub> rule was promulgated will be affected by this change. The number of sources in this category is not known at this time.

Localities particularly affected. It is not expected that any localities will be disproportionately affected by this change.

Projected impact on employment. The proposed change will not have any impact on employment in Virginia.

Effects on the use and value of private property. This change will result in a small reduction in compliance costs for a few large, stationary sources of particulate emissions. Whenever compliance costs are reduced, there is a chance that business profits will increase and, hence, that owners of the business will realize an increase in the value of their ownership share. The extent of this change depends on elasticities of demand and supply in the industry. Not enough is known about the sources affected to know whether source owners will experience any gain. In any event, the impact will be far too small to measure.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Environmental Quality takes no issue with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

*The regulation amendments concern provisions covering total suspended particulate (TSP) ambient air quality standards. The proposed action is to remove references to TSP from 9 VAC 5 Chapter 30, Ambient Air Quality Standards, and from 9 VAC 5 Chapter 70, Air Pollution Episodes.*

**9 VAC 5-30-20. Particulate matter (TSP). (Repealed.)**

~~A. The primary ambient air quality standards are as follows:~~

- ~~1. 75 micrograms per cubic meter annual geometric mean.~~
- ~~2. 260 micrograms per cubic meter maximum 24-hour concentration not to be exceeded more than once per year.~~

~~B. The secondary ambient air quality standards are as follows:~~

- ~~1. 60 micrograms per cubic meter annual geometric mean, as a guide to be used in assessing achievement of the 24-hour standard in subsection B-2 of this section.~~

~~2. 150 micrograms per cubic meter maximum 24-hour concentration not to be exceeded more than once per year.~~

~~C. Particulate matter shall be measured by the reference method described in Appendix B of 40 CFR 50, or other method designated as such, or by an equivalent method.~~

**PART I.  
AIR POLLUTION EPISODES.**

**9 VAC 5-70-40. Episode determination.**

A. A condition justifying the proclamation of a watch, alert, warning or emergency stage shall be deemed to exist whenever the board determines that the accumulation of one or more air pollutants in any place, locality, county or other area in the state may attain, is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a threat to the public health. In making this determination the conditions specified in subsections B, C and D of this section shall be used as guidance.

B. Episode criteria.

1. Watch stage. An internal administrative watch shall be declared by the board whenever the national, local or department meteorologist issues a forecast indicating an atmosphere stagnation will cover any substantial portion of the state for an extended period. Such a weather forecast will indicate meteorological conditions which are expected to inhibit pollutant dispersion. The watch shall be in effect for those areas of the state covered by the weather forecast and it shall continue throughout the atmospheric stagnation period. Such weather forecasts indicating atmospheric stagnation will take the form of:

- a. A regional air stagnation advisory, including any substantial part of the state, issued by the National Weather Service; and
- b. A forecast by the department meteorologist indicating local meteorological conditions which inhibit dispersion for an extended period of time.

2. An alert stage shall be declared by the board when any one of the following pollutant levels is reached at any monitoring site concurrent with:

- a. Consultation with the national, local or department meteorologist which indicates that an atmospheric stagnation exists; or
- b. A determination by the board that the pollutant level is representative of air quality in an air quality control region and the concentrations of pollutants can be expected to remain at the following indicated levels for 12 or more hours or increase, or in the case of ozone, the situation is likely to recur within the next 24 hours unless control actions are taken. Consultation with the air pollution control agencies of the affected jurisdictions will be accomplished to help evaluate local situations.

# Proposed Regulations

POLLUTANT	AVERAGE	µg/m <sup>3</sup>	ppm
SO <sub>2</sub>	24 hour	800	.3
PM <sub>10</sub>	24 hour	350	N/A
Particulates (TSP)	24 hour	375	(3.0 COH)
Product of SO <sub>2</sub> x Particulates (TSP)	24 hour	65,000	(1.2 COH ppm product)
CO	8 hour	17,000	15.0
Ozone	1 hour	400	.2
NO <sub>2</sub>	1 hour	1,130	.6
	24 hour	282	.15

3. A warning stage shall be declared by the board when any one of the following pollutant levels is reached at any monitoring site concurrent with:

- a. Consultation with the national, local or department meteorologist which indicates that an atmospheric stagnation exists; or
- b. A determination by the board that the pollutant level is representative of air quality in an air quality control region and the concentrations of pollutants can be expected to remain at the following indicated levels for 12 or more hours or increase, or in the case of ozone, the situation is likely to recur within the next 24 hours unless control actions are taken. Consultation with the air pollution control agencies of the affected jurisdictions will be accomplished to help evaluate local situations.

POLLUTANT	AVERAGE	µg/m <sup>3</sup>	ppm
SO <sub>2</sub>	24 hour	1,600	.6
PM <sub>10</sub>	24 hour	420	N/A
Particulates (TSP)	24 hour	625	(5.0 COH)
Product of SO <sub>2</sub> x Particulates (TSP)	24 hour	261,000	(8 COH ppm product)
CO	8 hour	34,000	30.0
Ozone	1 hour	800	.4
NO <sub>2</sub>	1 hour	2,260	1.2
	24 hour	565	.30

4. An emergency stage shall be declared by the governor of the Commonwealth of Virginia when any of the following pollutant levels is reached at any monitoring site concurrent with:

- a. Consultation with the national, local or department meteorologist which indicates that an atmospheric stagnation exists; or
- b. A determination by the board that the pollutant level is representative of air quality in an air quality control region and the concentrations of pollutants can be expected to remain at the following indicated levels for 12 or more hours or increase, or in the case of ozone, the situation is likely to recur within the next 24

hours unless control actions are taken. Consultation with the air pollution control agencies of the affected jurisdictions will be accomplished to help evaluate local situations.

POLLUTANT	AVERAGE	µg/m <sup>3</sup>	ppm
SO <sub>2</sub>	24 hour	2,100	.8
PM <sub>10</sub>	24 hour	500	N/A
Particulates (TSP)	24 hour	875	(7.0 COH)
Product of SO <sub>2</sub> x Particulates (TSP)	24 hour	393,000	(1.2 COH ppm product)
CO	8 hour	46,000	40.0
Ozone	1 hour	1,000	.5
NO <sub>2</sub>	1 hour	3,000	1.6
	24 hour	750	.4

5. Termination of any existent stage of air pollution episode shall be declared by the governor of the Commonwealth of Virginia or the board based on:

- a. Consultation with the national, local or department meteorologist which indicates that the atmospheric conditions justify termination; or
- b. Appropriate reduction in pollutant levels. As the criteria for a given stage are no longer being met, the lowest appropriate stage will be assumed.

C. When the board determines that a specified criteria level is being approached and may be reached at one or more monitoring sites solely because of emissions from a limited number of sources, it may act to prevent the attainment of the episode level by notifying such sources that the preplanned abatement strategies of Table VII-A, B or C or the standby plans are required, insofar as it applies to such sources, and shall be put into effect until a satisfactory reduction in the ambient pollution concentration has been achieved.

D. The alert, warning and emergency stages may be activated on the basis of deteriorating air quality alone (i.e., an air stagnation advisory need not be in effect) subject to the determination specified in subsections B 2 b, B 3 b and B 4 b of this section.

VA.R. Doc. No. R97-393; Filed July 15, 1998, 11:23 a.m.

\*\*\*\*\*

**Title of Regulation:** Regulations for the Control and Abatement of Air Pollution (Rev. E97).  
**9 VAC 5-40-10 et seq. Existing Stationary Sources (amending 9 VAC 5-40-880, 9 VAC 5-40-890, 9 VAC 5-40-900, 9 VAC 5-40-940, and 9 VAC 5-40-1040).**

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

**Public Hearing Date:** September 17, 1998 - 9 a.m.

Public comments may be submitted until 4:30 p.m. on October 6, 1998.

(See Calendar of Events section for additional information)

**Basis:** Section 10.1-1308 of the Virginia Air Pollution Control Law authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

**Purpose:** The purpose of the regulation is to require the owner of a fuel burning equipment installation to control particulate matter emissions, such that the resultant particulate matter concentrations in the ambient air may be reduced to levels which are necessary for the protection of public health and welfare. The regulation amendments are being proposed to address problems concerning the clarity of the regulation identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

**Substance:** The major provisions of the proposal are summarized below:

1. The definition of fuel burning equipment has been revised to make it clear that, for the purposes of this rule, internal combustion engines (stationary combustion turbines) are considered to be fuel burning equipment.
2. A definition of stationary combustion turbines has been added in order to further clarify the rule's applicability.
3. Stationary internal combustion engines have been specifically exempted from the rule.

**Issues:** The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. **Public:** The public will benefit from improved understanding of which sources to which the regulation applies. There are no disadvantages to the public of implementation and compliance with the regulation.
2. **Department:** The department will benefit because a clearer understanding of the regulation's applicability will contribute to the department's ability to administer the regulation. There are no disadvantages to the department of implementation and compliance with the regulation.

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

analysis presented below represents DPB's best estimate of these economic impacts.

**Summary of the proposed regulation.** The proposed changes to this regulation are being proposed pursuant to review of existing regulations mandated by Executive Order 15 (94). The proposed changes are clarificatory and do not change the substance of the regulation.

**Estimated economic impact.** The changes seek to further clarify that the regulations do not apply to stationary internal combustion engines but do apply to stationary combustion turbines. Since the change is a simple clarification, it may be expected to have a minimal economic impact. There certainly may be some economic advantage to clear and specific regulatory language. However, this benefit is rather small and somewhat diffuse. Consequently it would not be possible to measure the magnitude of any gains from these changes.

**Businesses and entities affected.** This regulation applies to facilities that operate fuel-burning equipment for the primary purpose of producing heat for indirect heat transfer or indirect production of power. DEQ indicates that no count of the number of entities affected exists. The agency estimates that more than 200 facilities are covered by these provisions. These changes are not likely to have any significant financial impact on the covered facilities.

**Localities particularly affected.** These changes should not have a significant or disproportionate impact on any particular localities. It will not have any fiscal impact on any local governments.

**Projected impact on employment.** The proposal will not have any impact on employment in Virginia.

**Effects on the use and value of private property.** There will be no impact on the use and value of private property.

**Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:** The Department of Environmental Quality takes no issue with the economic impact analysis prepared by the Department of Planning and Budget.

**Summary:**

*The regulation amendments concern provisions covering fuel burning equipment. The regulation has been revised in order to clarify the fact that internal combustion engines (stationary combustion turbines) are considered to be fuel burning equipment, and that stationary internal combustion engines have been specifically exempted from this rule. The type of activity for which a permit may be required is classified as well.*

**9 VAC 5-40-880. Applicability and designation of affected facility.**

A. Except as provided in subsections C and, D, and E of this section, the affected facility to which provisions of this article apply is fuel burning equipment.

---

# Proposed Regulations

---

B. The provisions of this article apply throughout the Commonwealth of Virginia.

C. Exempted from the provisions of this article are the following:

1. Any fuel burning equipment unit using solid fuel with a maximum heat input of less than 350,000 Btu per hour.
2. Any fuel burning equipment unit using liquid fuel (exclusive of coal slurry mixtures) with a maximum input of less than 1,000,000 Btu per hour.
3. Any fuel burning equipment unit using gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.

D. The provisions of this article do not apply to fuel burning equipment units that power mobile sources but are removed for maintenance or repair and testing.

E. The provisions of this article do not apply to stationary internal combustion engines.

## 9 VAC 5-40-890. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

*"Capacity factor"* means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

*"Fossil fuel"* means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials for the purpose of creating useful heat.

*"Fossil-fuel fired steam generator"* means furnace or boiler, or both, used in the process of burning fossil fuel for the primary purpose of providing steam by heat transfer.

*"Fuel burning equipment"* means any furnace, with fuel burning equipment appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat to be utilized by indirect heat transfer, or ~~producing by indirect production of power~~. This includes facilities that are designed as boilers to produce steam or heated water and are designed to burn either fossil fuel or refuse derived fuel. It does not include such facilities if designed primarily to burn raw refuse. This includes fuel burning equipment units (both permanently installed units and portable units) used to replace the power used by mobile sources. *For the purposes of this article, stationary combustion turbines are considered to be fuel burning equipment.*

*"Fuel burning equipment installation"* means all fuel burning equipment units within a stationary source in operation prior to October 5, 1979.

*"Heat input"* means the total gross calorific value of all fuels burned.

*"Rated capacity"* means the capacity as stipulated in the purchase contract for the condition of 100% load, or such other capacities as mutually agreed to by the board and owner using good engineering judgment.

*"Refuse derived fuel (RDF)"* means fuel produced from solid or liquid waste (includes materials customarily referred to as refuse and other discarded materials), or both, which has been segregated and classified, with the useable portions being put through a size reduction and classification process which results in a relatively homogeneous mixture.

*"Stationary combustion turbine"* means any air-breathing internal combustion engine consisting of an air compressor, combustion chamber, and a turbine wheel.

*"Stationary internal combustion engine"* means an engine in which fuel is burned within a machine in which energy is converted directly into mechanical motion or work. The energy is used directly for the production of power, locomotion or work. Internal combustion engines include, but are not limited to, diesel engines, gasoline engines, and diesel pumps. *For the purposes of this article, stationary combustion turbines are not considered to be stationary internal combustion engines.*

*"Total capacity"* means with reference to a fuel burning equipment installation, the sum of the rated capacities (expressed as heat input) of all units of the installation which must be operated simultaneously under conditions of 100% use load.

## 9 VAC 5-40-900. Standard for particulate matter.

A. Fuel burning equipment installations.

No owner or other person shall cause or permit to be discharged into the atmosphere from any fuel burning equipment installation any gaseous products of combustion containing particulate emissions in excess of the following limits.

1. In AQCR 1 through 6.

a. For fuel burning equipment installations with total capacity less than 10 million ( $10 \times 10^6$ ) Btu per hour, the maximum allowable emission ratio shall be 0.6 pounds of particulate per million Btu input.

b. For fuel burning equipment installations with total capacity between 10 million ( $10 \times 10^6$ ) and 10 billion ( $10,000 \times 10^6$ ) Btu per hour, the maximum allowable emission ration, E, in pounds of particulate per million Btu input, shall be determined by the following equation:  $E = 1.0906H^{-0.2594}$ , where H is the total capacity in millions of Btu per hour.

c. For fuel burning equipment installations with total capacity in excess of 10 billion ( $10,000 \times 10^6$ ) Btu per hour, the maximum allowable emission ratio shall be 0.1 pounds of particulate per million Btu input.

~~d. Figure 4-8A illustrates the above emission limit.~~

2. In AQCR 7.

a. For fuel burning equipment installations with total capacity less than 100 million (100 X 10<sup>6</sup>) Btu per hour, the maximum allowable emission ratio shall be 0.3 pounds of particulate per million Btu input.

b. For fuel burning equipment installations with total capacity between 100 million (100 X 10<sup>6</sup>) and 10 billion (10,000 X 10<sup>6</sup>) Btu per hour, the maximum allowable emission ratio, E, in pounds of particulate per million Btu input, shall be determined by the following equation:  $E = .9000H^{0.2386}$ , where H is the total capacity in millions of Btu per hour.

c. For fuel burning equipment installations with total capacity in excess of 10 billion (10,000 X 10<sup>6</sup>) Btu per hour, the maximum allowable emission ratio shall be 0.1 pounds of particulate per million Btu input.

~~d. Figure 4-8B illustrates the above emission limit.~~

B. Fuel burning equipment units.

1. The maximum allowable particulate emissions for each fuel burning equipment unit shall be the product of the rated capacity and the emission ratio (determined in accordance with subsection A of this section).

2. The allowable particulate emissions for each fuel burning equipment unit when operating at less than rated capacity shall be the product of the emission ratio, actual heat input and efficiency factor for the collection equipment. The efficiency factor for the collection equipment of each unit shall be determined using procedures set forth in 9 VAC 5-40-920.

3. For fuel burning equipment installations consisting of multiple fuel burning equipment units, except where all of the units burn liquid or gaseous fuels, or both, exclusively, the maximum allowable particulate emissions for each unit may be determined as provided in 9 VAC 5-40-910.

**9 VAC 5-40-940. Standard for visible emissions.**

A. The provisions of Article 1 (9 VAC 5-40-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply except that the provisions in subsection B of this section apply instead of 9 VAC 5-40-80 A.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any fuel burning equipment unit any visible emissions which exhibit greater than 20% opacity, except for one ~~six-minute~~, *six-minute* period in any one hour of not more than 60% opacity. Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section.

**9 VAC 5-40-1040. Permits.**

A permit may, ~~under certain conditions~~, be required prior to beginning any of the activities specified below ~~and if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) may apply.~~ Owners contemplating such action should *review those provisions and* contact the appropriate regional office for guidance *on whether those provisions apply.*

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. *Operation of a facility.*

VA.R. Doc. No. R97-411; Filed July 15, 1998, 11:24 a.m.

\* \* \* \* \*

Title of Regulation: **Regulations for the Control and Abatement of Air Pollution (Rev. L97).**

**9 VAC 5-40-10 et seq. Existing Stationary Sources (amending 9 VAC 5-40-1660, 9 VAC 5-40-1670, 9 VAC 5-40-1690, 9 VAC 5-40-1750, 9 VAC 5-40-1770, and 9 VAC 5-40-1810).**

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

Public Hearing Date: September 17, 1998 - 9 a.m.

Public comments may be submitted until 4:30 p.m. on October 6, 1998.

(See Calendar of Events section for additional information)

Basis: Section 10.1-1308 of the Virginia Air Pollution Control Law authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

Purpose: The purpose of the regulation is to require the owner of a pulp and paper mill to control particulate matter emissions, opacity, and for kraft pulp mills, Total Reduced Sulfur (TRS), such that the concentrations of such pollutants in the ambient air are reduced to levels which are necessary for the protection of public health and welfare. The proposed amendments are being made to clearly identify which sources are subject to the regulation as identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Substance: The major provisions of the proposal are summarized below:

1. The regulation has been revised to include semi-chemical pulp and paper mills. Therefore, the definitions for "neutral sulfite semichemical pulping

---

# Proposed Regulations

---

operation" and "semichemical pulping process" have been added.

2. The definition of "pulp and paper mill" has been expanded to include facilities that use a process other than neutral sulfite which is used by kraft mills.

3. Only kraft mills will be required to control Total Reduced Sulfur emissions.

Issues The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. Public: The public will benefit from improved understanding of which sources the regulation applies. There are no disadvantages to the public of implementation and compliance with the regulation.

2. Department: The department will benefit because a clearer understanding of the regulation's applicability will contribute to the department's ability to administer the regulation. There are no disadvantages to the department of implementation and compliance with the regulation.

## Department of Planning and Budget's Economic Impact

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

Summary of the proposed regulation. A review of the regulation governing the emission standards for pulp and paper mills found that some confusion existed over whether this regulation applied to semi-chemical mills. The proposed changes are intended to clarify this issue and clearly identify which sources are subject to this regulation. The proposed changes include the following:

1. Rewording the regulation to clearly include semi-chemical pulp and paper mills (i.e., replacing "kraft pulp mills" with "pulp and paper mills").

2. Expanding the definition of "pulp and paper mills" to include facilities that use a process other than neutral sulfite which is used by kraft mills.

3. Adding definitions for "neutral sulfite semi-chemical pulping operation" and "semi-chemical pulping process."

4. Requiring only kraft mills to control Total Reduced Sulfur (TRS) emissions (Reduced Sulfur emissions are not generated by semi-chemical pulp mills).

Estimated economic impact. Prior to 1985, semi-chemical pulp and paper mills were regulated under the air quality standards that are currently contained in this regulation, 9 VAC 5-40 §§ 1660-1810 (Rule 4-13).<sup>1</sup> This proposal is intended to correct a drafting error in the rules promulgated in 1985 which subjected semi-chemical pulp and paper mills to 9 VAC 5-40 §§ 240-420 (Rule 4-4).

The nature and technology of the processes used by semi-chemical mills are not what Rule 4-4 was intended to cover and consequently, DEQ has granted compliance deferrals for the semi-chemical mill in the Commonwealth that was unable to meet the requirements of Rule 4-4. Though the requirements of Rule 4-13 are less stringent than those of Rule 4-4, the changes will not have any significant economic impact on the semi-chemical mills since DEQ has been holding the mills to the Rule 4-13 standards.

While the clearer language may be beneficial for the facilities regulated, this proposal will not change the behavior of those facilities and therefore will not have any economic impact.

Businesses and entities affected. These proposed changes would affect the two semi-chemical pulp mills currently located in Virginia.

Localities particularly affected. The proposed changes are not expected to disproportionately affect any particular localities.

Projected impact on employment. The proposed changes are not expected to have any significant impact on employment.

Effects on the use and value of private property. The proposed changes are not expected to have any significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Environmental Quality takes no issue with the economic impact analysis prepared by the Department of Planning and Budget.

## Summary:

*The regulation amendments concern provisions covering pulp and paper mills. The regulation has been revised to clarify the rule's applicability to include semi-chemical pulp and paper mills. Certain definition changes are made. The applicability of a requirement to control total reduced sulfur is classified.*

---

<sup>1</sup> These regulations were contained in a different section of the Administrative Code at that time.

Article 13.  
Emission Standards for Kraft Pulp and Paper Mills (Rule 4-13).

**9 VAC 5-40-1660. Applicability and designation of affected facilities.**

A. The affected facilities in kraft pulp and paper mills to which the provisions of this article apply are: each recovery furnace, each smelt dissolving tank, each lime kiln, each slaker tank, and each kraft wood pulping operation. For the purpose of this article, a kraft wood pulping operation is comprised only of any combination of the following units: recovery furnaces, lime kilns, digester systems, multiple-effect evaporator systems, condensate stripper systems and smelt dissolving tanks.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

C. The provisions of this article do not apply to affected facilities subject to Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50, except to the extent such pollutants are emitted which are not subject to standards of performance in Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50.

**9 VAC 5-40-1670. Definitions.**

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

~~"Agreement" means any legally enforceable instrument executed by the owner and the executive director to bring the owner into compliance with a regulatory requirement or other requirements necessary to meet the provisions of this article. Such agreements shall not be considered an enforcement action but shall be enforceable as an order of the board under the Virginia Air Pollution Control Law.~~

"Black liquor solids" means the dry weight of the solids which enter the recovery furnace in the black liquor.

"Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, total reduced sulfur compounds from condensate streams from various processes within a kraft pulp mill.

"Cross recovery furnace" means a furnace used to recover chemicals consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly basis contains more than 7.0% by weight of the total pulp solids from the neutral sulfite or other semichemical process and has a green liquor sulfidity of more than 28%.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor,

and associated flash tanks, below tanks, chip steamers, and condensers.

"Green liquor sulfidity" means the sulfidity of the liquor which leaves the smelt dissolving tank.

"Kraft pulp mill" means any facility which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condensers and hotwells used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

"Neutral sulfite semichemical pulping operation" means any operation in which pulp is produced from wood by cooking (digesting) wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating (grinding).

"New design recovery furnace" means a straight kraft recovery furnace that has both membrane wall or welded wall construction and emission control designed air systems.

"Old design recovery furnace" means a straight kraft recovery furnace that does not have membrane wall or welded wall construction or emission control designed air systems.

~~"New design recovery furnace" means a straight kraft recovery furnace that has both membrane wall or welded wall construction and emission control designed air systems.~~

"Pulp and paper mill" means any kraft pulp mill or any paper mill using a semichemical pulping process.

"Recovery furnace" means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct-contact furnace.

"Semichemical pulping process" means any pulp manufacturing process in which the active chemicals of the liquor used in cooking (digesting) wood chips to their component parts in a pressurized vessel (digester) are primarily a liquor of sodium hydroxide and sodium carbonate. The major difference between all semichemical techniques and those of kraft and acid sulfite processes is that only a portion of the lignin is removed during the cooking (digesting), after which the pulp is further reduced by mechanical disintegration.

"Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Straight kraft recovery furnace" means a furnace used to recover chemicals consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly

---

# Proposed Regulations

---

basis contains 7.0% by weight or less of the total pulp solids from the neutral sulfite *or other* semichemicals process or has green liquor sulfidity of 28% or less.

"Total reduced sulfur" *or "TRS"* means the sum of the following sulfur compounds (hydrogen sulfide, methyl mercaptan, dimethyl sulfide and dimethyl disulfide, reported as hydrogen sulfide) that are released during any kraft wood pulping operation.

"*Twenty-four hour average*" means the average of data over a 24-hour period beginning at midnight.

## 9 VAC 5-40-1690. Standard for total reduced sulfur.

A. ~~Except as provided in subsection B of this section, No~~ owner or other person shall cause or permit to be discharged into the atmosphere from any kraft wood pulping operation unit specified below any total reduced sulfur emissions in excess of the following limits:

1. Recovery furnaces.
  - a. Old design furnaces - 20 ppm by volume on a dry basis, corrected to 8.0% oxygen.
  - b. New design furnaces - 5 ppm by volume on a dry basis, corrected to 8.0% oxygen.
  - c. Cross recovery furnaces - 25 ppm by volume on a dry basis, corrected to 8.0% oxygen.
2. Digester systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.
3. Multiple-effect evaporator systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.
4. Lime kilns - 20 ppm by volume on a dry basis, corrected to 10% oxygen.
5. Condensate stripper systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.
6. Smelt dissolving tanks - 0.033 pounds per ton black liquor solids as H<sub>2</sub>S.

~~B. Notwithstanding the provisions of subsection A of this section, no owner or other person shall cause or permit to be discharged into the atmosphere from any kraft wood pulping operation unit any total reduced sulfur emissions in excess of the limits prescribed in any agreement approved by the executive director.~~

~~C. B.~~ Achievement of the emission standards in this section by use of methods in 9 VAC 5-40-1700 will be acceptable to the board.

~~D. Any kraft wood pulping operation unit for which an agreement has not been approved pursuant to subsection B of this section by October 1, 1989, shall be subject to subsection A of this section. Any agreement established pursuant to subsection B of this section may be terminated once the affected facility is in compliance with subsection A of this section.~~

## 9 VAC 5-40-1750. Compliance.

A. The provisions of 9 VAC 5-40-20 (Compliance) apply.

~~B. Each owner of a facility for which an emission standard is prescribed in 9 VAC 5-40-1690 B shall submit to the board by July 1, 1990, a control program to achieve compliance with the emission standards in 9 VAC 5-40-1690 A as expeditiously as possible.~~

~~C. For any kraft pulp mill that does not have a condensate stripper system on October 1, 1989, the control program required by subsection B of this section shall contain a commitment to install, maintain, and operate such a system if determined to be reasonably available control technology.~~

~~D. Authority to approve any control program submitted pursuant to subsection B of this section that contains a commitment to bring a particular kraft wood pulping operation unit into compliance with the emissions standards in 9 VAC 5-40-1690 A by October 1, 1994, is delegated to the executive director.~~

## 9 VAC 5-40-1770. Monitoring.

A. The provisions of 9 VAC 5-40-40 (Monitoring) apply, with any addition or modification deemed appropriate to meet the needs of subsection B of this section.

B. The owner of a kraft pulp mill shall by October 1, 1990:

1. Install, certify, maintain and operate continuous monitoring equipment to monitor and record the concentration of TRS emissions on a dry basis and the percentage of oxygen by volume on a dry basis in the gases discharged into the atmosphere from any lime kiln or recovery furnace. The location of each monitoring system must be approved by the board.
2. Install, calibrate, maintain, and operate a monitoring device which measures the combustion temperature at the point of incineration of effluent gases which are emitted from any lime kiln, recovery furnace, digester system, multiple-effect evaporator system, or condensate stripper system. The monitoring device is to be certified by the manufacturer to be accurate within 1.0% of the temperature being measured.

C. The minimum data capture and validity requirements shall be as follows:

1. Valid TRS and oxygen data shall be obtained for no less than 75% of the operating hours of each quarter. Section 4 of Procedure 1 of Appendix F of 40 CFR Part 60 shall be used to determine valid data.
2. For TRS or oxygen concentrations, a valid data hour shall have at least 50% valid readings.
3. A 24-hour average TRS or oxygen concentration shall be considered valid if at least 50% of the operating hours in the 24-hour period are valid data hours.
4. Valid temperature data shall be obtained for no less than 90% of the operating time of each quarter.

**9 VAC 5-40-1810. Permits.**

A permit may be required prior to beginning any of the activities specified below ~~and~~ if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) ~~may~~ apply. Owners contemplating such action should *review those provisions and* contact the appropriate regional office for guidance *on whether those provisions apply.*

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. *Operation of a facility.*

VA.R. Doc. No. R97-739; Filed July 15, 1998, 11:24 a.m.

\*\*\*\*\*

**Title of Regulation: Regulations for the Control and Abatement of Air Pollution (Rev. B97). 9 VAC 5-40-10 et seq. Existing Stationary Sources (Rev. B97) (repealing 9 VAC 5-40-5350 through 9 VAC 5-40-5480).**

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

**Public Hearing Date:** September 17, 1998 - 9 a.m.  
Public comments may be submitted until 4:30 p.m. on October 6, 1998  
(See Calendar of Events section for additional information)

**Basis:** Section 10.1-1308 of the Virginia Air Pollution Control Law authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

**Purpose:** The purpose of the regulation is to require the owners and operators of perchloroethylene dry cleaning systems to limit air emissions to a specified level necessary to protect public health, safety, and welfare. The repeal is being proposed because the regulation has been determined to be no longer required by federal mandate and no longer essential to protect the health, safety or welfare of citizens. This determination was made pursuant to the review of existing regulations mandated by Executive Order 15 (94).

**Substance:** The proposed action is to repeal the existing regulation.

**Issues:** The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. Public: The advantage to the public is that repeal of the regulation will eliminate an unnecessary regulatory

burden and its attendant costs to owners and operators of perchloroethylene dry cleaning systems and taxpayers. There are no disadvantages to the public.

2. Department: The advantage to the Department of Environmental Quality is that it will no longer be required to implement a regulation which now exceeds its original mandate. The department will no longer be charged with enforcing a regulation whose provisions are either unnecessary or duplicative. There are no disadvantages to the department.

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

**Summary of the proposed regulation.** This proposal calls for the repeal of certain regulations governing perchloroethylene (perc) dry cleaning systems. The Environmental Protection Agency (EPA) has determined perc does not contribute significantly to ozone formation and so will not be regulated as a volatile organic compound (VOC). Perc remains regulated as a hazardous air pollutant.

**Estimated economic impact.** Perchloroethylene is a cleaning solvent commonly used in dry cleaning. On February 7, 1996, the EPA finalized the addition of perc to the list of compounds excluded from the definition of a VOC on the basis that it has negligible photochemical reactivity and therefore has an insignificant impact on ozone formation.<sup>1</sup> This regulation has not been enforced since that date.

Although perc is no longer regulated as an ozone precursor due to its low photochemical reactivity there are still concerns about the toxicity of the compound. Acute and chronic inhalation exposure to perc results in central nervous system effects and the Scientific Advisory Board of the EPA has advised the agency that perc should be classified as a carcinogen. These concerns led to the addition of perc to the list of hazardous air pollutants (HAPs) under section 112(b) of the Clean Air Act. The EPA subsequently issued national emission standards for hazardous air pollutants (NESHAP) for the dry cleaning industry.

The control requirements for most sources are considerably more stringent under the recent NESHAP than under the

---

<sup>1</sup> For details of the investigation see, "Photochemical Reactivity of Perchloroethylene," EPA-600/3-83-001, January 1983.

---

# Proposed Regulations

---

VOC control techniques guidelines, therefore, the repeal of this regulation is not likely to have any significant impact on the compliance behavior of dry cleaning establishments. The one exception may be small existing dry cleaning sources in the Northern Virginia non-attainment area, which were regulated under the VOC provisions but are exempt under the current NESHAP. These sources are not subject to the NESHAP so long as they do not use more than 140 gallons of perchloroethylene per year. Consequently, any potential increases in perc emissions will be very small.

Although the EPA indicates it does not expect any substantial increases in perc consumption (and associated emissions), they plan, with the assistance of industry associations, to monitor perc consumption. Should the EPA become aware of any significant increases in perc emissions or in public exposure from such sources, they may be required to impose additional restrictions. Even if such restrictions are warranted, the perc emissions will be regulated under the HAP provisions of the Clean Air Act rather than under these VOC provisions, which DEQ is proposing to repeal.

Given the implementation of the current NESHAP for the dry cleaning industry, the repeal of this regulation may allow some small increase in perc emissions from small dry cleaning sources in Northern Virginia and some reduction in compliance costs for those facilities. There is not enough information available to assess the magnitude of any potential increase in perc emissions, the health impacts of any exposure resulting from those emissions, or any potential cost savings to small dry cleaners. While it is not possible to measure the net economic effect at this time, it is expected to be relatively small due to the small number of sources affected and the small expected change in emissions.

Businesses and entities affected. The repeal of this regulation will affect the approximately 750 dry cleaning establishments that use perchloroethylene in Virginia. Some cost savings may be expected on the part of a few, very small dry cleaning establishments in Northern Virginia.

Localities particularly affected. The only economic effects from this repeal will occur in Northern Virginia. However, for reasons already discussed, the magnitude of the impact will likely be very small.

Projected impact on employment. The repeal of the regulation is not expected to have any significant impact on employment.

Effects on the use and value of private property. The repeal of the regulation is not expected to have any significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Environmental Quality takes no issue with the economic impact analysis prepared by the Department of Planning and Budget.

## Summary:

*The amendments concern provisions covering perchloroethylene dry cleaning source emissions. The proposed action is to repeal the existing regulation.*

### ~~Article 38.~~

#### ~~Emission Standards for Dry Cleaning Systems (Rule 4-38).~~

#### **9 VAC 5-40-5350. Applicability and designation of affected facility. (Repealed.)**

~~A. The affected facility to which the provisions of this article apply is each perchloroethylene dry cleaning system.~~

~~B. The provisions of this article apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206.~~

#### **9 VAC 5-40-5360. Definitions. (Repealed.)**

~~A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.~~

~~B. As used in this article, all terms not defined here shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.~~

~~C. Terms defined.~~

~~"Dry cleaning system" means a system for the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. The system includes, but is not limited to, the washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps and attending piping and valves.~~

#### **9 VAC 5-40-5370. Standard for volatile organic compounds. (Repealed.)**

~~A. No owner or other person shall use or permit the use of any perchloroethylene dry cleaning system unless such system meets the following requirements:~~

~~1. There shall be no liquid leakage of solvent from the system;~~

~~2. The entire dryer exhaust shall be vented through a carbon adsorber or equally effective control device such that the maximum solvent concentration in the vent from the dryer control device shall not exceed 100 ppm before dilution; and~~

~~3. Filter and distillation wastes.~~

~~a. The residue from the diatomaceous earth filter shall be cooked or treated so that wastes shall not contain more than 55 pounds of solvent per 220 pounds of wet waste material.~~

~~b. The residue from a solvent still shall not contain more than 132 pounds of solvent per 220 pounds of wet waste material.~~

~~c. Filtration cartridges shall be drained in the filter housing for at least 24 hours before being discarded. The drained cartridges should be dried in the dryer tumbler after draining if at all possible.~~

~~d. Any other filtration or distillation system may be used if equivalency to these guidelines is demonstrated. For purposes of equivalency demonstration, any system reducing waste losses below 2.2 pounds solvent per 220 pounds clothes cleaned will be considered equivalent.~~

~~B. Subsection A 2 of this section shall not be applicable to plants where an adsorber cannot be accommodated because of inadequate space or to plants where no or insufficient steam capacity is available to desorb adsorbers. The board may exclude other plants from the provisions of subsection A 2 of this section if it appears that other hardships justify such an exclusion.~~

~~**9 VAC 5-40-5380. Standard for visible emissions. (Repealed.)**~~

~~The provisions of Article 1 (9 VAC 5-40-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.~~

~~**9 VAC 5-40-5390. Standard for fugitive dust/emissions. (Repealed.)**~~

~~The provisions of Article 1 (9 VAC 5-40-60 et seq.) of this chapter (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply.~~

~~**9 VAC 5-40-5400. Standard for odor. (Repealed.)**~~

~~The provisions of Article 2 (9 VAC 5-40-130 et seq.) of this chapter (Emission Standards for Odor, Rule 4-2) apply.~~

~~**9 VAC 5-40-5410. Standard for toxic pollutants. (Repealed.)**~~

~~The provisions of Article 3 (9 VAC 5-40-160 et seq.) of this chapter (Emission Standards for Toxic Pollutants, Rule 4-3) apply.~~

~~**9 VAC 5-40-5420. Compliance. (Repealed.)**~~

~~The provisions of 9 VAC 5-40-20 (Compliance) apply.~~

~~**9 VAC 5-40-5430. Test methods and procedures. (Repealed.)**~~

~~The provisions of 9 VAC 5-40-30 (Emission Testing) apply.~~

~~**9 VAC 5-40-5440. Monitoring. (Repealed.)**~~

~~The provisions of 9 VAC 5-40-40 (Monitoring) apply.~~

~~**9 VAC 5-40-5450. Notification, records and reporting. (Repealed.)**~~

~~The provisions of 9 VAC 5-40-50 (Notification, Records and Reporting) apply.~~

~~**9 VAC 5-40-5460. Registration. (Repealed.)**~~

~~The provisions of 9 VAC 5-20-160 (Registration) apply.~~

~~**9 VAC 5-40-5470. Facility and control equipment maintenance or malfunction. (Repealed.)**~~

~~The provisions of 9 VAC 5-20-180 (Facility and Control Equipment Maintenance or Malfunction) apply.~~

~~**9 VAC 5-40-5480. Permits. (Repealed.)**~~

~~A permit may be required prior to beginning any of the activities specified below and the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.~~

- ~~1. Construction of a facility.~~
- ~~2. Reconstruction (replacement of more than half) of a facility.~~
- ~~3. Modification (any physical change to equipment) of a facility.~~
- ~~4. Relocation of a facility.~~
- ~~5. Reactivation (restart up) of a facility.~~

VA.R. Doc. No. R97-533; Filed July 15, 1998, 11:22 a.m.



**TITLE 12. HEALTH**

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

Title of Regulation: Home Infusion Therapy/Bundling Services and Supplies.

**12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-160 and 12 VAC 30-50-210).**

**12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-30 and 12 VAC 30-80-40).**

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

Public Hearing Date: N/A – Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

Basis: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements.

Purpose: The purpose of this proposal is to simplify the billing procedures of durable medical equipment providers and pharmacy providers when they are providing home infusion therapy services/bundling services and supplies (intravenous therapy, respiratory therapy and service agreements on equipment). This simplification will make

---

# Proposed Regulations

---

providers' initial billing process easier and quicker but will also make it easier for DMAS to conduct postpayment reviews of providers' records.

**Substance and Analysis:** Currently, the department reimburses providers of durable medical equipment and supplies (DME) for intravenous (I.V.) therapy by required individual components. The administration of I.V. therapy requires many supplies each day with frequent changes in these supplies if the therapy or site of administration changes. This current method of reimbursement requires an exceptional level of detail in the ordering and billing of DME. This exceptional level of detail needlessly complicates providers' billing activities and unnecessarily complicates DMAS' ability to perform reviews of patients' records for medical necessity and appropriate utilization.

DMAS, after being specifically approached by affected providers, established a special task force to collaboratively develop this proposed policy alternative. The enclosed policy resulted from the I.V. Task Force's work.

By bundling the basic components of DME for specific therapies, such as I.V. therapy and respiratory therapy, or for specific services, such as service maintenance agreements, the time needed for ordering and billing of durable medical equipment will be reduced. This reduction in time not only benefits providers of this equipment but also reduces the time required by the department to periodically review medical records for medical necessity and program compliance.

The key provisions of this policy are the bundling of basic components of DME and pharmacy services under a service day rate of reimbursement. The procedures utilizing these DME and pharmacy services are highly standardized and uniform in the scope of services and supplies required and are, therefore, amenable to this bundling policy. Basic DME components/supplies (I.V. tubing, adaptors, alcohol swabs, etc.) will be bundled under a HCPCS code and billed by providers on the HCFA-1500 form. Basic pharmacy accessories, such as the vehicle (diluent) and container (bag or cassette) will be bundled under a HCPCS code and billed on the HCFA-1500 form. The active pharmaceutical products (such as the antibiotic or chemotherapy) will continue to be billed, on the pharmacy invoice, separately using the same procedures currently in place.

**Issues:** The primary advantage of the policy will be to reduce the detail and providers' time involved in the calculation of daily supplies needed for certain therapies. This time reduction will be evident in the ordering and billing for these supplies. Providers will receive a daily rate of reimbursement for certain therapies and may provide any and all items required by the recipient and ordered by the physician without listing these items and quantities on either the Certificate of Medical Necessity or the HCFA-1500. In addition, this policy will allow the department to recover rebates on drugs administered. This policy reduces the time required by department staff to periodically review I.V. therapy providers and the associated medical records for therapies provided. Therefore, the agency projects no

negative issues involved in implementing this proposed change.

Maintenance agreements are secured for many kinds of DME on, for example, apnea monitors, CPAP/BiPAP ventilators, 24 hours-per-day ventilators. Maintenance agreements permit DMAS to purchase durable medical equipment, oftentimes less expensive than rental arrangements, and maintain currency of manufacturers' warranties. Such maintenance agreements permit the ongoing, long term maintenance of highly technical, sophisticated equipment (which is usually life-sustaining for the user) thereby decreasing replacement and/or repair costs.

DMAS received comments and questions from one provider about its Notice of Intended Regulatory Action (NOIRA). Advanced Health-Care Services, Inc., asked numerous technical, specific questions about the NOIRA. DMAS has replied directly to this provider with specific policy and reimbursement rate information. DMAS also received comments from, and has responded to, the Virginia Association of Chain Drug Stores and Virginia Association for Home Care.

**Fiscal/Budget Impact:** Providers affected by this policy will be DME providers, I.V. companies that provide both DME/pharmacy services, home health agencies who provide DME/pharmacy services, and pharmacies. There should be no adverse impact on recipients.

However, because this policy simplifies the delivery of certain therapies for the providers, it is possible that more providers may begin to offer these services. It is not possible at this early date, however, to predict how many more providers would be expected to participate. Therefore, at this point, DMAS expects this policy to be budget neutral. There are no localities which are uniquely affected by these regulations as they apply statewide.

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

Summary of the proposed regulation. The proposed regulation establishes a per diem reimbursement methodology for durable medical equipment (DME) when it is coupled with home infusion therapy services (i.e., intravenous therapy, respiratory therapy). The proposal also adds language to the regulation describing the current

practice of purchasing service agreements on certain types of DME to satisfy a requirement by the Health Care Financing Administration (HCFA).

Estimated economic impact.

Bundling of home infusion therapy supplies. The administration of home infusion therapy requires many supplies each day with frequent changes in these supplies if the therapy or the site of administration changes. Currently, the Department of Medical Assistance Services' (DMAS) reimbursement procedures require that DME providers individually specify all supplies used (e.g., I.V. tubing, pumps, needles, bags, alcohol swabs) on the billing invoice. The exceptional level of detail in the ordering and billing of DME required by the current method of reimbursement is extremely time-consuming. It also creates a disincentive for DME providers, especially in rural areas where competition for business is not as great, to service Medicaid patients.

The procedures utilizing these DME and pharmacy services are highly standardized and uniform in the services and supplies required and are, therefore, amenable to a bundling policy. At the request of providers, DMAS proposes to bundle basic components of DME for specific therapies (such as I.V. therapy and respiratory therapy) under specific codes that may be used by providers for billing purposes. Basic pharmacy accessories, such as the vehicle (diluent) and container (bag or cassette) will be bundled under another specific code. Under the proposal, providers would receive a daily rate of reimbursement for certain therapies and may provide any and all the items required and ordered by the physician without listing these items and quantities on the billing invoice. The active pharmaceutical products (such as the antibiotic or chemotherapy) would continue to be individually billed using the same procedures that are currently in place.

By separating and individually coding the active pharmaceutical ingredients, DMAS would be able to collect more specific information on the drugs administered. This information would allow DMAS to collect rebates on those drugs, although there is not enough information available at this time to estimate the extent of the rebates. DMAS also expects the coding of specific drugs to increase their ability to monitor inappropriate drug combinations administered to a patient, although again there is not information available at this time to estimate the potential increase in safety and quality of life.

The proposed billing procedures are expected to benefit both DME providers and DMAS by reducing the complexity and time required to comply with the procedures. DME providers are expected to benefit from the reduction in the amount of time required to order and bill DME. The change is expected to benefit DMAS by reducing the time required to periodically review medical records for medical necessity and program compliance.

With the current billing system, providers have an incentive to use as much material and equipment as DMAS will allow, assuming the provider earns a marginal profit on all sales. Under the proposed billing structure, the cost of any wasted

or excess material would fall on the provider rather than on DMAS. For example, if a therapy requires 10 feet of I.V. tubing and a mistake is made and the tubing must be rerun, currently the provider would be reimbursed for 20 feet of tubing. By reimbursing DME providers at a daily rate for bundled services, rather than by individual items, DMAS will create an incentive for providers to economize on equipment.

On the other hand, the bundling codes will also create an incentive for providers to cut corners or skimp on supplies in order to increase profit. Given that nurses or home health aides are administering the treatments, and other outside participants are involved in the process, the possibility that DME providers would be able to cut corners to the detriment of the patient is quite small. If providers are able to discover means of using less supplies without sacrificing the quality of service provided to the patient, then that represents an increase in efficiency and is an additional benefit.

The proposed bundling of home infusion therapy supplies can be expected to result in a net economic benefit. DME providers and DMAS are expected to benefit from the reduction in time required to comply with and review the billing orders. The separation of the active pharmaceutical ingredients will allow DMAS to more effectively monitor potential harmful drug interactions and collect rebates on drugs administered. The simplification of billing procedures may potentially increase the number of providers willing to service Medicaid patients. The proposed billing structure is also expected to create incentives for providers to economize on equipment and increase efficiency. There are some costs associated with this proposal, specifically the potential for providers to skimp on equipment and materials to the detriment of the patient, but as discussed this potential is quite small and it is not expected to outweigh the likely benefits.

Maintenance agreements. DMAS currently secures agreements for routine maintenance on many kinds of DME (e.g., apnea monitors, ventilators). These maintenance agreements allow DMAS to purchase DME, which is often less expensive than rental arrangements, and decreases replacement and/or repair costs. By providing equipment at the same level of patient care as rental or leased equipment, this practice provides cost-savings to the Medicaid program.

This proposed change to the regulation will not result in any change in actual practices, rather, it is intended to comply with HCFA requirements that these current practices be included in the State Medicaid plan. Since the addition of this language will not result in any change in services or administration, it is not expected to have any economic effect.

Businesses and entities affected. The proposed changes will affect DME providers, home health agencies who provide DME/pharmacy services, and pharmacies. There are currently 2,378 enrolled DME providers in Virginia, 969 of which actively provide services. There are 234 enrolled home health agencies who provide DME/pharmacy services, and 1,719 enrolled pharmacies.

---

# Proposed Regulations

---

Localities particularly affected. As discussed, this proposal could potentially increase the number of DME providers in rural areas, allowing those areas to benefit disproportionately.

Projected impact on employment. This proposal is not expected to have any significant effect on employment.

Effects on the use and value of private property. This proposal is not expected to have any significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget.

## Summary:

*The proposed amendment permits providers of home infusion therapy services to bundle standard services together on their billing claim forms and to be reimbursed a per diem fee. Such bundling of billing charges will simplify providers' billing processes and also will simplify DMAS' administration.*

## 12 VAC 30-50-160. Home health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts. Home health services shall be provided in accordance with guidelines found in the Virginia Medicaid Home Health Manual.

B. Nursing services provided by a home health agency.

1. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

2. Patients may receive up to 32 visits by a licensed nurse annually. Limits are per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services. Payment shall not be made for additional service unless authorized by DMAS.

C. Home health aide services provided by a home health agency.

1. Home health aides must function under the supervision of a registered nurse.

2. Home health aides must meet the certification requirements specified in 42 CFR 484.36.

3. For home health aide services, patients may receive up to 32 visits annually. Limits shall be per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient.

D. Durable medical equipment (DME) and supplies suitable for use in the home.

1. General requirements and conditions.

a. All medically necessary supplies and equipment shall be covered. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost effective by DMAS, payment may be made for rental of the equipment in lieu of purchase.

b. DME providers shall adhere to all applicable DMAS policies, laws, and regulations for durable medical equipment and supplies. DME providers shall also comply with all other applicable Virginia laws and regulations requiring licensing, registration, or permitting. Failure to comply with such laws and regulations shall result in denial of coverage for durable medical equipment or supplies which are regulated by such licensing agency or agencies.

c. DME and supplies must be furnished pursuant to a Certificate of Medical Necessity (CMN) (DMAS-352).

d. A CMN shall contain a physician's diagnosis of a recipient's medical condition and an order for the durable medical equipment and supplies that are medically necessary to treat the diagnosed condition and the recipient's functional limitation. The order for DME or supplies must be justified in the written documentation either on the CMN or attached thereto. The CMN shall be valid for a maximum period of six months for Medicaid recipients 21 years of age and younger. The maximum valid time period for Medicaid recipients older than 21 years of age is 12 months. The validity of the CMN shall terminate when the recipient's medical need for the prescribed DME or supplies ends.

e. DME must be furnished exactly as ordered by the attending physician on the CMN. The CMN and any supporting verifiable documentation must be complete (signed and dated by the physician) and in the provider's possession within 60 days from the time the ordered DME and supplies are initially furnished by the DME provider. Each component of the DME must be specifically ordered on the CMN by the physician. ~~For example, the order must specify IV pole, pump, and tubing. A general order for IV supplies shall not be acceptable.~~

f. The CMN shall not be changed, altered, or amended after the attending physician has signed it. If changes are necessary, as indicated by the recipient's condition, in the ordered DME or supplies, the DME provider must obtain a new CMN. New CMNs must be signed and dated by the attending physician within 60 days from the time the ordered supplies are furnished by the DME provider.

g. DMAS shall have the authority to determine a different (from those specified above) length of time a CMN may be valid based on medical documentation submitted on the CMN. The CMN may be completed

by the DME provider or other health care professionals, but it must be signed and dated by the attending physician. Supporting documentation may be attached to the CMN but the attending physician's entire order must be on the CMN.

h. The DME provider shall retain a copy of the CMN and all supporting verifiable documentation on file for DMAS' post payment audit review purposes. DME providers shall not create nor revise CMNs or supporting documentation for this service after the initiation of the post payment review audit process. Attending physicians shall not complete, nor sign and date, CMNs once the post payment audit review has begun.

2. Preauthorization is required for incontinence supplies provided in quantities greater than two cases per month.

3. Supplies, equipment, or appliances that are not covered include, but are not limited to, the following:

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners;

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies or specialty beds for the treatment of wounds consistent with DME criteria for nursing facility residents that have been approved by DMAS central office;

c. Furniture or appliances not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales);

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface); mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience (e.g., electric wheelchair plus a manual chair); cleansing wipes;

e. Prosthesis, except for artificial arms, legs, and their supportive devices which must be preauthorized by the DMAS central office (effective July 1, 1989);

f. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (e.g., dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; and support stockings);

g. Orthotics, including braces, splints, and supports;

h. Home or vehicle modifications;

i. Items not suitable for or not used primarily in the home setting (i.e., car seats, equipment to be used while at school, etc.); and

j. Equipment for which the primary function is vocationally or educationally related (i.e., computers, environmental control devices, speech devices, etc.).

4. For coverage of blood glucose meters for pregnant women, refer to 12 VAC 30-50-500.

5. ~~Reserved.~~ *Coverage of home infusion therapy. Home infusion therapy shall be defined as the intravenous administration of fluids, drugs, chemical agents, or nutritional substances to recipients in the home setting. DMAS shall reimburse for these services, supplies, and drugs on a service day rate methodology established in 12 VAC 30-80-30. The therapies to be covered under this policy shall be: hydration therapy, chemotherapy, pain management therapy, drug therapy, and total parenteral nutrition (TPN). All the therapies which meet criteria will be covered for three months. If any therapy service is required for longer than the original three months, prior authorization shall be required for its continuation. The established service day rate shall reimburse for all services delivered in a single day. There shall be no additional reimbursement for special or extraordinary services. In the event of incompatible drug administration, a separate HCPCS code shall be used to allow for rental of a second infusion pump and purchase of an extra administration tubing. When applicable, this code may be billed in addition to the other service day rate codes. There must be documentation to support the use of this code on the I.V. Implementation Form. Proper documentation shall include the need for pump administration of the medications ordered, frequency of administration to support that they are ordered simultaneously, and indication of incompatibility. The service day rate payment methodology shall be mandatory for reimbursement of all I.V. therapy services except for the recipient who is enrolled in the Technology Assisted waiver program. The following limitations shall apply to this service:*

*a. This service must be medically necessary to treat a recipient's medical condition. The service must be ordered and provided in accordance with accepted medical practice. The service must not be desired solely for the convenience of the recipient or the recipient's caregiver.*

*b. In order for Medicaid to reimburse for this service, the recipient must:*

*(1) Reside in either a private home or a domiciliary care facility, such as an adult care residence. Because the reimbursement for DME is already provided under institutional reimbursement, recipients in hospitals, nursing facilities, rehabilitation centers, and other institutional settings shall not be covered for this service.*

---

## Proposed Regulations

---

(2) *Be under the care of a physician who prescribes the home infusion therapy and monitors the progress of the therapy.*

(3) *Have body sites available for peripheral intravenous catheter or needle placement or have a central venous access; and*

(4) *Be capable of either self-administering such therapy or have a caregiver who can be adequately trained, is capable of administering the therapy, and is willing to safely and efficiently administer and monitor the home infusion therapy. The caregiver must be willing to and be capable of following appropriate teaching and adequate monitoring. In those cases where the recipient is incapable of administering or monitoring the prescribed therapy and there is no adequate or trained caregiver, it may be appropriate for a home health agency to administer the therapy.*

6. The medical equipment and supply vendor must provide the equipment and supplies as prescribed by the physician on the certificate of medical necessity. Orders shall not be changed unless the vendor obtains a new certificate of medical necessity prior to ordering or providing the equipment or supplies to the patient.

7. Medicaid shall not provide reimbursement to the medical equipment and supply vendor for services provided prior to the date prescribed by the physician or prior to the date of the delivery or when services are not provided in accordance with published policies and procedures. If reimbursement is denied for one of these reasons, the medical equipment and supply vendor may not bill the Medicaid recipient for the service that was provided.

8. The following criteria must be satisfied through the submission of adequate and verifiable documentation satisfactory to the department. Medically necessary DME and supplies shall be:

- a. Ordered by the physician on the CMN;
- b. A reasonable and necessary part of the recipient's treatment plan;
- c. Consistent with the recipient's diagnosis and medical condition particularly the functional limitations and symptoms exhibited by the recipient;
- d. Not furnished solely for the convenience, safety, or restraint of the recipient, the family, attending physician, or other practitioner or supplier;
- e. Consistent with generally accepted professional medical standards (i.e., not experimental or investigational); and
- f. Furnished at a safe, effective, and cost-effective level suitable for use in the recipient's home environment.

9. Coverage of enteral nutrition (EN) which does not include a legend drug shall be limited to when the nutritional supplement is the sole source form of nutrition, is administered orally or through a nasogastric or gastrostomy tube, and is necessary to treat a medical condition. Coverage of EN shall not include the provision of routine infant formula. A nutritional assessment shall be required for all recipients receiving nutritional supplements.

E. Physical therapy, occupational therapy, or speech/language pathology services and audiology services provided by a home health agency or physical rehabilitation facility.

1. Service covered only as part of a physician's plan of care.
2. Patients may receive up to 24 visits for each rehabilitative therapy service ordered annually without authorization. Limits shall apply per recipient regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services.

F. The following services are not covered under the home health services program:

1. Medical social services;
2. Services or items which would not be paid for if provided to an inpatient of a hospital, such as private-duty nursing services, or items of comfort which have no medical necessity, such as television;
3. Community food service delivery arrangements;
4. Domestic or housekeeping services which are unrelated to patient care and which materially increase the time spent on a visit;
5. Custodial care which is patient care that primarily requires protective services rather than definitive medical and skilled nursing care; and
6. Services related to cosmetic surgery.

**12 VAC 30-50-210. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.**

A. Prescribed drugs.

1. Drugs for which Federal Financial Participation is not available, pursuant to the requirements of § 1927 of the Social Security Act (OBRA '90 § 4401), shall not be covered.
2. Nonlegend drugs shall be covered by Medicaid in the following situations:
  - a. Insulin, syringes, and needles for diabetic patients;

- b. Diabetic test strips for Medicaid recipients under 21 years of age;
- c. Family planning supplies;
- d. Designated categories of nonlegend drugs for Medicaid recipients in nursing homes;
- e. Designated drugs prescribed by a licensed prescriber to be used as less expensive therapeutic alternatives to covered legend drugs.

3. Legend drugs are covered with the exception of anorexiants prescribed for weight loss and the drugs or classes of drugs identified in 12 VAC 30-50-520. Anorexiants, when preauthorized, will be covered for recipients who meet the strict disability standards for obesity established by the Social Security Administration, and whose condition is certified as life threatening, consistent with Department of Medical Assistance Services' medical necessity requirements, by the treating physician.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, and in compliance with the provision of § 4401 of the Omnibus Reconciliation Act of 1990, § 1927(e) of the Social Security Act as amended by OBRA 90, and pursuant to the authority provided for under § 32.1-325 A of the Code of Virginia, prescriptions for Medicaid recipients for multiple source drugs subject to 42 CFR 447.332 shall be filled with generic drug products unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

5. New drugs shall be covered pursuant to the Social Security Act § 1927 (d) (OBRA '90 § 4401).

6. The number of refills shall be limited pursuant to § 54.1-3411 of the Drug Control Act.

7. Drug prior authorization.

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

*"Board"* means the Board for Medical Assistance Services.

*"Committee"* means the Medicaid Prior Authorization Advisory Committee.

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

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

*"Drug"* shall have the same meaning, unless the context otherwise dictates or the board otherwise provides by regulation, as provided in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

b. Medicaid Prior Authorization Advisory Committee; membership. The Medicaid Prior Authorization Committee shall consist of 11 members to be appointed by the board. Five members shall be physicians, at least three of whom shall care for a significant number of Medicaid patients; four shall be pharmacists, two of whom shall be community pharmacists; one member shall be a consumer of mental health services; and one shall be a Medicaid recipient.

(1) A quorum for action of the committee shall consist of six members.

(2) The members shall serve at the pleasure of the board; vacancies shall be filled in the same manner as the original appointment.

(3) The board shall consider nominations made by the Medical Society of Virginia, the Old Dominion Medical Society, the Psychiatric Society of Virginia, the Virginia Pharmaceutical Association, the Virginia Alliance for the Mentally Ill, and the Virginia Mental Health Consumers Association when making appointments to the committee.

(4) The committee shall elect its own officers, establish its own procedural rules, and meet as needed or as called by the board, the director, or any two members of the committee. The department shall provide appropriate staffing to the committee.

c. Duties of the committee.

(1) The committee shall make recommendations to the board regarding drugs or categories of drugs to be subject to prior authorization, prior authorization requirements for prescription drug coverage and any subsequent amendments to or revisions of the prior authorization requirements. The board may accept or reject the recommendations in whole or in part, and may amend or add to the recommendations, except that the board may not add to the recommendation of drugs and categories of drugs to be subject to prior authorization.

(2) In formulating its recommendations to the board, the committee shall not be deemed to be formulating regulations for the purposes of the Administrative Process Act (§ 9-6.14:1 et seq.). The committee shall, however, conduct public hearings prior to making recommendations to the board. The committee shall give 30 days written notice by mail of the time and place of its hearings and meetings to any manufacturer whose product is being reviewed by the committee and to those manufacturers who request of the committee in writing that they be informed of such hearings and meetings. These persons shall be afforded a reasonable opportunity to be heard and present information. The committee shall give 30 days notice of such public hearings to the public by

---

# Proposed Regulations

---

publishing its intention to conduct hearings and meetings in the Calendar of Events of The Virginia Register of Regulations and a newspaper of general circulation located in Richmond.

(3) In acting on the recommendations of the committee, the board shall conduct further proceedings under the Administrative Process Act.

d. Prior authorization of prescription drug products, coverage.

(1) The committee shall review prescription drug products to recommend prior authorization under the state plan. This review may be initiated by the director, the committee itself, or by written request of the board. The committee shall complete its recommendations to the board within no more than six months from receipt of any such request.

(2) Coverage for any drug requiring prior authorization shall not be approved unless a prescribing physician obtains prior approval of the use in accordance with regulations promulgated by the board and procedures established by the department.

(3) In formulating its recommendations to the board, the committee shall consider the potential impact on patient care and the potential fiscal impact of prior authorization on pharmacy, physician, hospitalization and outpatient costs. Any proposed regulation making a drug or category of drugs subject to prior authorization shall be accompanied by a statement of the estimated impact of this action on pharmacy, physician, hospitalization and outpatient costs.

(4) The committee shall not review any drug for which it has recommended or the board has required prior authorization within the previous 12 months, unless new or previously unavailable relevant and objective information is presented.

(5) Confidential proprietary information identified as such by a manufacturer or supplier in writing in advance and furnished to the committee or the board according to this subsection shall not be subject to the disclosure requirements of the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia). The board shall establish by regulation the means by which such confidential proprietary information shall be protected.

e. Immunity. The members of the committee and the board and the staff of the department shall be immune, individually and jointly, from civil liability for any act, decision, or omission done or made in performance of their duties pursuant to this subsection while serving as a member of such board, committee, or staff provided that such act, decision, or omission is not done or made in bad faith or with malicious intent.

f. Annual report to joint commission. The committee shall report annually to the Joint Commission on Health Care regarding its recommendations for prior authorization of drug products.

8. *Coverage of home infusion therapy. This service shall be covered consistent with the limits and requirements set out within home health services (12 VAC 30-50-160). Multiple applications of the same therapy (e.g., two antibiotics on the same day) shall be covered under a full per diem methodology as provided in pharmacy services reimbursement.*

B. Dentures. Dentures are provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

C. Prosthetic devices.

1. Prosthetics services shall mean the replacement of missing arms and legs. Nothing in this regulation shall be construed to refer to orthotic services or devices.

2. Prosthetic devices (artificial arms and legs, and their necessary supportive attachments) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be medically necessary, and preauthorized for the minimum applicable component necessary for the activities of daily living.

D. Eyeglasses. Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

## **12 VAC 30-80-30. Fee-for-service providers.**

A. Payment for the following services, except for physician services, shall be the lower of the state agency fee schedule (12 VAC 30-80-190 has information about the state agency fee schedule) or actual charge (charge to the general public):

1. Physicians' services (12 VAC 30-80-160 has obstetric/pediatric fees). Payment for physician services shall be the lower of the state agency fee schedule or actual charge (charge to the general public), except that reimbursement rates for designated physician services when performed in hospital outpatient settings shall be 50% of the reimbursement rate established for those services when performed in a physician's office. The following limitations shall apply to emergency physician services.

a. Definitions. The following words and terms, when used in this subdivision 1, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with

the emergency department visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency physician services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency department visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and reimburse physicians for nonemergency care rendered in emergency departments at a reduced rate.

(1) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services, including those obstetric and pediatric procedures contained in 12 VAC 30-80-160, rendered in emergency departments which DMAS determines are nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology in subdivision 1 b (2) of this subsection. Services not meeting certain criteria shall be paid under the methodology in subdivision 1 b (1) of this subsection. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

2. Dentists' services.

3. Mental health services including: (i) community mental health services; (ii) services of a licensed clinical psychologist; or (iii) mental health services provided by a physician.

a. Services provided by licensed clinical psychologists shall be reimbursed at 90% of the reimbursement rate for psychiatrists.

b. Services provided by independently enrolled licensed clinical social workers and licensed professional counselors shall be reimbursed at 75% of the reimbursement rate for licensed clinical psychologists.

4. Podiatry.

5. Nurse-midwife services.

6. Durable medical equipment (*DME*).

a. The rate paid for all items of durable medical equipment except nutritional supplements shall be the lower of the state agency fee schedule that existed prior to July 1, 1996, less 4.5%, or the actual charge.

b. The rate paid for nutritional supplements shall be the lower of the state agency fee schedule or the actual charge.

c. *Certain durable medical equipment used for intravenous therapy and oxygen therapy shall be bundled under specified procedure codes and reimbursed as determined by the agency. Certain services/durable medical equipment such as service maintenance agreements shall be bundled under specified procedure codes and reimbursed as determined by the agency.*

*(1) Intravenous therapies. The DME for a single therapy, administered in one day, shall be reimbursed at the established service day rate for the bundled durable medical equipment and the standard pharmacy payment, consistent with the*

---

# Proposed Regulations

---

*ingredient cost as described in 12 VAC 30-80-40, plus the pharmacy service day and dispensing fee. Multiple applications of the same therapy shall be included in one service day rate of reimbursement. Multiple applications of different therapies administered in one day shall be reimbursed for the bundled durable medical equipment service day rate as follows: the most expensive therapy shall be reimbursed at 100% of cost; the second and all subsequent most expensive therapies shall be reimbursed at 50% of cost. Multiple therapies administered in one day shall be reimbursed at the pharmacy service day rate plus 100% of every active therapeutic ingredient in the compound (at the lowest ingredient cost methodology) plus the appropriate pharmacy dispensing fee.*

*(2) Respiratory therapies. The DME for oxygen therapy shall have supplies or components bundled under a service day rate based on oxygen liter flow rate or blood gas levels. Equipment associated with respiratory therapy may have ancillary components bundled with the main component for reimbursement. The reimbursement shall be a service day per diem rate for rental of equipment or a total amount of purchase for the purchase of equipment. Such respiratory equipment shall include, but not be limited to, oxygen tanks and tubing, ventilators, noncontinuous ventilators, and suction machines. Ventilators, noncontinuous ventilators, and suction machines may be purchased based on the individual patient's medical necessity and length of need.*

*(3) Service maintenance agreements. Provision shall be made for a combination of services, routine maintenance, and supplies, to be known as agreements, under a single reimbursement code only for equipment which is recipient owned. Such bundled agreements shall be reimbursed either monthly or in units per year based on the individual agreement between the DME provider and DMAS. Such bundled agreements may apply to, but not necessarily be limited to, either respiratory equipment or apnea monitors.*

7. Local health services, including services paid to local school districts.
8. Laboratory services (other than inpatient hospital).
9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling).
10. X-Ray services.
11. Optometry services.
12. Medical supplies and equipment.
13. Home health services. Effective June 30, 1991, cost reimbursement for home health services is eliminated.

A rate per visit by discipline shall be established as set forth by 12 VAC 30-80-180.

14. Physical therapy; occupational therapy; and speech, hearing, language disorders services when rendered to noninstitutionalized recipients.

15. Clinic services, as defined under 42 CFR 440.90.

B. Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts.

## **12 VAC 30-80-40. Fee-for-service providers: pharmacy.**

Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in ~~items~~ *subdivisions 6 and 7 below of this section:*

1. The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs pursuant to 42 CFR 447.331 and 447.332, as determined by the HCFA Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.
2. The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee for multiple source drugs listed on the VVF.
3. The Estimated Acquisition Cost (EAC) which shall be based on the published Average Wholesale Price (AWP) minus a percentage discount established by the methodology set out in a through c below.
  - a. Percentage discount shall be determined by a statewide survey of providers' acquisition cost.
  - b. The survey shall reflect statistical analysis of actual provider purchase invoices.
  - c. The agency will conduct surveys at intervals deemed necessary by DMAS.
4. (Reserved).
5. The provider's usual and customary charge to the public, as identified by the claim charge.
6. Payment for pharmacy services will be as described above; however, payment for drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements.
7. The Program pays additional reimbursement for the 24-hour unit dose delivery system of dispensing drugs. This service is paid only for patients residing in nursing

facilities. Reimbursements are based on the allowed payments described above plus the unit dose add-on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

8. Determination of EAC was the result of an analysis of FY'89 paid claims data of ingredient cost used to develop a matrix of cost using 0 to 10% reductions from AWP as well as discussions with pharmacy providers. As a result of this analysis, AWP minus 9.0% was determined to represent prices currently paid by providers effective October 1, 1990.

The same methodology used to determine AWP minus 9.0% was utilized to determine a dispensing fee of \$4.40 per prescription as of October 1, 1990. A periodic review of dispensing fee using Employment Cost Index - wages and salaries, professional and technical workers will be done with changes made in dispensing fee when appropriate. As of July 1, 1995, the Estimated Acquisition Cost will be AWP minus 9.0% and dispensing fee will be \$4.25.

9. *Home infusion therapy.*

a. *The following therapy categories shall have pharmacy service day rate payment allowable: hydration therapy, chemotherapy, pain management therapy, drug therapy, total parenteral nutrition (TPN). The service day rate payment for the pharmacy component shall apply to the basic components and services intrinsic to the therapy category. Submission of claims for the per diem rate shall be accomplished by use of the HCFA 1500 claim form.*

b. *The cost of the active ingredient or ingredients for chemotherapy, pain management and drug therapies shall be submitted as a separate claim through the pharmacy program, using standard pharmacy format. Payment for this component shall be consistent with the current reimbursement for pharmacy services. Multiple applications of the same therapy shall be reimbursed one service day rate for the pharmacy services. Multiple applications of different therapies shall be reimbursed at 100% of standard pharmacy reimbursement for each active ingredient.*

**NOTICE:** The forms used in administering 12 VAC 30-50-10 et seq., Amount, Duration, and Scope of Medical and Remedial Care Services, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

## FORMS

Virginia Uniform Assessment Instrument, UAI, Virginia Long-Term Care Council, 1994.

*I.V. Therapy Implementation Form, DMAS-354, eff. 6/1/98.*

**NOTICE:** The forms used in administering 12 VAC 30-80-10 et seq., Methods and Standards for Establishing Payment Rates; Other Types of Care, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

## FORMS

Pharmacy Claim Form (3/96).

Compound Prescription Pharmacy Claim Form (3/96).

*I.V. Therapy Implementation Form, DMAS-354, eff. 6/1/98.*

## INSTRUMENT FORM - I.V. THERAPY IMPLEMENTATION FORM

### I.V. THERAPY IMPLEMENTATION FORM

**SECTION I: Recipient/Physician Information**

Recipient Name: \_\_\_\_\_  
 Recipient's Full Name (Last & First Name)  
 Medicaid Number: \_\_\_\_\_  
 Complete Medicaid Number (12 digits)  
 Physician Name: \_\_\_\_\_  
 Full Name of Physician  
 Type of Therapy: \_\_\_\_\_  
 \*Hydration  
 \*Pain Management  
 \*Chemotherapy  
 \*Drug Therapy  
 \*TPN

\*Each different therapy requires a separate I.V. Therapy Implementation Form.

**Primary Diagnosis:** \_\_\_\_\_  
 Enter recipient's primary diagnosis.  
**Secondary Diagnosis:** \_\_\_\_\_  
 Enter recipient's secondary diagnosis if applicable.  
**Recipient History:** \_\_\_\_\_  
 Brief recipient history that led to implementation of I.V. Therapy.  
**Start Date:** \_\_\_\_\_  
 Start date of therapy  
**End Date:** \_\_\_\_\_  
 Anticipated end date of therapy  
**Type of Administration:** \_\_\_\_\_  
 Enter the route of I.V. administration and type of device used:  
 peripheral line or CVP line and whether device is a PICC  
 line, Groshong, Hickman, Port-A-Cath, etc.

<b>SECTION I:</b>	
Recipient Name	_____
Recipient Medicaid Number	_____
Physician Name	_____
Type of Therapy	_____
Primary Diagnosis	_____
Secondary Diagnosis	_____
Recipient History (as relates to IV therapy)	_____
Therapy Start Date	_____
Anticipated Therapy End Date	_____
Route of Administration (type of line and device)	_____

**SECTION II: Medication Information**

**Medication:** \_\_\_\_\_  
 Name of medication  
**NDC#:** \_\_\_\_\_  
 NDC number  
**Dosage:** \_\_\_\_\_  
 The dosage ordered  
**Frequency:** \_\_\_\_\_  
 Frequency of administration  
**Duration:** \_\_\_\_\_  
 Any special orders for duration, such as medication to  
 run in over a certain number of hours  
**Start Date:** \_\_\_\_\_  
 The begin date  
**End Date:** \_\_\_\_\_  
 As each drug is discontinued, the end date is to be recorded under  
 end date.

MEDICATION	DOSAGE	FREQUENCY	DURATION	START DATE	END DATE

**SECTION III: For TPN Only**

**Usual Body Weight:** \_\_\_\_\_  
 Enter weight.  
**Current Body Weight:** \_\_\_\_\_  
 Enter current body weight.  
**Diagnosis:** \_\_\_\_\_  
 Enter diagnosis related to GI dysfunction.  
**Enteral Nutrition:** \_\_\_\_\_  
 Enter if there has been a dietary consultation, and if enteral  
 nutrition has been attempted.

**SECTION IV:**

**Physician Signature:** \_\_\_\_\_  
 The physician must sign and date this form at the beginning  
 of therapy. This must be done within 30 days of the begin  
 date of the therapy ordered. Subsequent I.V. Therapy  
 Implementation Forms, as new medications added, must also  
 be signed and dated within 30 days of the begin date of the  
 medication delivery.

**SECTION V:**

**End Date:** \_\_\_\_\_  
 Enter the date therapy actually ended (See Section I).  
**Physician Signature:** \_\_\_\_\_  
 The physician and date at end of therapy.

**SECTION III:** For TPN Only

USUAL BODY WEIGHT: \_\_\_\_\_  
 CURRENT BODY WEIGHT: \_\_\_\_\_

Diagnosis related to GI dysfunction: \_\_\_\_\_  
 Dietary consultation:   yes   no  
 Enteral Nutrition attempted:   yes   no

**SECTION IV:**  
 Physician Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SECTION V:**  
 Actual End Date of Therapy: \_\_\_\_\_  
 Physician Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*Note: New form must be filled out for each new drug added and each new therapy initiated.

\*There are 4 spaces to allow for an initial order of up to 4  
 medications. If new drugs are ordered during the course of a  
 therapy, a new I.V. Therapy Implementation Form must be initiated  
 as each new drug is ordered. A new CMN is not required unless a  
 new therapy is added that was not placed on the original CMN. A  
 new I.V. Therapy Implementation Form is required anytime a new  
 therapy or new medication is ordered.

\*NOTE: A NEW FORM MUST BE FILLED OUT FOR EACH NEW DRUG ADDED AND EACH NEW THERAPY INITIATED.

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**Title of Regulation:** 12 VAC 35-140-10 et seq. **Mandatory Standards for Community Mental Health Programs (REPEALING).**

**Statutory Authority:** §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Public Hearing Date:** N/A - Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** This regulation was promulgated pursuant to § 37.1-10 of the Code of Virginia which grants the State Mental Health, Mental Retardation and Substance Abuse Services Board the authority to make, adopt, and promulgate such rules and regulations as may be necessary to carry out the provision of Title 37.1 and other laws of the Commonwealth. Section 37.1-199 grants the department the authority to withdraw funds from any community services board program, which is not being administered in accordance with the approved plan and budget of the community services board or which is not in compliance with the standards for such a program as promulgated by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

**Purpose:** The purpose of this action is to repeal a regulation, which was designed to provide assurance to families that minimum standards are in effect to ensure the health and safety of clients in community services board programs. The regulation, as written, is overly prescriptive yet fails to establish clear standards for the protection of clients. Currently, all community providers, including community services boards are required to comply with 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995. This regulation is, therefore, no longer necessary and should be repealed.

**Substance:** The regulation establishes administrative, fiscal, safety, and programmatic standards for mental health programs with which community services boards are required to comply to receive departmental grants of state general and federal block grant funds.

**Issues:** There are several reasons for repealing this regulation. First, the regulation applies only to community services boards, which are already governed by the policies of the State Mental Health, Mental Retardation and Substance Abuse Services Board as set forth in § 37.1-10 of the Code of Virginia. Second, many of the regulation's fiscal, personnel, and service standards are elements of the department's contract with community services boards for services supported through departmental grants of state general and federal block grant funds. Finally, the department monitors the operations of community services boards and compliance with the performance contract through routine performance reports and reviews. There are

no known disadvantages to the agency or the public as a result of repealing this regulation.

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

**Summary of the proposed regulation.** This proposal would repeal the standards for community mental health programs. The enforcement of minimum standards in community services board programs is now provided through other, more effective mechanisms. These sections have been rendered anachronistic.

**Estimated economic impact.** These rules have been replaced by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation, and Substance Abuse Services. Removing these anachronistic sections from the administrative code will eliminate extraneous material from the law books. This change will not affect costs or the level of care of clients in these programs. Thus the economic impact of the change is limited to the benefits of having a concise and current administrative code. While positive, the economic value of this change is very modest.

**Businesses and entities affected.** No businesses are substantially affected by this action.

**Localities particularly affected.** No localities are particularly affected by this change.

**Projected impact on employment.** This change will have no impact on employment.

**Effects on the use and value of private property.** This change will not have any effects on the use and value of private property.

**Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:** The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Mandatory Standards for Community Mental Health Programs.

**Summary:**

*The board proposes to repeal this regulation, which established standards for community mental health programs in the areas of program planning and evaluation, administration, clinical management and*

---

# Proposed Regulations

---

service delivery, and service components. Currently, all community providers, including community services boards, are required to comply with 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995, and superseded this regulation. Therefore, 12 VAC 35-140-10 et seq., Mandatory Standards for Community Mental Health Programs is no longer necessary and is being proposed for repeal.

VA.R. Doc. No. R98-38; Filed July 15, 1998, 11:04 a.m.

\* \* \* \* \*

**Title of Regulation:** 12 VAC 35-150-10 et seq. **Mandatory Standards for Community Mental Retardation Programs (REPEALING).**

**Statutory Authority:** §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Public Hearing Date:** N/A - Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** This regulation was promulgated pursuant to § 37.1-10 of the Code of Virginia which grants the State Mental Health, Mental Retardation and Substance Abuse Services Board the authority to make, adopt, and promulgate such rules and regulations as may be necessary to carry out the provision of Title 37.1 and other laws of the Commonwealth. Section 37.1-199 grants the department the authority to withdraw funds from any community services board program, which is not being administered in accordance with the approved plan and budget of the community services board or which is not in compliance with the standards for such a program as promulgated by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

**Purpose:** The purpose of this action is to repeal a regulation, which was designed to provide assurance to families that minimum standards are in effect to ensure the health and safety of clients in community services board programs. The regulation, as written, is overly prescriptive yet fails to establish clear standards for the protection of clients. Currently, all community providers, including community services boards are required to comply with 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995. This regulation, 12 VAC 35-150-10 et seq., Mandatory Standards for Community Mental Retardation Programs is, therefore, no longer necessary and should be repealed.

**Substance:** The regulation establishes administrative, fiscal, safety, and programmatic standards for mental retardation programs with which community services boards are

required to comply to receive departmental grants of state general and federal block grant funds.

**Issues:** There are several reasons for repealing this regulation. First, the regulation applies only to community services boards, which are already governed by the policies of the State Mental Health, Mental Retardation and Substance Abuse Services Board as set forth in § 37.1-10 of the Code of Virginia. Second, many of the regulation's fiscal, personnel, and service standards are elements of the department's contract with community services boards for services supported through departmental grants of state general and federal block grant funds. Finally, the department monitors the operations of community services boards and compliance with the performance contract through routine performance reports and reviews. There are no known disadvantages to the agency or the public as a result of repealing this regulation.

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

**Summary of the proposed regulation.** This proposal would repeal the standards for community mental retardation programs. The enforcement of minimum standards in community services board programs is now provided through other, more effective mechanisms. These sections have been rendered anachronistic.

**Estimated economic impact.** These rules have been replaced by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation, and Substance Abuse Services. Removing these anachronistic sections from the administrative code will eliminate extraneous material from the law books. This change will not affect costs or the level of care of clients in these programs. Thus the economic impact of the change is limited to the benefits of having a concise and current administrative code. While positive, the economic value of this change is very modest.

**Businesses and entities affected.** No businesses are substantially affected by this action.

**Localities particularly affected.** No localities are particularly affected by this change.

**Projected impact on employment.** This change will have no impact on employment.

Effects on the use and value of private property. This change will not have any effects on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Mandatory Standards for Community Mental Retardation Programs.

Summary:

*The board proposes to repeal this regulation, which established standards for community mental retardation programs in the areas of program planning and evaluation, administration, clinical management and service delivery, and service components. Currently, all community providers, including community services boards, are required to comply with 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995, and superseded this regulation. Therefore, 12 VAC 35-150-10 et seq., Mandatory Standards for Community Mental Retardation Programs is no longer necessary and is being proposed for repeal.*

VA.R. Doc. No. R98-43; Filed July 15, 1998, 11:05 a.m.

\* \* \* \* \*

**Title of Regulation: 12 VAC 35-160-10 et seq. Mandatory Standards for Community Substance Abuse Programs (REPEALING).**

Statutory Authority: §§ 37.1-10, 37.1-179.1, and 37.1-199 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

Basis: This regulation was promulgated pursuant to § 37.1-10 of the Code of Virginia which grants the State Mental Health, Mental Retardation and Substance Abuse Services Board the authority to make, adopt, and promulgate such rules and regulations as may be necessary to carry out the provision of Title 37.1 and other laws of the Commonwealth. Section 37.1-199 grants the department the authority to withdraw funds from any community services board program which is not being administered in accordance with the approved plan and budget of the community services board or which is not in compliance with the standards for such a program as promulgated by the State Mental Health, Mental Retardation and Substance Abuse Services Board.

Purpose: The purpose of this action is to repeal a regulation that was designed to provide assurance to families that minimum standards are in effect to ensure the health and safety of clients in community services board programs. The

regulation, as written, is overly prescriptive yet fails to establish clear standards for the protection of clients. Currently, all community providers, including community services boards are required to comply with 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995. This regulation, 12 VAC 35-160-10 et seq., Mandatory Standards for Community Mental Health Programs is, therefore, no longer necessary and should be repealed.

Substance: The regulation establishes administrative, fiscal, safety, and programmatic standards for substance abuse programs with which community services boards are required to comply to receive departmental grants of state general and federal block grant funds.

Issues: There are several reasons for repealing this regulation. First, the regulation applies only to community services boards, which are already governed by the policies of the State Mental Health, Mental Retardation and Substance Abuse Services Board as set forth in § 37.1-10 of the Code of Virginia. Second, many of the regulation's fiscal, personnel, and service standards are elements of the department's contract with community services boards for services supported through departmental grants of state general and federal block grant funds. Finally, the department monitors the operations of community services boards and compliance with the performance contract through routine performance reports and reviews. There are no known disadvantages to the agency or the public as a result of repealing this regulation.

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

Summary of the proposed regulation. This proposal would repeal the standards for community substance abuse programs. The enforcement of minimum standards in community services board programs in now provided through other, more effective mechanisms. These sections have been rendered anachronistic.

Estimated economic impact. These rules have been replaced by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation, and Substance Abuse Services. Removing these anachronistic sections from the

---

# Proposed Regulations

---

administrative code will eliminate extraneous material from the law books. This change will not affect costs or the level of care of clients in these programs. Thus the economic impact of the change is limited to the benefits of having a concise and current administrative code. While positive, the economic value of this change is very modest.

Businesses and entities affected. No businesses are substantially affected by this action.

Localities particularly affected. No localities are particularly affected by this change.

Projected impact on employment. This change will have no impact on employment.

Effects on the use and value of private property. This change will not have any effects on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Mandatory Standards for Community Substance Abuse Programs.

## Summary:

*The board proposes to repeal this regulation, which established standards for community substance abuse programs in the areas of program planning and evaluation, administration, clinical management and service delivery, and service components. Currently, all community providers, including community services boards, are required to comply with 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995, and superseded this regulation. Therefore, 12 VAC 35-140-10 et seq., Mandatory Standards for Community Substance Abuse Programs is no longer necessary and is being proposed for repeal.*

VA.R. Doc. No. R98-42; Filed July 15, 1998, 11:06 a.m.

---

## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Bureau of Insurance

<p><b>REGISTRAR'S NOTICE:</b> The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.</p>
--

**Title of Regulation:** 14 VAC 5-395-10 et seq. Rules Governing Settlement Agents (amending 14 VAC 5-395-10, 14 VAC 5-395-30, and 14 VAC 5-395-50).

**Statutory Authority:** §§ 6.1-2.25 and 12.1-13 of the Code of Virginia.

AT RICHMOND, JULY 6, 1998

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS980124

Ex Parte, in re: In the matter of adopting an amended regulation applicable to settlement agents

### ORDER TO TAKE NOTICE

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 6.1-2.25 of the Code of Virginia provides that the Commission may issue rules, regulations and orders consistent with and necessary to carry out the provisions of the Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia);

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed revised regulation entitled "Rules Governing Settlement Agents"; and

WHEREAS, the Commission is of the opinion that the proposed revised regulation should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) All interested persons TAKE NOTICE that the Commission shall enter an order subsequent to August 6, 1998, adopting the revised regulation proposed by the Bureau of Insurance unless on or before August 6, 1998, any person objecting to the adoption of such revised regulation files a request for a hearing, and in such request specifies in detail their objection to the adoption of the proposed revised regulation, with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218;

(2) An attested copy hereof, together with a copy of the proposed revised regulation, be sent by the Clerk of the Commission to the Virginia State Bar, the Virginia Real Estate Board, and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister who shall forthwith give further notice of the proposed adoption of the revised regulation by mailing a copy of this order, together with a complete draft of the proposed revised regulation to all title insurance companies, title insurance agents, and title insurance agencies licensed in the Commonwealth of Virginia; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

**14 VAC 5-395-10. Purpose.**

A. The purpose of this chapter is to implement the Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia).

B. This chapter applies to all title insurance agents, title insurance agencies and title insurance companies providing escrow, closing or settlement services involving the purchase of or ~~financing lending on the security~~ of real estate containing not more than four residential dwelling units in the Commonwealth of Virginia.

C. The Bureau of Insurance shall issue the necessary forms to carry out the provisions of the Act and this chapter.

**14 VAC 5-395-30. Registration.**

Every title insurance agent, title insurance agency and title insurance company ~~providing that (i) provides~~ escrow, closing or settlement services involving the purchase of or ~~financing lending on the security~~ of real estate containing not more than four residential dwelling units ~~in the Commonwealth of Virginia and (ii) is listed as the settlement agent on the settlement statement for such transaction shall register~~ be required to be registered as a settlement agent with the Virginia State Bar in accordance with the provisions of § 6.1-2.26 of the Code of Virginia.

**14 VAC 5-395-50. Audits.**

A. Every title insurance agent, title insurance agency, and title insurance company that acts as a settlement agent in the Commonwealth of Virginia shall, at its expense, have an ~~annual~~ audit of its escrow accounts conducted by an independent certified public accountant ~~on a calendar year basis by not later than six months after the close of the previous calendar year at least once each consecutive 12-month period.~~ Such ~~annual~~ audit shall conform with the standards established by the American Institute of Certified Public Accountants, Statement on Auditing Standards, Special Reports, and shall be filed ~~by the settlement agent with the bureau annually on or before July 4 no later than 60 days after the date on which the audit is completed.~~

B. Every title insurance agent or title insurance agency acting as a settlement agent shall file a copy of its ~~annual~~ audit report with each title insurance company it represents.

C. In lieu of an audit conducted by a certified public accountant, a title insurance agent or title insurance agency acting as a settlement agent shall allow each title insurance company for which it has an appointment to conduct an ~~annual audit analysis~~ of its escrow accounts ~~on a calendar year basis by not later than six months after the close of the previous calendar year at least once each consecutive 12-month period.~~ The form of such ~~annual audit analysis~~ shall be prescribed by the bureau. The title insurance company shall submit a copy of its ~~audit report analysis~~ to the bureau ~~annually on or before July 4 no later than 60 days after the date on which the analysis is completed.~~ With the consent of the title insurance agent, a title insurance company may share the results of its ~~audit analysis~~ with other title

insurance companies that will accept the same in lieu of conducting a separate ~~audit analysis~~.

VA.R. Doc. No. R98-299; Filed July 14, 1998, 11:27 a.m.

**TITLE 16. LABOR AND EMPLOYMENT**

**DEPARTMENT OF LABOR AND INDUSTRY**

**Safety and Health Codes Board**

Title of Regulation: **16 VAC 25-50-10 et seq. Boiler and Pressure Vessel Rules and Regulations (amending 16 VAC 25-50-10, 16 VAC 25-50-20, 16 VAC 25-50-70, 16 VAC 25-50-80, 16 VAC 25-50-90, 16 VAC 25-50-120, 16 VAC 25-50-150, 16 VAC 25-50-190, 16 VAC 25-50-240, 16 VAC 25-50-250, 16 VAC 25-50-270, 16 VAC 25-50-290, 16 VAC 25-50-350, 16 VAC 25-50-360, 16 VAC 25-50-370, 16 VAC 25-50-380, 16 VAC 25-50-390, 16 VAC 25-50-430, 16 VAC 25-50-440 and 16 VAC 25-50-480).**

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Public Hearing Dates:

- August 31, 1998 - 7 p.m. (Manassas)
- September 1, 1998 - 7 p.m. (Richmond)
- September 2, 1998 - 7 p.m. (Roanoke)
- September 3, 1998 - 7 p.m. (Norfolk)

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

Basis: The basis for the proposed amendments is to comply with required changes in the Code of Virginia under Chapter 212, 1997 Acts of Assembly, to incorporate updated technical standards incorporated into the National Board Inspection Code, and to fulfill the statutory charge of the board under § 40.1-51.6 of the Code of Virginia, authorizing the board to "...formulate definitions, rules, regulations and standards, which shall be designed for the protection of human life and property from the unsafe or dangerous construction, installation, inspection, operation, maintenance, and repair of boilers and pressure vessels in Virginia."

Purpose: The purpose of these amendments was initially to accomplish the statutory directive of Chapter 212, 1997 Acts of Assembly, requiring that former statutory provisions be promulgated as regulations (as adopted by emergency regulation on January 1, 1998), no later than the expiration of the emergency regulation. These amendments also ensure that the citizens of the Commonwealth are protected by the most recent updates to national consensus standards concerning operation and maintenance requirements for boilers and pressure vessels, including clarifying the regulations' applicability, defining qualifications for inspecting boilers and pressure vessels in the Commonwealth, and

---

# Proposed Regulations

---

exempting from regulation and inspection certain hobby boilers of minimal size and capacity.

Substance: The major provisions of the proposed amendments to the Boiler and Pressure Vessel Rules and Regulations are summarized below:

1. Accomplishes transfer of provisions setting certification and testing fees, from statute to regulation, as authorized by 1997 Acts of Assembly;
2. Exempts hobby boilers equipped with pertinent safety devices from inspection and specific operational requirements;
3. Incorporates a National Board Inspection Code provision permitting registration for objects designed and constructed to a standard deemed equivalent to the ASME Code;
4. Adopts the National Board Code requirement of stamps for object and valve repairs;
5. Incorporates by reference recent changes to national consensus standards;
6. Establishes additional credential requirements for inspectors who conduct repairs;
7. Eliminates redundant and obsolete language or procedures;
8. Authorizes a pilot program permitting certain inspectors to issue certificates and collect fees;
9. Makes textual and grammatical corrections; and
10. Makes administrative changes to requirements for Owner/User Inspection Agencies.

Issues: The primary advantages and disadvantages of implementation of and compliance with the regulation by the public and the department are discussed below.

Setting fee amounts by regulation rather than by statute will allow an easier adjustment of the moneys collected from fees, to coincide with, and accurately reflect the Boiler Safety Compliance Programs's allocated expenses.

The requirement of a National Board "R" stamp certification will aid the department in its efforts to reduce the number of unreported boiler and pressure vessel repairs as well as to help eliminate the potentially catastrophic problem of incorrect repair. The holding of an "R" stamp certification attests that the repair organization had demonstrated an acceptable level of skill and competence regarding matters such as: stress analysis, welding, metallurgy and quality control as well as their unique applications to boilers and pressure vessels, current regulation already requires that all welded repairs be done in accordance with the NBIC.

Current regulation requires that an object in need of repair be previewed by an inspector who must then authorize a welded repair. The repair must subsequently be inspected and pass the approval of the inspector. The repair organization must also complete a repair report, Virginia Form NB: R-1 and forward it to the chief inspector. In practice, this procedure is

not always followed. In such cases, an improper, unauthorized and unsafe repair may exist unreported and unknown for months, until an inspector happens to find it during the regular annual or biennial certificate inspection.

Requiring that all repair organizations invest in an "R" stamp certification will provide an economic incentive in the industry to follow proper regulatory procedure in order to safeguard that investment and provide a level field of competition within Virginia and surrounding jurisdictions.

The proposal to include the "VR" certification for all repair organizations who repair or reset safety valves is to provide greater and more uniform quality control of this critical operation. The present rules and regulations require that the safety valve and safety relief valves be repaired and adjusted by the original valve manufacturer or his authorized representative. The implementation of "VR" certification will reduce requests to the department for variances and related processing time thus making staff available for other activities.

The department believes that requiring the use of this nationally recognized qualification system is needed to assure a high level of compliance with the National Board Inspection Code standards for boiler and pressure vessel repair which are currently required in regulation. The requirement of national board stamp certification will reduce the number of unreported and/or incorrect valve and welded repairs to boilers and pressure vessels. This will facilitate better oversight and control by the department as repair reporting is currently required by regulation.

Authorizing certain inspectors to issue certificates and collect fees will also dramatically shorten the process for owner/users to obtain inspection certificates, while saving department resources otherwise expended towards that process. This provides the boiler owner the option of either paying the \$20 fee directly to the department or being charged \$17 by a designated inspector who is allowed to charge the owner up to an additional three dollars for each certificate fee collected, reflecting costs incurred in collecting and forwarding the fees to the chief inspector.

The amendments further protect the health of the citizens of the Commonwealth, by adopting the improvements previously accepted in the consensus-based National Board Code. Employees and the general public, where exposed, will benefit from a safer work environment through a reduced exposure to unsafe equipment. The amendment also reduces the overall probability of boiler or pressure vessel explosions in the Commonwealth. Owners and operators of boilers and pressure vessels may benefit especially: from exemptions from regulation for small hobby boilers; from a pilot program simplifying the certificate process; and from administrative changes to the requirements for maintaining an owner/inspection agency.

Finally, by applying current provisions of a national consensus standard, the Commonwealth of Virginia will benefit and encourage interstate commerce in providing and purchasing boiler-related services and products.

Advantages and disadvantages to the general public: The advantages these proposed amendments give to the general public are an increased level of public safety, a safer work environment, and a reduced risk of boiler explosions, due to the higher standards for construction, operation and repair of regulated boilers. The sole disadvantage to the general public would be the possibility of a slight increase in the costs of goods and services provided by the owner or user of a boiler or pressure vessel due to the incrementally higher cost for boiler repairs resulting from the stricter repair certification standard.

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

Summary of the proposed regulation. The proposed regulation would amend current regulations governing the construction, installation, inspection, operation, maintenance, and repair of boilers and pressure vessels in Virginia. The primary proposed amendments are as follows:

1. Minimum construction standards would be amended to incorporate alternative international standards "which are acceptable to the Chief Inspector;"
2. Certain replica or model boilers of historical nature, not intended for commercial use, would be exempt from the minimum construction standards;
3. The processing fee for requests for certificates of competency, identification cards, and endorsements would be increased from \$10 to \$20;
4. Requirements regarding owner-user inspection agencies would be amended to allow inspection and maintenance of unfired pressure vessels according to the American Petroleum Institute Code where applicable;
5. Provisions would be added allowing payment of the \$20 boiler inspection certificate fee directly to a special inspector;
6. Provisions would be added allowing inspection of boilers and pressure vessels by a commonwealth inspector in cases where the chief inspector has determined that no contract fee inspectors are available, and establishing a \$135 fee for such inspections of power boilers, \$70 for heating boilers, and \$50 for pressure vessels;

7. Fees for reviews and emergency inspections would be set at \$100 plus expenses for one half day and \$200 for a full day;

8. Requirements for repairs and renewals of boiler fittings and appliances would be amended to permit the use of National Board Inspection Code standards;

9. Requirements for existing installations of power boilers would be amended to stipulate that each automatically fired boiler or system of commonly connected boilers have a device that will shut off the fuel supply if steam pressure reaches a maximum level and to require that individual automatically fired boilers have a device that will prevent generation of steam pressure in excess of the maximum allowable working pressure;

10. Standards for hydrostatic pressure tests of installations would be amended to stipulate that pressure shall be the greater of 80% of maximum allowable working pressure or operating pressure;

11. Standards for automatic low-water fuel cutoffs would be amended to require two automatic low-water fuel cutoffs on power boilers; and

12. New requirements would be added specifying that repairs may only be made by holders of a National Board Inspection Code "R" or "VR" Certificate of Authorization.

Estimated economic impact. For purposes of evaluating economic effects, the proposed amendments detailed above can be grouped into three general categories: those that would increase regulatory flexibility, those that would revise the regulation to reflect current national standards, and those that affect fees.

#### Increased Regulatory Flexibility:

The proposed amendments that would revise the standards for minimum construction, inspection and maintenance of unfired pressure vessels, and hydrostatic pressure tests all increase the flexibility afforded to regulants by allowing the use of alternative standards. This increased regulatory flexibility will reduce regulatory compliance costs by permitting regulants to select the compliance standard with which they are most familiar or that best fits their individual situations.

#### Current National Standards:

Several of the proposed amendments simply update the regulation to reflect current standards of the American Society of Mechanical Engineers or the American National Standards Institute. This applies specifically to the new requirements for fuel shut-off and steam pressure generation regulating devices in power boilers, and the requirement that boiler repairs may only be made by holders of a National Board Inspection Code "R" or "VR" Certificate of Authorization. In all cases, these proposed amendments will add to compliance costs. The most significant increase would occur as a result of the "R" or "VR" Certificate of Authorization requirement. Information provided by DLI

---

## Proposed Regulations

---

indicates that the cost of acquiring these certifications is between \$3,000 and \$4,000.

Because many regulants are already in compliance with the revised national standards, however, the actual increase in compliance costs may be small. For example, DLI estimates that all but approximately 10 or 20 of the authorized boiler repair providers in Virginia already possess the "R" or "VR" Certificates of Authorization. Moreover, these additional costs must be balanced against the improvement in public health, safety, and welfare that is associated with adherence to nationally recognized engineering standards.

### Fees:

Four of the proposed amendments would affect fees. The amendment that would allow payment of the \$20 boiler inspection certificate fee directly to the special inspector only provides greater flexibility in the way the fee must be paid and does not involve any change in the fee itself. Similarly, the amendment stipulating that fees for reviews and emergency inspections would be set at \$100 plus expenses for one half day and \$200 for a full day only transfers those provisions from statute to regulation, as authorized by the 1997 Acts of Assembly, and also does not involve a change in the fees themselves.

The amendment establishing fees for the inspection of boilers and pressure vessels by a Commonwealth Inspector in cases where the chief inspector has determined that no contract fee inspectors are available does create new fees. Because these inspections would have otherwise still been performed and fees charged, however, these new fees do not entail an increase in compliance costs. Rather, by providing alternative timely inspection services, this amendment is likely to prove a convenience to regulants, thereby reducing overall compliance costs.

In contrast, the amendment that increases from \$10 to \$20 the processing fee for requests for certificates of competency, identification cards, and endorsements does involve an increase in regulatory compliance costs. According to information provided by DLI, approximately 150 of these requests are processed each year. This means that the proposed fee increase would entail a \$1,500 per year increase in overall regulatory compliance costs.

Businesses and entities particularly affected. The proposed regulation particularly affects the approximately 10,000 owners and operators of boilers and pressure vessels in Virginia, 90 boiler and pressure vessel repair companies, 20 boiler and pressure vessel inspection companies, and the general public.

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

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

Effects on the use and value of private property. Proposed amendments contained in the regulation do establish additional standards for boilers and pressure vessels. These standards could necessitate upgrading or retiring current

equipment, thereby affecting the use and value of private property.

Summary of analysis. The proposed regulation would amend current regulations governing boilers and pressure vessels in Virginia. The primary economic consequences of the proposed amendments will be to: (i) enhance public health and safety by updating the regulation to reflect current standards of the American Society of Mechanical Engineers or the American National Standards Institute and (ii) generate a modest increase in regulatory compliance costs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Labor and Industry concurs with the economic impact analysis prepared by the Department of Planning and Budget.

### Summary:

*The proposed amendments incorporate the transfer of authority for setting various fee amounts from statute to regulation and adopt several changes recommended individually or jointly by the regulated community, the National Board of Boiler and Pressure Vessel Inspectors, or the Chief Boiler and Pressure Vessel Inspector of the Commonwealth.*

*The proposed amendments also direct commonwealth inspectors to inspect uninsured boilers and pressure vessels in those geographic areas or limited time periods within which commercial services would not be available, set out the chief inspector's criteria for determining unavailability, and establish rates for certification inspections conducted by commonwealth inspectors. These changes eliminate a criticism of the current privatized inspection system and are directed by the General Assembly.*

*Also included in these proposed amendments are changes suggested by the department's regulatory review and a request by the department to require the national board "R" and "VR" stamp certification for organizations performing repairs and alterations to boilers and pressure vessels, and the repair and resetting of safety valves. Current regulation requires that all boilers and pressure vessels be designed, constructed and installed in accordance with the ASME Boiler and Pressure Vessel Code. However, the ASME code does not establish standards for repair or alteration of these objects once they have been code stamped and installed.*

*In 1977, the national board, in conjunction with the chief inspectors of the 43 member states and three member cities, established standards for object repair in order to address the problem that ASME code integrity of pressurized equipment was being violated by improper repairs and alterations. The national board published a standard for controlling such repair and alteration as a chapter to the National Board Inspection Code and developed the "R" stamp certification program. The "R"*

*Stamp program has been adopted by 32 of the 46 members.*

**16 VAC 25-50-10. Definitions.**

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

"Act" means the Boiler and Pressure Vessel Safety Act, Chapter 3.1 (§ 40.1-51.5 through 40.1-51.19 *et seq.*) of Title 40.1 of the Code of Virginia.

"Alteration" means any change in the item described on the original Manufacturers' Data Report which affects the pressure containing capability of the boiler or pressure vessel. Non-physical changes, such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler or pressure vessel, shall be considered an alteration. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alteration.

"Approved" means acceptable to the board, commissioner or chief inspector as applicable.

"ASME Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers with such revisions, amendments, and interpretations of them as are made, approved and adopted by governing council of such society and approved and adopted by the board. Copies of the code may be obtained from the Society at 345 East 47th Street, New York, NY 10017.

"Authorized Inspection Agency" means one of the following:

- a. A department or division established by a state, commonwealth or municipality of the United States, or a province of Canada which has adopted one or more sections of the Boiler and Pressure Vessel Code of the ASME and whose inspectors hold valid commissions with the National Board of Boiler and Pressure Vessel Inspectors; or equivalent qualifications as defined and set forth in Part II, 16 VAC 25-50-50, and Part II, 16 VAC 25-50-70;
- b. An inspection agency of an insurance company which is authorized (licensed) to write boiler and pressure vessel insurance in those jurisdictions which have examined the agency's inspectors to represent such jurisdictions as is evident by the issuance of a valid certificate of competency to the inspector;
- c. An owner-user inspection agency as defined in this chapter section; or
- d. A contract fee inspector.

"Board" means the Virginia Safety and Health Codes Board.

"Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination of them, under pressure or vacuum for use externally to itself by the direct application of heat. The term

"boiler" shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

"Certificate of competency" means a certificate issued by the commissioner to a person who has passed the prescribed examination as provided in Part II, 16 VAC 25-50-50. See §§ 40.1-51.9 and § 40.1-51.9:1 of the Act.

"Certificate inspection" means an inspection, the report of which is used by the chief inspector to decide whether or not a certificate, as provided for in § 40.1-51.10 of the Act may be issued. This certificate inspection shall be an internal inspection when required; otherwise, it shall be as complete an inspection as possible.

"Chief inspector" means the chief boiler and pressure vessel inspector of the Commonwealth.

"Commission, National Board" means the commission issued by the National Board to a holder of a Certificate of Competency for the purpose of conducting inspections in accordance with the National Board Bylaws and this chapter. The employer must submit the inspector's application to the National Board for a commission.

"Commissioner" means the Commissioner of the Department of Labor and Industry.

"Commonwealth inspector" means any agent appointed by the commissioner under the provisions of § 40.1-51.9 of the Act.

"Condemned boiler or pressure vessel" means a boiler or pressure vessel that has been inspected and declared unsafe for use or disqualified by legal requirements and to which a stamping or marking designating its condemnation has been applied by the chief or deputy commonwealth inspector.

"Department" means the Department of Labor and Industry.

"Division" means the Boiler Safety Enforcement Division of the Department of Labor and Industry.

"Electric boiler" means a boiler in which the source of heat is electricity.

"Examining board" means persons appointed by the chief inspector to monitor examinations of inspectors.

"Existing installation" means and includes any boiler or pressure vessel constructed, installed, placed in operation or contracted for before July 1, 1974.

"External inspection" means an inspection of the exterior of the boiler or pressure vessel and its appliances when the item is in operation.

"Heating boiler" means a steam or vapor boiler operating at pressures not exceeding 15 psig, or a hot-water boiler operating at pressures not exceeding 160 psig or temperature not exceeding 250°F at or near the boiler outlet.

"High-pressure, high-temperature water boiler" means a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250°F at or near the boiler outlet.

---

# Proposed Regulations

---

"*Hobby boiler*" means a steam boiler which serves no commercial purpose and is used solely for hobby or display and operated solely for the enjoyment of the owner.

"*Hot-water supply boiler*" means a boiler furnishing hot water to be used externally to itself at pressures not exceeding 160 psig or temperatures not exceeding 250°F at or near the boiler outlet, with the exception of boilers which are directly fired by oil, gas or electricity where none of the following limitations are exceeded:

- a. Heat input of 200,000 BTU per hour;
- b. Water temperature of 210°F; or
- c. Nominal water containing capacity of 120 gallons.

"*Hot-water supply storage tanks*" means those heated by steam or any other indirect means where any one of the following limitations are exceeded:

- a. Heat input of 200,000 BTU per hour;
- b. Water temperature of 210°F; or
- c. Nominal water containing capacity of 120 gallons.

"*Inspection certificate*" means a certificate issued by the chief inspector for the operation of a boiler or pressure vessel.

"*Inspector*" means the chief inspector, commonwealth inspector or special inspector.

"*Internal inspection*" means a complete examination of the internal and external surfaces of a boiler or pressure vessel and its appliances while it is shut down and manhole plates, handhole plates or other inspection openings removed.

"*Lap seam crack*" means a failure in a lap joint extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

"*Miniature boiler*" means any boiler which does not exceed any one of the following limits:

- a. 16 inches inside diameter of shell;
- b. 20 square feet heating surface;
- c. 5 cubic feet gross volume, exclusive of casing and insulation; or
- d. 100 psig maximum allowable working pressure.

"*National Board*" means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, OH 43229, whose membership is composed of the chief inspectors of government jurisdictions who are charged with the enforcement of the provisions of the ASME Code.

"*National Board Inspection Code*" means the manual for boiler and pressure vessel inspectors published by the National Board. Copies of this code may be obtained from the National Board.

"*New boiler or pressure vessel installation*" means all boilers or pressure vessels constructed, installed, placed in operation or contracted for after July 1, 1974.

"*NFPA*" means the National Fire Protection Association.

"*Nonstandard boiler or pressure vessel*" means a boiler or pressure vessel that does not bear the stamp of Commonwealth of Virginia, the ASME stamp or the National Board stamp when applicable.

"*Owner or user*" means any person, partnership, firm or corporation who is legally responsible for the safe operation of a boiler or pressure vessel within the Commonwealth.

"*Owner-user inspection agency*" means any person, partnership, firm or corporation registered with the chief inspector and approved by the board as being legally responsible for inspecting pressure vessels which they operate in this Commonwealth.

"*Portable boiler*" means an internally fired boiler which is primarily intended for temporary location and whose construction and usage permit it to be readily moved from one location to another.

"*Power boiler*" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig.

"*Pressure vessel*" means a vessel in which the pressure is obtained from an external source, or by the application of heat from an indirect source, or from a direct source, other than those boilers defined in Part I (16 VAC 25-50-10 et seq.) of this chapter.

"*PSIG*" means pounds per square inch gauge.

"*Reinstalled boiler or pressure vessel*" means a boiler or pressure vessel removed from its original setting and reinstalled at the same location or at a new location.

"*Repair*" means work necessary to return a boiler or pressure vessel to a safe and satisfactory operating condition, provided there is no deviation from the original design.

"*Secondhand boiler or pressure vessel*" means a boiler or pressure vessel which has changed both location and ownership since the last certificate inspection.

"*Special inspector*" means an inspector holding a Virginia Certificate of Competency, and who is regularly employed by an insurance company authorized (licensed) to write boiler and pressure vessel insurance in this Commonwealth, an inspector continuously employed by any company operating pressure vessels in this Commonwealth used or to be used by the company, or a contract fee inspector.

"*Standard boiler or pressure vessel*" means a boiler or pressure vessel which bears the stamp of the Commonwealth of Virginia, the ASME stamp and the National Board stamp when applicable.

"*Underwriters' Laboratories*" means Underwriters' Laboratories, Inc., 333 Pfingsten Road, Northbrook, Illinois 60062, which is a nonprofit, independent organization testing

for public safety. It maintains and operates laboratories for the examination and testing of devices, systems, and materials to determine their relation to life, fire, casualty hazards and crime prevention.

"Water heater" means a vessel used to supply: (i) potable hot water; or (ii) both space heat and potable water in combination which is directly heated by the combustion of fuels, electricity, or any other source and withdrawn for use external to the system at pressures not to exceed 160 psi or temperatures of 210°F. This term also includes fired storage water heaters defined by the Virginia Uniform Statewide Building Code as a "water heater."

## **16 VAC 25-50-20. Minimum construction standards for boilers and pressure vessels.**

A. Boilers and pressure vessels to be installed for operation in this Commonwealth shall be designed, constructed, inspected, stamped and installed in accordance with the applicable ASME Boiler and Pressure Vessel Code and the addenda to it, *other international construction standards which are acceptable to the chief inspector*, and this chapter.

B. Boilers and pressure vessels shall bear the National Board stamping, except cast iron boilers and UM vessels. A copy of the Manufacturers' Data Report, signed by the manufacturer's representative and the National Board commissioned inspector, shall be filed by the owner or user with the chief inspector prior to its operation in the Commonwealth.

C. Pressure piping - (including welded piping) - Piping external to power boilers ~~extending~~ from the boiler ~~extending~~ to the first stop valve of a single boiler, and to the second stop valve in a battery of two or more boilers is subject to the requirements of ASME Power Boiler Code, Section I, and the design, fabrication, installation and testing of the valves and piping shall be in conformity with the applicable paragraphs of ASME code. Applicable ASME data report forms for this piping shall be furnished by the owner to the chief inspector. Construction rules for materials, design, fabrication, installation and testing both for the boiler external piping and the power piping beyond the valve or valves required by ASME Power Boiler Code, Section I, are referenced in ANSI B31.1, Power piping, and the code.

D. Boilers and pressure vessels brought into the Commonwealth and not meeting code requirements shall not be operated unless the owner/user is granted a variance in accordance with § 40.1-51.19 of the Act.

The request for variance shall include all documentation related to the boiler or pressure vessel that will provide evidence of equivalent fabrication standards, i.e., design specification, calculations, material specifications, detailed construction drawings, fabrication and inspection procedures and qualification records, examination, inspection and test records, and any available manufacturers' data report.

In order to facilitate such a variance approval, the submission of documentation, in the English language and in current U.S. standard units of measure would be helpful.

The following list of documents, while not all inclusive, would be useful in providing evidence of safety equivalent to ASME Code construction:

1. List of materials used for each pressure part;
2. The design calculations to determine the maximum allowable working pressure in accordance with the ASME Boiler and Pressure Vessel Code, applicable section, edition and addenda;
3. The design code used and the source of stress values for the materials used in the design calculations;
4. The welding procedures used and the qualification records for each procedure;
5. The material identification for each type of welding material used;
6. The performance qualification records for each welder or welding operator used in the construction of the boiler or pressure vessel;
7. The extent of any nondestructive examination (NDE) performed and the qualification records of NDE operators;
8. Record of final pressure test signed by a third party inspector;
9. Name and organization of the third party inspection agency;
10. A certification from a licensed professional engineer stating that the boiler or pressure vessel has been constructed to a standard providing equivalent safety to that of the ASME Boiler and Pressure Vessel Code. A signature, date and seal of the certifying engineer is required;
11. Where applicable, a matrix of differences between the actual construction of the boiler or pressure vessel for which a variance is requested and a similar boiler or pressure vessel that is code stamped; and
12. Where applicable, a letter from an insurance company stating that it will insure the boiler or pressure vessel.

After notification of a violation of these rules and regulations an owner/user desiring a variance shall submit a request for variance within 30 days.

The chief inspector shall respond to any request for a variance within 30 days of receipt of all required documentation, and shall submit a recommendation to the commissioner, who will make the decision on the variance.

~~E. Commonwealth of Virginia Special — If a boiler or pressure vessel is of a special design or one that does not conform to ASME and National Board requirements, the following information shall be submitted to the chief inspector prior to construction or installation for approval by the commissioner for "Commonwealth of Virginia Special" status; detailed construction drawings; materials specifications; design calculations; welding details and~~

---

# Proposed Regulations

---

~~procedures, and procedure and performance qualification tests; and a detailed quality control program used to control all phases of construction.~~

~~NOTE: All documents submitted shall be in the English language, and all dimensions, pressures, temperatures, materials specifications, etc. shall be in the same units as used in the ASME Boiler and Pressure Vessel Code.~~

~~F. E.~~ Before secondhand equipment is installed, application for permission to install shall be filed by the owner or user with the chief inspector and approval obtained.

~~G. F.~~ Electric boilers, subject to the requirements of the Act and this chapter, shall bear the Underwriters' Laboratories label on the completed unit or assembly by the manufacturer. This label shall be in addition to the code symbol stamping requirements of the ASME and the National Board.

*G. Replica or model boilers of historical nature; preserved, restored or maintained for hobby use; not intended for commercial use; and having an inside diameter less than or equal to 10 inches and a grate area less than or equal to 1½ square feet and equipped with a safety valve of adequate size, a water level indicator and a pressure gauge are exempt.*

## **16 VAC 25-50-70. Certificate of competency and identification card.**

A. Upon request and subject to subsection B of this section, a certificate of competency and an identification card shall be issued by the commissioner to:

1. An inspector who is employed ~~full-time~~ *full time* by a governmental authority having an authorized inspection agency as defined in ~~Part I (16 VAC 25-50-10 et seq.)~~.
2. An inspector who is employed by an insurance company which is authorized (licensed) to write boiler and pressure vessel insurance in this Commonwealth.
3. An inspector who is employed by a company which operates unfired pressure vessels in Virginia and has a valid owner-user inspection agency agreement as provided in ~~Part II, 16 VAC 25-50-120~~.
4. A contract fee inspector.

B. The applicant must pass the examination as set forth in ~~Part II, 16 VAC 25-50-50~~, and pay the application fee of \$50; or hold a valid commission or certificate of competency from a state that has a standard of examination substantially equal to that of Virginia, and a valid commission and identification card issued by the National Board.

C. Requests for a certificate of competency ~~and~~, identification card ~~and endorsements~~ shall be completed on forms provided by the chief inspector and shall be accompanied by, when applicable, a facsimile of the applicant's commission, certificate of competency and identification cards, named above, and a processing fee of ~~\$40~~ \$20 payable to the Treasurer of Virginia. *An endorsement of the Virginia identification card is required for*

*inspecting repairs or alterations. Inspectors holding a valid "A" or "B" national qualification or passing a written examination given by the department shall apply on forms provided by the chief inspector.*

D. The Virginia valid identification card shall be returned to the chief inspector when the certificate holder is no longer employed by the organization employing him at the time that the certificate was issued or, in the case of a self-employed contract fee inspector, has ceased inspection activities.

E. Each person holding a valid Virginia certificate of competency and who conducts inspections as provided by the Act shall apply to the chief inspector on forms provided by the chief inspector and obtain an identification card biennially, not later than June 30 of the year in which the card is due for renewal. A processing fee of ~~\$40~~ \$20 for each card, payable to the Treasurer of Virginia, shall accompany the application.

F. An inspector's certificate of competency may be suspended by the chief inspector after due investigation and recommendation by the commissioner, for incompetence or untrustworthiness of the holder of the certificate, or for willful falsification of any matter or statement contained in his application, or in a report of any inspection made by him. Written notice of any suspension shall be given by the chief inspector to the inspector and his employer. Persons whose certificate of competency has been suspended shall be entitled to an appeal to the board as provided for in the act and to be present in person or to be represented by counsel at the hearing of the appeal.

## **16 VAC 25-50-80. Inspectors to have no other interests.**

Inspectors shall not engage in the sale of any article or device relating to boilers, pressure vessels or their appurtenances. *Neither contract fee inspectors nor their employers shall have a commercial interest in repair work or any other work on boilers, pressure vessels, or their appurtenances which they inspect.*

## **16 VAC 25-50-90. Inspection reports to be submitted by special inspectors.**

A. Special inspectors shall submit first inspection reports to the chief inspector on Form ~~NB-5 of the National Board Inspection Code BPV-5~~ for each boiler and pressure vessel subject to registration and inspection in this Commonwealth. ~~Complete data shall be submitted on Form NB-5 for each nonstandard boiler or pressure vessel.~~

B. Except as provided in subsection E of this section, subsequent inspections of both standard and nonstandard boilers and pressure vessels shall be reported on Forms NB-6 and NB-7 of the National Board Inspection Code or Commonwealth Form BPV 6-7.

C. Inspection reports, as required in subsections A and B of this section, shall be submitted within 30 days from date of inspection.

D. When hazardous conditions are found in a boiler or pressure vessel which would present an immediate threat to

life or property, the owner or user shall immediately take action to correct the hazardous conditions or remove the object from service. The inspector shall notify the office of the chief inspector immediately by telephone followed by a written report. A complete and thorough inspection shall be conducted to evaluate the hazardous conditions and to make recommendations for necessary corrective measures. The boiler or pressure vessel shall not be returned to service until it has been restored to a safe operating condition under the requirements of this chapter.

E. ~~Owner~~ Owner-user inspection agencies may report subsequent inspections of both standard and nonstandard pressure vessels on Form NB-7 or at their option, upon forms approved by the board. The report shall be filed as provided in ~~Part II~~, 16 VAC 25-50-120.

**16 VAC 25-50-120. Owner-user inspection agency.**

A. Any person, firm, partnership or corporation operating pressure vessels in this Commonwealth may seek approval and registration as an owner-user inspection agency by filing an application with the chief inspector on forms prescribed and available from the department, and request approval by the board. Each application shall be accompanied by ~~a fee of \$25 and~~ a bond in the penal sum of \$5,000 which shall continue to be valid during the time the approval and registration of the company as an owner-user inspection agency is in effect.

B. The application and registration shall show the name of the agency and its principal address in this Commonwealth, and the name and address of the person or persons having supervision over inspections made by the agency. Changes in supervisory personnel shall be reported to the chief inspector within 30 days after any change.

C. Each owner-user inspection agency as required by the provisions of the Act and this chapter shall:

1. Maintain its own inspection group under the supervision of one or more individuals who have ~~qualified as an inspector under the provisions of the National Board Inspection Code independent authority to effect resolution of technical problems or procedures;~~

2. Conduct inspections of *boilers or unfired pressure vessels*, not exempt by the Act, utilizing only qualified inspection personnel, certified pursuant to ~~Part II~~, 16 VAC 25-50-50, 16 VAC 25-50-60 and 16 VAC 25-50-70; *in the case of unfired pressure vessels which are covered by the American Petroleum Institute code API-510, and are in use in the petroleum or chemical process industries, the owner-user inspection agency may, at its option, inspect and maintain such vessels by the API-510 code;*

3. Retain on file at the location where the equipment is inspected a true record or copy of the report of the latest of each inspection signed by the inspector who made the inspection;

4. Execute and deliver to the owner or user (management) a true report of each inspection together

with appropriate requirements or recommendations that result from the inspections;

5. Promptly notify the chief inspector of any *boiler or unfired pressure vessel* which does not meet the requirements of safe operating conditions;

6. Maintain inspection records which will include a list of each *boiler or unfired pressure vessel* covered by the Act, showing a serial number and an abbreviated description as may be necessary for identification; the date of last inspection of each unit and approximate date for the next inspection, arrived at by applying the appropriate rules to all data available at the time the inspection record is compiled (re: frequency and type of inspection, see ~~Part II~~, 16 VAC 25-50-30). This inspection record shall be readily available for examination by the chief inspector or his authorized representative during normal business hours; and

7. File a statement annually, on a date mutually agreed upon, with the chief inspector. This statement shall be signed by the individual having supervision over the inspections made during the period covered. The statement shall include the number of vessels, covered by the Act, inspected during the year and certifying that each inspection was conducted pursuant to the inspection requirements provided for by the Act and in a format acceptable to the chief inspector. The annual statement shall be accompanied by a filing fee in accordance with the schedule in § 40.1-51.11:1 of the Act as follows:

- a. For statements covering not more than 25 vessels - \$7 per vessel;
- b. For statements covering more than 25 vessels but less than 101 vessels - \$200;
- c. For statements covering more than 100 but less than 501 vessels - \$400; and
- d. For statements covering more than 500 vessels - \$800.

**16 VAC 25-50-150. Inspection certificate and inspection fees.**

A. Upon the inspection and determination that a boiler or pressure vessel is suitable and conforms to this chapter, the owner or user shall remit the ~~sum of \$20 to the commissioner~~ payment for an inspection certificate in one of the following forms and amounts for each item required to be inspected under the Act. ~~A certificate of inspection shall not be issued to the owner or user until receipt of funds by the department. Checks and money orders for payment of inspection certificate fees should be made payable to the Treasurer of Virginia.~~

- 1. *Payment of \$20 may be mailed from the owner or user to the chief inspector by check or money order. Payment of inspection certificate fees should be made payable to the Treasurer of Virginia; or*

---

# Proposed Regulations

---

2. Payment may be presented to a special inspector, where the inspector is authorized to collect and forward such fees on the department's behalf. The commissioner may authorize special inspectors to collect and forward to the chief inspector \$17 for each inspection certificate. Pursuant to § 40.1-51.10:1 of the Code of Virginia, special inspectors may charge owners or users a fee not exceeding \$3.00 for collecting and forwarding inspection certificate fees.

An inspection certificate will not be issued to the owner or user until payment is received by either the department or, if previously authorized, by a special inspector.

B. The chief inspector may extend an inspection certificate for up to three additional months beyond a two month grace period following the expiration of a certificate. Such extension is subject to a satisfactory external inspection of the boiler or pressure vessel and receipt of a fee of \$20 for each month of extension.

C. ~~When inspected by the department, an additional fee for the inspection service shall be paid before the inspection certificate is issued. the chief inspector determines that no contract fee inspectors are available to inspect a regulated uninsured boiler or pressure vessel in a timely manner, a commonwealth inspector may be directed to conduct a certification inspection. Contract fee inspection service shall be determined unavailable where (i) at least two contract fee inspectors contacted will not agree to provide inspection services to the owner or user within at least 21 days from the request and (ii) the owner's or user's inspection certificate will expire within that same period.~~

The following rates per inspected object, in addition to inspection certificate fees, shall apply for certification inspections conducted by a commonwealth inspector:

- |  |       |
|--|-------|
| 1. Power boilers and high pressure, high temperature water boilers | \$135 |
| 2. Heating boilers   | \$70  |
| 3. Pressure vessels  | \$50  |

D. The review of a manufacturer's or repair organization's facility for the purpose of national accreditation will be performed by the chief inspector or his qualified designee for an additional fee of \$800 per review or survey.

E. The owner or user who causes a boiler or pressure vessel to be operated without a valid certificate shall be subject to the penalty as provided for in § 40.1-51.12 of the Act.

F. Inspection certificates are not required for unfired pressure vessels inspected by an authorized owner-user inspection agency. However, the agency shall keep on file in its office in the establishment where the equipment is located a true record or copy of the report of the latest of each inspection signed by the inspector who made the inspection.

## 16 VAC 25-50-190. Condemned boilers and pressure vessels.

A. Any boiler or pressure vessel having been inspected and declared unsafe by the chief inspector or ~~deputy commonwealth~~ inspector shall be stamped by the inspector with the letters "XXX" on both sides of the postal abbreviation of this Commonwealth, as shown by the following facsimile, which will designate a condemned boiler or pressure vessel:

XXX VA XXX

B. Any person, firm, partnership, or corporation using or offering for sale a condemned boiler or pressure vessel for operation within this Commonwealth shall be subject to the penalties provided by the Act.

## 16 VAC 25-50-240. Factor of safety for existing installations.

Any inspector may increase the factor of safety on any existing installation if the condition of the boiler or pressure vessel warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the commissioner who may request a joint inspection by the chief inspector ~~and~~ or the commonwealth inspector ~~or~~ and the special inspector. ~~Each~~ The chief inspector shall make his a report to the commissioner and the commissioner shall make the final decision, based upon the data contained in the inspector's reports. The decision of the commissioner may be appealed to the board pursuant to § 40.1-51.16 of the Code of Virginia.

## 16 VAC 25-50-250. Repairs or alterations.

When repairs or alterations are to be made, permission shall be obtained from an inspector *with an appropriate endorsement*, and the repairs shall be done in accordance with the National Board Inspection Code and this chapter.

## 16 VAC 25-50-270. Review fees.

~~The fees to be charged by the Chief Inspector or Commonwealth Inspectors for a review or inspection other than a certificate inspection, of a boiler or pressure vessel shall be in accordance with § 40.1-51.15 of the Act, and may include but not be limited to consultation, data review, engineering evaluation, or quality control review.~~

*Reviews and emergency inspections other than certificate inspections conducted by the chief inspector or commonwealth inspectors, including but not limited to consultations, data reviews, engineering evaluations, or quality control reviews, shall be billed at the following rates:*

- |                                    |   |
|------------------------------------|---|
| 1. For one-half day of four hours  | \$100 plus expenses, including travel and lodging |
| 2. For one full day of eight hours | \$200 plus expenses, including travel and lodging |

**16 VAC 25-50-290. Application of Commonwealth serial numbers.**

A. Upon completion of the installation of a new boiler or pressure vessel or at the time of the initial certificate inspection of an existing installation each boiler or pressure vessel shall be stamped by the inspector with a serial number of the Commonwealth, consisting of the postal abbreviation for the Commonwealth and a unique series of numbers not less than ~~5/46~~ 3/16-inch in height and arranged as follows:

VA 0000

B. All cast iron, low-pressure heating boilers shall have securely attached to the front of the boiler a ~~metal~~ metallic tag of not less than one inch in height, which shall have the serial number of the Commonwealth stamped on it.

C. All pressure vessels constructed of cast iron, or of a material of such thickness or type that it should not be stamped, shall have securely attached a ~~metal~~ metallic tag not less than one inch in height, which shall have the serial number of the Commonwealth stamped on it.

**16 VAC 25-50-350. Repairs and renewals of boiler fittings and appliances.**

Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, the repairs or replacements shall comply with the requirements of the ASME Code or the National Board Inspection Code.

**16 VAC 25-50-360. Power and high-pressure, high-temperature water boilers.**

A. Age limit of existing boilers.

1. The age limit of any boiler of nonstandard construction, installed before July 1, 1974, other than one having a riveted, longitudinal lap joint, shall be 30 years, however, any boiler passing a thorough internal and external inspection, and not displaying any leakage or distress under a hydrostatic pressure test of 1½ times the allowable working pressure held for at least 30 minutes, may be continued in operation without reduction in working pressure. The age limit of any boiler having riveted, longitudinal, lap joints and operating at a pressure in excess of 50 psig shall be 20 years. This type of boiler, when removed from an existing setting, shall not be reinstalled for a pressure in excess of 15 psig. A reasonable time for replacement, not to exceed one year, may be given at the discretion of the chief inspector.

2. The shell or drum of a boiler in which a typical lap seam crack is discovered along a longitudinal riveted joint for either butt or lap joints shall be permanently removed from service.

3. The age limit of boilers of standard construction, installed before July 1, 1974, shall be determined from the results of a thorough internal and external inspection by an authorized inspector and the application of an appropriate pressure test. Hydrostatic test pressure

shall be 1½ times the allowable working pressure and maintained for 30 minutes. The boiler may be continued in service at the same working pressure provided there is no evidence of leakage or distress under these test conditions.

4. The minimum temperature of the water used for the hydrostatic test of low-pressure boilers and pressure vessels shall be 60°F. The minimum temperature of the water used for the hydrostatic test of power boilers shall be 70°F or ambient whichever is greater.

B. The maximum allowable working pressure for standard boilers shall be determined in accordance with the applicable provisions of the edition of the ASME Code under which they were constructed and stamped.

C.1. The maximum allowable working pressure on the shell of a nonstandard boiler shall be determined by the strength of the weakest section of the structure, computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint or tube ligaments, the inside diameter of the weakest course and the factor of safety allowed by this chapter.

$$\frac{TStE}{RFS} = \text{maximum allowable working pressure, } \text{psig } \text{psi}$$

where:

TS = ultimate tensile strength of shell plates, ~~psig~~, psi

t = minimum thickness of shell plate, in weakest course, inches

E = efficiency of longitudinal joint:

For tube ligaments, E shall be determined by the rules in Section I of the ASME Code for Power Boilers. For riveted joints, E shall be determined by the rules in the applicable edition of the ASME Code. For seamless construction, E shall be considered 100%.

R = inside radius of the weakest course of the shell, in inches,

FS = factor of safety permitted.

2. Tensile strength. When the tensile strength of steel or wrought iron shell plates is not known, it shall be taken as 55,000 ~~psig~~ psi.

3. Crushing strength of mild steel. The resistance to crushing of mild steel shall be taken at 95,000 ~~psig~~ psi of cross-sectional area.

4. Strength of rivets in shear. When computing the ultimate strength of rivets in shear, the following values, in pounds per square inch, of the cross-sectional area of the rivet shank shall be used.

	PSIG PSI
Iron rivets in single shear	38,000
Iron rivets in double shear	76,000

---

# Proposed Regulations

---

Steel rivets in single shear	44,000
Steel rivets in double shear	88,000

When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, may be selected from Table 1, or as ascertained by cutting out one rivet in the body of the joint.

TABLE 1  
SIZES OF RIVETS BASED ON PLATE THICKNESS  
(in inches)

Plate of Thickness	Rivet Diameter after Driving
1/4	11/16
9/32	11/16
5/16	3/4
11/32	3/4
3/8	13/16
13/32	13/16
7/16	15/16
15/32	15/16
1/2	15/16
9/16	1-1/16
5/8	1-1/16

5. Factors of safety. The following factors of safety shall be increased by the inspector if the condition and safety of the boiler demand it:

a. The lowest factor of safety permissible on existing installations shall be 4.5, ~~except for~~. Horizontal-return-tubular boilers having continuous longitudinal lap seams more than 12 feet in length, ~~when the shall have a factor of safety shall be of eight~~. When this type of boiler is removed from its existing setting, it shall not be reinstalled for pressures in excess of 15 psig.

b. Reinstalled or secondhand boilers shall have a minimum factor of safety of six when the longitudinal seams are of lap-riveted construction, and a minimum factor of safety of five when the longitudinal seams are of butt-strap and double-strap construction.

D. Cast-iron headers and mud drums. The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast iron or malleable-iron headers, or which have cast iron mud drums, shall not exceed 160 psig.

E. Pressure on cast iron boilers. The maximum allowable working pressure for any cast iron boiler, except hot water boilers, shall be 15 psig.

F. Safety valves.

1. The use of weighted-lever safety valves, or safety valves having either the seat or disk of cast iron, shall be prohibited. Valves of this type shall be replaced by direct, spring-loaded, pop-type valves that conform to the requirements of the ASME Code, Section I.

2. Each boiler shall have at least one safety valve, and if it has more than 500 square feet of water-heating surface, or an electric power input of more than 500 kilowatts, it shall have two or more safety valves.

3. The valve or valves shall be connected to the boiler, independent of any other steam connection, and attached as close as possible to the boiler, without unnecessary intervening pipe or fittings. Where alteration is required to conform to this requirement, the chief inspector shall allow the owner or user reasonable time in which to complete the work.

4. No valves of any description shall be placed between the safety valve and the boiler nor on the escape pipe, if used, between the safety valve and the atmosphere, except as provided by applicable sections of the ASME Code. When an escape pipe is used, it shall be at least full size of the safety-valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or escape pipe. When an elbow is placed on a safety valve escape pipe, it shall be located close to the safety-valve outlet or the escape pipe shall be anchored and supported securely. All safety valve discharges shall be located or piped as not to endanger persons working in the area.

5. The safety-valve capacity of each boiler shall be so that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6.0% above the highest pressure to which any valve is set, and in no case to more than 6.0% above the maximum allowable working pressure.

6. One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3.0% above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10% of the highest pressure to which any valve is set.

7. When two or more boilers, operating at different pressures and safety valve settings, are interconnected, the lower pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all boilers.

8. In those cases where the boiler is supplied with feedwater directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure higher than 94% of the lowest pressure obtained in the supply main feeding the boiler.

9. The relieving capacity of the safety valves on any boiler shall be checked by one of the three following methods and, if found to be insufficient, additional valves shall be provided:

a. By making an accumulation test, which consists of shutting off all other steam-discharge outlets from the

boiler and forcing the fires to the maximum. The safety-valve capacity shall be sufficient to prevent a rise of pressure in excess of 6.0% of the maximum allowable working pressure. This method shall not be used on a boiler with a superheater or reheater.

b. By measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam-generating capacity) upon the basis of the heating value of this fuel. These computations shall be made as outlined in the appendix of the ASME Code, Section I;

c. By measuring the maximum amount of feedwater that can be evaporated.

When either of the methods (b or c) outlined in this section, is employed the sum of the safety-valve capacities shall be equal to or greater than the maximum evaporative capacity (maximum steam-generating capacity) of the boiler.

10. The relieving capacity of safety valves for forced-flow steam generators shall be in accordance with the requirements of Section I of the ASME Boiler Code.

11. Safety valves and safety relief valves requiring repair shall be replaced with a new valve or repaired by the original manufacturer, ~~or his~~ its authorized representative *or the holder of a "VR" Stamp.*

## G. Boiler feeding.

1. Each boiler shall have a feed supply which will permit it to be fed at any time while under pressure.

2. A boiler having more than 500 square feet of water-heating surface shall have at least two means of feeding, one of which shall be an approved feed pump, or injector. A source of feed directly from water mains at a pressure 6.0% greater than the set pressure of the safety valve with the highest setting may be considered one of the means. As provided in the ASME Power Boiler Code, Section I, boilers fired by gaseous, liquid or solid fuel in suspension may be equipped with a single means of feeding water provided means are furnished for the immediate shutoff of heat input if the water feed is interrupted.

3. The feedwater shall be introduced into the boiler in a manner so that it will not be discharged close to riveted joints of shell or furnace sheets, or directly against surfaces exposed to products of combustion, or to direct radiation from the fire.

4. The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve.

5. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line, the stop valve to be placed between the boiler and the check valve, and both shall be located as close to the boiler as is practicable. No stop valves shall be placed in the supply and return pipe connections of a single boiler installation.

6. Where deaerating heaters are not employed, the temperature of the feedwater shall not be less than 120°F to avoid the possibility of setting up localized stress. Where deaerating heaters are employed, the minimum feedwater temperature shall not be less than 215°F so that dissolved gases may be thoroughly released.

## H. Water level indicators.

1. Each boiler shall have at least one water gauge glass installed and located so that the lowest visible part of the water glass shall be at least two inches above the lowest permissible water level, at which level there will be no danger of overheating any part of the boiler when in operation at that level; except as provided by the ASME Code.

2. No outlet connections (except for damper regulator, feedwater regulator, low-water fuel cutout, drain, steam gauges, or such apparatus that does not permit the escape of an appreciable amount of steam or water from it) shall be placed on the piping that connects the water column to the boiler. The water column shall be provided with a valved drain of at least ¾ inch pipe size; the drain is to be piped to a safe location.

~~3. Except as provided in the ASME code, each boiler shall have three or more gauge cocks located within the visible length of the water glass, except when the boiler has two water glasses located on the same horizontal lines. Boilers not over 36 inches in diameter, in which the heating surface does not exceed 100 square feet, need have but two gauge cocks.~~

4-3. When the direct reading of gauge glass water level is not readily visible to the operator in his working area dependable indirect indications shall be provided utilizing remote level indicators or equipment to transmit the gauge glass image. When remote level indication is provided for the operator instead of the gauge glass, the ~~same~~ minimum level reference shall be clearly marked.

## I. Steam gauges.

1. Each steam boiler shall have a steam gauge, with dial range not less than 1½ times the maximum allowable working pressure, connected to the steam space or to the steam connection to the water column. The steam gauge shall be connected to a siphon or equivalent device of sufficient capacity to keep the gauge tube filled with water and ~~so~~ arranged so that the gauge cannot be shut off from the boiler except by a cock ~~placed near the gauge and provided with a tee or lever handle arranged to~~ with a tee or lever handle placed in the pipe near the gauge. *The handle of the*

---

# Proposed Regulations

---

*cock shall* be parallel to the pipe in which it is located when the cock is open.

2. When a steam gauge connection longer than eight feet becomes necessary, a shutoff valve may be used near the boiler provided the valve is of the outside-screw-and-yoke type and is locked open. The line shall be of ample size with provision for free blowing.

3. Each boiler shall be provided with a *test gauge* connection and suitable valving ~~which connects to the steam space of each boiler~~ for the exclusive purpose of attaching a test gauge ~~when the boiler is in service~~ so that the accuracy of the boiler steam gauge may be ascertained *while the boiler is in operation*.

## J. Stop valves.

1. Except for a single-boiler, prime-mover installation, each steam outlet from a boiler (except safety valve and water column connections) shall be fitted with a stop valve located as close as practicable to the boiler.

2. In a single-boiler, prime-mover installation the steam stop valve may be omitted provided the prime-mover throttle valve is equipped with an indicator to show whether the valve is open or closed and is designed to withstand the required hydrostatic pressure test of the boiler.

3. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its setting.

4. When boilers provided with manholes are connected to a common steam main, the steam connection from each boiler shall be fitted with two stop valves having an ample free-blow drain between them. The discharge of the drain shall be visible to the operator and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic nonreturn valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type.

## K. Blowoff connection.

1. The construction of the setting around each blowoff pipe shall permit free expansion and contraction. Careful attention shall be given to the problem of sealing these setting openings without restricting the movement of the blowoff piping.

2. All blowoff piping, when exposed to furnace heat, shall be protected by firebrick or other heat-resisting material constructed so that the piping may be inspected *readily*.

3. Each boiler shall have a blowoff pipe, fitted with a valve or cock, in direct connection with the lowest water space. Cocks shall be of the gland or guard type and suitable for the pressure allowed. The use of globe valves shall not be permitted. Where the maximum allowable working pressure exceeds 100 psig, each

blowoff pipe shall be provided with two valves or a valve and cock; however only one valve need be provided for forced-flow steam generators with no fixed steam and waterline; high-temperature water boilers and those used for traction or portable purposes with less than 100 gallons normal water content.

4. Blowoff piping shall comply with the requirements of the ASME Code, Section I, and ANSI B31.1, from the boiler to the valve or valves, and shall be run full size without use of reducers or bushings. All piping shall be steel. Galvanized steel pipe and fittings shall not be used for blowoff piping.

5. All fittings between the boiler and blowoff valve shall be of steel. In case of renewal of blowoff pipe or fittings, they shall be installed in accordance with this chapter for new installations of ~~the ASME Code~~.

L. Repairs and renewals of boiler fittings and appliances. Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, such repairs or replacements shall comply with the requirements of ~~the ASME code~~ for new installations.

M. *Each automatically fired steam boiler or system of commonly connected steam boilers shall have at least one steam pressure control device that will shut off the fuel supply to each boiler or system of commonly connected boilers when the steam pressure reaches a preset maximum operating pressure. In addition, each individual automatically fired steam boiler shall have a high steam pressure limit control that will prevent generation of steam pressure in excess of the maximum allowable working pressure.*

~~M. N.~~ N. Conditions not covered by this chapter. All cases not specifically covered by this chapter shall be treated as new installations pursuant to ~~Part II~~, 16 VAC 25-50-280 of ~~this chapter~~ or may be referred to the chief inspector for instructions concerning the requirements.

## 16 VAC 25-50-370. Heating boilers.

A. Standard boilers. The maximum allowable working pressure of standard boilers shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the boiler or on a plate secured to it.

B. Nonstandard riveted boilers. The maximum allowable working pressure on the shell of a nonstandard riveted heating boiler shall be determined in accordance with ~~Part III~~, 16 VAC 25-50-360, ~~subsection C~~ covering existing installations, power boilers, except that in no case shall the maximum allowable working pressure of a steam heating boiler exceed 15 psig, or a hot water boiler exceed 160 psig or 250°F temperature.

C. Nonstandard welded boilers. The maximum allowable working pressure of a nonstandard steel or wrought iron heating boiler of welded construction shall not exceed 15 psig for steam. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the ASME Code.

D. Nonstandard cast iron boilers.

1. The maximum allowable working pressure of a nonstandard boiler composed principally of cast iron shall not exceed 15 psig for steam service or 30 psig for hot-water service.
2. The maximum allowable working pressure of a nonstandard boiler having cast iron shell or heads and steel or wrought iron tubes shall not exceed 15 psig for steam service or 30 psig for hot water service.

E. Safety valves.

1. Each steam boiler must have one or more officially rated (ASME stamped and National Board rated) safety valves of the spring pop type adjusted to discharge at a pressure not to exceed 15 psig. Seals ~~may~~ shall be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure of the boiler. A body drain connection below seat level shall be provided by the manufacturer and this drain shall not be plugged during or after field installation. For valves exceeding two inch pipe size, the drain hole or holes shall be tapped not less than 3/8 inch pipe size. For valves less than two inches, the drain hole shall not be less than 1/4 inch in diameter.
2. No safety valve for a steam boiler shall be smaller than 3/4 inch unless the boiler and radiating surfaces consist of a self-contained unit. No safety valve shall be larger than 4 1/2 inches. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.
3. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler.
4. The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000; or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table 2. When operating conditions require a greater relieving capacity shall be provided. In every case, the requirements of ~~subsection E subdivision 5~~ of this ~~section subsection~~ shall be met.

TABLE 2  
Minimum Pounds of Steam Per Hour Per Square Foot of Heating Surface

	Fire Tube Boilers	Water Tube Boilers
Boiler Heating Surface:		
Hand fired	5	6
Stoker fired	7	8
Oil, gas, or pulverized fuel fired	8	10

Waterwall heating surface:

Hand fired	8	8
Stoker fired	10	12
Oil, gas, or pulverized fuel fired	14	16

NOTES:

When a boiler is fired only by a gas giving a heat value of not in excess of 200 BTU per cubic foot, the minimum safety valve or safety relief valve relieving capacity may be based on the value given for handfired boilers above.

The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3 1/2 pounds per hour per kilowatt input.

For heating surface determination see ASME Code, Section IV.

5. The safety valve capacity for each steam boiler shall be ~~so~~ such that with the fuel burning equipment operating at maximum capacity, the pressure cannot rise more than five psig above the maximum allowable working pressure.

6. When operating conditions are changed, or additional boiler surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and be in accordance with ~~subsection E, subdivisions 4 and 5 of this section subsection~~. ~~The~~ When additional valves are required, ~~on account of changed conditions,~~ they may be installed on the outlet piping provided there is no intervening valve.

7. If there is any doubt as to the capacity of the safety valve, an accumulation test shall be run (see ASME Code, Section VI, Care of Heating Boilers).

8. No valve of any description shall be placed between the safety valve and the boiler, nor on the discharge pipe between the safety valve and the atmosphere. The discharge pipe shall be at least full size and be fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the discharge pipe. When an elbow is placed on the safety valve discharge pipe, it shall be located close to the safety valve outlet or the discharge pipe shall be securely anchored and supported. All safety valve discharges shall be so located or piped as not to endanger persons working in the area.

F. Safety relief valve requirements for hot water boilers.

1. Each hot water boiler shall have one or more officially rated (ASME stamped and National Board rated) safety relief valves set to relieve at or below the maximum allowable working pressure of the boiler. Safety relief valves officially rated as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on hot water boilers, the additional valve or valves shall be officially rated and shall be set within a range not to exceed six psig above

---

# Proposed Regulations

---

the maximum allowable working pressure of the boiler up to and including 60 psig and 5.0% for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be spring loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure than the maximum permitted by this paragraph.

2. No materials liable to fail due to deterioration or vulcanization when subject to saturated steam temperature corresponding to capacity test pressure shall be used for any part.

3. No safety relief valve shall be smaller than  $\frac{3}{4}$  inch nor larger than  $4\frac{1}{2}$  inches standard pipe size, except that boilers having a heat input not greater than 15,000 BTU per hour may be equipped with a rated safety relief valve of  $\frac{1}{2}$  inch standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than  $\frac{1}{2}$  inch diameter or its equivalent area.

4. The required steam relieving capacity, in pounds per hour, of the pressure relieving device or devices on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler outlet obtained by the firing of any fuel for which the unit is installed by 1,000, or on the basis of pounds of steam generated per hour per square foot of boiler heating surface as given in Table 2. When necessary a greater relieving capacity of valves shall be provided. In every case, the requirements of subsection F 6 of this section shall be met.

5. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and shall be in accordance with subsection F 6 of this section. The additional valves required, on account of changed conditions, may be installed on the outlet piping provided there is no intervening valve.

6. Safety relief valve capacity for each boiler shall be so that, with the fuel burning equipment installed and operated at maximum capacity the pressure cannot rise more than 6 psig above the maximum allowable working pressure for pressure up to and including 60 psig and 5.0% of maximum allowable working pressures over 60 psig.

7. If there is any doubt as to the capacity of the safety relief valve, an accumulation test shall be run (see ASME Code, Section VI, Care of Heating Boilers).

8. No valve of any description shall be placed between the safety relief valve and the boiler, nor on the discharge pipe between the safety relief valve and the atmosphere. The discharge pipe shall be at least full size and fitted with an open drain to prevent water lodging in the upper part of the safety relief valve or in the discharge pipe. When an elbow is placed on the

safety relief valve discharge pipe, it shall be located close to the safety relief valve outlet or the discharge pipe shall be securely anchored and supported. All safety relief valve discharges shall be so located or piped as not to endanger persons working in the area.

G. Valve replacement and repair. Safety valves and safety relief valves requiring repair shall be replaced with a new valve or repaired by the original manufacturer, ~~or his~~ its authorized representative, *or the holder of a "VR" Stamp.*

H. Pressure relieving devices. Boilers and fired storage water heaters except those exempted by the Act shall be equipped with pressure relieving devices in accordance with the requirements of Section IV of the ASME Boiler and Pressure Vessel Code.

I. Instruments, fittings and control requirements. Instruments, fittings and controls for each boiler installation shall comply with the requirements of the ASME Heating Boiler Code, Section IV.

J. Low water fuel cutoff.

1. Each automatically fired hot water heating boiler with heat input greater than 400,000 BTU's per hour shall have an automatic low water fuel cutoff which has been designed for hot water service, located so as to stop the fuel supply automatically when the surface of the water falls to the level established in ~~subsection J subdivision 2~~ of this ~~section~~ subsection (also see ASME Heating Boiler Code, Section IV).

2. As there is no normal waterline to be maintained in a hot water heating boiler, any location of the low water fuel cutoff above the lowest safe permissible water level established by the boiler manufacturer is satisfactory.

3. A coil type boiler or a water tube boiler with heat input greater than 400,000 BTU's per hour requiring forced circulation, to prevent overheating of the coils or tubes, shall have a flow sensing device installed in the outlet piping, instead of the low water fuel cutoff required in ~~subsection J subdivision 1~~ of this ~~section~~ subsection to stop the fuel supply automatically when the circulating flow is interrupted.

K. Steam gauges.

1. Each steam boiler shall have a steam gauge connected to its steam space, its water column, or its steam connection, by means of a siphon or equivalent device exterior to the boiler. The siphon shall be of sufficient capacity to keep the gauge tube filled with water and arranged so that the gauge cannot be shut off from the boiler except by a cock ~~with a tee or lever handle placed in the pipe near the gauge. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.~~

2. The range of the scale on the dial of a steam boiler pressure gauge shall be not less than 30 psig nor more than 60 psig. The gauge shall be provided with effective stops for the indicating pointer at the zero point and at

the maximum pressure point. The travel of the pointer from 0 to full scale 30 psig shall be at least three inches.

L. Pressure or altitude gauges.

1. Each hot water boiler shall have a pressure or altitude gauge connected to it or to its flow connection in a manner so that it cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gauge. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

2. The range of the scale on the dial of the pressure or altitude gauge shall be not less than 1½ times nor more than three times the maximum allowable working pressure. The gauge shall be provided with effective stops for the indicating pointer at the 0 point and at the maximum pressure point.

3. Piping or tubing for pressure or altitude gauge connections shall be of nonferrous metal when smaller than one inch pipe size.

M. Thermometers. Each hot water boiler shall have a thermometer located and connected so that it shall be easily readable when observing the water pressure or altitude gauge. The thermometer shall be located so that it will at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

N. Water gauge glasses.

1. Each steam boiler shall have one or more water gauge glasses attached to the water column or boiler by means of valved fittings. The lower fitting shall be provided with a drain valve of the straightaway type with opening not less than ¼ inch diameter to facilitate cleaning. Gauge glass replacement shall be possible while the boiler is under pressure.

2. Transparent material, other than glass, may be used for the water gauge provided that the material has proved suitable for the pressure, temperature and corrosive conditions encountered in service.

O. Stop valves and check valves.

1. If a boiler can be closed off from the heating system by closing a steam stop valve, there shall be a check valve in the condensate return line between the boiler and the system.

2. If any part of a heating system can be closed off from the remainder of the system by closing a steam stop valve, there shall be a check valve in the condensate return pipe from that part of the system.

P. Feedwater connections.

1. Feedwater, make-up water, or water treatment shall be introduced into a boiler through the return piping system or through an independent feedwater connection which does not discharge against parts of the boiler exposed to direct radiant heat from the fire. Feedwater, make-up, or water treatment shall not be introduced

through openings or connections provided for inspection or cleaning, safety valve, safety relief valve, surface blowoff, water column, water gauge glass, pressure gauge or temperature gauge.

2. Feedwater piping shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or return pipe system.

Q. Return pump. Each boiler equipped with a condensate return pump, where practicable, shall be provided with a water level control arranged to maintain the water level in the boiler automatically within the range of the gauge glass.

R. Repairs and renewals of boiler fittings and appliances. Whenever repairs are made to fittings or appliances, or it becomes necessary to replace them, the repairs or replacements shall comply with ~~Section IV of the ASME code for new construction~~ the requirements for new installations.

S. Conditions not covered by this chapter. Any case not specifically covered by this chapter shall be treated as a new boiler or pressure vessel installation pursuant to ~~Part II, 16 VAC 25-50-280 of this chapter~~ or may be referred to the chief inspector for instructions concerning the requirements.

**16 VAC 25-50-380. Pressure vessels.**

A. Maximum allowable working pressure for standard pressure vessels. The maximum allowable working pressure for standard pressure vessels shall be determined in accordance with the applicable provisions of the edition of the ASME or API-ASME code under which they were constructed and stamped. The maximum allowable working pressure shall not be increased to a greater pressure than shown on the manufacturers nameplate stamping and data report.

B. Maximum allowable working pressure for nonstandard pressure vessels

1. For internal pressure. The maximum allowable working pressure on the shell of a nonstandard pressure vessel shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the weakest course and the factor set by this chapter.

$$\frac{TStE}{RFS} = \text{maximum allowable working pressure, psig } \psi$$

where:

TS = ultimate tensile strength of shell plate, psig  $\psi$ . When the tensile strength of the steel plate is not known, it shall be taken as 55,000 psig  $\psi$  for temperatures not exceeding 700°F.

t = minimum thickness of shell plate of weakest course, inches,

E = efficiency of longitudinal joint depending upon construction. Use the following values:

For riveted joints - calculated riveted efficiency;

---

# Proposed Regulations

---

For fusion-welded joints:

	PERCENT
Single lap weld	40%
Double lap weld	50%
Single butt weld	60%
Double butt weld	70%
Forge weld	70%
Brazed steel	80%

R = inside radius of weakest course of shell, inches, provided the thickness does not exceed 10% of the radius. If the thickness is over 10% of the radius, the outer radius shall be used.

FS = factor of safety allowed by this chapter.

2. For external pressure. The maximum allowable working pressure for cylindrical nonstandard pressure vessels subjected to external or collapsing pressure shall be determined by the rules in Section VIII, Division 1, of the ASME Code.

3. Factors of safety. The minimum factor of safety shall in no case be less than four for existing installations. The factor of safety may be increased when deemed necessary by the inspector to insure the operation of the vessel within safe limits. The condition of the vessel and the particular service of which it is subject will be the determining factors.

4. The maximum allowable working pressure permitted for formed heads under pressure shall be determined by using the appropriate formulas from Section VIII, Division 1, ASME Code and the tensile strength and factors of safety given in ~~this section, subsection B, subdivisions 1 and 3 of this subsection.~~

C. Inspection of inaccessible parts. Where in the opinion of the inspector, as the result of conditions disclosed at the time of inspection, it is advisable to remove the interior or exterior lining, covering, or brickwork to expose certain parts of the vessel not normally visible, the owner or user shall remove the materials to permit proper inspection and to establish construction details. Metal thickness shall be determined utilizing appropriate equipment including drilling if necessary.

D. Pressure relief devices. Pressure relief devices for each pressure vessel installation, not exempt by the Act, shall comply with the requirements of ASME Pressure Vessel Code, Section VIII.

E. Safety appliances.

1. Each pressure vessel shall be protected by safety and relief valves and indicating and controlling devices which will insure its safe operation. These valves and devices shall be constructed, located and installed so that they cannot readily be rendered inoperative. The relieving capacity of the safety valves shall prevent a rise of pressure in the vessel of more than 10% above the maximum allowable working pressure, taking into account the effect of static head. Safety valve

discharges shall be located or piped so as not to endanger persons working in the area.

2. Safety valves and safety relief valves requiring repair shall be replaced with a new valve or repairs shall be performed ~~in accordance with the National Board Inspection Code~~ by the original manufacturer, ~~or his its~~ authorized representative, ~~or the holder of a "VR" stamp.~~

F. Repairs and renewals of fittings and appliances. Whenever repairs are made to fittings or appliances, or it becomes necessary to replace them, the repairs or replacements shall comply with ~~the ASME code requirements for new installations.~~

G. Conditions not covered by this chapter. All cases not specifically covered by this chapter shall be treated as new installations or may be referred to the chief inspector for instructions concerning the requirements.

## **16 VAC 25-50-390. Inspection of boilers and pressure vessels.**

All boilers and pressure vessels, not exempt by the Act, shall be inspected internally and externally, as provided by this chapter, by ~~an authorized a special~~ inspector. The owner or user shall prepare each boiler or pressure vessel for the inspection and for appropriate pressure tests, whenever necessary. To prepare equipment for an internal inspection the following actions shall be taken as applicable:

1. Boilers

a. Cool the boiler, furnace and setting sufficiently to prevent damage to any part;

b. Drain and wash thoroughly internal parts to be inspected and adequately ventilate all interior surfaces;

c. Remove manhole and handhole plates, wash out openings, drains and inspection plugs;

d. Remove a sufficient number of grates of internally fired boilers, as required by the inspector;

e. Remove brickwork, refractory and insulation, as required by the inspector, to determine condition of boiler, headers, tubes, furnace, structural supports, and other parts;

f. Prevent leakage of water, steam or vapors into boiler interiors that would endanger personnel;

g. Before opening the manhole or handhole covers and entering any parts of the steam-generating unit connected to a common header with other boilers, the nonreturn and steam stop valves must be closed, locked out and drain valves or cocks between the two valves opened. The feed and check valves must be closed, locked out and drain valves or cocks located between the two valves opened. After draining the boiler, the blowoff valves shall be closed and locked out. Blowoff lines, where practicable, shall be disconnected between pressure parts and valves. All drains and vent lines shall be opened; ~~and~~

h. Prepare the pressure gauge for testing; *and*

i. *Comply with confined space rules.*

2. Pressure vessels

a. Remove manhole and handhole plates, cleaning and inspection plugs;

b. Clean internal surfaces and adequately ventilate all interior spaces;

c. Isolate the unit to the extent that internal temperature, pressure and environment are not injurious to personnel and are under strict control during complete inspection;

d. Remove linings or coverings, as required by the inspector, to determine true physical condition of the vessel and its components;

e. Make protective and regulating controls readily accessible for inspection; ~~and~~

f. Prepare the pressure gauges for testing; *and*

g. *Comply with confined space rules.*

**16 VAC 25-50-430. Hydrostatic pressure tests.**

A. A hydrostatic pressure test, when applied to boilers or pressure vessels, shall not exceed 1½ times the maximum allowable working pressure, except as provided by the ASME Code. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded by more than 2.0%.

B. See ~~Part III~~, 16 VAC 25-50-360 A 4, for temperature limitations on particular power boiler installations.

C. When a hydrostatic test is to be applied to existing installations, the pressure shall be as follows:

1. For all cases involving the question of tightness, the pressure shall be ~~equal to the working~~ 80% of the maximum allowable working pressure or operating pressure, whichever is greater.

2. For all cases involving the question of safety, the pressure shall be equal to 1½ times the maximum allowable working pressure for temperature. During such test the safety valve or valves shall be removed or each valve disk shall be held to its seat by means of a testing clamp and not by screwing down the compression screw upon the spring.

**16 VAC 25-50-440. Automatic low-water fuel cutoff and/or water-feeding device.**

A. Each automatically fired and unattended steam or vapor system boiler shall be equipped with ~~an~~ at least one automatic low-water fuel cutoff located so as to cut off the fuel or energy supply automatically when the surface of the water falls to the lowest safe water line. *Power boilers, except miniature boilers, shall have two automatic low-water fuel cutoffs.* If a water-feeding device is installed, it shall be constructed so that the water inlet valves cannot feed water

into the boiler through the float chamber and located so as to supply requisite feedwater. The lowest safe water line should be not lower than the lowest visible part of the water glass.

B. The fuel cutoff or water feeding device shall be attached directly to a boiler or in the tapped openings available for attaching a water glass directly to a boiler, provided the connections are made to the boiler with nonferrous tees or Y's not less than ½-inch pipe size between the boiler and the water glass so that the water glass is attached directly and as close as possible to the boiler; the run of the tee or Y shall take the water glass fittings, and the side outlet or branch of the tee or Y shall take the fuel cutoff or water feeding device. The ends of all nipples shall be reamed to full-size diameter.

C. Fuel cutoffs and water feeding devices embodying a separate chamber shall have a vertical drain pipe and a blowoff valve not less than ¾-inch pipe size, located at the lowest point in the water equalizing pipe connections so that the chamber and the equalizing pipe can be flushed and the device tested.

D. A forced circulation coil or water tube type boiler, with a heat input greater than 400,000 BTU's per hour shall have a flow sensing device installed to cut off the fuel supply at a minimum water circulation flow rate in the boiler. The boiler manufacturer's specifications for the safe minimum flow rate, setting, and location of the flow sensing device shall be utilized.

**16 VAC 25-50-480. Repairs and alterations.**

A. Prior to any repair, the owner or user shall notify ~~the Chief Boiler Inspector~~ or a special inspector with the appropriate endorsement for direction or advice, or both, regarding the method and extent of repair.

B. Repairs to boilers and pressure vessels shall be done in accordance with the National Board Inspection Code by holders of an "R" Certificate of Authorization. The completed repairs shall be reviewed by and found acceptable to the inspector or the same inspection agency who authorized the repair.

C. Alterations to boilers and pressure vessels shall be performed by an organization holding an appropriate ASME or "R" Certificate of Authorization and shall be in accordance with the National Board Inspection Code.

D. All repairs and alterations shall be reported on Form R-1, Report of Welded Repair or Alteration. The completed form including proper certification shall be forwarded to the chief inspector by the organization performing the repair or alteration.

DOCUMENTS INCORPORATED BY REFERENCE

~~1992~~ 1995 Boiler and Pressure Vessel Code, ASME Code, American Society of Mechanical Engineers.

National Board Bylaws, National Board of Boiler and Pressure Vessel Inspectors, ~~1989~~ August 8, 1996.

---

# Proposed Regulations

---

~~ANSI/NB 23, 1995 National Board Inspection Code, with addenda dated 3/13/96, 1/16/97, and 4/27/98, National Board of Boiler and Pressure Vessel Inspectors, 1992.~~

~~POWER BOILER CODE, American Society of Mechanical Engineers.~~

~~ANSI ASME B31.1, ASME Code for Pressure Piping, American National Standards Institute, 1992 1995.~~

~~ASME B31.1a-1995, Power Piping, American National Standards Institute, issued 4/8/96.~~

~~Heating Boiler Code, ASME.~~

~~NFPA 85C, Standards for the Prevention of Furnace Explosions/Implosions in Multiple Burner Boiler-Furnaces, 1991 Edition, National Fire Protection Association No. 85, 1994.~~

~~American Gas Association, Underwriters Laboratories, ANSI/ASME CSD-1, Controls and Safety Devices for Automatically Fired Boilers, 1992, American Society of Mechanical Engineers.~~

~~"Boiler Blowoff Equipment," National Board of Boiler and Pressure Vessel Inspectors, Rules and Recommendations for the Design and Construction of Boiler Blowoff Systems, 1991.~~

~~API-ASME Code API510, Pressure Vessel Inspection Code, Maintenance Inspection, Rating, Repair and Alteration, Sixth Edition, June, 1989, American Petroleum Institute.~~

VA.R. Doc. No. R97-232; Filed July 14, 1998, 2:53 p.m.

---

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR CONTRACTORS

Title of Regulation: **18 VAC 50-30-10 et seq. Tradesman Rules and Regulations (amending 18 VAC 50-30-10, 18 VAC 50-30-20, 18 VAC 50-30-30, 18 VAC 50-30-40, 18 VAC 50-30-50, 18 VAC 50-30-60, 18 VAC 50-30-70, 18 VAC 50-30-80, 18 VAC 50-30-90, 18 VAC 50-30-100, 18 VAC 50-30-120, 18 VAC 50-30-130, 18 VAC 50-30-140, 18 VAC 50-30-150, 18 VAC 50-30-170, 18 VAC 50-30-190 and 18 VAC 50-30-200).**

Statutory Authority: §§ 54.1-201 and 54.1-1102 and Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 of the Code of Virginia.

Public Hearing Dates:

August 18, 1998 - 7 p.m. (Richmond)

August 20, 1998 - 7 p.m. (Roanoke)

Public comments may be submitted through  
(See Calendar of Events section  
for additional information)

Basis: Section 54.1-201 of the Code of Virginia provides the Board for Contractors with the authority to amend its regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) to effectively administer the regulatory programs delegated to the board.

Section 54.1-1102 requires the board to promulgate regulations for the certification and recertification of backflow prevention device workers.

Purpose: The purpose of this revision is to include in the Board for Contractors Tradesman Regulations provisions for the statewide voluntary certification of backflow prevention device workers. Amendments adding this certification to §§ 54.1-1128 through 54.1-1135 of the Code of Virginia in the 1996 and 1997 General Assembly sessions became effective on July 1, 1998. Protection of water quality for the safety and health of the citizens of the Commonwealth has been mandated for the Virginia Department of Health since 1916. Health department regulations and the Virginia Uniform Statewide Building Code require the installation of a backflow prevention device at the connection point of any public water system with a nonpotable water supply. Local regulations require the inspection of all backflow prevention devices on a periodic basis, usually annually. The responsibility for the certification of the inspectors will be shared by the Health Department, the localities and the Board for Contractors.

Substance: The proposed revisions add the new category of backflow prevention device worker to the tradesman program as a voluntary certification. The current certifying programs by the water purveyors of the Virginia cities, counties and towns will remain in effect, and the cards issued by those jurisdictions may be exchanged for a new statewide card. The fee for this exchange will be very low and this will make it less expensive for the firms who work in more than one area of the state.

Issues: The proposed changes to the existing regulations define key terms, establish entry requirements, set the renewal and reinstatement procedures, and delineate the standards of practice for backflow prevention device workers. The advantages of a voluntary statewide program are that the workers will not have to pay for testing and renewal in each jurisdiction, smaller jurisdictions will not have to incur the expense of establishing training programs of their own, and citizens will benefit from the workers receiving uniform training. There are no known disadvantages to the agency or to the public.

Department of Planning and Budget's Economic Impact

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

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

**Summary of the proposed regulation.** The proposed regulation amends current regulations governing licensure of tradesman in Virginia to incorporate language providing for a voluntary, statewide certification program for backflow prevention device workers.

**Estimated economic impact.** This proposal to initiate a voluntary, statewide certification program for backflow prevention device workers is permissive and, as such, imposes no costs on the tradesmen who have the option of not applying for statewide certification. Those tradesmen wishing statewide certification as a supplement or replacement for a local certification may choose to satisfy the requirements of this regulation and receive the voluntary certification of professional qualifications. It is reasonable to presume that anyone applying for statewide certification would believe that the benefits of certification would outweigh the costs. Since the program is supported by fees, no costs are imposed on the taxpayer or any other parties.

The benefits from this proposed change arise from tradesmen being able to practice in different areas without applying for certification in each jurisdiction separately. Since certification is voluntary, it is expected that this program will result in a net economic benefit to Virginia. The magnitude of this benefit is small but may be of significant value to many of the approximately 2,500 tradesmen who may seek certification.

**Businesses and entities particularly affected.** The proposed regulation particularly affects the approximately 2,500 backflow prevention device worker certification holders, and the general public.

**Localities particularly affected.** No localities are particularly affected by this proposed regulation.

**Projected impact on employment.** It is possible that there could be a small increase in the number of people qualified to work on backflow prevention devices, but any such change should be quite small.

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

**Summary of analysis.** The proposed regulation amends current regulations governing licensure of tradesman in Virginia to incorporate language providing for a voluntary, statewide certification program for backflow prevention device workers. The primary economic consequence of this proposed program would be to enable such workers to practice in different areas of the Commonwealth without having to apply for certification in each jurisdiction separately, thereby resulting in a small net economic benefit to Virginia.

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

Professional and Occupational Regulation has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no objections.

**Summary:**

*The proposed amendments add backflow prevention device workers to the trades regulated by the Tradesman Program. The voluntary, statewide certification program for backflow prevention device workers mandated by the General Assembly will enable such workers to practice in different areas of the Commonwealth without having to apply for certification in each jurisdiction separately. Except for fees for the new program, there are no changes in the current fee structure of the Tradesman Program. Some editorial changes are also made.*

**18 VAC 50-30-10. Definitions.**

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

*"Affidavit"* means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

*"Apprentice"* means a person who assists tradesmen while gaining knowledge of the trade through on-the-job training and related instruction in accordance with the Virginia Voluntary Apprenticeship Act (§ 40.1-117 et seq. of the Code of Virginia).

*"Approved"* means approved by the Department of Professional and Occupational Regulation.

*"Backflow prevention device testing"* means performing functional procedures to ascertain that the device is still providing the necessary backflow protection in accordance with the Virginia Uniform Statewide Building Code.

*"Backflow prevention device work" consists of and is limited to the following: (i) maintenance; (ii) repair; (iii) testing; or (iv) periodic inspection of cross connection control devices, including but not limited to reduced pressure principle backflow preventors, double check-valve assemblies, double-detector check-valve assemblies, pressure type vacuum breaker assemblies, and other such devices designed, installed, and maintained in such a manner so as to prevent the contamination of the potable water supply by the introduction of nonpotable liquids, solids, or gases, thus ensuring that the potable water supply remains unaltered and free from impurities, odor, discoloration, bacteria, and other contaminants which would make the potable water supply unfit or unsafe for consumption and use.*

*"Backflow prevention device worker"* means any individual who engages in, or offers to engage in, the maintenance, repair, testing or periodic inspection of cross connection control devices.

*"Board"* means the Board for Contractors.

---

# Proposed Regulations

---

"*Building official/inspector*" is an employee of the state, a local building department or other political subdivision who enforces the Virginia Uniform Statewide Building Code.

"*Department*" means the Department of Professional and Occupational Regulation.

"*Division*" means a limited subcategory within any of the trades, as approved by the department.

"*Electrical work*" consists of, but is not limited to the following: (i) planning and layout of details for installation or modifications of electrical apparatus and controls including preparation of sketches showing location of wiring and equipment; (ii) measuring, cutting, bending, threading, assembling and installing electrical conduits; (iii) performing maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation or replacement; and (v) repairing faulty systems or apparatus.

"*Electrician*" means a tradesman who does electrical work including the construction, repair, maintenance, alteration or removal of electrical systems in accordance with the National Electrical Code and the Virginia Uniform Statewide Building Code.

"*Formal vocational training*" means courses in the trade administered at an accredited educational facility; or formal training, approved by the department, conducted by trade associations, businesses, military, correspondence schools or other similar training organizations.

"*Gasfitter*" means a tradesman who does gasfitting related work usually as a division within the HVAC or plumbing trades in accordance with the Virginia Uniform Statewide Building Code. This work includes the installation, repair, improvement or removal of gas piping, propane tanks, and appliances annexed to real property.

"*Helper*" or "*laborer*" means a person who assists a licensed tradesman.

"*HVAC tradesman*" means an individual whose work includes the installation, alteration, repair or maintenance of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, process piping, and mechanical refrigeration systems, including tanks, incidental to the system.

"*Journeyman*" means a person who possesses the necessary ability, proficiency and qualification to install, repair and maintain specific types of materials and equipment, utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

"*Licensed tradesman*" means an individual who meets the requirements for licensure that relate to the trade which he practices.

"*Maintenance*" means the reconstruction or renewal of any part of a backflow device for the purpose of maintaining its

proper operation. This does not include the actions of removing, replacing or installing, except for winterization.

"*Master*" means a person who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code.

~~"*Nonparticipating localities*" means those cities, towns and counties in Virginia that did not participate in the Department of Housing and Community Development's Tradesman Certification Program prior to July 1, 1995.~~

~~"*Participating localities*" means those cities, towns and counties in Virginia that participated in the Department of Housing and Community Development's Tradesman Certification Program prior to July 1, 1995, by reviewing applications, examining candidates, and issuing journeyman and master cards to qualified tradesmen.~~

"*Periodic inspection*" means to examine a cross connection control device in accordance with the requirements of the locality to be sure that the device is in place and functioning in accordance with the standards of the Virginia Uniform Statewide Building Code.

"*Plumber*" means a tradesman who does plumbing work in accordance with the Virginia Uniform Statewide Building Code.

"*Plumbing work*" means work that includes the installation, maintenance, extension, or alteration or removal of piping, fixtures, appliances, and appurtenances in connection with any of the following:

1. Backflow prevention devices;
2. Boilers;
3. Domestic sprinklers;
4. Hot water baseboard heating systems;
5. Hydronic heating systems;
6. Process piping;
7. Public/private water supply systems within or adjacent to any building, structure or conveyance;
8. Sanitary or storm drainage facilities;
9. Steam heating systems;
10. Storage tanks incidental to the installation of related systems;
11. Venting systems; or
12. Water heaters.

These plumbing tradesmen may also install, maintain, extend or alter the following:

1. Liquid waste systems;

2. Sewerage systems;
3. Storm water systems; and
4. Water supply systems.

"Reinstatement" means having a tradesman license or backflow prevention device worker certification card restored to effectiveness after the expiration date has passed.

"Regulant" means tradesman license or backflow prevention device certification card holder.

"Renewal" means continuing the effectiveness of a tradesman license or a backflow prevention device worker certification card for another period of time.

"Repair" means the reconstruction or renewal of any part of a backflow prevention device for the purpose of returning to service a currently installed device. This does not include the removal or replacement of a defective device by the installation of a rebuilt or new device.

"Supervisor" means the licensed master or journeyman tradesman who has the responsibility to ensure that the final installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code, one of whom must be on the job site at all times during installation.

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

"Trade" means any of the following: plumbing; heating, ventilation and air conditioning (HVAC); or electrical work, and divisions within them.

"Tradesman" means a person who engages in or offers to engage in, for the general public for compensation, any of the trades covered by this chapter.

"Water distribution systems" include fire sprinkler systems, highway/heavy, HVAC, lawn irrigation systems, plumbing, or water conveyer work.

**18 VAC 50-30-20. Requirements for licensure as a journeyman or master tradesman engaging in the trades of plumbing, plumbing gas-fitting HVAC (heating, ventilation and air conditioning), HVAC gas-fitting, or electrical or certification as a backflow prevention device worker.**

Each ~~tradesman individual~~ who engages in, or offers to engage in, electrical, plumbing, or HVAC or backflow prevention device work for the general public for compensation shall complete an application furnished by the Department of Professional and Occupational Regulation and shall meet or exceed the requirements set forth below in this section prior to issuance of the license or certification card. ~~The application shall contain the applicant's name, home address, place of employment, and business address; information on the knowledge, skills, abilities and education or training of the applicant; and an affidavit stating that the information on the application is correct.~~

The applicant shall be required to take an oral or written examination to determine his general knowledge of the trade in which he desires licensure or certification. If the applicant successfully completes the examination, ~~a tradesman an~~ application furnished by the department shall be completed. ~~The application shall contain the applicant's name, home address, place of employment, and business address; information on the knowledge, skills, abilities and education or training of the applicant; and an affidavit stating that the information on the application is correct.~~ If the application is satisfactory to the board, a ~~tradesman~~ license or certification card shall be issued.

**18 VAC 50-30-30. General qualifications for licensure or certification.**

Every applicant to the Board for Contractors for licensure as a tradesman or certification as a backflow prevention device worker shall meet the requirements and have the qualifications provided in this section.

1. The applicant shall be at least 18 years old.
2. Unless otherwise exempted, the applicant shall meet the current educational requirements by passing all required courses prior to the time the applicant sits for the examination and applies for licensure or certification.
3. Unless exempted, the applicant shall have passed the applicable written examination provided by the board or by a testing service acting on behalf of the board.
4. The applicant shall meet the experience requirements as set forth in 18 VAC 50-30-40 or 18 VAC 50-30-50.
5. In those instances where the applicant is required to take the license or certification examination, the applicant shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board and the testing service with regard to conduct at the examination shall be grounds for denial of application.
6. The applicant shall disclose his physical home address; a post office box alone is not acceptable.
7. Each nonresident applicant for a tradesman license or certification card shall file and maintain with the department an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth. In those instances where service is required, the director of the department will mail the court document to the individual at the address of record.
8. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia Tradesman tradesmen law , Article 3 (§ 5.1-1128 ~~et seq.~~ 54.1-1128 et seq.) of

---

# Proposed Regulations

---

Chapter 11 of Title 54.1 of the Code of Virginia) and the regulations of the board.

9. The board may make further inquiries and investigations with respect to the qualifications of the applicant or require a personal interview with the applicant. Failure of an applicant to comply with a written request from the board for additional evidence or information within 60 days of receiving such notice, except in such instances where the board has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

10. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose a conviction, in any jurisdiction, of any misdemeanor or felony. Any plea of "nolo contendere" shall be considered a conviction for the purpose of this subdivision. The record of conviction received from a court shall be accepted as "prima facie" evidence of a conviction or finding of guilt. The board, at its discretion, may deny licensure or certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.

11. The applicant shall report any suspensions, revocations, or surrendering of certificate/license in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure or certification in Virginia. The board, at its discretion, may deny licensure or certification to any applicant based on prior suspensions, revocations, or surrender of certifications/licenses based on disciplinary action by any jurisdiction.

## 18 VAC 50-30-40. Evidence of ability and proficiency.

A. Applicants for examination to be licensed as a journeyman shall furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in the trade, and 240 hours of formal vocational training in the trade; ~~however,~~ Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 80 hours of formal training, but not to exceed 200 hours;

2. An associate degree or a certificate of completion from at least a two-year program in a tradesman related field from an accredited community college or technical school *as evidenced by a transcript from the educational institution* and two years of practical experience in the trade for which licensure is desired;

3. A bachelor degree received from an accredited college or university in an engineering curriculum related to the trade and one year of practical experience in the trade for which licensure is desired; or

4. On or after July 1, 1995, an applicant with 10 years of practical experience in the trade as verified by reference letters of experience from any of the following: building officials, building inspectors, current or former

employers, contractors, engineers, architects or current or past clients attesting to the applicant's work in the trade, may be granted permission to sit for the journeyman's level examination without having to meet the educational requirements.

B. Applicants for examination to be licensed as a master shall furnish evidence that one of the following experience standards has been attained:

1. Evidence that they have one year of experience as a ~~certified~~ licensed journeyman; or

2. On or after July 1, 1995, an applicant with 10 years of practical experience in the trade, as verified by reference letters of experience from any of the following: building officials, building inspectors, current or former employees, contractors, engineers, architects or current or past clients, attesting to the applicant's work in the trade, may be granted permission to sit for the master's level examination without having to meet the educational requirements.

C. Individuals who have successfully passed the Class A contractors trade examination prior to January 1, 1991, administered by the Virginia Board for Contractors in a certified trade shall be deemed qualified as a master in that trade in accordance with this chapter.

D. Applicants for examination to be certified as a backflow prevention device worker shall furnish evidence that the following experience and education standards have been attained:

1. Four years of practical experience in water distribution systems and 40 hours of formal vocational training in a school approved by the board; or

2. Applicants with seven or more years of experience may qualify with 16 hours of formal vocational training in an approved school.

The board accepts the American Society of Sanitary Engineers' (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all training to include instruction in a wet lab.

## 18 VAC 50-30-50. Exemptions from examination.

A. An individual certified or licensed by any one of the following agencies shall not be required to fulfill the examination requirement:

1. The Department of Housing and Community Development prior to July 1, 1995; or

2. Any local governing body prior to July 1, 1978; or

3. Any Virginia locality backflow prevention device worker certification issued prior to July 1, 1998.

B. Other methods of exemption from examination are as follows:

1. Successful completion of an apprenticeship program which is approved by the Virginia Apprenticeship

Council as evidenced by providing a certificate of completion or other official document.

2. Any tradesman who had a Class B registration in the trade prior to January 1, 1991, and has been continuously licensed as a Class B contractor. Candidates for this exemption must submit documentation from the Board for Contractors.

~~3. Individuals residing in nonparticipating localities applying for masters tradesman licenses between July 1, 1995, and July 1, 1998, shall be deemed to have fulfilled the examination requirement if they are able to demonstrate 10 years of discipline-free experience as set forth in this chapter. Those individuals shall provide the following information with their application:~~

~~a. An affidavit from a building official or building inspector attesting to the required number of years of experience and competency in the trade, on a form provided by the department; and~~

~~b. Three reference letters of experience from any of the following: building officials, building inspectors, current or former employers, contractors, engineers, architects or current or past clients, on a form provided by the department.~~

~~4. Individuals residing in nonparticipating localities applying for journeyman tradesman licensure between July 1, 1995, and July 1, 1998, shall be deemed to have fulfilled the examination requirement if they are able to demonstrate six years of discipline-free experience as set forth in this chapter. Those individuals shall provide the following information with their application:~~

~~a. An affidavit from a building official or building inspector attesting to the required number of years of experience and competency in the trade, on a form provided by the department; and~~

~~b. Three reference letters of experience from any of the following: building officials, building inspectors, current or former employers, contractors, engineers, architects or current or past clients, on a form provided by the department.~~

~~5. Individuals residing in nonparticipating localities applying for masters tradesman license between July 1, 1995, and July 1, 1998, who are currently employed by a Class A or B contractor as the "Qualified Individual" (QI) in the licensed classification held by the firm, shall qualify for licensure as a master without having to sit for the examination. Upon the QI's leaving the employment of that firm, the contractor shall name another full-time QI in accordance with the then current Board for Contractor regulations (18 VAC 15-22-10 et seq.).~~

~~6. Individuals applying for masters or journeyman tradesman license between July 1, 1995, and July 1, 1998, who were certified prior to July 1, 1995, by any locality as a "gas fitter" only, shall qualify for licensure without having to sit for the examination.~~

3. *Individuals applying for certification as backflow prevention device workers between July 1, 1998, and July 1, 1999, shall be deemed to have fulfilled the examination requirements if they are able to demonstrate the required years of discipline-free experience and education or training set forth in 18 VAC 50-30-40 D. These individuals shall provide the following with their application:*

*a. An affidavit from a building official, building inspector or Virginia water purveyor attesting to at least seven years of experience and competency in the field on a form provided by the department; and*

*b. A certificate or other documentation that an appropriate course of instruction at an approved school has been successfully completed.*

C. Exemptions from licensure are as follows:

1. Helpers or laborers who assist licensed tradesmen;

2. Any person who performs plumbing, plumbing gas-fitting, HVAC, HVAC gas-fitting, or electrical work not for the general public for compensation;

3. Any person who installs television or telephone cables, lightning arrestor systems, or wiring or equipment operating at less than 50 volts;

4. Installers of wood stove equipment, masonry chimneys or prefabricated fireplaces shall be exempt from certification as a HVAC tradesman; and

5. *Any person who is performing work on any ship, boat, barge or other floating vessel.*

### **18 VAC 50-30-60. Application and issuance of tradesman licenses or backflow prevention device worker certifications.**

A. All applicants for licensure as a tradesman or certification as a backflow prevention device worker must make application with the department to obtain the required tradesman license or backflow prevention device worker certification.

B. Unless otherwise exempted, an applicant must successfully complete an examination to be issued a tradesman license or backflow prevention device worker certification and deemed qualified.

C. The board shall receive and review applications and forward approved applications to the national testing organizations designated by the board. At its discretion, the board may delegate the application receipt and review process to the testing organization.

D. The applicant shall present to the board evidence of successful completion of a board-approved board-approved examination.

### **18 VAC 50-30-70. Other recognized programs.**

Individuals certified or licensed as journeyman or master by governing bodies located outside the Commonwealth of

---

# Proposed Regulations

---

Virginia shall be considered to be in compliance with this chapter if the board or its designee has determined the certifying system to be substantially equivalent to the Virginia system. These individuals must meet the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have received the tradesman certification or license by virtue of having passed in the jurisdiction of original certification or licensing a written or oral examination deemed to be substantially equivalent to the Virginia examination.
3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia ~~Tradesman~~ *tradesmen* laws (~~§ 54.1-1127~~ 54.1-1128 et seq. ) of Chapter 11 of Title 54.1 of the Code of Virginia) and ~~the Board for Contractors' Tradesman Regulations (18 VAC 50-30-10 et seq.)~~ *this chapter*.
4. The applicant shall be in good standing as a certified or licensed tradesman in every jurisdiction where certified or licensed, and the applicant shall not have had a certificate as a tradesman which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.
5. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving lying, cheating, stealing, sexual offense, drug distribution or physical injury, or any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this ~~paragraph~~ *subdivision*. 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.
6. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 5 of this ~~subsection~~ *section* may be approved for licensure following consideration by the board.
7. *Individuals certified or licensed by governing bodies other than the Commonwealth of Virginia may sit for the same level of tradesman examination by completing the required application and providing a copy of a currently valid journeyman or master license or certification.*
8. *Individuals certified or licensed as backflow prevention device workers by governing bodies located outside the Commonwealth of Virginia may sit for the Virginia backflow prevention device worker examination upon presentation of a currently valid certificate or card from such jurisdictions with their completed examination application and fee. Upon successful completion of this examination, the applicant will be provided with the proper application for certification as a backflow prevention device worker in the Commonwealth of Virginia.*

## **18 VAC 50-30-80. Revocation of licensure or certification.**

A. Licensure *or certification* may be revoked for misrepresentation or a fraudulent application, or for incompetence as demonstrated by an egregious or repeated violation of the Virginia Uniform Statewide Building Code.

B. Any building official ~~or~~, building inspector *or water purveyor* who finds that an individual is practicing as a tradesman without a tradesman license as required by state law *or as a backflow prevention device worker without a backflow prevention device certification card if such a card is required by the locality* shall file a report on a form provided by the board to such effect with the Board for Contractors, 3600 West Broad Street, Richmond, Virginia 23230.

C. Any building official ~~or~~, building inspector *or water purveyor* who has reason to believe that a tradesman *or a backflow prevention device worker* is performing incompetently as demonstrated by an egregious or repeated violation of the Virginia Uniform Statewide Building Code shall file a report on a form provided by the board to such effect with the board.

D. The department shall have the power to require remedial education and to suspend, revoke or deny renewal of the tradesman license *or the backflow prevention device worker certification card* of any individual who is found to be in violation of the statutes or regulations governing the practice of licensed tradesmen in the Commonwealth.

## **18 VAC 50-30-90. Fees for licensure, certification and examination.**

A. Each check or money order shall be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable and the date of receipt by the department or its agent is the date which will be used to determine whether or not it is on time. Fees remain active for a period of one year from the date of receipt and all applications must be completed within that time frame.

B. In the event that a check, money draft or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge of \$25.

~~B.~~ C. Tradesman license - original fee - by examination. The fee for an initial tradesman license shall be \$45.

~~C.~~ D. Tradesman license - original fee - without an examination, through successful completion of an appropriate apprenticeship program offered through the Virginia Voluntary Apprenticeship Act. The fee for an initial tradesman license shall be \$45.

~~D.~~ Tradesman license - original fee - through the "grandfather" clause of § 54.1-1131 of the Code of Virginia. The fee for an initial tradesman license shall be \$50.

E. Commencing July 1, 1995, the Department of Professional and Occupational Regulation will institute a

program of issuing tradesmen's cards. Those tradesmen who hold valid tradesmen cards issued by local governing bodies prior to July 1, 1978, or by the Department of Housing and Community Development prior to July 1, 1995, must replace the old cards with new cards issued by the Board for Contractors.

In order to obtain the tradesman card issued by the Board for Contractors, the individual must use the current application form provided by the Department of Professional and Occupational Regulation. The fee for card exchange application and processing is \$10. As a matter of administrative necessity, the department will assign expiration dates in a manner that will stagger renewals for these applicants. Once the initial period ends, all renewals will be for a period of 24 months.

*F. Commencing (insert effective date), the Department of Professional and Occupational Regulation will institute a voluntary program of issuing backflow prevention device worker certification cards. Those individuals who hold valid backflow prevention device worker certifications issued by local governing bodies or the Virginia Department of Health prior to that date may replace those cards with new cards issued by the board.*

*In order to obtain the backflow prevention device worker certification card issued by the board, the individual must use the current application form provided by the department. The fee for the card exchange application and processing is \$10. The term of certification will be for a period of 24 months.*

*G. Backflow prevention device worker certification through the "grandfather" clause of § 54.1-1131 B 2 of the Code of Virginia. The fee for an initial certification shall be \$45.*

## **18 VAC 50-30-100. Fees for examinations.**

The examination fee shall consist of the administration expenses of the department resulting from the board's examination procedures and contract charges. Exam service contracts shall be established through competitive negotiation, in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). The current examination shall not exceed a cost of \$100 for the journeyman exam and, \$125 for the master exam for any of the trades, or \$100 for the backflow prevention device worker exam.

## **18 VAC 50-30-120. Renewal.**

A. A Tradesman ~~license~~ licenses or backflow prevention device worker certification cards issued under this chapter shall expire two years from the last day of the month in which ~~it was~~ they were issued as indicated on the tradesman license or the backflow prevention device worker certification card.

B. The ~~application~~ fee for renewal of a tradesman license is \$25. *The fee for renewal of a backflow prevention device worker certification card is \$25.* All fees required by the board are nonrefundable and shall not be prorated.

The board will mail a renewal notice to the regulant outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a photocopy of the tradesman license or backflow prevention device worker certification card may be submitted with the required fee as an application for renewal within 30 days of the expiration date.

The date on which the renewal fee is received by the department or its agent will determine whether the regulant is eligible for renewal or required to apply for reinstatement.

The board may deny renewal of a tradesman license or a backflow prevention device worker certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 9-6.14:4.1 et seq. of the Code of Virginia).

Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

## **18 VAC 50-30-130. Reinstatement.**

A. Should the Department of Professional and Occupational Regulation fail to receive the renewal application or fees within 30 days of the expiration date, the regulant will be required to ~~reinstatement~~ apply for reinstatement of the tradesman license or backflow prevention device worker certification card.

B. The ~~application~~ fee for reinstatement of a tradesman license (all designations) is \$50 (this is in addition to the \$25 renewal fee which makes the total fee for reinstatement \$75). *The reinstatement fee for a backflow prevention device worker certification card is \$50 (this is in addition to the \$25 renewal fee which makes the total reinstatement fee \$75).* All fees required by the board are nonrefundable and shall not be prorated.

Applicants for reinstatement shall meet the requirements of 18 VAC 50-30-30.

The date on which the reinstatement fee is received by the department of ~~Professional and Occupational Regulation~~ or its agent will determine whether the license or certification card is reinstated or a new application is required.

In order to ensure that ~~tradesman~~ license or certification card holders are qualified to practice as tradesmen or backflow prevention device workers, no reinstatement will be permitted once one year from the expiration date has passed. After that date the applicant must apply for a new tradesman license or backflow prevention device worker certification card and meet the then current entry requirements.

Any tradesman or backflow prevention device worker activity conducted subsequent to the expiration of the license

---

# Proposed Regulations

---

or the certification card may constitute unlicensed activity and may be subject to prosecution under Title 54.1 of the Code of Virginia.

C. The board may deny reinstatement of a tradesman license or a backflow prevention device worker certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 9-6.14:4.1 et seq. of the Code of Virginia).

Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

## **18 VAC 50-30-140. Status of regulant during the period prior to reinstatement.**

A. When a regulant is reinstated, the individual shall continue to have the same number and shall be assigned an expiration date two years from the previous expiration date.

B. A regulant who reinstates his tradesman license or backflow prevention device worker certification card shall be regarded as having been continuously licensed or certified without interruption. Therefore, the regulant shall remain under the disciplinary authority of the board during this entire period and may be held accountable for his activities during this period. Nothing in ~~these regulations~~ *this chapter* shall divest the board of its authority to discipline a regulant for a violation of the law or regulations during the period of licensure or certification.

## **18 VAC 50-30-150. Changes, additions, or deletions to trade designations of tradesman license holders.**

A regulant may change a designation or obtain additional designations by demonstrating, on a form provided by the board, acceptable evidence of experience, and examination if appropriate, in the designation sought. The experience, and successful completion of examinations, must be demonstrated by meeting the requirements found in Part II (18 VAC 50-30-20 et seq.) of this chapter.

The fee for each change or addition is \$25. All fees required by the board are nonrefundable.

While a ~~tradesman~~ *regulant* may have multiple trade designations on his license, the renewal date will be based upon the date the card was originally issued to the individual by the board, not the date of the most recent trade designation addition.

If a regulant is seeking to delete a designation, then the individual must provide a signed statement listing the designation to be deleted. There is no fee for the deletion of a designation. (If the regulant only has one trade or level designation, the deletion of that designation will result in the termination of the license.)

## **18 VAC 50-30-170. Transfer of tradesman license or certification card prohibited.**

No ~~tradesman~~ license or certification card issued by the board shall be assigned or otherwise transferred.

## **18 VAC 50-30-190. Prohibited acts.**

Any of the following are cause for disciplinary action:

1. Failure in any material way to comply with provisions of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board;
2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a tradesman license or backflow prevention device worker certification card;
3. Where the regulant has failed to report to the board, in writing, the suspension or revocation of a tradesman license, certificate or card, or backflow prevention device worker certification card by another state or ~~their~~ a conviction in a court of competent jurisdiction of a building code violation;
4. Gross negligence in the practice of a trade or backflow prevention device work;
5. Misconduct in the practice of a trade or backflow prevention device work;
6. A finding of improper or dishonest conduct in the practice of the trade or backflow prevention device work by a court of competent jurisdiction;
7. For licensed tradesmen performing jobs under \$1,000, or backflow prevention device workers performing jobs of any amount, abandonment, or the intentional and unjustified failure to complete work contracted for, or the retention or misapplication of funds paid, for which work is either not performed or performed only in part (unjustified cessation of work under the contract for a period of 30 days or more shall be considered evidence of abandonment);
8. Making any misrepresentation or making a false promise of a character likely to influence, persuade, or induce;
9. Aiding or abetting an unlicensed contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia, or these regulations; or combining or conspiring with or acting as agent, partner, or associate for an unlicensed contractor; or allowing one's license or certification to be used by an unlicensed or uncertified individual;
10. Where the regulant has offered, given or promised anything of value or benefit to any federal, state, or local government employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing the construction industry;

11. Where the regulant has been convicted or found guilty, after initial licensure *or certification*, regardless of adjudication, in any jurisdiction of any felony or of a misdemeanor involving lying, cheating or stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession, there being no appeal pending therefrom or the time of appeal having elapsed. Any pleas of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or 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 guilt;

12. Having failed to inform the board in writing, within 30 days, that the ~~tradesman~~ *regulant* has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or a misdemeanor involving lying, cheating, stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession;

13. Having been disciplined by any county, city, town, or any state or federal governing body for actions relating to the practice of any trade *or backflow prevention device work*, which action shall be reviewed by the board before it takes any disciplinary action of its own;

14. Failure to comply with the Virginia Uniform Statewide Building Code, as amended; and

15. Practicing in a classification or specialty service for which the tradesman is not licensed *or certified*.

## **18 VAC 50-30-200. Professional education.**

A. Pursuant to § 54.1-1130 of the Code of Virginia, unless certified through exemption, candidates for licensure as journeymen are required to (i) complete 240 hours classroom hours of tradesman educational courses in their specialty and four years of practical experience in the trade for which licensure is desired to qualify to sit for the licensing examination, (ii) have an associate degree or a certificate of completion from at least a two-year program in a ~~tradesman related~~ *trade-related* field from an accredited community college or technical school *as evidenced by a transcript from the educational institution* and two years of practical experience in the trade for which licensure is desired, or (iii) have a bachelor degree received from an accredited college or university in an engineering curriculum related to the trade and one year of practical experience in the trade for which licensure is desired (see Part II, 18 VAC 50-30-20 et seq., of this chapter).

Tradesman courses must be completed through accredited colleges, universities, junior and community colleges, adult distributive, marketing and vocational technical programs, Virginia Apprenticeship Council programs or proprietary schools approved by the Virginia Department of Education.

*B. Backflow prevention device worker courses must be completed through schools approved by the board. The*

*board accepts the American Society of Sanitary Engineers (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all training to include instruction in a wet lab.*

**NOTICE:** The forms used in administering 18 VAC 50-30-10 et seq., Tradesman Rules and Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

### FORMS

*Tradesman License Application, 2710LIC (6/98).*

*Backflow Prevention Device Worker Certification Application, 2710BPD (6/98).*

*Backflow Prevention Device Worker Certification Experience Reference Form, 2710BEXP (6/98).*

*Complaint Form, (rev. 7/98).*

# Proposed Regulations

Commonwealth of Virginia  
 Dept. of Professional and Occupational Regulation  
 3600 West Broad Street  
 Post Office Box 11066  
 Richmond, Virginia 23230-1066  
 (804) 367-2945



## Board for Contractors TRADESMAN LICENSE APPLICATION

**A check or money order payable to the Treasurer of Virginia, or a completed credit card insert must be mailed with your application package. ALL FEES ARE NON-REFUNDABLE.**

Select the one action you are requesting on this application.

I am applying to...	Fee	X
Exchange my "locally-issued" card for a state-issued Virginia Tradesman License	\$10.00	<input type="checkbox"/>
Obtain my original (first) Virginia Tradesman License	\$45.00	<input type="checkbox"/>
Add a trade designation to my current state-issued Virginia Tradesman License	\$25.00	<input type="checkbox"/>

1. Name: First \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_ Generation (SR, JR, III) \_\_\_\_\_

2. Social Security Number \_\_\_\_\_

3. Date of Birth \_\_\_\_\_

4. Street Address (PO Box not accepted) \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_

5. Mailing Address \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_

6. E-mail Address \_\_\_\_\_

7. Telephone ( ) ( ) \_\_\_\_\_ Facsimile ( ) ( ) \_\_\_\_\_  
 Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_  
 Beeper, Cellular, etc. \_\_\_\_\_

8. Current Employer \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_

9. Employer's VA Contractors License No. (if available) \_\_\_\_\_ 2.7

10. Requested Tradesman Designation(s) (check all that apply)

Electrical (ELE)	<input type="checkbox"/>	Journeyman	<input type="checkbox"/>	Master	<input type="checkbox"/>
Plumbing (PLB)	<input type="checkbox"/>	Journeyman	<input type="checkbox"/>	Master	<input type="checkbox"/>
Plumbing Gas-Fitting (PLG)	<input type="checkbox"/>	Journeyman	<input type="checkbox"/>	Master	<input type="checkbox"/>
Heating, Ventilation & Air Conditioning (HVAC)	<input type="checkbox"/>	Journeyman	<input type="checkbox"/>	Master	<input type="checkbox"/>
Heating, Ventilation & Air Conditioning Gas-Fitting (HVGF)	<input type="checkbox"/>	Journeyman	<input type="checkbox"/>	Master	<input type="checkbox"/>
Gas-Fitting (GFC)	<input type="checkbox"/>	Journeyman	<input type="checkbox"/>	Master	<input type="checkbox"/>

**Any applicant performing work over \$1,000 must contact the Board for Contractors to obtain a Virginia Contractors License.**

OFFICE USE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER	ISSUE DATE
				2710	

2710LIC (6/98) Board for Contractors/TRADESMAN LICENSE APP 1 of 3

11. Do you have a current or expired Virginia Tradesman License that was issued by the Virginia Board for Contractors Tradesman Program?  
 No  Yes  License Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

12. Do you hold a current or expired Tradesman license, certification, or registration from another state?  
 No  Yes  If yes, complete the following table and attach a copy of each license.

State	Trade Designation (ELE, PLB, HVA, etc.)	Journeyman (J) / Master (M)	License Number	Expiration Date

13. Have you been subject to disciplinary action imposed by any (including Virginia) local, state, or national regulatory body that resulted in the suspension, revocation, or surrender of your tradesman license, certification, or registration, a monetary penalty or fine, a reprimand, or any other sanction?  
 No  Yes  If yes, list the jurisdiction in which the disciplinary action took place, the license number, and an explanation of events, including a description of the disciplinary proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, fine, etc.). If necessary, please attach a separate sheet of paper and copies of any correspondence or documentation (a copy of all reports or the final report compiled by the enforcement agency) related to this matter.

14. Have you been convicted in any jurisdiction of any felony, a misdemeanor involving lying, cheating, stealing, sexual offenses, drug distribution, or physical injury, or a misdemeanor related to the practice of your trade? Please note: any plea of *nolo contendere* shall be considered a conviction for purposes of this application.  
 No  Yes  If yes, list the felony and/or misdemeanor conviction(s).

**Please read the following instructions carefully**

Attach a copy of all applicable criminal conviction and court records; a copy of the state police record; information on the current status of your incarceration, parole, probation, etc.; and any other information you wish to have considered with this application (i.e., reference letters, documentation of rehabilitation, etc.). If necessary, please attach a separate sheet of paper.

Note: If you have submitted the required documentation to the Virginia Board for Contractors with a previous application which resulted in the issuance of a Tradesman or Contractors License, and you do not have any additional felony and misdemeanor convictions, you do not have to submit the information listed above. Instead, you must submit a document with your application package which includes 1) Tradesman or Contractor License Number(s) which were issued following the Board's review of the same criminal conviction documents, 2) a statement that you have not been convicted of any additional felonies and misdemeanors, 3) the date, and 4) your signature.

15. Are you a contractor who held a Class B Registration in the requested trade prior to January 1, 1991 and has been continuously licensed as a Class B contractor?  
 No  Yes  If yes, list the license number, then skip to #19. \_\_\_\_\_

2710LIC (6/98) Board for Contractors/TRADESMAN LICENSE APP 2 of 3

Commonwealth of Virginia  
 Dept. of Professional and Occupational Regulation  
 3600 West Broad Street  
 Post Office Box 11066  
 Richmond, Virginia 23230-1066  
 (804) 367-2945



**Board for Contractors  
 BACKFLOW PREVENTION DEVICE WORKER CERTIFICATION APPLICATION**

**A check or money order payable to the Treasurer of Virginia, or a completed credit card insert must be mailed with your application package. ALL FEES ARE NON-REFUNDABLE.**

Select the one action you are requesting on this application.

<b>I am applying to...</b>	Fee	<b>X</b>
Exchange my "locally-issued" card for a state-issued Virginia Backflow Prevention Device Worker Certification	\$10.00	<input type="checkbox"/>
Obtain my original (first) Virginia Backflow Prevention Device Worker Certification	\$45.00	<input type="checkbox"/>

- Name: First \_\_\_\_\_ Last \_\_\_\_\_ Generation (SR, JR, III) \_\_\_\_\_
- Social Security Number \_\_\_\_\_
- Date of Birth \_\_\_\_\_
- Street Address (PO Box not accepted) \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_
- Mailing Address \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_
- E-mail Address \_\_\_\_\_
- Telephone & Facsimile Numbers: Telephone ( ) ( ) ( ) \_\_\_\_\_ Facsimile ( ) ( ) ( ) \_\_\_\_\_  
 Beeper, Cellular, etc. \_\_\_\_\_
- Current Employer \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_
- Employer's VA Contractors License No. (if available) \_\_\_\_\_ 2.7
- Do you have a current or expired Virginia locally-issued Backflow Prevention Device Worker Card?  
 No  Yes  Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_ Attach a copy of each card.

Do you hold a current or expired Backflow Prevention Device Worker license, certification, or registration from another state?  
 No  Yes  If yes, complete the following table and attach a copy of each license, certification or registration

State	Designation	License Number	Expiration Date

OFFICE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER	ISSUE DATE
				2710	

2710BPD (6/98) 1 of 3 Board for Contractors/BACKFLOW CERTIFICATION APP

- Did you pass a Class A Contractor's Tradesman Examination prior to January 1, 1991?  
 No  Yes  If yes, list the trade(s) in which you were tested and the examination date(s), then skip to #19.
- Do you have a Certification of Completion issued by the Virginia Apprenticeship Council?  
 No  Yes  If yes, skip to #19. Please note: you must include (with your application package) a copy of the certificate or other official document that verifies your successful completion of the apprenticeship program.
- Have you passed a Tradesman Examination within the last 24 months in the designation(s) you are requesting?  
 No  Yes  If yes, list the trade(s) in which you were tested and the examination date(s).

By signing this application, you acknowledge that if you are not a Virginia resident, or move outside of Virginia while you hold a valid state-issued Virginia Tradesman License, you understand that this application serves as a written power of attorney, whereby you appoint the Director of the Department of Professional and Occupational Regulation, and his/her successors in office, to be your true and lawful agent and attorney-in-fact, in your stead, upon whom all legal process against and notice to you may be served and who is hereby authorized to enter an appearance in your behalf in any case or proceedings arising out of the trade or profession practiced, and that by submitting this application, you hereby agree that any lawsuit process against you which is duly served on said agent and attorney-in-fact shall be of the same legal force and validity as if served upon you.

18-VAC-50-30-7 of the Board for Contractors Tradesman Rules and Regulations states, "Each non-resident applicant for a tradesman license or certificate shall file and maintain with the department an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth. In those instances where service is required, the director of the department will mail the court document to the individual at the address of record."

19. I, the undersigned, certify that the foregoing statements and answers are true; I have not suppressed any information which might affect the Board's decision to issue a Tradesman License in my name; I understand and have complied with all the laws of Virginia affecting contractors under the provisions of Title 54.1, Chapter 11 of the Code of Virginia, and the Board for Contractors Tradesman Rules and Regulations; and I understand this affidavit.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Notarization  
 In the State of \_\_\_\_\_, City/County of \_\_\_\_\_, subscribed and sworn before me,  
 the undersigned Notary Public in and for the City/County aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Affix official seal here.  
 \_\_\_\_\_  
 Signature of Notary Public

2710LIC (6/98) 3 of 3 Board for Contractors/TRADESMAN LICENSE APP

# Proposed Regulations

12. Have you been subject to disciplinary action imposed by any (including Virginia) local, state, or national regulatory body that resulted in the suspension, revocation, or surrender of your backflow license, certification, or registration; a monetary penalty or fine; a reprimand; or any other sanction?

- No   
 Yes

If yes, list the jurisdiction in which the disciplinary action took place, the license number, and an explanation of events, including a description of the disciplinary proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, fine, etc.). If necessary, please attach a separate sheet of paper, and copies of any correspondence or documentation (a copy of all reports or the final report compiled by the enforcement agency) related to this matter.

13. Have you been convicted in any jurisdiction of any felony; a misdemeanor involving lying, cheating, stealing, sexual offenses; drug distribution, or physical injury; or a misdemeanor related to the practice of your trade? Please note: any plea of *nolo contendere* shall be considered a conviction for purposes of this application.

- No   
 Yes

If yes, list the felony and/or misdemeanor conviction(s).

**Please read the following instructions carefully**

Attach a copy of all applicable criminal conviction and court records; a copy of the state police record; information on the current status of your incarceration, parole, probation, etc.; and any other information you wish to have considered with this application (i.e., reference letters, documentation of rehabilitation, etc.). If necessary, please attach a separate sheet of paper.

Note: If you have submitted the required documentation to the Virginia Board for Contractors with a previous application which resulted in the issuance of a Tradesman or Contractors License, and you do not have any additional felony and misdemeanor convictions, you do not have to submit the information listed above. Instead, you must submit a document with your application package which includes 1) Tradesman or Contractor License Number(s) which were issued following the Board's review of the same criminal conviction documents, 2) a statement that you have not been convicted of any additional felonies and misdemeanors, 3) the date, and 4) your signature.

14. Are you applying for a Backflow Prevention Device Worker Certification based on seven years of experience in the maintenance, repair, testing, or periodic inspection of cross connection control devices?

- No   
 Yes

If yes, you must include Experience Reference Forms completed by building officials, building inspectors, or water purveyors attesting to the seven years of experience and a certificate or other documentation from an approved school verifying that you have successfully completed an appropriate course of instruction.

15. Have you passed a Backflow Prevention Device Worker Examination within the last 24 months?

- No   
 Yes

If yes, list the testing location and examination date.

By signing this application, you acknowledge that if you are not a Virginia resident, or move outside of Virginia while you hold a valid state-issued Virginia Tradesman License, you understand that this application serves as a written power of attorney, whereby you appoint the Director of the Department of Professional and Occupational Regulation, and his/her successors in office, to be your true and lawful agent and attorney-in-fact, in your stead, upon whom all legal process against and notice to you may be served and who is hereby authorized to enter an appearance in your behalf in any case or proceedings arising out of the trade or profession practiced; and that by submitting this application, you hereby agree that any lawful process against you which is duly served on said agent and attorney-in-fact shall be of the same legal force and validity as if served upon you.

18-VAC-50-30-7 of the Board for Contractors Tradesman Rules and Regulations states, "Each non-resident applicant for

**ENFORCEMENT PROCESS**

The enforcement Division receives and reviews all complaints to determine the agency's authority to investigate. The agency may only investigate allegations that the person/business complained about has violated laws and regulations of a regulatory board. Complaints may be made anonymously. The Enforcement staff provides information regarding the complaint histories of persons/businesses.

INTERNET ADDRESS:---http://www.state.va.us or  
E-MAIL inquiries directly to-----enforcement@dpwr.state.va.us

PLEASE CUT ALONG THIS LINE

MAIL TO:  
Department of Professional & Occupational Regulation (DPOR)  
ENFORCEMENT DIVISION  
3600 West Broad Street  
Richmond, Virginia 23230-4917

Office Hours: 8:30 a.m. - 5:00 p.m.



Phone: (804) 367-8504  
TDD: (804) 367-9733



**COMPLAINT FORM**

PLEASE TYPE OR PRINT

COMPLAINT ISSUED BY:

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
HOME PHONE: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_  
LOCATION: \_\_\_\_\_ CITY/COUNTY: \_\_\_\_\_

COMPLAINT ISSUED AGAINST:

BUSINESS/INDIVIDUAL NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
PHONE: \_\_\_\_\_

THIS COMPLAINT PERTAINS TO

ACCOUNTANCY	AUCTIONEERS	APPRAISERS
ARCHITECTS	ASBESTOS ABATEMENT	BARBERS
BRANCH PILOTS	COND DO ACT	CONTRACTORS
COSMETOLOGIST	COSMETOLOGY SALONS	COSMETOLOGY SCHOOLS
GEOLOGY	HEARING AID SPECIALIST	INTERIOR DESIGNERS
LAND SURVEYORS	LANDSCAPE ARCHITECTS	LEAD ABATEMENT
NAIL SALONS	NAIL SCHOOLS	NAIL TECHNICIANS
OPTICIANS	POLYGRAPH EXAMINERS	PROFESSIONAL ENGINEERS
REAL ESTATE	SOIL SCIENTISTS	TRADESMEN
TIMESHARE	WASTE FACILITY OPERATORS	WATER WASTEWATER WORKS

--CONTINUED ON OTHER SIDE--



**Board for Contractors Tradesman Program  
Backflow Prevention Device Worker Certification  
EXPERIENCE REFERENCE FORM**

Commonwealth of Virginia  
Dept. of Professional and Occupational Regulation  
3600 West Broad Street  
Post Office Box 11066  
Richmond, Virginia 23230-1066  
(804) 367-8511

To qualify for an examination waiver when applying for your original (first) Virginia Backflow Prevention Device Worker Certification, you must include at least one reference from a building official, building inspector, or water purveyor attesting to seven years of experience in the maintenance, repair, testing, or periodic inspection of cross connection control devices.

**REFERENCE FORMS ARE ONLY REQUIRED IF YOU ANSWERED "YES" TO QUESTION #14 ON YOUR BACKFLOW PREVENTION DEVICE WORKER CERTIFICATION APPLICATION.**

1. Name First \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_ Generation (SR, JR, III) \_\_\_\_\_  
2. Social Security Number \_\_\_\_\_  
3. Home Street Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
4. I authorize the official named in #5 to provide the experience reference information requested on this form.  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**THIS SECTION SHOULD BE COMPLETED BY THE BUILDING OFFICIAL, BUILDING INSPECTOR OR WATER PURVEYOR**

Upon completion, please return this form to the above-named individual to be submitted with his/her application package.

5. Name of Reference \_\_\_\_\_  
6. Name of Locality (if applicable) \_\_\_\_\_ Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_ ( ) \_\_\_\_\_  
7. Telephone & Facsimile Numbers \_\_\_\_\_ Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_ ( ) \_\_\_\_\_  
8. Have you inspected the applicant's work?  
Yes  No  If no, explain the basis on which you are certifying the applicant's work and a detailed description of the applicant's work, then skip to #10.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
9. Did the applicant's work pass V.U.S.B. Code?  
Yes  No   
10. Reference's Signature \_\_\_\_\_ Date \_\_\_\_\_

27108EXP (6/99) Board for Contractors/BACKFLOW EXP REFERENCE



## BOARD OF DENTISTRY

**Title of Regulation:** 18 VAC 60-20-10 et seq. **Virginia Board of Dentistry Regulations (amending 18 VAC 60-20-10, 18 VAC 60-20-20, 18 VAC 60-20-30, 18 VAC 60-20-50, 18 VAC 60-20-60, 18 VAC 60-20-70, 18 VAC 60-20-80, 18 VAC 60-20-90, 18 VAC 60-20-110, 18 VAC 60-20-120, 18 VAC 60-20-130, 18 VAC 60-20-140, 18 VAC 60-20-170, 18 VAC 60-20-180, 18 VAC 60-20-190, 18 VAC 60-20-220, 18 VAC 60-20-230, and 18 VAC 60-20-240; adding 18 VAC 60-20-15, 18 VAC 60-20-16, and 18 VAC 60-20-195; repealing 18 VAC 60-20-150 and 18 VAC 60-20-160).**

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

**Public Hearing Date:** September 18, 1998 - 1 p.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** Chapter 24 (§ 54.1-2400 et seq.) and Chapter 27 (§ 54.1-2700 et seq.) of the Code of Virginia provide the basis for this regulation.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 27 establishes the authority for the Board of Dentistry to promulgate regulations governing the qualifications for licensure of dentists and dental hygienists and the requirements of continuing education for renewal of licensure. It further prescribes violations which may subject the licensee to sanctions by the board, practices which are permissible in dentistry, and prohibitions against practicing in a commercial or mercantile establishment or under an assumed name.

**Purpose:** The purpose for the proposed amendments is to provide greater clarity and understanding of requirements for dentistry and dental hygiene. The board also recommends amending some regulations on practice standards for the purpose of providing more flexibility in the use of auxiliary personnel and better protecting the public health and safety.

**Substance:**

18 VAC 60-20-10. Proposed amendments eliminate definitions such as dental hygiene student and dental student which are no longer necessary and those definitions such as "examination of patient" which are not used in regulation.

18 VAC 60-20-15. Requirements for recordkeeping which are currently in 18 VAC 60-20-150 are simplified and incorporated in Part I. An amendment would reduce the length of time that records must be kept from five to three years.

18 VAC 60-20-16. Requirements for notification to the board of a current address which are currently in 18 VAC 60-20-150 are simplified and incorporated in Part I.

18 VAC 60-20-20 and 18 VAC 60-20-30. Amendments are proposed to simplify and clarify the regulation.

18 VAC 60-20-50. Proposed amendments allow a licensee to carry over up to 15 hours of continuing education to the next year, add the American Dental Assisting Association to the listing of approved providers, eliminate the mandatory \$1,000 fine per violation for failure to obtain CE, and state that such failure may subject the licensee to disciplinary action by the board.

18 VAC 60-20-60. An amendment is proposed to delete specification of the accrediting body for educational programs since it is included in definitions.

18 VAC 60-20-70. Amendments proposed are clarifying in nature.

18 VAC 60-20-80. Amendments are proposed to simplify the regulation or to delete requirements already stated in the Code of Virginia.

18 VAC 60-20-110 and 18 VAC 60-20-120. Amendments are proposed to clarify the guidelines for control of pain and anxiety in dentistry are those of the ADA as incorporated by reference.

18 VAC 60-20-140. Amendments are proposed to add local anesthesia and to clarify the requirements for a report of an adverse reaction.

18 VAC 60-20-150 and 18 VAC 60-20-160 are repealed; requirements in 18 VAC 60-20-160 are unnecessary and other requirements are included elsewhere in regulation.

18 VAC 60-20-180. Amendments are proposed to eliminate the specific listings of routine dental service and dental specialties which may be advertised, as they are the procedures and specialties which are set forth in a listing by the ADA.

18 VAC 60-20-190. Proposed amendments update and clarify the section on duties which may not be delegated. Duties which are proposed as nondelegable are those currently performed only by dentists.

18 VAC 60-20-195. A new section on radiation certification is a restatement of the current requirement in 18 VAC 60-20-190 (11).

18 VAC 60-20-220. Amendments are proposed to clarify those duties which may be delegated only to a hygienist and to make it clearly understood that the dentist may delegate those duties as are appropriate to the training and experience of the hygienist provided the duties have not been listed as nondelegable in 18 VAC 60-20-190.

18 VAC 60-20-230. The specific listing of duties which may be delegated to dental assistants is eliminated and replaced by a requirement that an assistant may be delegated those duties as are appropriate to the training and experience of the assistant provided the duties have not been listed as nondelegable in 18 VAC 60-20-190 or restricted to a hygienist as listed in 18 VAC 60-20-220.

**Issues:**

---

# Proposed Regulations

---

## Issue 1: Simplification and consolidation of regulation.

In compliance with the intention of Executive Order 15 (94), the board thoroughly reviewed each regulation promulgated under 18 VAC 60-20-10 et seq. to determine if it was necessary, clearly stated and effective. Those regulations which the board proposes to eliminate or amend are either redundant, already stated in the Code of Virginia, or are not necessary to protect the public and comply with statutory language. The specific listings of routine dental services and dental specialties which may be advertised are eliminated and replaced with a reference to the guidelines of the American Dental Association. In some cases, the board considered reliance on the statutory language but determined that a regulation was necessary to provide a clear understanding of the requirements.

Advantages or disadvantages to the licensees: Licensees of the board are better served by having regulations which are more concise and clearly stated. Replacing the specific listings in the section on advertising with a reference to the ADA Code on Dental Procedures and Nomenclature or the guidelines for specialties approved by the Commission on Dental Accreditation will facilitate inclusion of new terminology and updating of current usage without having to amend regulations. Regulations such as those setting forth acts constituting unprofessional conduct and prescribing requirements for advertising assist the dentist in understanding the statutory prohibitions. The board does not believe there are any disadvantages to the clarifications or elimination of regulation being proposed.

Advantages or disadvantages to the public: The public is better protected by clear requirements for dentists and dental hygienists, especially in the area of unprofessional conduct and advertising of dental services, fees and specialties.

## Issue 2: Delegation of duties in the practice of dentistry.

Prior to and throughout the review process, the board has received numerous questions for clarification and requests for amendments to its regulations on delegable duties. Citing the increasing financial pressures of reduced payments from dental plans and the regulatory environment in other states, dentists in Virginia have sought further expansion of the duties of auxiliaries in dental practices.

Consequently, the board has been working on revisions that would specify the required direction of and responsibility for auxiliary personnel by licensed dentists, the duties which may not be delegated, and the duties which may be delegated only to hygienists. By clarifying that it is the responsibility of the dentist to ensure all aspects of the treatment of the patient and to determine the duties that will be delegated based on the qualifications of personnel in accordance with laws and regulations, the board proposes to make its regulations less burdensome.

Rather than add to regulation by enumerating those duties which may be delegated to a hygienist or an assistant, the board recommends listing those duties that are nondelegable and those which may be delegated only to a hygienist. Delegation of other duties may then be determined by the

licensed dentist based on the assumption of his ultimate responsibility for the patient and on the training of auxiliary personnel.

Advantages or disadvantages to the licensees: The elimination of the long listing of duties which may be delegated to the dental assistant will assist in the use of auxiliary personnel. With the exception of those duties restricted only to dentists and those which may only be delegated to dental hygienists, duties may be delegated as determined by the supervising dentist who must determine the assistant's level of training and expertise in assuming certain tasks.

Advantages or disadvantages to the public: While the board has sought to be responsive to requests for more expanded duties for auxiliary personnel, it has a responsibility to ensure that the public is protected by requiring that procedures are performed by qualified persons. As the board developed proposed amendments to its regulations, it considered the specific lists and recommendations of dentists who have commented on regulations. In recommending amendments to regulations on delegable duties, public safety took priority over accessibility and affordability.

### Estimated Impact:

Projected number of persons affected and their cost of compliance:

Dentists	5,186
Dental hygienists	3,028
Dental teacher	7
Dental hygienist teacher	5
Dental faculty	12

There will be no cost for compliance by regulated entities or their employers, since the requirements are being clarified rather than changed. There are no amendments proposed to fees charged to licensees.

With the reduction from five to three in the number of years records must be maintained, dentists may experience a very modest savings in the cost of storing and retaining records in their offices. The elimination of the specified listing of duties which may be performed by a dental assistant may provide some additional flexibility for dentists in the delegation of responsibilities and may result in increased use of dental assistants.

Cost to the agency for implementation: The board will incur approximately \$1,500 in cost for printing and mailing final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with scheduled committee or board meetings.

Cost to local governments: There will be no impact of these regulations on local government.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13

(94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. This proposal amends current regulations that govern the practice of dentistry and dental hygiene pursuant to Executive Order Fifteen (94), which called for a comprehensive review of all existing regulations. The majority of the proposed changes are intended to achieve greater clarity and simplification. The proposal includes the following:

1. The deletion of specific listings of duties which may be delegated to unlicensed dental assistants. The proposal now specifies only nondelegable duties and duties which may only be delegated to dental hygienists, allowing other acts to be delegated under the direction and responsibility of the dentist to dental assistants according to their level of training and experience.
2. The reduction of number of years that records must be retained from five to three years.
3. The elimination of specific listings of routine dental services and dental specialties which may be advertised, replacing those with a reference to the guidelines of the American Dental Association.
4. A provision that allows licensees to carry over up to 15 hours of continuing education to the next year.

Estimated economic impact. By listing only nondelegable duties and duties which may only be delegated to dental hygienists, the proposed regulation allows greater flexibility in the use of auxiliary personnel. While this increased flexibility is theoretically beneficial, information from practitioners and other industry personnel suggest that this change will have very little, if any, impact on actual dental office operations or the dental assistant profession.

The proposal would require no additional compliance costs since the requirements are being clarified rather than fundamentally changed. On the other hand, dentists may experience modest savings in the cost of maintaining and storing records as the number of years records must be retained is reduced from five to three years. Replacing specific advertising guidelines with a reference to the guidelines of the American Dental Association allows for continuous updating and better protects customers from deceptive advertising practices. Allowing continuing education hours to be carried over encourages licensees to seek more in-depth courses which enhance their knowledge and skills and will allow them to provide higher quality care to their patients. While these proposed changes can be

expected to result in a small economic gain, the exact magnitude would be difficult to measure at this time.

Businesses and entities affected. There are 5,186 dentists, 3,028 dental hygienists, 24 dental teachers and faculty, and approximately 5,000 dental assistants who will be directly affected by the proposed changes to this regulation.

Localities particularly affected. No localities will be particularly affected by the proposed changes to this regulation.

Projected impact on employment. According to information from practitioners and industry personnel, the proposed changes are not expected to have any significant impact on employment.

Effects on the use and value of private property. The proposed regulation is not expected to have any significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the analysis of the Department of Planning and Budget.

Summary:

*The proposed amendments provide greater clarity and understanding of requirements for dentistry and dental hygiene pursuant to recommendations from the comprehensive review conducted in compliance with Executive Order 15 (94). The board recommends amending the regulations to: (i) reduce the number of years records must be retained from five to three years; (ii) eliminate the specific listings of routine dental service and dental specialties which may be advertised and reference those procedures and specialties as set forth in listings approved by the American Dental Association to provide for continuous updating and current usage; and (iii) specify and clarify those duties which are not delegable to a nondentist and those which may only be delegated to a dental hygienist. The amendments provide that other acts may be delegated under the direction and responsibility of the dentist to dental assistants according to their level of training and experience.*

PART I.  
GENERAL PROVISIONS.

**18 VAC 60-20-10. Definitions.**

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

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

---

# Proposed Regulations

---

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

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

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

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

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

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

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

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

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

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

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

pharmacologic or nonpharmacologic method, or combination thereof.

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

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

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

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

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

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

## **18 VAC 60-20-15. Recordkeeping.**

*A dentist shall maintain patient records for not less than three years from the most recent date of service for purposes of review by the board to include the following:*

- 1. Patient's name and date of treatment;*
- 2. Updated health history;*
- 3. Diagnosis and treatment rendered;*
- 4. List of drugs prescribed, administered, dispensed and the quantity;*
- 5. Radiographs;*
- 6. Patient financial records;*
- 7. Name of dentist and dental hygienist providing service; and*
- 8. Laboratory work orders which meet the requirements of § 54.1-2719 of the Code of Virginia.*

## **18 VAC 60-20-16. Address of record.**

*At all times, each licensed dentist shall provide the board with a current, primary business address, and each dental hygienist shall provide a current resident address. No post office box numbers are accepted. All required notices mailed*

by the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. All changes of address shall be furnished to the board in writing within 30 days of such changes.

PART II.  
LICENSURE RENEWAL AND FEES.

**18 VAC 60-20-20. License renewal and reinstatement.**

~~The board shall forward a renewal notice to each licensee at the address of record (18 VAC 60-20-160 B) prior to the expiration of the license. Failure to receive such notice shall not relieve the licensee of the responsibility to renew the license.~~

~~A. Dental Renewal fees. Every person licensed to practice holding an active or inactive license, a teacher's license, full-time faculty license or a temporary permit to practice dentistry or dental hygiene shall, on or before March 31, renew their his license to practice dentistry and pay an annual renewal fee of \$65 except as otherwise provided in 18 VAC 60-20-30 for dentists and \$25 for dental hygienists.~~

~~B. Dental hygiene renewal fees. Every person licensed to practice dental hygiene by this board shall, on or before March 31, renew their license to practice dental hygiene and pay an annual renewal fee of \$25 except as otherwise provided in 18 VAC 60-20-30.~~

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

~~D. C. Reinstatement fees and procedures. The license of any person who does not return the completed renewal form and fees by April 30 shall automatically expire and become invalid and their practice of dentistry/dental hygiene shall be illegal. Upon such expiration, the board shall immediately notify the affected person of the expiration and the reinstatement procedures. Any person whose license has expired who wishes to reinstate such license shall submit to the board a reinstatement form, the application and fee, the penalty fee, renewal fee and an assessment of \$50 per month for each month or part of a month the individual has practiced in Virginia without a valid license. The executive director shall reinstate such expired license provided that the applicant can demonstrate continuing competence, that no grounds exist pursuant to § 54.1-2706 of the Code of Virginia and 18 VAC 60-20-170 to deny said reinstatement, and that the applicant has paid all unpaid renewal fees and assessments.~~

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

submit to the board for its approval a reinstatement form and an application and fee of \$300.

**18 VAC 60-20-30. Other fees.**

A. Dental licensure application fees. ~~The application fee for a dental license, a license to teach dentistry, or a temporary permit as a dentist shall be accompanied by a check or money order for \$220, which includes a \$155 application fee and a \$65 initial licensure fee.~~

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

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

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

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

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

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

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

~~I. Radiology safety G. Examination. Each examination administered in accordance with subdivision 11 of 18 VAC 60-20-190 by the board shall be at a fee of \$25.~~

---

# Proposed Regulations

---

~~J. Jurisprudence examination. Each examination administered by the board outside the scheduled clinical examination site in accordance with 18 VAC 60-20-70 shall be at a fee of \$25.~~

~~K. Full-time faculty license. Full-time faculty license for dentists issued in accordance with § 54.1-2714.1 of the Code of Virginia, shall be at a fee of \$220. The renewal fee shall be \$65.~~

~~L. H. Endorsement license. License by endorsement issued in accordance with 18 VAC 60-20-80 for dental hygienists shall be at a fee of \$200 (\$175 application and \$25 initial licensure fee). The renewal fee shall be \$25.~~

## **18 VAC 60-20-50. Requirements for continuing education (CE).**

A. After April 1, 1995, a dentist or a dental hygienist shall be required to have completed a minimum of 15 hours and a dental hygienist shall be required to have completed a minimum of 15 hours of approved continuing education in a program for each annual renewal of licensure. Continuing education hours in excess of the number required for renewal may not be transferred or credited to another year for a total of not more than 15 hours.

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

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

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

1. American Dental Association and National Dental Association, their constituent and component/branch associations;
2. American Dental Hygienists Association and National Dental Hygienists Association, their constituent and component/branch associations;
3. *American Dental Assisting Association, its constituent and component/branch associations;*
- ~~3.~~ 4. American Dental Association specialty organizations, their constituent and component/branch associations;
4. 5. American Medical Association and National Medical Association, their specialty organizations, constituent, and component/branch associations;

~~5.~~ 6. Academy of General Dentistry, its constituent and component/branch associations;

~~6.~~ 7. Community colleges with an accredited dental hygiene program if offered under the auspices of the dental hygienist program;

~~7.~~ 8. A college, university, or hospital service which is accredited by an accrediting agency approved by the U.S. Office of Education;

~~8.~~ 9. The American Heart Association, *the American Red Cross* and the American Cancer Society;

~~9.~~ 10. A medical school which is accredited by the American Medical Association's Liaison Committee for Medical Education;

~~10.~~ 11. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.); or

~~11.~~ 12. Any other board approved programs.

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

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

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

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity. Documentation must be maintained for a period of four years following renewal.

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

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

~~J. Penalty for noncompliance of continuing education for dentists and dental hygienists is \$1,000 per violation. Failure to comply with continuing education requirements may subject the licensee to disciplinary action by the board~~

PART # III.  
ENTRY AND LICENSURE REQUIREMENTS.

**18 VAC 60-20-60. Education.**

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

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

**18 VAC 60-20-70. Licensure examinations.**

A. Dental examinations.

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

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

B. Dental hygiene examinations.

1. All applicants are required to successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board for licensure.

2. ~~For the purpose of § 54.1-2722 of the Code of Virginia, all persons desiring All applicants to practice dental hygiene in the Commonwealth of Virginia shall be required to~~ successfully complete the board-approved examinations in dental hygiene as a precondition for licensure, except those persons eligible for licensure pursuant to § 54.1-103 of the Code of Virginia and 18 VAC 60-20-80.

C. Applicants who successfully complete the board-approved examinations five or more years prior to the date of receipt of their applications for licensure by this board may be required to retake the board-approved examinations

unless they demonstrate that they have maintained continuous clinical, ethical, and legal practice since passing the board-approved examinations.

~~G. D.~~ D. All applicants for dental or dental hygiene licensure by examination shall be required to pass an examination on the applicable Virginia dental and dental hygiene laws and the regulations of this board.

**18 VAC 60-20-80. Licensure by endorsement for dental hygienists.**

An applicant for dental hygiene endorsement licensure shall:

1. Be a graduate or be issued a certificate from an accredited dental hygiene school/program of dental hygiene recognized by the Commission on Dental Accreditation of the American Dental Association;
2. Be currently licensed to practice dental hygiene in another state, territory, District of Columbia, or possession of the United States, and have continuous clinical, ethical, and legal practice for two out of the past four years immediately preceding application for licensure. Active patient care in armed forces dental corps, state or federal agency, and intern or residency programs, may substitute for required clinical practice;
3. Be certified to be in good standing from each state in which he is currently licensed or has ever held a license;
4. Have successfully completed a clinical licensing examination substantially equivalent to that required by Virginia;
5. Not have failed the clinical examination accepted by the board, pursuant to § 54.1-2722 of the Code of Virginia, within the last five years;
6. Be of good moral character;
7. ~~Provide proof of not having~~ Not have committed any act which would constitute a violation of § 54.1-2706 of the Code of Virginia;
8. Successfully complete the dental hygiene examination of the Joint Commission on National Dental Examinations prior to making application to this board; and
9. Pass an examination on the laws and the regulations governing the practice of dentistry and dental hygiene in Virginia.

**18 VAC 60-20-90. Temporary permit, teacher's license, and full-time faculty license.**

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

B. A temporary permit will not be renewed unless the permittee shows that extraordinary circumstances prevented

---

# Proposed Regulations

---

the permittee from taking the first examination given immediately after the issuance of the permit. Such permit reissuance shall expire seven days after the release of grades of the next examination given.

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

D. A temporary permit issued pursuant to ~~§ 54.1-2715~~, a teacher's license issued pursuant to ~~§§ 54.1-2713, 54.1-2714 and 54.1-2725~~ and full-time faculty license issued pursuant to ~~§ 54.1-2714.1~~ of the Code of Virginia may be revoked for any grounds for which the license of a regularly licensed dentist or dental hygienist may be revoked and for any acts, or actions indicating the inability of the permittee or licensee to practice dentistry that is consistent with the protection of the public health and safety as determined by the generally accepted standards of dental practice in Virginia.

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

## PART III IV.

### GENERAL ANESTHESIA AND CONSCIOUS SEDATION.

#### **18 VAC 60-20-110. Requirements to administer general anesthesia.**

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

1. Has completed a minimum of one calendar year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program in conformity with Part II of the "~~Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry~~" as currently published *guidelines* by the American Dental Association (*Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, effective July 1993*), which are incorporated by reference in this chapter; or

2. Completion of an American Dental Association approved residency in any dental specialty which incorporates into its curriculum the standards of teaching comparable to those set forth in Part II of the "~~Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry~~" as currently published *guidelines* by the American Dental Association (*Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, effective July 1993*), which are incorporated by reference in this chapter.

B. Exemptions. A dentist who has not meet the requirements specified in subsection A of this section may treat patients under general anesthesia in his practice if a qualified anesthesiologist, or a dentist who fulfills the requirements specified in subsection A of this section is present and is responsible for the administration of the anesthetic. If a dentist fulfills requirements himself to use general anesthesia and conscious sedation, he may employ the services of a certified nurse anesthetist.

#### **18 VAC 60-20-120. Conscious sedation; intravenous and intramuscular.**

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

B. Educational requirements. A dentist may administer conscious sedation upon completion of training ~~in conformity with requirements~~ for this treatment modality ~~as according to guidelines~~ published by the American Dental Association ~~in the~~ "~~Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, effective July 1993~~," and incorporated by reference in this chapter, while enrolled at an approved dental school or while enrolled in a post-doctoral university or teaching hospital program.

#### **18 VAC 60-20-130. General information.**

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

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

B. Posting requirements. Any dentist who utilizes general anesthesia or conscious sedation shall post in each facility the certificate of education required under 18 VAC 60-20-110 A and 18 VAC 60-20-120 B or the self-certification a certificate issued by the board.

C. Other.

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

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

D. Scope of regulation. Part III IV (18 VAC 60-20-110 et seq.) of this chapter shall not apply to administration of general anesthesia and conscious sedation in hospitals and surgi-centers.

**18 VAC 60-20-140. Report of adverse reactions.**

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

**PART IV V.**

**RECORD KEEPING AND REPORTING UNPROFESSIONAL CONDUCT.**

**18 VAC 60-20-150. Records. (Repealed.)**

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

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

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

- 1. Patient's name and date of treatment;
- 2. Updated health history;
- 3. Diagnosis and treatment rendered;
- 4. List of drugs prescribed, administered, dispensed and the quantity;

~~5. Radiographs;~~

~~6. Patient financial records; and~~

~~7. Name of dentist and dental hygienist providing service.~~

**18 VAC 60-20-160. Reporting. (Repealed.)**

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

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

**18 VAC 60-20-170. Acts constituting unprofessional conduct.**

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

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

---

# Proposed Regulations

---

Commonwealth of Virginia, including, but not limited to, current regulations promulgated by the Virginia Department of Health; and

8. Permitting or condoning the placement or exposure of dental x-ray film by an unlicensed person, except where the unlicensed person has complied with ~~subdivision 11 of 18 VAC 60-20-190~~ 18 VAC 60-20-195.

## 18 VAC 60-20-180. Advertising.

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

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

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

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

E. Routine dental services. ~~The purpose of this subsection is to delineate those routine dental services which may be advertised pursuant to § 54.1-2706(7) of the Code of Virginia and subsection F of this section. The definitions as set out in 18 VAC 60-20-10 are intended to set forth a minimum standard as to what constitutes such services for advertising purposes in order to allow the public to accurately compare the fees charged for a given service and to preclude potentially misleading advertisement of fees for a given service which may be delivered on a superficial or minimum basis. Advertising of fees pursuant to subdivision F 3 of this section is limited to the following routine dental services:~~

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

2. "Diagnosis." An opinion of findings in an examination.

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

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

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

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

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

8. Other procedures which are determined by the board to be routine dental services are those services as set forth in the American Dental Association's "Code on Dental Procedures and Nomenclature," as published in the ~~Journal of the American Dental Association (JADA), as amended Current Dental Terminology (Second Edition, 1995-2000),~~ which is hereby adopted and incorporated by reference.

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

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

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

3. Publishing an advertisement which fails to include the information and disclaimers required by this section;

4. Publishing an advertisement which contains a claim of professional superiority, claims to be a specialist, or uses any of the terms to designate a dental specialty such as: (i) endodontist; (ii) oral or maxillofacial surgeon; (iii) oral pathologist; (iv) orthodontist; (v) pediatric dentist; (vi) periodontist; (vii) prosthodontist; (viii) public health or any derivation of these specialties unless he is entitled to such specialty designation under the guidelines or requirements for specialties approved by the Commission on Dental Accreditation and the Council on Dental Education of the American Dental Association in effect on January 1, 1988 (*Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 1995*), or such guidelines or requirements as subsequently amended and approved by the dental disciplinary board, or other such organization recognized by the board; and

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

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

**PART VI.  
DIRECTION AND DELEGATION OF DUTIES.**

**18 VAC 60-20-190. Nondelegable duties; dentists.**

~~Nondentists. The following duties shall not be delegated to a nondentist. Only licensed dentists shall perform the following duties:~~

1. Final diagnosis and treatment planning;
2. Performing surgical or cutting procedures on hard or soft tissue;
3. ~~Prescribing drugs, medicaments and work authorizations or parenterally administering drugs or medicaments;~~
4. ~~Adjusting fixed or removable appliances or restorations in the oral cavity. Authorization of work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;~~
5. ~~Making occlusal adjustments in the oral cavity. Operation of high speed rotary instruments in the mouth;~~
6. Performing pulp capping and pulpotomy procedures;
7. Administering and monitoring local or general anesthetics, and conscious sedation and administering nitrous oxide oxygen inhalation analgesia, except as provided for in § 54.1-2701 of the Code of Virginia and ~~subdivision 17 of 18 VAC 60-20-230. ;~~
8. ~~Administering nitrous oxide or oxygen inhalation analgesia;~~
- 8- 9. ~~Condensing and carving amalgam restorations, contouring or adjusting any final, fixed or removable prosthodontic appliance or restoration in the mouth;~~
- 9- 10. ~~Placing and contouring silicate cement and composite resin restorations. Final positioning and attachment of orthodontic bonds and bands;~~
- 10- ~~Placement and fitting of orthodontic arch wires;~~
11. ~~No person, not otherwise licensed by the board, shall place or expose dental x-ray film unless he has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, or (ii) been certified by the American Society of Radiological Technicians;~~

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

~~12- 11. Taking impressions for any working model except as provided in subdivision 2 of 18 VAC 60-20-220. master casts to be used for prosthetic restoration of teeth or oral structures;~~

12. Final cementation of crowns and bridges; and

13. Placement of retraction cord.

**18 VAC 60-20-195. Radiation certification.**

No person not otherwise licensed by this board shall place or expose dental x-ray film unless he has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, (ii) been certified by the American Registry of Radiologic Technologists, (iii) satisfactorily completed a course and passed an examination in compliance with guidelines provided by the board, or (iv) passed the board's examination in radiation safety and hygiene followed by on-the-job training. Any individual not able to successfully complete the board's examination after two attempts may be certified only by completing (i), (ii) or (iii) of this provision. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

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

**18 VAC 60-20-220. Dental hygienists.**

The following duties may shall only be delegated to dental hygienists under direction:

1. Scaling, and root planing and polishing of natural and restored teeth using hand instruments, rotary instruments, proph-jets and ultrasonic devices.
2. ~~Taking of working impressions for construction of athletic and fluoride guards. Polishing of natural and restored teeth using prophy-jets.~~
3. Performing an original or clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.
4. Subgingival irrigation or subgingival application of Schedule VI medicinal agents in accordance with § 54.1-3408 of the Code of Virginia.
5. Duties appropriate to the training and experience of the dental hygienist and the practice of the supervising

---

# Proposed Regulations

---

dentist, with the exception of those listed as nondelegable in 18 VAC 60-20-190.

## **18 VAC 60-20-230. ~~Dental hygienists and Delegation to dental assistants.~~**

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

- ~~1. Application of Schedule VI topical medicinal agents, including topical fluoride, or desensitizing agents (aerosol topical anesthesia excluded);~~
- ~~2. Acid etching in those instances where the procedure is reversible;~~
- ~~3. Application of sealants;~~
- ~~4. Serving as a chairside assistant aiding the dentist's treatment by concurrently performing supportive procedures for the dentist, including drawing up and compounding medications for administration by the dentist. The foregoing shall not prohibit the dentist from delegating to another licensed health care professional duties within the scope of their respective practice;~~
- ~~5. Placing and removing matrixes for restorations;~~
- ~~6. Placing and removing rubber dam;~~
- ~~7. Placing and removing periodontal packs;~~
- ~~8. Polishing natural and restored teeth by means of a rotary rubber cup or brush and appropriate polishing agent;~~
- ~~9. Holding and removing impression material for working models after placement in the patient's mouth by the dentist;~~
- ~~10. Taking nonworking impressions for diagnostic study models;~~
- ~~11. Placing of amalgam in prepared cavities with the carrier to be condensed and carved by the dentist;~~
- ~~12. Placing and removing elastic orthodontic separators;~~
- ~~13. Checking for loose orthodontic bands;~~
- ~~14. Removing arch wires and ligature ties;~~
- ~~15. Placing ligatures to tie in orthodontic arch wire that has been fitted and placed by the dentist;~~
- ~~16. Selecting and prefitting of orthodontic bands for cementation by the dentist;~~
- ~~17. Monitoring of nitrous oxide oxygen inhalation analgesia;~~
- ~~18. Placing and exposing dental x-ray film. (No person who is not otherwise licensed by the board shall place or expose dental x-ray film unless the requirements of subdivision 11 of 18 VAC 60-20-190 have been fulfilled.);~~
- ~~19. Removing socket dressings;~~

~~20. Instructing patients in placement and removal of retainers and appliances after they have been completely fitted and adjusted in the patient's mouth by the dentist;~~

~~21. Removing sutures; and~~

~~22. Removing supragingival cement on crowns, bands, and restorations.~~

~~Any procedure not listed above is prohibited.~~

*Duties appropriate to the training and experience of the dental assistant and the practice of the supervising dentist may be delegated to a dental assistant under the supervision and direction required in 18 VAC 60-20-210, with the exception of those listed as nondelegable in 18 VAC 60-20-190 and those which may only be delegated to dental hygienists as listed in 18 VAC 60-20-220.*

## **18 VAC 60-20-240. What does not constitute practice.**

*The following are not considered the practice of dental hygiene and dentistry:*

~~A. 1. Oral health education and preliminary dental screenings in any setting are not considered the practice of dental hygiene and dentistry.~~

~~B. 2. Recording a patient's pulse, blood pressure, temperature, and medical history.~~

### DOCUMENTS INCORPORATED BY REFERENCE

Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry (1993), American Dental Association.

1995 Current Dental Terminology, Second Edition, 1995-2000, Code on Dental Procedures and Nomenclature, American Dental Association.

Requirements for Recognition of Dental Specialties and National Certifying Boards for Dental Specialists, October 1995, American Dental Association.

**NOTICE:** The forms used in administering 18 VAC 60-20-10 et seq., Virginia Board of Dentistry Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Dentistry, 6606 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

### FORMS

~~Training Guidelines: Part I. Topical Anesthetics.~~

~~Training Guidelines: Part I. Professionally Applied Topical Fluorides.~~

~~Training Guidelines: Part III. Application of Desensitizing Agents.~~

~~Application for Certification to Administer Schedule VI Topical Medicinal Agents for Dental Assistants.~~

~~Training Form for Administration of Schedule VI Topical Medicinal Agents for Dental Assistants.~~

~~Application for licensure for Dentists, Dental Hygiene by Examination, Dental Hygiene by Endorsement, Full-Time Faculty, Temporary Permit, and Teacher's License.~~

*Outline and Explanation of Documentation Required for Dental Licensure by Exam, Teacher's License, Restricted License, Full Time Faculty License, and Temporary Permit (rev. 7/98).*

*Application for Licensure to Practice Dentistry (rev. 3/98).*

*Form A, Certification of Dental/Dental Hygiene School (rev. 3/98).*

*Form B, Chronology (rev. 3/98).*

*Form C, Certification of Dental/Dental Hygiene Boards (rev. 3/98).*

*Outline and Explanation of Documentation Required for Dental Hygiene Licensure by Exam, Teacher's License, Dental Hygiene by Endorsement, and Dental Hygiene Temporary Permit (rev. 7/98).*

*Application for Licensure to Practice Dental Hygiene (rev. 3/98).*

*Reinstatement Application for Dental/Dental Hygiene (rev. 3/98).*

*Expiration letter to licensee (rev. 7/98).*

*Radiology Information for Dental Assistants (rev. 7/97).*

*Application for Radiology Exam for Dental Assistants (rev. 7/97).*

*Renewal Notice and Application (rev. 7/97).*

VA.R. Doc. No. R97-615; Filed July 15, 1998, 11:11 a.m.

\*\*\*\*\*

**Title of Regulation:** 18 VAC 60-20-10 et seq. Virginia Board of Dentistry Regulations (amending 18 VAC 60-20-20 and 18 VAC 60-20-30).

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

**Public Hearing Date:** September 18, 1998 - 1 p.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia establishes the general powers and duties of the health regulatory boards including the power to levy fees and the responsibility to promulgate regulations.

Section 54.1-113 establishes the mandate for the board to perform a fiscal analysis and to adjust its fees when the differential between expenditures and revenue exceeds 10%.

**Purpose:** The purpose of these proposed amendments is to carry out the statutory responsibility of the board "to levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards" (§ 54.1-2400 (5) of the Code of Virginia). If fees are insufficient to support the operations of the board, it will be unable to investigate complaints of misconduct and to initiate disciplinary proceedings against licensees as necessary to protect the public health, safety and welfare.

**Substance:**

18 VAC 60-20-20. Proposed amendments increase fees for licensees as follows:

Renewal of licensure for dentists are increased from \$65 to \$100 and for dental hygienists from \$25 to \$40. Fees for renewal of inactive licenses do not change.

The penalty fee for failure to pay the renewal fee increases from \$35 to \$50 for dentists; it remains \$35 for dental hygienists.

An amendment in subsection C is proposed to limit the amount of penalty fee a licensee would have to pay and to specify that practice with an expired license may subject the licensee to disciplinary action and additional fines by the board.

The fee for reinstatement of a revoked license for a dental hygienist decreases from \$750 to \$500. The reinstatement fee for a person whose license had been suspended increases from \$300 to \$350 for dentists and decreases from \$300 to \$250 for dental hygienists.

18 VAC 60-20-30. The application fee for a dental license increases from \$220 to \$225. The fee for dental hygiene licensure increases from \$155 to \$160. Licensure by endorsement for dental hygienists increases from \$200 to \$225.

**Issues:** There is no alternative to compliance with the requirements of § 54.1-113, which mandates that the board revise its fee schedule following any biennium in which projected expenditures exceed revenues by more than 10%. The deficit for 1996-98 is projected to be \$182,864; with current fees, the projected deficit for 1998-2000 would be \$459,099. Failure to increase fees would be a violation of the board's statutory responsibility. It would require an unlawful and an inequitable transfer of funds from other boards (and other licensees) within the department.

The board has reviewed every aspect of its budget to determine if reductions in expenditures are possible. Thus far, it has determined that further reductions are not possible due to fixed expenditures resulting from their disciplinary caseload, which is the major board activity. Further reductions would result in an inability to investigate complaints of misconduct or fraud against the consumer and would necessitate discontinuation of inspections of dental practices.

---

# Proposed Regulations

---

During the promulgation of regulations, the board considered which fees should be increased and by what amount. The financial staff of the department developed three proposals; only two of which would produce the required additional revenue. Based on those projections, the board determined the most reasonable and equitable fee increase was Proposal #3, which will produce a very modest surplus for the 1998-2000 biennium of \$3,456.

The board has not increased fees for licensees since 1988 at which time the current renewal fees of \$65 and \$25 were established. In its consideration of proposed fees, the board has accounted for the disparity in income and authority in practice of dentists and dental hygienists. It has attempted to make increases proportional and in some cases, the fee for the dental hygienist has actually been decreased.

Advantages or disadvantages to the licensees and to the public: Over the years, the board and the Department of Health Professions have taken steps to reduce personnel and other costs to avoid an increase in fees. Renewal fees for dentists and dental hygienists have not increased for 10 years. Therefore, the board does not believe that the proposed increase of \$35 for dentists and \$15 for dental hygienists will have a significant effect on the availability of dental services or on the dental practitioners of the Commonwealth.

For applicants seeking licensure in Virginia, there is only a \$5.00 increase in application fees. That amount is insignificant in relation to the costs of education and examinations; it should have no effect on entry into the profession or on mobility of licensed persons into Virginia.

For persons who have requested inactive licensure, there is no effect since the proposal would retain their current renewal fees.

## Estimated Impact:

### Projected number of persons affected and their cost of compliance:

The approximate number of licensees affected by these regulations are as follows:

Dentists	5,186
Dental hygienists	3,028
Dental teachers	7
Dental hygienist, teacher	5
Dental faculty	12

The cost for compliance will be an additional \$35 per year for dentists and \$15 per year for dental hygienists. For applicants, there will be an increase of \$5.00.

Cost to the agency for implementation: The board will incur approximately \$1,500 in cost for printing and mailing Notices of Comment and final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against licensees for violations of these regulations.

Cost to local governments: There will be no impact of these regulations on local government.

### Department of Planning and Budget's Economic Impact

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

Summary of the proposed regulation. The proposed regulation increases various fees paid by dentists and dental hygienists to the Board of Dentistry. The purpose of these fee increases is to bring the board into compliance with the board's interpretation of § 54.1-113, Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10% difference between revenues and expenses.

The proposed regulation makes the following fee changes:

1. Renewal of licensure for dentists would increase from \$65 to \$100 and for dental hygienists from \$25 to \$40. Fees for renewal of inactive licenses would not change.
2. The penalty fee for failure to pay the renewal fee would increase from \$35 to \$50 for dentists.
3. The reinstatement fee for a revoked license would decrease from \$750 to \$500 for dental hygienists. The reinstatement fee for suspended licenses would increase from \$300 to \$350 for dentists and decrease from \$300 to \$250 for dental hygienists.
4. The application fee for a dental license would increase from \$220 to \$225. The fee for a dental hygiene license would increase from \$155 to \$160. Licensure by endorsement for dental hygienists would increase from \$200 to \$225.

Estimated economic impact. The primary effect of the proposed fee increases will be to increase the regulatory compliance costs borne by the regulated community by \$462,555 biannually. Under the current fee structure, the board projects a \$459,099 deficit for the 1998-2000 biennium. The proposed fee increases would generate a projected surplus of \$3,456 during the 1998-2000 biennium, thereby bringing the board into compliance with the Code.

According to the board, two major areas of activity within the Department of Health Professions (DHP) have contributed to the increasing deficits projected for 1998 and beyond. DHP is required to replace the mainframe computer system they

now purchase from the Department of Information Technology. The expected cost of this project will be allocated to each board based on numbers of regulated entities. In addition, DHP has been authorized to establish an Intervention Program for Impaired Practitioners. Costs for that program will also be allocated to each board based on expected usage by its licensees. Further analysis by DPB shows that these costs have not yet been incurred or included in their budget, though they are expected to be absorbed within the proposed fee increase.

It is very important to note, however, that approximately 40% (\$182,864) of the projected 1998-2000 biennium deficit of \$459,099 is a carryover deficit from the 1996-1998 biennium. Raising fees by a sufficient amount to offset both projected deficits during the single 1988-2000 biennium will result in a surplus during the 2000-2002 biennium. This surplus will be approximately equal to \$182,864, the amount of the carryover deficit. It is very likely that the board will then again be in violation of the Code and be required to reduce fees if costs remain relatively constant.

Businesses and entities affected. This proposed regulation will affect the 5,186 dentists, 3,028 dental hygienists, and 24 dental teachers and faculty currently licensed in Virginia and anyone who may apply for such licensure in the future.

Localities particularly affected. No localities will be particularly affected by this proposed regulation.

Projected impact on employment. This proposed regulation is not expected to have any impact on employment in Virginia.

Effects on the use and value of private property. This proposed regulation is not expected to have any significant effect on the use and value of private property.

Summary of Analysis. The proposed regulation would increase various fees paid by dentists and dental hygienists to the Board of Dentistry. The primary effect will be to increase the regulatory compliance costs borne by the regulated community by \$462,555, approximately 38%. In addition, the proposed fee increase will likely generate a \$182,864 surplus for the board during the 2000-2002 biennium, possibly necessitating a subsequent fee decrease.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the analysis of the Department of Planning and Budget.

Summary:

*The proposed amendments increase fees in compliance with § 54.1-113 of the Code of Virginia which mandates health regulatory boards to raise revenues sufficient to meet expenses. Renewal fees would be increased from \$65 to \$100 annually for dentists and from \$25 to \$40 for dental hygienists. Inactive license fees would remain unchanged. The application fee for licensure as a dentist would be increased from \$200 to \$225 and for dental hygienists from \$155 to \$160.*

*PART II.  
LICENSURE RENEWAL AND FEES.*

**18 VAC 60-20-20. License renewal and reinstatement.**

~~The board shall forward a renewal notice to each licensee at the address of record (18 VAC 60-20-160 B) prior to the expiration of the license. Failure to receive such notice shall not relieve the licensee of the responsibility to renew the license.~~

~~A. Dental Renewal fees. Every person licensed to practice holding an active or inactive license, a teacher's license, full-time faculty license or a temporary permit to practice dentistry or dental hygiene shall, on or before March 31, renew their license to practice dentistry and pay an annual renewal fee of \$65 except as otherwise provided in 18 VAC 60-20-30.~~

~~1. The fee for renewal of an active license shall be \$100 for dentists and \$40 for dental hygienists.~~

~~2. The fee for renewal of an inactive license shall be \$65 for dentists and \$25 for dental hygienists.~~

~~B. Dental hygiene renewal fees. Every person licensed to practice dental hygiene by this board shall, on or before March 31, renew their license to practice dental hygiene and pay an annual renewal fee of \$25 except as otherwise provided in 18 VAC 60-20-30.~~

~~C. B. Penalty fees. Any person who does not return the completed form and fee by March 31 shall be required to pay an additional \$35 penalty fee of \$50 for dentists and \$35 for dental hygienists. The board shall renew a license when if the renewal form is, renewal fee, and penalty fee are received by the following April 30, along with the completed form, the annual registration fee, and the penalty fee.~~

~~D. C. Reinstatement fees and procedures. The license of any person who does not return the completed renewal form and fees by April 30 shall automatically expire and become invalid and their practice of dentistry/dental hygiene shall be illegal. Upon such expiration, the board shall immediately notify the affected person of the expiration and the reinstatement procedures.~~

~~1. Any person whose license has expired who wishes to reinstate such license shall submit to the board a reinstatement form, the application fee, the penalty fee, renewal fee and an assessment the penalty fee of \$50 for dentists and \$35 for dental hygienists per month for each month or part of a month the individual has practiced in Virginia without a valid license has been expired for a maximum amount of \$600 for dentists and \$420 for dental hygienists.~~

~~2. Practicing in Virginia with an expired license may subject the licensee to disciplinary action and additional fines by the board.~~

~~3. The executive director shall reinstate such expired license provided that the applicant can demonstrate continuing competence, that no grounds exist pursuant to § 54.1-2706 of the Code of Virginia and 18 VAC~~

---

# Proposed Regulations

---

60-20-170 to deny said reinstatement, and that the applicant has paid all unpaid renewal fees and assessments.

~~E. D. Reinstatement of a license previously revoked or indefinitely suspended. Any person whose license has been revoked shall submit to the board for its approval a reinstatement form and an application and fee of \$750 for dentists and \$500 for dental hygienists. Any person whose license has been indefinitely suspended shall submit to the board for its approval a reinstatement form and an application and fee of \$300 \$350 for dentists and \$250 for dental hygienists.~~

## 18 VAC 60-20-30. Other fees.

A. Dental licensure application fees. The application fee for a dental license, a license to teach dentistry, or a temporary permit as a dentist shall be accompanied by a check or money order for \$220, which includes a \$155 application fee and a \$65 initial licensure fee \$225.

B. Dental hygiene licensure application fees. The application fee for a dental hygiene license, a license to teach dental hygiene, or a temporary permit as a dental hygienist shall be accompanied by a check or money order for \$155, which includes a \$130 application fee and a \$25 initial licensure fee \$160.

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

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

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

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

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

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

~~I. Radiology safety F. Examination. Each examination administered in accordance with subdivision 11 of 18 VAC 60-20-190 by the board shall be at a fee of \$25.~~

~~J. Jurisprudence examination. Each examination administered by the board outside the scheduled clinical examination site in accordance with 18 VAC 60-20-70 shall be at a fee of \$25.~~

~~K. Full-time faculty license. Full-time faculty license for dentists issued in accordance with § 54.1-2714.1 of the Code of Virginia, shall be at a fee of \$220. The renewal fee shall be \$65.~~

~~L. G. Endorsement license. License by endorsement issued in accordance with 18 VAC 60-20-80 for dental hygienists shall be at a fee of \$200 (\$175 application and \$25 initial licensure fee). The renewal fee shall be \$25 \$225.~~

**NOTICE:** The forms used in administering 18 VAC 60-20-10 et seq., Virginia Board of Dentistry Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Dentistry, 6606 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

~~Training Guidelines: Part I. Topical Anesthetics.~~

~~Training Guidelines: Part I. Professionally Applied Topical Fluorides.~~

~~Training Guidelines: Part III. Application of Desensitizing Agents.~~

~~Application for Certification to Administer Schedule VI Topical Medicinal Agents for Dental Assistants.~~

~~Training Form for Administration of Schedule VI Topical Medicinal Agents for Dental Assistants.~~

~~Application for licensure for Dentists, Dental Hygiene by Examination, Dental Hygiene by Endorsement, Full-Time Faculty, Temporary Permit, and Teacher's License.~~

~~Outline and Explanation of Documentation Required for Dental Licensure by Exam, Teacher's License, Restricted License, Full Time Faculty License, and Temporary Permit (rev. 7/98).~~

~~Application for Licensure to Practice Dentistry (rev. 3/98).~~

~~Form A, Certification of Dental/Dental Hygiene School (rev. 3/98).~~

~~Form B, Chronology (rev. 3/98).~~

Form C, Certification of Dental/Dental Hygiene Boards (rev. 3/98).

*Outline and Explanation of Documentation Required for Dental Hygiene Licensure by Exam, Teacher's License, Dental Hygiene by Endorsement, and Dental Hygiene Temporary Permit (rev. 7/98).*

Application for Licensure to Practice Dental Hygiene (rev. 3/98).

Reinstatement Application for Dental/Dental Hygiene (rev. 3/98).

Expiration letter to licensee (rev. 7/98).

Radiology Information for Dental Assistants (rev. 7/97).

Application for Radiology Exam for Dental Assistants (rev. 7/97).

Renewal Notice and Application (rev. 7/97).

VA.R. Doc. No. R98-100; Filed July 15, 1998, 11:07 a.m.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**Title of Regulation:** 18 VAC 65-20-10 et seq. Regulations of the Board of Funeral Directors and Embalmers (amending 18 VAC 65-20-70; repealing 18 VAC 65-20-80, 18 VAC 65-20-90 and 18 VAC 65-20-100).

**18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service (amending 18 VAC 65-40-40; repealing 18 VAC 65-40-60, 18 VAC 65-40-70 and 18 VAC 65-40-80).**

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

**Public Hearing Date:** September 17, 1998 - 9 a.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia establishes the general powers and duties of the health regulatory boards including the power to levy fees and the responsibility to promulgate regulations.

Section 54.1-113 establishes the mandate for the board to perform a fiscal analysis and to adjust its fees when the differential between expenditures and revenue exceeds 10%.

**Purpose:** The purpose of these proposed regulations is to carry out the statutory responsibility of the board "to levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards" (§ 54.1-2400 (5) of the Code of Virginia). If fees are insufficient to support the operations of the board, it will be unable to investigate complaints of misconduct and to initiate disciplinary proceedings against licensees and registrants as necessary to protect the public health, safety and welfare.

### Substance:

18 VAC 65-20-70. All fees for licensees of the board and for funeral establishments are placed in this section of the regulation. Proposed regulations would increase fees as follows:

Initial licensure and renewal of licensure for licensees in funeral services, funeral directors or embalmers would be increased from \$100 to \$150.

Increases for initial registration or renewal of registration for funeral establishments would be from \$150 to \$225, for surface transportation and removal service companies from \$200 to \$250, for courtesy card holders from \$50 to \$100.

Other fees which would be increased are: a) reinstatement for each year of licensure expiration would be increased from \$25 to \$50; b) change of manager or establishment name would be increased from \$15 to \$50; and c) verification of license, registration or courtesy card would be increased from \$25 to \$50.

18 VAC 65-40-40. Fees for resident trainees would be increased as follows:

Registration, reinstatement or renewal of a funeral service resident trainee would be increased from \$25 to \$75. The late fee for renewal of registration after 30 days of expiration would be increased from \$15 to \$25. The fee to get a duplicate copy of trainee registration would be increased from \$15 to \$25.

**Issues:** There is no alternative to compliance with the requirements of § 54.1-113, which mandates that the board revise its fee schedule following any biennium in which projected expenditures exceed revenues by more than 10%. The deficit for 1996-98 is projected to be \$177,636; with current fees, the projected deficit for 1998-2000 would be \$337,081. Failure to increase fees would be a violation of the board's statutory responsibility. It would require an unlawful and an inequitable transfer of funds from other boards (and other licensees) within the department.

The board has reviewed every aspect of its budget to determine if reductions in expenditures are possible. Thus far, it has determined that further reductions are not possible due to fixed expenditures resulting from their disciplinary caseload, which is the major board activity. Further reductions would result in an inability to investigate complaints of misconduct or fraud against the consumer and would necessitate discontinuation of routine inspections of funeral establishments.

In addition, it has examined the allocation of expenses for the operation of the Board of Funeral Directors and Embalmers to determine if any operating costs could be equitably shifted to the other two boards housed in one office under one Executive Director. After an examination of those costs, especially the time of the Executive Director and the P-14 employee in the office, there was a reallocation of those positions. They had been allocated to cost codes as follows: 80% to Funeral; 10% to Audiology and Speech-Language Pathology; and 10% to Nursing Home Administrators. The

---

# Proposed Regulations

---

new allocation is 50% to Funeral; 25% to Audiology and Speech-Language Pathology; and 25% to Nursing Home Administrators. The new allocation is justified because the other two boards have become more active with legislative and regulatory work. However, since the other two boards which share the Executive Director and some office staff with the Funeral board have almost no disciplinary cases, the expenses for the office have to be weighted toward the funeral cost code and cannot be divided equally.

During the promulgation of regulations, the board considered which fees should be increased and by what amount. The financial staff of the department developed two proposals which would produce the required additional revenue. Based on those projections as attached to this submission, the board determined the most reasonable and equitable fee increase was Proposal #1, which will produce a very modest surplus for the 1998-2000 biennium of \$3,419, representing less than .005 of the total budget.

The board has not increased fees for funeral establishments and funeral service licensees since 1987 at which time the current renewal fees of \$150 and \$100, respectively, were changed from a biennial to an annual basis.

Advantages or disadvantages to the licensees and to the public:

Over the years, the board and the Department of Health Professions have taken steps to reduce personnel and other costs to avoid an increase in fees. Renewal fees for funeral establishments and funeral service licensee have not increased for over 10 years. Therefore, the board does not believe that the proposal will have a significant affect on funeral service providers and establishments.

Even for the smaller establishments (25 funerals per year), the increase in cost for renewal of the establishment license would result in an increase of \$3.00 per funeral. If an establishment has fewer than 35 funerals per year, it is now permitted to seek a waiver of the requirement for a full-time establishment manager who is a licensed funeral service provider. Therefore, the increased cost for the funeral director who manages such an establishment would be shared by two establishments, resulting in a cost of \$25 per establishment each year or another additional \$1.00 per year.

Considering the proposed increased fees for all entities licensed or permitted by the board, it is estimated that the overall cost per funeral should be less than \$5.00.

## Estimated Impact:

A. Projected number of persons affected and their cost of compliance: The approximate number of licensees or permit holders affected by these regulations are as follows:

Funeral establishments	495
Funeral service providers	1,370
Funeral directors	208
Funeral embalmers	9
Funeral trainees	211
Courtesy card holders	113

## Surface transportation and removal services 37

For the smaller establishments (25 funerals per year), the increase in cost for renewal of the establishment license would result in an increase of \$3.00 per funeral. If an establishment has fewer than 35 funerals per year, it is now permitted to seek a waiver of the requirement for a full-time establishment manager who is a licensed funeral service provider. Therefore, the increased cost for the funeral director who manages such an establishment would be shared by two establishments, resulting in a cost of \$25 per establishment each year or another additional \$1.00 per year.

For the funeral service trainees, the cost of their education will increase by \$50 per year, which is not significant since the trainee serves as an employee of the funeral establishment and is receiving an income during his training.

The board does not have figures on the number of removals or number of times a permitted company transports a body; the increase in fees of \$50 would result in an estimated cost of less than \$1 per funeral.

Courtesy card holders are out-of-state licensees who are permitted to come into Virginia to perform certain services relating to the funeral industry. The increase of \$50 per holder would have little effect on Virginia residents.

In all, the board estimates that the potential increase in costs for a funeral in Virginia based on proposed fee increases would be less than \$5.00.

B. Cost to the agency for implementation: The board will incur approximately \$1,500 in cost for printing and mailing Notices of Comment and final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against licensees for violations of these regulations.

C. Cost to local governments: There will be no impact of these regulations on local government.

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

Summary of the proposed regulation. The proposed regulation would increase various licensure and registration fees paid by funeral directors and embalmers to the Board of Funeral Directors and Embalmers. The purpose of these fee increases is to bring the board into compliance with the board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is a more than 10% difference between revenues and expenses.

The proposed regulation makes the following fee changes:

1. The current \$100 fee for license to practice funeral services as a funeral director or embalmer would be increased to \$150;
2. The current \$150 fee for funeral service establishment license would be increased to \$225;
3. The current \$200 fee for surface transportation and removal service registration would be increased to \$250;
4. The current \$50 fee for courtesy cards would be increased to \$100;
5. The current \$25 reinstatement fee per year for each year of license expiration would be increased to \$50;
6. The current \$15 fee for change of manager or establishment name would be increased to \$50;
7. The current \$25 fee for verification of license or registration to another state would be increased to \$50;
8. The current \$25 fee for funeral service resident trainee registration, reinstatement, or renewal would be increased to \$75;
9. The current \$15 late fee for renewal of trainee registration would be increased to \$25; and
10. The current \$15 fee for duplicate copy of trainee registration would be increased to \$25.

Estimated economic impact. The primary effect of the proposed fee increases will be to increase the regulatory compliance costs borne by the regulated community. Under the current fee structure, the board projects a \$337,081 deficit for the 1998-2000 biennium. This deficit is equal to 44% of operating costs. The proposed fee increases would generate a projected surplus of \$3,419 during the 1998-2000 biennium. According to the board, this action will bring them into compliance with § 54.1-113 of the Code. The fee increases proposed by the board will entail a \$340,500, or 56%, increase in regulatory compliance costs however.

It is important to note that \$177,636, or roughly half, of the projected \$337,081 deficit in the 1998-2000 biennium is a carryover from the 1996-1998 biennium. The board asserts that it must raise fees by a sufficient amount to offset both biennial deficits during the single 1998-2000 biennium to achieve compliance with § 54.1-113 of the Code. Raising fees by this amount guarantees that the board will experience a surplus during the 2000-2002 biennium that roughly approximates the \$177,636 deficit carried over from

the 1996-1998 biennium. As a result, sometime near the close of the 2000-2002 biennium the board will likely have to reduce fees to come into compliance with § 54.1-113 of the Code. This subsequent fee reduction should amount to about half of the current proposed increase.

Businesses and entities particularly affected. The proposed regulation particularly affects the 495 funeral establishments, 1,370 funeral service providers, 208 funeral directors, and nine embalmers currently licensed in Virginia, anyone who may apply for such licensure in the future, and their clientele.

Localities particularly affected. No localities are particularly affected by this proposed regulation.

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

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

Summary of analysis. The proposed regulation would increase various licensure and registration fees paid by funeral directors and embalmers to the Board of Funeral Directors and Embalmers. The purpose of these fee increases is to bring the board into compliance with § 54.1-113 of the Code of Virginia which requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is a more than 10% difference between revenues and expenses. The primary effect of the proposed fee increases will be to increase the regulatory compliance costs borne by the regulated community by \$340,500 (or 56%).

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The board concurs with the analysis of the Department of Planning and Budget.

Summary:

*The board is proposing amendments to 18 VAC 65-20-70 through 18 VAC 65-20-100 to consolidate all fees into 18 VAC 65-20-70 and to increase certain fees charged to licensees, certificate holders, and registrants. The board is also proposing amendments to 18 VAC 65-40-40 through 18 VAC 65-40-80 to consolidate all fees into 18 VAC 65-40-40 and to increase certain fees charged to resident trainees. The increased fees are necessary to fund functions, such as investigation of complaints, inspections of facilities, and initiation of disciplinary procedures which are essential for protection of the public health, safety and welfare. The amendments are also necessary for compliance with § 54.1-2400 of the Code of Virginia, which requires the agency to collect fees sufficient to cover all expenses for the administration and operation of the board.*

**18 VAC 65-20-70. Initial Required fees.**

~~The following fees shall be paid as applicable for initial licensure or registration. For resident trainee fees see the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).~~

# Proposed Regulations

A. The following fees shall apply for initial licensure or registration and for renewal of licensure or registration:

- 1. Examination \$100;
- 2. 1. License to practice funeral service or as a funeral director or an embalmer \$400; \$150
- 3. 2. Funeral service establishment license 450; \$225
- 4. 3. Surface transportation and removal service registration \$200; \$250
- 5. 4. Courtesy card \$50; \$100

B. Other fees.

- 1. Reinstatement fee for each year of licensure expiration \$50 per year
- 6. 2. Change of ownership, manager, or establishment name \$15; \$50
- 7. 3. Verification of license when applying for licensure in or registration to another state \$50;
- 8. Verification of license when applying for courtesy card in another state \$5;
- 9. Resumption of traineeship after interruption \$40.
- 4. Duplicate license, registration, courtesy card \$25
- 5. Duplicate wall certificates \$50
- 6. Change of ownership \$100
- 7. Reinspection for change of location or ownership \$100

## 18 VAC 65-20-80. Renewal fees. (Repealed.)

The following annual fees shall be paid as applicable for license renewal. For resident trainee renewal fees see the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).

- 1. Funeral service license payable by March 31 \$100;
- 2. Funeral director license payable by March 31 \$100;
- 3. Embalmer license payable by March 31 \$100;
- 4. Funeral service establishment license payable by January 31 \$150;
- 5. Surface transportation and removal service registration payable by January 31 \$200;
- 6. Courtesy cards payable by December 31 \$50.

## 18 VAC 65-20-90. Reinstatement fees. (Repealed.)

The following reinstatement fees shall be paid in addition to annual renewal fees for reinstatement of license or

registration up to three years following expiration. For resident trainee reinstatement fees see the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).

- 1. Funeral service, director, or embalmer reinstatement \$25;
- 2. Establishment reinstatement \$25;
- 3. Transportation and removal service reinstatement \$25.

## 18 VAC 65-20-100. Other fees. (Repealed.)

Duplicate trainee registrations, surface transportation and removal registrations, licenses, establishment licenses, or courtesy cards shall be issued by the board at the individual's request.

- 1. Duplicate license, registration, courtesy card \$25;
- 2. Duplicate wall certificates \$50.

**NOTICE:** The forms used in administering 18 VAC 65-20-10 et seq., Board of Funeral Directors and Embalmers Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

### FORMS

- Application for Funeral Service Licensure (rev. 7/1/98).
- Application for Establishment Licensure/Change of Licensure Address (rev. 7/1/98).
- Application for Waiver of Full-Time Manager Requirements (rev. 7/1/98).
- Application for Surface Transportation and Removal Service Registration (rev. 7/1/98).
- Application for Courtesy Card (rev. 7/1/98).
- Application for Individual Licensure.
- Licensure Verification Form.
- Renewal Notice and Application, C-46454 (rev. 7/1/97).
- Appendix I: General Price List.
- Appendix II: Casket Price List; Outer Burial Container Price List.
- Appendix III: Itemized Statement of Funeral Goods and Services Selected.



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6006 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR FUNERAL SERVICE LICENSURE**

**FEE: \$150** Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia. **ALL FEES ARE NON-REFUNDABLE.**

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54-1-116 of the Code of Virginia, you are required to disclose your Social Security Number or Virginia DMV Control Number to the Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be shared with the Department of Motor Vehicles and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION:** Name in full (please type or print)

LAST	SUFFIX	FIRST	MIDDLE/ALTERN
HOME ADDRESS	CITY	STATE	ZIP CODE
DATE OF BIRTH	SOCIAL SECURITY NUMBER	AREA CODE & TELEPHONE NUMBER	
FAX NUMBER	EMAIL ADDRESS		
REQUESTED EXAMINATION DATE AND LOCATION			
VIRGINIA BEACH	REASON:		

**II. PROFESSIONAL LICENSURE IN ANOTHER JURISDICTION.** If you are currently licensed or have been licensed in another jurisdiction, please list the information below and complete the licensure verification form for each and forward to the jurisdiction you have indicated. Use additional sheets if necessary to list all licenses.

Jurisdiction	Date of Issue	License #	Personal Ave

**SHOULD THE STATUS OF YOUR FUNERAL SERVICE, DIRECTING, OR EMBALMING LICENSE(S) IN ANOTHER JURISDICTION CHANGE PENDING CONSIDERATION OF THIS APPLICATION YOU ARE REQUIRED TO INFORM THIS BOARD IN DETAIL IMMEDIATELY. THE FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REVOCATION OF THIS BOARD.**

**III. EDUCATION:**

**1. HIGH SCHOOL NAME:**

ADDRESS	CITY	STATE	ZIP CODE
DATE OF GRADUATION:		DEGREE EARNED:	

**2. HIGHER EDUCATION:**

ADDRESS	CITY	STATE	ZIP CODE
DATE OF GRADUATION:		DEGREE EARNED:	

**IV. NATIONAL BOARD SCORES**

DATE OF NATIONAL BOARD EXAM:	SCORE:
------------------------------	--------

**V. REQUIRED DOCUMENTATION:** The following documents must be on file or received in the Board's office 45 days prior to the scheduled examination date. Please indicate as attached below:

Certified birth certificate	ATTACHED	ON FILE WITH BOARD OFFICE	OTHER: Explain
Certified high school or GED transcript			
Certified mortuary school transcript			
Certified National Board scores			

Revised: 7/1/98

CONTINUED ON BACK

**VI. AFFIDAVIT**

1. Have you ever been convicted of any criminal offense other than minor traffic violations? Yes \_\_\_ No \_\_\_ If yes, explain: \_\_\_\_\_

2. Have you ever had a license to practice funeral service lapse, voluntarily surrendered, placed on probation, suspended, revoked, or have you been otherwise found in violation of laws of any Board that regulates funeral service? Yes \_\_\_ No \_\_\_ If yes, explain: \_\_\_\_\_

**VII. AFFIDAVIT** (To be completed by a Notary Public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I, \_\_\_\_\_, am applying to be licensed to practice Funeral Service in the Commonwealth of Virginia. I will, at all times, abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice. I understand that should I violate any of these laws or regulations, that action may be taken against my license by due process. I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission expires: \_\_\_\_\_

SEAL

Notary Public

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR COURTESY CARD**




FEES: \$100 Check or money order must accompany this application. Applications received without the appropriate fees will be returned. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER:** In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION: Name in Full (Please print or type)**

LAST	SUFFIX	FIRST	MIDDLE/INITIAL
HOME ADDRESS	CITY	STATE	ZIP CODE
SOCIAL SECURITY NUMBER	AREA CODE & TELEPHONE NUMBER		
FIRM'S NAME	AREA CODE & TELEPHONE NUMBER		
FIRM'S STREET ADDRESS	CITY	STATE	ZIP CODE

**III. APPLICATION INFORMATION:** Please answer yes or no to the following:

1. Have you ever been convicted of any criminal offense other than a minor traffic violation? Yes  No  If yes, please explain: \_\_\_\_\_

2. Have you ever had a license to practice funeral service lapse voluntarily surrendered placed on probation \_\_\_\_\_, suspended \_\_\_\_\_, revoked \_\_\_\_\_ or have you been otherwise found in violation of laws of any Board that regulates funeral services? Yes  No  If yes, explain: \_\_\_\_\_

**III. PROFESSIONAL LICENSURE**

If you are currently licensed or have been licensed in another jurisdiction, please list the information below and complete a license verification form for each and forward to the jurisdictions you have indicated. Use additional sheets if necessary for all licenses.

Jurisdiction	Date of Initial Licensure	License Number	Professional Area

**IV. AFFIDAVIT** (To be completed by a Notary Public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I, \_\_\_\_\_, an applicant to be issued a Courtesy Card which only allows me to remove bodies, entomb bodies, and arrange funeral services in the Commonwealth of Virginia. I understand that being issued a Courtesy Card does not extend to the right to establish or engage generally in the business of funeral directing and embalming nor the right to be continuously employed professionally by a funeral establishment in the Commonwealth of Virginia. I will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice. I understand that should I violate any of these laws or regulations, that action may be taken against my Courtesy Card. I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Commission expires \_\_\_\_\_.

Signature of Applicant \_\_\_\_\_  
 Notary Public \_\_\_\_\_

**SEAL**

Revised: 7/1/98

CONTINUED ON BACK

**V. TO BE COMPLETED BY THE LICENSURE BOARD HAVING JURISDICTION:**

1. Funeral Service License number: \_\_\_\_\_ was granted on \_\_\_\_\_

2. Funeral Embalmers License number: \_\_\_\_\_ was granted on \_\_\_\_\_

3. Funeral Director License number: \_\_\_\_\_ was granted on \_\_\_\_\_

4. How is this license issued: Reciprocity \_\_\_\_\_ Endorsement \_\_\_\_\_ or as a Primary (original) License \_\_\_\_\_

5. Status of Current License: Current \_\_\_\_\_ Inactive \_\_\_\_\_ Military Advoyance \_\_\_\_\_ Other \_\_\_\_\_

6a. Has this licensee ever been suspended, revoked, or otherwise disciplined? Yes  No  If yes, please explain: \_\_\_\_\_

6b. Is there a probationary period in force? Yes  No  If yes, please explain: \_\_\_\_\_

**CERTIFICATION**

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS FORM IS TRUE IN EVERY RESPECT, IN ACCORDANCE WITH THE RECORDS ON FILE WITH:

\_\_\_\_\_  
 (Jurisdiction and official name of Board)

SEAL

Executive Officer's Signature \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

**EXPLANATIONS:**



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR ESTABLISHMENT LICENSE/CHANGE OF ADDRESS**

Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54-1-10 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing fee for this application will be doubled. If you are a Virginia resident, you must provide your Social Security Number. If you are not a Virginia resident, you must provide your Virginia DMV control number. This information is required for identification purposes and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with the state for law enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION**

ESTABLISHMENT NAME	TRADE NAME (if other than establishment name)
FAX NUMBER	HOME ADDRESS
ZIP CODE/TELEPHONE NUMBER	CITY
STATE	STATE
STREET ADDRESS	CITY
MAILING ADDRESS	STATE
TRADE NAME (if other than establishment name)	

**II. ADMINISTRATOR INFORMATION**

OWNER/ORGANIZATION NAME	SOCIAL SECURITY NUMBER/ID#	AREA CODE/TELEPHONE NUMBER
OWNER/ORGANIZATION OFFICER	SOCIAL SECURITY NUMBER	AREA CODE/TELEPHONE NUMBER
MAILING ADDRESS	STATE	ZIP CODE
MANAGER	SOCIAL SECURITY NUMBER	LICENSE NUMBER

**III. APPLICATION INFORMATION (Check All That Apply)**

( ) New Establishment (\$225.00)  
 Opening Date: \_\_\_\_\_

( ) Change of Name or Trade Name (\$50.00)  
 Effective Date: \_\_\_\_\_  
 Establishment License #: \_\_\_\_\_

( ) Change of Location (\$225.00)  
 Effective Date: \_\_\_\_\_  
 Establishment License #: \_\_\_\_\_

\*Note: picture is required. Please notify the Board office 60 days prior to scheduled opening date.

1. Does this establishment replace a facility presently licensed by this Board. Yes \_\_\_ No \_\_\_ If yes, please list the name and license number of that facility and the date it will be officially closed below: \_\_\_\_\_

2. Has the above mentioned establishment ever had a license lapse, voluntarily surrendered, placed on probation, revoked, or otherwise been found in violation of the laws of any board that regulates funeral service \_\_\_\_\_? If yes, please explain in detail: \_\_\_\_\_

NAME: \_\_\_\_\_ LICENSE NUMBER: \_\_\_\_\_ CLOSURE DATE: \_\_\_\_\_

**CONTINUED ON BACK**

**V. AFFIDAVIT** (To be completed by a Notary Public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I (we) \_\_\_\_\_ an applicant to have my (our) business licensed laws of the Commonwealth and Regulations of the Board of Establishment Permit by this process. I (we) understand that should I (we) violate any of these laws or regulations, that action may be taken against my (our) establishment permit by this process.

I (we) hereby certify that all statements contained in this application, and all representations and documents presented by me (us) in connection with this application are true and correct.

Signature of Owner/Corporate Officer \_\_\_\_\_ Signature of Co-Owner \_\_\_\_\_  
 DATE \_\_\_\_\_ DATE \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ My Commission expires \_\_\_\_\_

Signature of Establishment Manager \_\_\_\_\_  
 DATE \_\_\_\_\_

SEAL \_\_\_\_\_ Notary Public \_\_\_\_\_



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR WAIVER OF FULL-TIME MANAGER REQUIREMENTS**

APPLICATION FEE: \$50.00

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER:** In accordance with § 54-1-16 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. MANAGER INFORMATION: Name in full (Please print or type)**

MANAGER'S NAME: \_\_\_\_\_ MANAGER'S SOCIAL SECURITY NUMBER: \_\_\_\_\_

MANAGER'S LICENSE NUMBER: \_\_\_\_\_ AREA CODE & TELEPHONE NUMBER: \_\_\_\_\_

**II. IDENTIFYING INFORMATION:**

ESTABLISHMENT #1	ESTABLISHMENT #2
ESTABLISHMENT'S NAME: _____	ESTABLISHMENT'S NAME: _____
STREET ADDRESS: _____	STREET ADDRESS: _____
CITY, STATE, ZIP CODE: _____	CITY, STATE, ZIP CODE: _____
TRADE NAME (If other than establishment name): _____	TRADE NAME (If other than establishment name): _____

**III. QUALIFYING INFORMATION:**

ESTABLISHMENT #1	ESTABLISHMENT #2
INITIAL LICENSING DATE: _____	INITIAL LICENSING DATE: _____
NUMBER OF FUNERAL CALLS FOR THE PAST THREE YEARS: 19____ 19____ 19____	NUMBER OF FUNERAL CALLS FOR THE PAST THREE YEARS: 19____ 19____ 19____

**NOTE: SEE REQUIRED DOCUMENTATION**

INDICATE THE NUMBER OF MILES BETWEEN THE TWO FUNERAL ESTABLISHMENTS: \_\_\_\_\_

DO EITHER OF THESE ESTABLISHMENTS REPLACE A FACILITY PRESENTLY LICENSED BY THIS BOARD? YES \_\_\_\_\_ NO \_\_\_\_\_ If yes, please list the name and license number of that facility and the date it will be officially closed below.

NAME: \_\_\_\_\_ LICENSE # \_\_\_\_\_

CLOSURE DATE: \_\_\_\_\_

HAS THE ABOVE APPLICANT EVER HAD A LICENSE LAISEZ PASSE PLACED ON PROBATION REASONED \_\_\_\_\_, OR OTHERWISE BEEN FOUND IN VIOLATION OF THE LAWS OF ANY BOARD THAT REGULATES FUNERAL SERVICE? IF YES, PLEASE EXPLAIN: \_\_\_\_\_

**IV. REQUIRED DOCUMENTATION:**

Monthly copies of the "Funeral Director's Monthly Vital Statistics Report" for the past three years for each establishment.

Revised: 7/1/98

**CONTINUED ON BACK**

**V. AFFIDAVIT (To be completed by a Notary Public):**

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I (We) \_\_\_\_\_ am (are) applying to have two businesses managed by one manager. I (we) will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I(We) understand that should I (we) violate any of these laws or regulations, that action may be taken against my(our) establishment permit by due process.

I(we) hereby certify that all statements contained in this application, and all representations and documents presented by me (us) in connection with this application are true and correct.

Signature of Establishment #1 Owner/Representative \_\_\_\_\_ Signature of Establishment #2 Owner/Representative \_\_\_\_\_

Signature of Establishment #1 Co-Owner/Representative \_\_\_\_\_ Signature of Establishment #2 Co-Owner/Representative \_\_\_\_\_

Signature of Establishment Manager \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

My Commission expires \_\_\_\_\_

Notary Public \_\_\_\_\_

SEAL



---

# Proposed Regulations

---

## 18 VAC 65-40-40. Initial Fees.

A. The following fees shall be paid as applicable for registration:

1. Funeral service resident trainee registration, ~~reinstatement or renewal,~~ ~~\$25~~ \$75
- ~~2. Resumption of traineeship after interruption,~~ \$10
2. Late fee for renewal up to 30 days after expiration \$25
3. Duplicate copy of trainee registration \$25
4. Returned check \$25
5. Change of supervisor \$15

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refundable once submitted.

## 18 VAC 65-40-50. Renewal fee. (Repealed.)

~~The following annual fee shall be paid for registration renewal:~~

~~Resident trainee registration renewal, \$25~~

## 18 VAC 65-40-60. Reinstatement fee. (Repealed.)

~~The following reinstatement fee shall be paid in addition to annual renewal fees for reinstatement of an expired registration up to three years following expiration:~~

~~Resident trainee registration reinstatement, \$10~~

## 18 VAC 65-40-70. Duplicates. (Repealed.)

~~Duplicate trainee registration \$25~~

## 18 VAC 65-40-80. Addition fee information. (Repealed.)

~~A. There shall be a fee of \$25 for returned check.~~

~~B. Fees shall not be refunded once submitted.~~

**NOTICE:** The forms used in administering 18 VAC 65-40-10 et seq., Resident Trainee Program for Funeral Service, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

### FORMS

Application for ~~Apprenticeship~~ *Resident Trainee Program* (rev. 7/1/98).

Application for ~~Apprenticeship~~ *Resident Trainee Program Supervisor* (rev. 7/1/98).

General Information for All Trainees, DHP (revised 11/93).

Resident Trainee Report, DHP-14-004 (revised 11/93).

Certification of Embalmings, DHP-14-005 (revised 11/93).

Certification of Funerals, DHP-14-006 (revised 11/93).

Training Program -Funeral Service Supervisor's Responsibilities.

Training Program -Trainee Responsibilities.

*Renewal Notice and Application, C-46454 (rev. 7/1/97).*



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR RESIDENT TRAINEE PROGRAM**

Application Fee: \$75.00  
 Resubmission Fee: \$75.00 (Change of Supervisor)  
 Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER:** In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION:** Name in full (please type or print)

LAST	FIRST	MIDDLE/INITIAL	
HOME ADDRESS	CITY	STATE	ZIP CODE
DATE OF BIRTH	SOCIAL SECURITY NUMBER	AREA CODE & TELEPHONE NUMBER	
FAK NUMBER		E-MAIL ADDRESS	

**II. PROFESSIONAL LICENSURE IN ANOTHER JURISDICTION:** If you are currently licensed or have been licensed as a professional or apprentice in another jurisdiction, please list the information below and complete the licensure verification form for each and forward to the jurisdictions you have indicated. Use additional sheets if as necessary to list all licenses.

Jurisdiction	Date of Initial Licensure	License Number	Professional Area

**SHOULD THE STATUS OF YOUR FUNERAL SERVICE, DIRECTING, OR EMBALMING LICENSE(S) IN ANOTHER JURISDICTION CHANGE PENDING CONSIDERATION OF THIS APPLICATION, YOU ARE REQUIRED TO INFORM THIS BOARD IN DETAIL IMMEDIATELY. THE FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REVOCATION OF THE SAME.**

**III. EDUCATION:**

HIGH SCHOOL NAME	STATE	DEGREE EARNED
ADDRESS	CITY	ZIP CODE

**IV. TRAINING SITE INFORMATION**

ESTABLISHMENT'S NAME:	LICENSE NUMBER
ADDRESS	STATE
CITY	ZIP CODE
MANAGER'S NAME:	LICENSE NUMBER
FUNERAL SERVICE SUPERVISOR	LICENSE NUMBER
EMBALMING SUPERVISOR	LICENSE NUMBER
DATE EMPLOYMENT BEGAN	TOTAL HOURS SCHEDULED TO WORK EACH WEEK (Minimum 40 hour requirement)

**V. REQUIRED DOCUMENTATION:** The following documents shall be submitted with this application. Please indicate as stipulated below:

CERTIFIED HIGH SCHOOL TRANSCRIPT	ATTACHED
CERTIFIED BIRTH CERTIFICATE	ON FILE WITH BOARD OFFICE
	OTHER (EXPLAIN)

Revised: 7/1/98 CONTINUED ON BACK

**VI. AFFIDAVIT**

1. Have you ever been convicted of any criminal offense other than minor traffic violations? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, explain: \_\_\_\_\_

2. Have you ever had a license to practice funeral service or a registration for apprenticeship to lapse, suspended, \_\_\_\_\_, revoked \_\_\_\_\_, or have you been otherwise found in violation of laws of any Board that regulates funeral service? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, explain: \_\_\_\_\_

**VII. AFFIDAVIT** (To be completed by a Notary Public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I, \_\_\_\_\_, am applying to be registered as an apprentice in Funeral Service in the Commonwealth of Virginia. I will, at all times, abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I understand that should I violate any of these laws or regulations, that action may be taken against my license by due process.

I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Notary Public: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission expires: \_\_\_\_\_

**SEAL**

# Proposed Regulations

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

## RENEWAL NOTICE AND APPLICATION

Telephone:  
License, certificate or registration number:

TYPE OF RENEWAL	CURRENT EXPIRATION DATE	CURRENT AMOUNT DUE \$	FROM	RENEWAL PERIOD TO	AMOUNT DUE IF RECEIVED AFTER \$
-----------------	-------------------------	--------------------------	------	-------------------	------------------------------------

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"  
RETURN PAYMENT AND THE COMPLETED BOTTOM PORTION ONLY IN THE ENCLOSED ENVELOPE  
KEEP TOP PORTION FOR YOUR RECORDS

<p><b>DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER</b> In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. If the boxes below are empty, write in your Social Security or Virginia DMV Control Number. If the boxes do contain numbers, please verify that they are correct and make any necessary changes.</p> <p><b>NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.</b></p> <p>*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.</p>	<p><b>INSTRUCTIONS</b></p> <ol style="list-style-type: none"> <li>1. Verify Social Security or Virginia DMV Control Number at left.</li> <li>2. Complete item "A" below if you do not wish to renew.</li> <li>3. Make any address changes on this application when renewing.</li> <li>4. Make any name changes on this application and enclose a copy of your marriage license or court order.</li> <li>5. Note name and license, certificate or registration number on all enclosures.</li> <li>6. Return the bottom portion of this application in the enclosed envelope.</li> </ol> <p>A. <input type="checkbox"/> Check here if you do not wish to renew, and sign below.</p> <p>Signature _____</p>
--	--

THIS BOTTOM PORTION MUST BE RETURNED IN ORDER TO RENEW

Department of Health Professions  
Type of renewal:  
License, certificate or registration number:

 <p><b>COMMONWEALTH OF VIRGINIA</b> <b>DEPARTMENT OF HEALTH PROFESSIONS</b> <b>BOARD OF FUNERAL DIRECTORS AND EMBALMERS</b> 6606 W. BROAD STREET, 4TH FLOOR RICHMOND, VIRGINIA 23230-1717</p> <p><b>APPLICATION FOR RESIDENT TRAINEE PROGRAM SUPERVISOR</b></p>	<p><b>DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.</b> In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. If the boxes below are empty, write in your Social Security or Virginia DMV Control Number. If the boxes do contain numbers, please verify that they are correct and make any necessary changes. <b>*IN ORDER TO OBTAIN A VIRGINIA DRIVER'S LICENSE CONTROL NUMBER, IT IS NECESSARY TO APPEAR IN PERSON AT AN OFFICE OF THE DEPARTMENT OF MOTOR VEHICLES IN VIRGINIA. A FEE AND DISCLOSURE OF YOUR SOCIAL SECURITY NUMBER WILL BE REQUIRED.</b></p> <p><b>I. IDENTIFYING INFORMATION:</b> Name in full (please type or print)</p> <p>RESIDENT TRAINEE'S NAME: _____ DATE OF EMPLOYMENT: _____</p> <p>ESTABLISHMENT'S NAME: _____ LICENSE NUMBER: _____</p> <p>AREA CODE AND TELEPHONE NUMBER: _____</p> <p>STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____</p> <p>MAILING ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____</p> <p><b>II. SUPERVISOR'S INFORMATION:</b></p> <p>FUNERAL SERVICE SUPERVISOR'S NAME: _____ SOCIAL SECURITY NUMBER: _____</p> <p>EMBALMING SUPERVISOR'S NAME: _____ SOCIAL SECURITY NUMBER: _____</p> <p>ESTABLISHMENT LICENSE MANAGER: _____ SOCIAL SECURITY NUMBER: _____</p> <p><b>III. BUSINESS INFORMATION:</b></p> <p>Number of funeral services conducted at establishment in the past year: _____</p> <p>Number of embalming procedures performed at establishment in the past year: _____</p> <p><b>IV. AFFIDAVIT: (To be completed by a Notary Public)</b></p> <p>State of _____ County/City of _____</p> <p>We are applying for approval of establishment and individuals as the training site and supervisor(s) for the above captioned apprentice. The supervisor(s) listed above are those responsible for the captioned apprentice shown on page 1 of this application. We will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice. We understand that should we violate any of these laws or regulations, that action may be taken against the responsible parties by due process.</p> <p>We hereby certify that all statements contained in this application, and all representations and documents presented by us in connection with this application are true and correct.</p> <p>Signature of Manager _____ Signature of Funeral Service Supervisor _____</p> <p>Signature of Embalmer _____</p> <p>Subscribed and sworn to before me this _____ day of _____, 19____.</p> <p>My Commission expires: _____</p> <p style="text-align: right;">Notary Public _____</p>
--	---

VA.R. Doc. Nos. R98-98 and R98-99; Filed July 15, 1998, 11:09 a.m.

\*\*\*\*\*

**Title of Regulation:** 18 VAC 65-20-10 et seq. **Regulations of the Board of Funeral Directors and Embalmers (amending 18 VAC 65-20-10, 18 VAC 65-20-50, 18 VAC 65-20-60, 18 VAC 65-20-70, 18 VAC 65-20-110 through 18 VAC 65-20-150, 18 VAC 65-20-170, 18 VAC 65-20-240, 18 VAC 65-20-350, 18 VAC 65-20-400, 18 VAC 65-20-440, 18 VAC 65-20-500, 18 VAC 65-20-510, 18 VAC 65-20-530, 18 VAC 65-20-540, 18 VAC 65-20-550, 18 VAC 65-20-560, 18 VAC 65-20-580, 18 VAC 65-20-590, 18 VAC 65-20-630, and 18 VAC 65-20-700; adding 18 VAC 65-20-235; repealing 18 VAC 65-20-20, 18 VAC 65-20-30, 18 VAC 65-20-40, 18 VAC 65-20-80, 18 VAC 65-20-90, 18 VAC 65-20-100, 18 VAC 65-20-160, 18 VAC 65-20-180 through 18 VAC 65-20-230, 18 VAC 65-20-250 through 18 VAC 65-20-340, 18 VAC 65-20-360 through 18 VAC 65-20-390, 18 VAC 65-20-410, 18 VAC 65-20-430, 18 VAC 65-20-450 through 18 VAC 65-20-490, 18 VAC 65-20-520, 18 VAC 65-20-600, 18 VAC 65-20-610, 18 VAC 65-20-620, and 18 VAC 65-20-640 through 18 VAC 65-20-690).**

**Statutory Authority:** § 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia.

**Public Hearing Date:** September 17, 1998 - 9 a.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** Chapters 24 (§ 54.1-2400 et seq.) and 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia provide the basis for this regulation.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 28 establishes the powers and duties of the Board of Funeral Directors and Embalmers and the mandate for licensure. It further establishes standards for funeral practice and mandates the board to set requirements for competency.

**Purpose:** The purpose of these regulations is to protect the public health, safety, and welfare by establishing educational, experiential, and examination requirements for those seeking licensure and by setting standards of professional conduct for practice. Amendments are proposed to implement the recommendations of the Board of Funeral Directors and Embalmers in its report pursuant to Executive Order 15 (94), which were to simplify, clarify, and eliminate redundancy and unnecessary requirements.

**Substance:**

18 VAC 65-20-10. Amendments are proposed to eliminate definitions which are redundant or unnecessary since the terms are already defined in the Code of Virginia or in the federal rule regarding Funeral Industry Practices of the Federal Trade Commission. Amendments to terms such as

“establishment manager” are proposed for clarification in usage.

18 VAC 65-20-20, 18 VAC 65-20-30, and 18 VAC 65-20-40. These sections are repealed because they are unnecessary.

18 VAC 65-20-50. Amendments are proposed to clarify the posting requirements and to eliminate the rule that a licensee be able to produce his wallet license upon request.

18 VAC 65-20-60. An amendment is proposed to require notification of a change of address or name within 30 days rather than the current requirement of five days.

18 VAC 65-20-70. All fees of the board are placed in this section. A reduction from \$50 to \$25 is proposed in the fee charged for verification of licensure to another state.

18 VAC 65-20-80, 18 VAC 65-20-90, and 18 VAC 65-20-100. These sections are repealed and incorporated in other sections.

18 VAC 65-20-110. An amendment is proposed to specify that all examination fees are to be paid directly to the examination service contracted by the board for its administration.

18 VAC 65-20-120 and 18 VAC 65-20-130. Amendments are proposed to simplify and include requirements and dates for renewal of licensure. Also, an amendment is proposed to specify that continued practice on an expired license may subject the licensee to disciplinary action.

18 VAC 65-20-140 and 18 VAC 65-20-150. Amendments are editorial only.

18 VAC 65-20-160. This section is repealed as the requirements are already stated in the Code of Virginia.

18 VAC 65-20-170. Amendments are proposed to incorporate requirements for an establishment license which are currently scattered in other sections of this chapter. The requirement for notification to the board 45 days prior to opening an establishment has been amended, and the requirement for a full-time manager has been amended to conform to changes in § 54.1-2810 of the Code of Virginia. A requirement for a reinspection of an establishment following a change of ownership is proposed.

18 VAC 65-20-180 through 18 VAC 65-20-230. These sections are repealed. The requirements are either incorporated into other sections or eliminated as unnecessary.

18 VAC 65-20-235. This new section sets forth the educational requirement for licensure which is currently placed in another part of this chapter.

18 VAC 65-20-240. This section sets forth qualifications for licensure by examination and establishes the application process; requirements now found in many other sections have been consolidated into one section.

18 VAC 65-20-250 through 18 VAC 65-20-340. These sections are repealed as the requirements are now in other

---

# Proposed Regulations

---

sections or are unnecessary because the board is contracting with an examination service for administration.

18 VAC 65-20-350. The proposed amendment establishes the regulations for applying for licensure by endorsement and incorporates the current requirement for passage of a state examination.

18 VAC 65-20-360 through 18 VAC 65-20-390. These sections are repealed. The resident trainee regulations are established in 18 VAC 65-40-10 et seq.

18 VAC 65-20-400. Amendments are editorial and clarifying.

18 VAC 65-20-410 and 18 VAC 65-20-430. These sections are repealed because they are repetitive.

18 VAC 65-20-440. Amendments are proposed to include parts of other sections.

18 VAC 65-20-450 through 18 VAC 65-20-490. These sections are repealed because the requirements are included in other sections or in the Code of Virginia.

18 VAC 65-20-500. Amendments are proposed for grammatical consistency and to eliminate redundancy. An amendment is also proposed which will not require the name of the establishment manager to appear on any advertisement.

18 VAC 65-20-510 through 18 VAC 65-20-560. Amendments are proposed to consolidate requirements which are already established in the embalming report in Appendix IV or in other sections of this chapter. Included in that revision is the repeal of 18 VAC 65-20-550.

18 VAC 65-20-580. Amendments are editorial or made to include requirements from other sections.

18 VAC 65-20-590. The amendment proposed specifies that disposal of waste materials must be done in conformity with local, state, and federal law.

18 VAC 65-20-600, 18 VAC 65-20-610 and 18 VAC 65-20-620 are being repealed.

18 VAC 65-20-630. Amendments are proposed to specify that disclosures and price lists must be provided pursuant to the rules of the FTC and in compliance with information contained in Appendices I, II, and III.

18 VAC 65-20-640 through 18 VAC 95-20-690. Since the information in these sections is provided in the appendices, these sections are repealed.

18 VAC 65-20-700. Amendments are proposed to reduce the state requirement of three years for keeping records to the FTC requirement of one year.

## Issues:

Issue 1: Reduction in the number and complexity of regulations.

In compliance with Executive Order 15 (94), the board has examined every regulation for necessity and clarity and has determined that 46 sections of this chapter could be repealed and a number of others simplified. Many of the regulations

repeat requirements stated in the Code of Virginia or in the federal rule regarding Funeral Industry Practices by the Federal Trade Commission. Other regulations repeated information required on price lists which is also contained in the appendices and attached to these regulations. The board has eliminated that repetition and referenced the appendices and FTC for required information and disclosures.

Advantages to the licensees: By repealing unnecessary sections, consolidating and simplifying requirements, and reorganizing for clarity, these regulations should be more easily understood. Since the regulations will be reduced and simplified, compliance should also be easier and there may be fewer questions addressed to the board staff.

Disadvantages to the licensees: There should be no disadvantages to the licensees.

Advantages or disadvantage to the public: There should be no advantages or disadvantages to the public since no requirements for pricing, standards of conduct, or disclosure of information have been changed.

Issue 2: Reduction in recordkeeping and reporting requirements.

The board has looked for ways to reduce the recordkeeping and reporting requirements for licensees. The current requirement is five days for notification of a change of name or address; it is amended to require notice within 30 days. The current requirement for maintenance of all records is three years; the board is proposing to amend the regulation to a one-year requirement, which is consistent with FTC rules. The current requirement for securing a facility permit is for notification to be given to the board 45 days prior to opening; the amended regulation would simply require notice "prior" to the opening of a facility which will allow sufficient time for an inspection.

Advantages or disadvantages to the licensees: The reduction in regulation should not result in a major change in the burden of conducting funeral services according to statutes and regulations. It should make certain changes in the practice of the licensee easier, including the recordkeeping. By reducing the requirements from three years to one year, the licensee will no longer be confused with inconsistent federal and state requirements.

Advantages or disadvantage to the public: There are no advantages or disadvantages to the public.

Issue 3: Reduction in the advertising requirements.

The proposed amended regulations would eliminate the requirement for publication of the name of an establishment manager with every advertisement. Licensees have found the requirement to be inconvenient and unnecessary.

Advantages or disadvantages to the licensees: The change would eliminate one rule which the licensee and the establishment must now follow in providing and advertising its services to the public.

Advantages or disadvantage to the public: Since the establishment manager is often someone different from the funeral service licensee who deals with a family in a preneed or at-need situation, providing the name in an advertisement is unnecessary for full disclosure. The licensees of all funeral service providers must be displayed at the establishment, and the name of the manager is available to anyone who inquires.

Issue 4: Requirement for a reinspection with a change of ownership.

In a current study pursuant to HJR 553 of the 1997 General Assembly, it became apparent that the board was often not fully informed about ownership of an establishment. The board became concerned that a change of ownership does in fact create a new establishment and as such should necessitate a new inspection. Other facilities licensed or permitted by the Department of Health Professions, such as pharmacies and veterinary hospitals, currently have such a requirement.

Advantages or disadvantages to the licensees: For the licensed establishment that changes its location or its owner, the proposed amendment would necessitate an increase in \$100 in cost for an inspection.

Advantages or disadvantage to the public: The board does not believe that a new inspection is an unreasonable requirement and should in no way increase the costs of funeral services. The required inspection should provide increased protection for persons working in the facility and for the public who utilizes its services.

Estimated Impact:

Projected number of persons affected and their cost of compliance:

The approximate number of licensees affected by these regulations are as follows:

Funeral establishments	490
Funeral service providers	1,309
Funeral directors	206
Funeral embalmers	9
Courtesy card holders	96
Surface transportation and removal services	31

There will be no cost for compliance by regulated entities or their employers. Renewal fees for licenses and registrations are not being changed; and there are no additional requirements which would add to the cost of providing funeral services. The fee for verification of licensure to another state is being reduced from \$50 to \$25. For establishments that have a change of location or change of ownership, the proposed regulations would require a reinspection of the facility at a cost of \$100. For licensees who allow their license to lapse for more than one year, there would be an additional late fee of \$25 a year for up to three years for reinstatement.

Cost to the agency for implementation: The board will incur approximately \$1,500 in cost for printing and mailing Notices

of Comment and final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against licensees for violations of these regulations.

Cost to local governments: There will be no impact of these regulations on local government.

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

Summary of the proposed regulation. The proposed changes to the regulations governing funeral directors and embalmers are pursuant to review under Executive Order 15 (94). Most are intended to simplify and clarify these regulations and do not make any significant changes in the substantive requirements of the regulations. A few of the changes are substantive although none are of major consequence:

1. A fee reduction is proposed for verification of licensure in another state.
2. A requirement is added for the reinspection of an establishment following a change in ownership.
3. The proposal requires that those applying for licensure by endorsement take the Virginia State Board Examination.
4. Required record retention time is reduced to one year from three years.

Estimated economic impact. The fee reduction is consistent with the statutory mandate that fee revenues be set at a level that covers costs but does not produce any significant net revenues. Having fees cover the costs of professional licensing programs is generally consistent with economic efficiency.

The quality of service offered at funeral establishments is probably as dependent on the management and personnel as it is on the facilities in which the establishment operates. Thus, a change in management and ownership could have a large impact on service quality. Given that the cost of inspection is small, there is good reason to expect that there will be a net economic benefit from this change.

---

# Proposed Regulations

---

Requiring those requesting licensure by endorsement to take the state board exam is a relatively low cost way of ensuring that all candidates meet the minimum level of knowledge required by the regulations. The alternative is to monitor the licensing programs in other states to make sure that none of these have standards that fall below those required in Virginia. The approach chosen in this proposal appears to be the lower cost method of ensuring the minimum level of skills while still allowing relatively easy access to funeral practice in Virginia.

Record retention rules are often necessary adjuncts to efforts to enforce regulatory requirements. However, retention periods should be the shortest time period consistent with effective enforcement of the regulations. The reduction in retention times from three years to one year will reduce compliance costs slightly while not having a significant impact on enforcement activity.

Businesses and entities affected. This regulation will have a small positive impact on those with licenses to offer funeral services in Virginia. Currently, that includes 490 funeral establishments, 1,309 service providers, 206 funeral directors, 9 funeral embalmers, 96 courtesy card holders, and 31 surface transportation and remover service providers. Since the changes do not reduce the level of protection that consumers receive, there are no significant affects on the consumers of funeral services, although it is conceivable that some of the reduced compliance costs could be passed along to consumers in slightly lower prices.

Localities particularly affected. The proposed changes will not have a disproportionate impact on any localities in Virginia.

Projected impact on employment. Any projected reductions in compliance costs are probably too small to have any measurable or significant impact on employment.

Effects on the use and value of private property. Lower compliance costs may raise the value of a license to practice in this field and may raise the value of owning a funeral establishment. However, the change in costs is small and any impact on the value of these licenses and establishments will be too small to measure.

Summary of analysis. The reductions in compliance costs that will result from these proposed changes represents a net economic gain to Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The board concurs with the fiscal analysis prepared by the Department of Planning and Budget.

## Summary:

*In response to the comprehensive review conducted pursuant to Executive Order 15 (94), the proposed amendments repeal unnecessary or duplicative regulations (such as those which restate provisions of the Code of Virginia or the Funeral Industry Practices rules of the Federal Trade Commission), simplify current requirements (such as rules for funeral establishment),*

*and reduce certain regulatory burdens (such as the requirements for notification of a change of address or for the name of the establishment manager to appear on every advertisement).*

## PART I. GENERAL PROVISIONS.

### Article 1. ~~Definitions, Legal Base, Purpose, Applicability.~~

#### **18 VAC 65-20-10. Definitions.**

*Words and terms used in this chapter shall have the definitions ascribed in § 54.1-2800 of the Code of Virginia or in 16 CFR Part 453, Funeral Industry Practices of the Federal Trade Commission, which is incorporated by reference in this chapter. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:*

~~"Advertisement" means any information disseminated or placed before the public.~~

~~"Alternate care" means the preparation of a dead human body, exclusive of embalming, to include bathing and surface disinfection.~~

~~"Alternative container" means a nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed wood, composition materials (with or without an outside covering), or like materials.~~

~~"Applicant" means a person applying for examination licensure traineeship, or registration, by the board.~~

~~"At need" means when death has occurred.~~

~~"Board" means the Board of Funeral Directors and Embalmers.~~

~~"Burial garment" means clothing designed specifically for use on dead human remains.~~

~~"Cash advance item" means any item of service or merchandise described to a purchaser as a cash advance, accommodation, cash disbursement, or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.~~

~~"Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic or like material, and ornamented and lined with fabric.~~

~~"Conduct" means to carry out and perform.~~

~~"Courtesy card" means the card issued by the board which grants limited and restricted funeral service privileges in the~~

Commonwealth to out-of-state funeral service licensees, funeral directors, and embalmers.

~~"Cremation" means a heating process which incinerates human remains.~~

~~"Cremation urn" means a wood, metal, stone, plastic, or composition container or a container of other material, which is designed for encasing cremated ashes.~~

~~"Cremation vault" or "cremation outer burial container" means any container which is designed for encasement of an inner container or urn containing cremated ashes. Also known as a cremation box.~~

~~"Crematory" means any person, partnership, or corporation that performs cremation.~~

~~"Department" means the Department of Health Professions.~~

~~"Direct cremation" means a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.~~

~~"Embalmer" means any person engaged in the practice of embalming.~~

~~"Embalming" means the preservation and disinfection of the human dead by external or internal application of chemicals.~~

~~"Establishment manager" means a funeral service licensee or licensed funeral director licensed by the board, designated as the manager of record who is responsible for the direct supervision and management of a funeral service establishment or branch facility.~~

~~"Executive director" means the board administrator for the Board of Funeral Directors and Embalmers.~~

~~"Full-time employment" means employment at the establishment for 40 hours per week.~~

~~"Funeral ceremony" means a service commemorating the deceased with the body present.~~

~~"Funeral directing" means the for-profit profession of directing or supervising funerals, or preparing human dead for burial by means other than embalming.~~

~~"Funeral director" means any person engaged in the practice of funeral service.~~

~~"Funeral goods" means the goods which are sold or offered for sale directly to the public for use in connection with funeral services. Also known as funeral merchandise.~~

~~"Funeral provider" means any person, partnership, or corporation that sells or offers to sell funeral goods and funeral services to the public.~~

~~"Funeral service" means any service which may be used to (i) care for and prepare the deceased human bodies for burial, cremation, or other final disposition; and (ii) arrange, supervise, or conduct the funeral ceremony or the final disposition of deceased human bodies.~~

~~"Funeral service establishment" means any main establishment, branch, or chapel where any part of the profession of funeral directing or the act of embalming is performed.~~

~~"Funeral service licensee" means a person who is licensed in the practice of funeral service.~~

~~"Immediate burial" means a disposition of human remains by burial, without formal viewing, visitation or ceremony with the body present, except for a graveside service.~~

~~"Outer burial container" means any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.~~

~~"Person" means any individual, partnership, corporation, association, government, or governmental subdivision or agency or other entity.~~

~~"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial, or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.~~

~~"Preneed" means any time other than at need.~~

~~"Preneed funeral financing" means the arranging of funding for funeral services prior to death.~~

~~"Preneed funeral planning" means the making of funeral arrangements or selecting of funeral merchandise prior to death.~~

~~"Registration" means the process of applying to the board to seek approval to serve as a trainee, trainer, or to operate a surface transportation and removal service.~~

~~"Resident trainee" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the board.~~

~~"Services of funeral director and staff" means the basic services that are furnished by a funeral provider in arranging any funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits, and placing obituary notices.~~

~~"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or a funeral service provider.~~

~~"Surface transportation and removal service" means any person, private business, or funeral service establishment, except a common carrier engaged in interstate commerce, the Commonwealth and its agencies, engaged in the business of surface transportation or removal of dead human bodies in the Commonwealth.~~

~~"FTC" means the Federal Trade Commission.~~

---

# Proposed Regulations

---

## 18 VAC 65-20-20. ~~Legal base. (Repealed.)~~

~~The following legal base describes the responsibility of the Board of Funeral Directors and Embalmers regulations governing funeral service in the Commonwealth:~~

- ~~Title 54.1, Chapter 1 (§ 54.1-100 et seq.);~~
- ~~Title 54.1, Chapter 24 (§ 54.1-2400 et seq.);~~
- ~~Title 54.1, Chapter 25 (§ 54.1-2500 et seq.);~~
- ~~Title 54.1, Chapter 28 (§ 54.1-2800 et seq.);~~
- ~~Title 32.1, Chapter 7, Article 4 (§ 32.1-263 et seq.);~~
- ~~Title 32.1, Chapter 7, § 32.1-274;~~
- ~~Title 32.1, Chapter 8 (§ 32.1-277 et seq.); and~~
- ~~Title 11, Chapter 5 (§§ 11-24 et seq.) of the Code of Virginia; and § 453.1 (b)-(d), (f), (g)-(j), (k), (m)-(p) through § 453.9 of the Federal Trade Commission's Funeral Industry Rule.~~

## 18 VAC 65-20-30. ~~Purpose. (Repealed.)~~

~~This chapter establish the standards for qualifications, training, examination, licensure, and practice of persons as funeral service licensees; funeral directors; embalmers; funeral establishments; funeral service trainees; and surface transportation and removal services operating in the Commonwealth.~~

## 18 VAC 65-20-40. ~~Applicability. (Repealed.)~~

~~Individuals and establishments subject to this chapter are (i) funeral directors, (ii) embalmers, (iii) funeral service licensees, (iv) funeral establishments, (v) transportation and removal services, and (vi) resident trainees.~~

~~EXEMPTIONS: The provisions of this chapter shall not apply to any officer of local or state institutions or to the burial of the bodies of inmates of state institutions when buried at the expense of the Commonwealth or any of its political subdivisions.~~

~~Any person holding a license as a funeral director or embalmer or an equivalent in another state, having substantially similar requirements as the board, may apply to the board for courtesy card privileges to remove bodies from and to arrange funerals or embalm bodies in this Commonwealth. However, these privileges shall not include the right to establish or engage generally in the business of funeral directing and embalming in Virginia.~~

### ~~PART II. OPERATIONAL RESPONSIBILITIES.~~

#### ~~Article 1. Posting of License.~~

## 18 VAC 65-20-50. ~~Posting of license.~~

~~A. Each licensee shall post his an original or photocopy of his license, photocopy of his original license, or a duplicate license obtained from the board in a main entrance or place~~

~~conspicuous to the public in each establishment or branch where he is employed.~~

~~B. The establishment license shall be posted in a main entrance of the establishment or place conspicuous to the public.~~

~~C. Each licensee shall be able to produce his wallet license upon request.~~

### ~~Article 2. Records.~~

## 18 VAC 65-20-60. ~~Accuracy of information.~~

~~A. All changes of mailing address, name, place of employment, or change in establishment ownership, manager, or name shall be furnished to the board within five 30 days after the change occurs.~~

~~B. All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and shall not relieve the licensee, trainee, establishment, or firm of obligation to comply.~~

### ~~PART III. FEES.~~

## 18 VAC 65-20-70. ~~Initial Required fees.~~

~~A. The following fees shall be paid as applicable for initial licensure or registration. For resident trainee fees see the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.) apply for initial licensure or registration and for renewal of licensure or registration:~~

- ~~1. Examination \_\_\_\_\_ \$100;~~
- ~~2. 1. License to practice funeral service or as a funeral director or an embalmer \_\_\_\_\_ \$100;~~
- ~~3. 2. Funeral service establishment license \_\_\_\_\_ \$150;~~
- ~~4. 3. Surface transportation and removal service registration \_\_\_\_\_ \$200;~~
- ~~5. 4. Courtesy card \_\_\_\_\_ \$50;~~

### ~~B. Other fees.~~

- ~~1. Reinstatement fee per year for each year of licensure expiration \_\_\_\_\_ \$25~~
- ~~6. 2. Change of ownership, manager, or establishment name \_\_\_\_\_ \$15;~~
- ~~7. 3. Verification of license when applying for licensure or registration to another state \_\_\_\_\_ \$50; 25~~
- ~~8. Verification of license when applying for courtesy card in another state \_\_\_\_\_ \$5;~~
- ~~9. Resumption of traineeship after interruption \_\_\_\_\_ \$10.~~
- ~~4. Duplicate license, registration, courtesy card \_\_\_\_\_ \$25~~

- 5. Duplicate wall certificates \$50
- 6. Change of ownership \$100
- 7. Reinspection for change of location or ownership \$100

PART IV II.  
RENEWALS AND REINSTATEMENT.

**18 VAC 65-20-80. Renewal fees. (Repealed.)**

The following annual fees shall be paid as applicable for license renewal. For resident trainee renewal fees see the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).

- 1. Funeral service license payable by March 31 \$100;
- 2. Funeral director license payable by March 31 \$100;
- 3. Embalmer license payable by March 31 \$100;
- 4. Funeral service establishment license payable by January 31 \$150;
- 5. Surface transportation and removal service registration payable by January 31 \$200;
- 6. Courtesy cards payable by December 31 \$50.

**18 VAC 65-20-90. Reinstatement fees. (Repealed.)**

The following reinstatement fees shall be paid in addition to annual renewal fees for reinstatement of license or registration up to three years following expiration. For resident trainee reinstatement fees see the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).

- 1. Funeral service, director, or embalmer reinstatement \$25;
- 2. Establishment reinstatement \$25;
- 3. Transportation and removal service reinstatement \$25.

**18 VAC 65-20-100. Other fees. (Repealed.)**

Duplicate trainee registrations, surface transportation and removal registrations, licenses, establishment licenses, or courtesy cards shall be issued by the board at the individual's request.

- 1. Duplicate license, registration, courtesy card \$25;
- 2. Duplicate wall certificates \$50.

**18 VAC 65-20-110. Additional fee information.**

- A. There shall be a fee of \$25 for returned checks.
- B. Fees shall not be refunded once submitted.
- C. The fee for the Virginia State Board Examination shall be paid directly to the examination service contracted by the board for its administration.

**18 VAC 65-20-120. Expiration dates.**

~~A. For resident trainee expiration dates see regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).~~

~~B. The following A. A funeral service establishment license or surface transportation and removal service registration shall expire on January 31 of each calendar year:~~

- 1. Funeral service establishment license; and
- 2. Surface transportation and removal service registration.

~~C. B. The following funeral service license, funeral director license, or embalmer license shall expire on March 31 of each calendar year:~~

- 1. Funeral service license;
- 2. Funeral director license; and
- 3. Embalmer license.

~~D. C. Courtesy cards expire on December 31 of each calendar year.~~

~~E. A person who or establishment which fails to renew a license, registration, or courtesy card by the expiration dates prescribed in this section shall be deemed to have an invalid license, registration, or courtesy card.~~

**18 VAC 65-20-130. Renewal of license; registration.**

A. A person, establishment, or surface transportation and removal service who desires to renew his license or registration for the next year shall, not later than the expiration date shall: , submit the renewal application and applicable fee.

- 1. Return the renewal notice;
- 2. Submit the applicable fee prescribed in 18 VAC 65-20-80; and
- 3. Notify the board of any changes in name, address, employment, managers, or ownership.

B. A person who or establishment which fails to renew a license, registration, or courtesy card by the expiration dates prescribed in 18 VAC 65-20-120 shall be deemed to have an invalid license, registration, or courtesy card and continued practice may subject the licensee to disciplinary action by the board.

**18 VAC 65-20-140. Reinstatement of expired license or registration.**

The board may consider reinstatement of an expired license or registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable delinquent renewal fees prescribed in 18 VAC

---

# Proposed Regulations

---

~~65-20-80 plus~~ and the additional reinstatement fee prescribed in ~~18 VAC 65-20-90~~ 18 VAC 65-20-70.

## 18 VAC 65-20-150. Reapplication of license.

When a license is not reinstated within three years of its expiration date, an applicant ~~for licensure~~ shall: *reapply for licensure and pass the state examination.*

- ~~1. Reapply for licensure; and~~
- ~~2. Reapply for state examination.~~

### PART ~~V~~ III.

#### REQUIREMENTS FOR LICENSURE.

##### Article 1.

~~Establishments: General Qualifications.~~

## 18 VAC 65-20-160. ~~General qualifications of establishments. (Repealed.)~~

~~All places of business in the Commonwealth, including main establishments, branches or chapels, where any part of the profession or business of funeral directing or any act of embalming, either or both, is carried on, conducted, or performed, is permitted to be carried on, conducted, or performed, and where preneed funeral arrangements are conducted, shall be:~~

- ~~1. Subject to regulation and inspection by the board;~~
- ~~2. Operated in accordance with law; and~~
- ~~3. Maintained in compliance with this chapter.~~

## 18 VAC 65-20-170. Requirements for an establishment license required.

A. No person shall maintain, manage, or operate a funeral service establishment in the Commonwealth, unless such establishment holds a license issued by the board *in the name of the funeral service licensee or licensed funeral director designated by the ownership to be manager of the establishment.*

B. *Except as provided in § 54.1-2810 of the Code of Virginia, every funeral service establishment and every branch or chapel of such establishment, regardless of how owned, shall have a separate establishment manager who is employed full time by the establishment for at least 40 hours a week.*

C. *Prior to opening an establishment, an owner or licensed manager seeking an establishment license shall submit simultaneously a completed application, any additional documentation as may be required by the board to determine eligibility, and the applicable fee. An incomplete package will be returned to the licensee. A license shall not be issued until an inspection of the establishment has been completed and approved.*

D. *Within 30 days following a change of ownership, the owner or licensed manager shall notify the board, request a reinspection of the establishment, submit an application for a*

*new establishment license, and pay the licensure and reinspection fees as required by 18 VAC 65-20-70.*

## 18 VAC 65-20-180. ~~Current license requirements. (Repealed.)~~

The license shall be:

- ~~1. For the current calendar year; and~~
- ~~2. In the name of the funeral service licensee or licensed funeral director designated by the ownership to be manager of the establishment.~~

## 18 VAC 65-20-190. ~~Manager of record required. (Repealed.)~~

~~Every funeral service establishment and every branch or chapel of such establishment in the Commonwealth, regardless of how owned, shall have a separate funeral service licensee or funeral director licensed by the board who is employed full time at the establishment and is designated as manager of the establishment.~~

## 18 VAC 65-20-200. ~~Expiration of establishment licenses. (Repealed.)~~

~~Establishment licenses shall expire January 31 of each calendar year (see subsections B and E of 18 VAC 65-20-120 and 18 VAC 65-20-130 through 18 VAC 65-20-150 for renewal information).~~

### Article 2.

~~Funeral Service, Funeral Directors, and Embalmers:  
General Qualifications.~~

## 18 VAC 65-20-210. ~~License required; exception. (Repealed.)~~

~~No person shall engage in the practice of funeral service, or practice as a funeral director or embalmer in the Commonwealth without having the required license issued by the board.~~

~~EXCEPTION: A registered trainee may perform such acts only in strict conformity with the provisions of this chapter and the chapter entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).~~

## 18 VAC 65-20-220. ~~Expiration of licenses. (Repealed.)~~

~~With the exception of trainees, licenses shall expire on March 31 of each calendar year (see subsections C and E of 18 VAC 65-20-120 and 18 VAC 65-20-130 through 18 VAC 65-20-150 for renewal information). (See chapter entitled Resident Trainee Program for Funeral Service, 18 VAC 65-40-10 et seq.)~~

## 18 VAC 65-20-230. ~~Requirement for license. (Repealed.)~~

To be licensed for the practice of funeral service, a person shall:

- ~~1. Be at least 18 years of age;~~
- ~~2. Be a graduate of a high school or the equivalent;~~

~~3. Have completed traineeship and be a graduate from a school of mortuary science or funeral service approved by the board;~~

~~4. Pass the required state and national examinations; and~~

~~5. Not have been convicted of a felony. The board, in its discretion, may license an individual convicted of a felony if he has been pardoned or has had his civil rights restored.~~

~~Article 3.  
Application Process.~~

**18 VAC 65-20-235. Approval of educational programs.**

*All applicants for funeral service licensure are required to have graduated from a funeral service program offered by a school of mortuary science or funeral service accredited by the American Board of Funeral Service Education, Incorporated.*

**18 VAC 65-20-240. Requirements for funeral service applicants licensure by examination.**

~~An individual seeking licensure for funeral service or seeking examination/reexamination shall submit simultaneously:~~

- ~~1. Completed and signed application;~~
- ~~2. Additional documentation as may be required by the board to determine eligibility of the applicant; and~~
- ~~3. The applicable fee of fees prescribed in subdivision 4 of 18 VAC 65-20-70.~~

**A. Application requirements.**

*1. With the exception of school transcripts and national examination board scores, all parts of an application package, including the required fee and any additional documentation as may be required to determine eligibility, shall be submitted simultaneously.*

*2. An individual applying for the state examination shall submit the application package within six months and not less than 45 days prior to an examination date. The board may, for good cause shown by the applicant, waive the time for the filing of any application.*

**B. National examination requirements.** *Prior to applying for licensure by examination, every applicant shall pass the National Board Examination of the Conference of Funeral Service Examining Boards of the United States, Inc., administered in accredited schools of embalming or mortuary science.*

**C. State examination requirements.** *All applicants shall pass the Virginia State Board Examination.*

**18 VAC 65-20-250. Application package; exception. (Repealed.)**

~~All required parts of the application package shall be submitted at the same time. An incomplete package will be returned to the licensee.~~

~~EXCEPTION: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board. National examination scores will also be accepted from the examining authority.~~

**18 VAC 65-20-260. Date of submission of application package. (Repealed.)**

~~An individual applying for examination shall submit the application package within six months and not less than 45 days prior to an examination date.~~

**18 VAC 65-20-270. Establishment applicants. (Repealed.)**

~~Not less than 45 days prior to opening of an establishment, an owner or licensed manager seeking an establishment license shall submit simultaneously:~~

- ~~1. Completed and signed application;~~
- ~~2. Additional documentation as may be required by the board to determine eligibility for licensure; and~~
- ~~3. The applicable fee prescribed in subdivision 3 of 18 VAC 65-20-70.~~

**18 VAC 65-20-280. Incomplete application package. (Repealed.)**

~~All required parts of the application package shall be submitted at the same time. An incomplete package will be returned to the licensee.~~

**18 VAC 65-20-290. Waiver of time limits. (Repealed.)**

~~The board may for good cause, waive the time requirement in 18 VAC 65-20-260 and 18 VAC 65-20-270 for the filing of any application. The burden of proof which demonstrates good cause rests with the applicant.~~

~~Article 4.  
General Examination Requirements.~~

**18 VAC 65-20-300. National Board examination required. (Repealed.)**

~~Prior to applying for state examination for licensure, every applicant for initial licensure by the board shall pass the National Board Examination of the Conference of Funeral Service Examining Boards of the United States, Inc., administered in accredited schools of embalming or mortuary science.~~

**18 VAC 65-20-310. Virginia State Board examination. (Repealed.)**

~~All applicants shall pass the Virginia State Board Examination.~~

---

# Proposed Regulations

---

## **18 VAC 65-20-320. Failure to appear. (Repealed.)**

~~The applicant shall forfeit the Virginia State Board Examination fee if he is unable to sit for the examination for any reason.~~

## **18 VAC 65-20-330. Reexamination. (Repealed.)**

~~Any person failing the Virginia State Board Examination shall reapply for a subsequent examination, and shall pay the examination fee prescribed in subdivision 1 of 18 VAC 65-20-70 for each application filed.~~

## **18 VAC 65-20-340. Scheduling examinations. (Repealed.)**

~~A. An applicant may request to take the scheduled Virginia State Board Examination most closely preceding the expected completion of the mortuary school, if traineeship has also been completed, or traineeship, if mortuary school has been completed. Successful completion of all requirements shall mean that the applicant can provide documentation of completion of the qualifications within the month following the examination date. Examination scores shall not be released until documentation of successful completion is received in the board office. Failure to submit documentation of successful completion within the month following the examination date for any reason shall require that the applicant retake the examination and resubmit the examination fee. The previous examination shall be considered void.~~

~~B. All such requests to take the scheduled Virginia State Board Examination early shall be in writing and the written request shall be accompanied by the complete application package (18 VAC 65-20-240 through 18 VAC 65-20-250) and shall comply with the deadline requirement in 18 VAC 65-20-260.~~

### ~~Article 5.~~

#### ~~Licensure of Out-of-State Applicants.~~

## **18 VAC 65-20-350. Out-of-state applicants Requirements for licensure by reciprocity or endorsement.**

A. Licenses for the practice of funeral service or its equivalent issued by other states, territories, or the District of Columbia may be recognized by the board and the holder of such license or licenses may be granted a license to practice funeral service within the Commonwealth, as follows:

1. Reciprocity. Licenses may be granted by reciprocity provided that the same privileges are granted by the other jurisdiction to Virginia funeral service licensees by the establishment of substantially similar licensure requirements and reciprocity agreements between the two jurisdictions; or
2. Endorsement. Licenses may be granted to applicants by the board on a case-by-case basis, if the applicant holds a valid license for the practice of funeral service or its equivalent in another state, territory, or the District of Columbia and possesses credentials which are substantially similar to, or more stringent than required by the Commonwealth for initial licensure and

the examinations and passing grades received by the applicant are equivalent to those required by the board.

~~B. An applicant for licensure by reciprocity or endorsement shall pass the Virginia State Board Examination.~~

## **18 VAC 65-20-360. State examination required. (Repealed.)**

~~An out-of-state applicant for board licensure shall pass the Virginia State Board Examination (See 18 VAC 65-20-310).~~

### ~~PART VI.~~

#### ~~TRAINEE PROGRAM REQUIREMENTS.~~

## **18 VAC 65-20-370. Resident trainee requirements and application. (Repealed.)**

~~To be approved for registration as a resident trainee, a person shall comply with the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).~~

## **18 VAC 65-20-380. Apprenticeship training, training sites, and supervision. (Repealed.)**

~~Applicants, training sites, and training supervisors shall comply with the board's regulations entitled Resident Trainee Program for Funeral Service (18 VAC 65-40-10 et seq.).~~

## **18 VAC 65-20-390. Curriculum compliance. (Repealed.)**

~~An approved supervisor and resident trainee shall comply with the training program developed by the board for the traineeship and shall provide supervision and training as prescribed by the regulations of the board entitled Resident Trainee Program for Funeral Services (18 VAC 65-40-10 et seq.).~~

### ~~PART VII IV.~~

#### ~~REGISTRATION.~~

#### ~~Article 1.~~

#### ~~Surface Transportation and Removal Services.~~

## **18 VAC 65-20-400. Registration of surface transportation and removal services.**

~~A. Every surface transportation and removal service not licensed under an establishment license issued by the board shall be registered with the board.~~

~~B. All persons proposing applying to own or operate and each owner of a surface transportation and removal service, according to requirements of § 54.1-2819 of the Code of Virginia, shall submit an application package for registration which shall include:~~

1. Completed and signed application;
2. Fee prescribed in subdivision 4 3 of 18 VAC 65-20-70; and
3. Additional documentation as may be required by the board to determine eligibility of the applicant.

**18 VAC 65-20-410. Exclusion from jurisdiction. (Repealed.)**

The following shall not be within the jurisdiction of surface transportation and removal services:

1. Arranging or conducting funerals;
2. Offering to or providing for the care or preparation, including embalming, of dead human bodies; and
3. Selling or providing funeral related goods and services.

**18 VAC 65-20-430. Expiration of registration. (Repealed.)**

The registration shall expire on January 31 of each calendar year (see subsections B and E of 18 VAC 65-20-120 and 18 VAC 65-20-130 through 18 VAC 65-20-150 for renewal information).

PART VIII V.  
ISSUANCE OF COURTESY CARDS.

**18 VAC 65-20-440. Courtesy cards.**

A. An out-of-state person applying for a courtesy card pursuant to § 54.1-2801 B of the Code of Virginia shall hold a valid license for funeral service, funeral directing, or embalming in another state, territory, or the District of Columbia.

B. The other state shall have requirements for licensure substantially similar to those existing in the Commonwealth of Virginia.

B. An applicant for a courtesy card shall submit:

1. A completed application and prescribed fee; and
2. Verification of a current license in good standing from the applicant's licensing authority.

**18 VAC 65-20-450. Application for courtesy card. (Repealed.)**

An application to this board for a courtesy card shall be:

1. Submitted for approval to the licensing authority having jurisdiction at the applicant's place of employment; and
2. Forwarded by the designated official of such authority, to the board. The certificate of approval and the fee prescribed in subdivision 5 of 18 VAC 65-20-70 shall be included.

**18 VAC 65-20-460. Courtesy card privileges. (Repealed.)**

A courtesy card permits the holder to:

1. Remove bodies from Virginia;
2. Arrange funerals in Virginia; and
3. Embalm bodies in Virginia.

**18 VAC 65-20-470. Exceptions to privileges. (Repealed.)**

The privileges of a courtesy card do not include:

1. The right to establish or engage generally in the business of funeral directing and embalming in the Commonwealth; and
2. The right of the recipient to be continuously employed professionally by a funeral establishment in the Commonwealth.

**18 VAC 65-20-480. Expiration of courtesy card. (Repealed.)**

A courtesy card shall expire on December 31 of the year of issuance.

PART IX.  
SCHOOLS OF EMBALMING AND MORTUARY SCIENCE.

**18 VAC 65-20-490. Approval. (Repealed.)**

The board hereby adopts as its approved school list those mortuary science or funeral service schools which are accredited by the American Board of Funeral Service Education, Incorporated. All applicants for licensure are required to have graduated from a funeral service program offered by an approved school of mortuary science or funeral service.

PART X VI.  
REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

**18 VAC 65-20-500. Disciplinary action.**

The board may refuse to admit a candidate to any exam; refuse to issue or renew a license, registration, or approval to any applicant; and may suspend for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty for any of the following causes *In accordance with the provisions of § 54.1-2806 of the Code of Virginia, the following practices are considered unprofessional conduct and may subject the licensee to disciplinary action by the board:*

1. Breach of confidence. ~~Licenseses and registrants are necessarily brought within the privacy of those whom they serve and are often placed in positions where they receive confidences and learn intimate details of domestic life and family secrets. The unnecessary or unwarranted disclosure of such confidences by the funeral licensee in the course of practice shall be determined to be an act of unprofessional conduct.~~
2. Unfair competition.
  - a. *Interference* by a funeral service licensee, funeral director, or registered surface transportation and removal service shall not interfere when another has been called to take charge of a dead human body and the caller or agent of the caller has the legal right to the body's disposition.
  - b. *Consent* by a funeral service licensee or funeral director shall not consent to take charge of a body

---

# Proposed Regulations

---

unless authorized by the person or his agent having the legal right to disposition.

### 3. False advertising.

a. No licensee or registrant shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public which contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.

b. The following practices, both written and verbal, shall constitute false, deceptive, or misleading advertisement within the meaning of *subdivision 4* of § 54.1-2806-4 of the Code of Virginia:

(1) Advertising containing inaccurate statements; and

~~(2) Aired or published advertisements which do not disclose the name of the establishment manager or licensed owner when the owner is a licensee; and~~

~~(3)~~ (2) Advertisement which gives a false impression as to ability, care, and cost of conducting a funeral, or that creates an impression of things not likely to be true.

c. The following practices are among those which shall constitute an untrue, deceptive, and misleading representation or statement of fact:

(1) Representing that funeral goods or services will delay the natural decomposition of human remains for a long term or indefinite time; and

(2) Representing that funeral goods have protective features or will protect the body from gravesite substances over or beyond that offered by the written warranty of the manufacturer.

### 4. Inappropriate handling of dead human bodies.

~~a. At all times human bodies are to be handled with proper dignity and respect in conformity with the customs of the community being served.~~

~~b. During the removal of a dead human body, proper care shall be given to prevent the spread of infectious and contagious diseases.~~

~~c. All dead human bodies shall be properly wrapped and placed on a cot or stretcher which is self-contained and covered so that no part of the human body is visible to the public.~~

~~d.~~ Transportation and removal vehicles shall be of such nature as to eliminate exposure of the deceased to the public during transportation.

~~e.~~ During the transporting of a human body, consideration shall be taken to avoid unnecessary delays or stops during travel.

~~5. Obtaining a license or registration by fraud, either in the application for the license or in passing the examination.~~

~~6. Conviction of a felony.~~

~~7. Failure to comply with any regulations of the board.~~

~~8. Failure to comply with federal, state, or local laws and regulations governing the operation of a funeral establishment.~~

~~5.~~ Failure to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies.

~~9.~~ 6. Conducting the practice of funeral services in such a manner as to constitute a danger to the health, safety, and well-being of the staff or the public.

~~10.~~ 7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.

~~11. Unprofessional conduct.~~

## PART ~~XI~~ VII. STANDARDS FOR EMBALMING.

### Article 1. General.

#### 18 VAC 65-20-510. Embalming report.

Every funeral establishment shall record and maintain a separate, identifiable report *on a form as prescribed in Appendix IV* for each embalming procedure conducted (~~see 18 VAC 65-20-700 and Appendix IV~~).

#### 18 VAC 65-20-520. ~~Contents of embalming report.~~ (*Repealed.*)

~~The report shall contain the following (see example in Appendix IV):~~

~~1. Name of deceased;~~

~~2. Date of death;~~

~~3. Date of embalming;~~

~~4. Name of embalmer and license number;~~

~~5. Autopsy information where applicable;~~

~~6. Preembalming condition of body;~~

~~7. Description of preembalming preparation;~~

~~8. Description of fluids used;~~

~~9. Type and point of injection;~~

~~10. Quality of fluid distribution;~~

~~11. Type and amount of cavity fluid;~~

~~12. Body cavity treatment;~~

~~13. Restoration techniques; and~~

~~14. Other conditions and treatments.~~

**18 VAC 65-20-530. Documentation of embalming.**

A licensee who proceeds with an embalming without prior approval from a family member or other person shall: ~~1. document the reasons for proceeding in writing; 2. Document the reasons for the proceeding, the efforts made to contact the family or authorized person; 3. Document and the licensee authorizing the embalming; and 4. Obtain subsequent.~~ *Subsequently, approval for the embalming shall be obtained from a family member or other authorized person.*

~~Article 2.  
Preparation Room.~~

**18 VAC 65-20-540. Preparation room required requirements.**

A. Every funeral service establishment at which embalming of dead human bodies is performed shall have at least one room used exclusively for embalming or preparation of the body.

~~18 VAC 65-20-550. Size of preparation room.~~

~~The preparation room shall be of a size to accommodate the average number of embalmings being performed simultaneously at the facility.~~

**18 VAC 65-20-560. Preparation room requirements.**

B. The following are required of the preparation room or rooms:

- ~~1. The walls shall extend floor to ceiling;~~
- ~~2. 1. The floor and wall surfaces shall be of a material or covered by a material impervious to water; and~~
- ~~3. 2. The material shall extend from wall to wall with all joints tight and sanitary; and~~
- ~~4. No other room shall be used for the performance of any function C. All functions connected with embalming shall be performed within the preparation room.~~

~~Article 3.  
Equipment.~~

**18 VAC 65-20-580. Preparation room equipment.**

- A. The preparation room or rooms shall be equipped with:
  - 1. A ventilation system which operates and is appropriate to the size and function of the room;
  - 2. Running hot and cold water;
  - 3. Flush or slop sink connected with public sewer or with septic tank where no public sewer is available;
  - 4. Metal or porcelain morgue table;
  - 5. Covered waste container;
  - 6. Instruments and apparatus for the embalming process;

- 7. A means or method for the sterilization of reusable instruments by: ~~a. chemical bath or soak; b. autoclave (steam); or c. ultraviolet light;~~
- 8. Disinfectants and antiseptic solutions;
- 9. Clean gowns or aprons, preferably impervious to water;
- 10. Rubber gloves for each embalmer or trainee using the room;
- 11. A hydroaspirator or hydroaspirators equipped with a vacuum breaker; ~~and~~
- 12. An eye wash station; ~~and~~
- 13. ~~A standard first aid kit which is immediately accessible.~~

~~Article 4.  
Prevention of Spread of Disease.~~

**18 VAC 65-20-590. Disposal of waste materials.**

~~At the completion of each embalming operation all used cotton, bandages, and other~~ *Disposal of all waste materials shall be disposed of properly in conformity with local, state, and federal law to avoid contagion and the possible spread of disease.*

**18 VAC 65-20-600. Separate restroom facility required. (Repealed.)**

~~Every funeral service establishment or branch facility shall be equipped with a sanitary restroom facility which operates and is separate from the preparation room.~~

**18 VAC 65-20-610. First aid kit required. (Repealed.)**

~~A standard first aid kit shall be immediately accessible outside the door to the preparation room.~~

~~PART XII VIII.  
PRICING STANDARDS AND FORMS.~~

~~Article 1.  
General.~~

**18 VAC 65-20-620. Disclosure of price of funeral goods and services. (Repealed.)**

~~In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies.~~

**18 VAC 65-20-630. Disclosures.**

Funeral providers ~~must~~ *shall* make all required disclosures ~~in a clear and conspicuous manner as follows: and provide accurate information from price lists pursuant to the rules of the Federal Trade Commission. Price lists shall comply with requirements of FTC and shall contain the information included in Appendices I, II, and III.~~

---

# Proposed Regulations

---

~~1. Telephone price disclosures. Persons who ask by telephone about the funeral provider's offerings and prices shall be given accurate information over the telephone from the price lists (described in Articles 2 and 3 of this part) which reasonably answers the questions and which is readily available.~~

~~2. In person price disclosures.~~

~~a. General price list.~~

~~(1) Persons who inquire in person about funeral arrangements or the prices of funeral goods or funeral services shall be given a printed or typewritten general price list to retain if they choose.~~

~~(2) The funeral provider shall offer a typewritten or printed general price list upon beginning discussion either of funeral goods and services, the overall type of funeral goods and services, or specific funeral goods and services.~~

~~b. Itemized statement.~~

~~(1) Licensees shall furnish to each person who arranges a funeral or other disposition of human remains, a copy of a typewritten or printed itemized written statement of the funeral goods and services selected by that person and the prices to be paid for each item.~~

~~(2) The itemized statement of funeral goods and services shall be given no later than the conclusion of the arrangement discussion.~~

~~c. Casket price list and outer burial container price lists.~~

~~(1) A typewritten or printed casket price list and an outer burial container price list shall be shown to consumers who inquire in person about the offerings or prices of caskets and outer burial containers.~~

~~EXCEPTION: If the complete casket price list and outer burial container price list are a part of the general price list, a separate casket price list and outer burial container price list do not have to be available.~~

~~(2) The casket price list and outer burial container price list shall be offered or shown upon beginning the discussion of caskets and outer burial containers and before showing the containers to the consumer.~~

~~Article 2.  
General Price List.~~

## **18 VAC 65-20-640. Identifying information. (Repealed.)**

The general price list shall contain at least the following:

~~1. The name, address, and telephone number of the funeral provider's place of business;~~

~~2. A caption describing the list as a "general price list"; and~~

~~3. The effective date for the price list.~~

## **18 VAC 65-20-650. Prices. (Repealed.)**

~~A. Funeral service establishments shall include on the general price list, in any order, the retail prices, expressed either as the flat fee, or as the price per hour, mile, or other unit of computation, for all services and supplies offered for sale.~~

~~B. A funeral service establishment shall charge fees only for services of funeral director and staff, other funeral goods and services selected by the purchaser and other funeral goods and services required to be purchased by law or by a cemetery or crematory.~~

~~C. The following 16 items are required to be on the general price list with a charge if the funeral home offers these particular funeral goods and services:~~

~~1. Basic professional services of funeral director and staff;~~

~~2. Use of facilities and staff for viewing and visitation;~~

~~3. Use of facilities and staff for funeral ceremony;~~

~~4. Staff and facilities for memorial service;~~

~~5. Equipment and staff for graveside services;~~

~~6. Embalming;~~

~~7. Transfer of remains to funeral home;~~

~~8. Forwarding of remains to another funeral home;~~

~~9. Receiving of remains from another funeral home;~~

~~10. Direct cremation;~~

~~11. Immediate burial;~~

~~12. Hearse;~~

~~13. Limousine;~~

~~14. Other automotive equipment;~~

~~15. Casket price range; and~~

~~16. Outer burial container price range.~~

~~D. If a funeral service establishment offers funeral goods and services in addition to the 16 required items, each shall be listed with a charge on the general price list.~~

~~E. Casket, outer burial container, cremation urn, and cremation vault handling fees shall not be charged to the consumer who provides a container.~~

~~F. A funeral service establishment shall not condition the furnishing of any funeral merchandise or service to a person arranging a funeral upon the purchase of any other item of service or merchandise.~~

**18 VAC 65-20-660. Disclosures. (Repealed.)**

The following general disclosures shall be placed on the first page of the general price list. Note: subdivision 2 of this section is optional.

1. "The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. However, any funeral arrangements you select will include a charge for our basic services and overhead. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected."

2. OPTIONAL: "This list does not include prices for certain items that you may ask us to buy for you such as cemetery or crematory services, flowers, and newspaper notices. The prices for these items will be shown on your bill or the statement describing the funeral goods and services you selected."

**18 VAC 65-20-670. Required items. (Repealed.)**

The required items in subsection C of 18 VAC 65-20-650 shall be itemized with appropriate disclosures as follows if the funeral service establishment offers these items to the public:

1. Basic professional services of funeral director and staff.

a. Basic services of funeral director and staff is the only item on the general price list which may be a nondeclinable charge to the consumer. This fee shall be listed as a separate fee or may be included in the cost of caskets or disbursed throughout the other items on the general price list.

b. Basic services of funeral director and staff shall include, but not be limited to, basic overhead, administrative fees, and use of basic facilities.

c. A complete description of the funeral goods and services included under basic services of funeral director and staff shall be listed.

d. Disclosures. If the charges above are mandatory and cannot be declined by the purchaser, one of the following statements shall be included on the price list:

(1) "This fee for our basic services and overhead will be added to the total cost of the funeral arrangements you select. This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains;" or

(2) "Please note that a fee of \$ for the use of our basic services and overhead is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket. Our services include: . . . ."

2. Funeral home facilities.

- a. Facilities and staff for visitation and viewing.
- b. Facilities and staff for funeral ceremony.
- c. Facilities and staff for memorial service.

d. If the funeral service establishment has a separate charge for manhours for viewing/visitation at a church or home, the charge shall be added as a separate line item.

e. If the funeral service establishment has a fee for extra staff over and above the usual number for a viewing/visitation or service, the charge shall be added as a separate line item.

3. Embalming services.

a. Separate prices shall be listed for embalming normal remains versus autopsied remains if the charges are different.

b. Disclosures. The following disclosures shall be placed in immediate conjunction with the embalming section on the general price list:

"Embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as direct cremation or immediate burial."

4. Immediate burials.

a. A price range shall be listed for immediate burial.

b. A complete description of the funeral goods and services offered under this category shall be listed.

c. A list of the following immediate burial services shall be placed on the general price list:

- (1) Immediate burial with container provided by the purchaser; and
- (2) Immediate burial with alternative container.

5. Direct cremations.

a. A price range shall be listed for direct cremation.

b. A complete description of the funeral goods and services offered under this category shall be listed.

c. A list of the following direct cremation services shall be placed on the general price list:

- (1) Direct cremation with container provided by purchaser; and
- (2) Direct cremation with alternative container.

d. Disclosures. The following disclosure shall be placed on the general price list in immediate conjunction with the direct cremation category: "State and local laws do not require a casket for direct

---

# Proposed Regulations

---

cremation. If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are (blank) containers."

Note: The funeral services establishment shall fill in the blank with the specific types of alternative containers offered.

6. ~~Transfer of remains to funeral home. A complete description of the funeral goods and services offered under this category shall be listed.~~

7. ~~Forwarding remains to another funeral establishment. A complete description of the funeral goods and services offered under this category shall be listed.~~

8. ~~Receiving remains from another funeral home. A complete description of the funeral goods and services offered under this category shall be listed.~~

9. ~~Automotive services.~~

a. ~~A list of the following automotive services shall be placed on the general price list if owned by the facility:~~

- ~~(1) Hearse;~~
- ~~(2) Limousine; and~~
- ~~(3) Other automotive equipment.~~

b. ~~Any of these items that are obtained through a third party shall be shown under cash advance items on the itemized statement of goods and services.~~

10. ~~Funeral merchandise.~~

a. ~~Casket with a price range.~~

b. ~~Outer burial containers with a price range.~~

c. ~~Disclosures. The following disclosure shall be placed on the general price list under caskets and outer burial containers:~~

~~"A complete price list will be provided at the funeral home."~~

### ~~Article 3.~~

#### ~~Outer Burial Container and Casket Price List.~~

### **18 VAC 65-20-680. Containers; exceptions. (Repealed.)**

A. ~~Funeral providers who sell or offer to sell caskets, alternative containers, or outer burial containers must have available an outer burial container and casket price list.~~

EXCEPTION: ~~If the complete outer burial container and casket price list or lists are a part of the general price list, separate outer burial container and casket prices list or lists do not have to be available.~~

B. ~~The casket and outer burial container price lists shall disclose at least the following information:~~

1. ~~The name, address, and telephone number of the funeral provider's place of business;~~

2. ~~A caption describing the list or lists as a casket or outer burial container price list;~~

3. ~~The retail prices of all caskets, alternative containers, and outer burial containers which do not require special ordering;~~

4. ~~The effective date or dates of the price list or lists; and~~

5. ~~Sufficient information to identify the units available for sale.~~

C. ~~When other formats, such as notebooks, brochures, or charts, are used they shall contain the same information as prescribed in subsection D of this section and shall be displayed in a clear and conspicuous manner.~~

D. ~~A funeral establishment which has a casket selection room shall have available a means for indicating the price of each casket within the room.~~

E. ~~If a licensee arranges direct cremations, he shall make an alternative container available and shall list the alternative container on the casket price list.~~

F. ~~The following disclosure shall be placed on the outer burial container price list:~~

~~"In most areas of the country, state or local law does not require that you buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a grave liner or a burial vault will satisfy these requirements."~~

### ~~Article 4.~~

#### ~~Itemized Statement of Funeral Goods and Services.~~

### **18 VAC 65-20-690. Itemized statements of funeral goods and services. (Repealed.)**

A. ~~Itemized statements shall be completed:~~

1. ~~At the time such arrangements are made if the party is present; or~~

2. ~~If the party is not present, not later than the time of the final disposition of the body.~~

B. ~~The itemized statement shall be signed by the funeral service licensee or funeral director and the party contracting for the funeral arrangements.~~

C. ~~The itemized statement shall include:~~

1. ~~A list of all funeral goods and services that are offered on the general price list;~~

2. ~~Space to describe the casket and outer burial container purchased;~~

3. ~~Space to describe any legal, cemetery, or crematory requirements that may be necessary;~~

4. ~~If package pricing is offered, the package shall be listed on the itemized statement of funeral goods and services and shall list each individual item included in the package. The individual items do not have to be priced separately. One price shall be listed for the total package;~~

5. ~~A space to explain why the funeral service establishment proceeded with embalming without authorization or approval;~~

6. ~~Any and all anticipated or actual cash advances and expenditures requested by the party contracting for the funeral arrangements;~~

7. ~~The total costs of the funeral goods and funeral services selected; and~~

8. ~~Disclosures. The following disclosures shall be on the itemized statement of goods and services:~~

a. ~~"Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below."~~

b. ~~"The only warranty on the casket or outer burial container, or both, sold in connection with this service is the express written warranty, if any, granted by the manufacturer. This funeral home makes no warranty, express or implied, with respect to the casket or outer burial container, or both."~~

c. ~~"If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming that you did not approve if you selected arrangements, such as a direct cremation, or immediate burial. If we charged for embalming we will explain why below."~~

d. ~~If the funeral home charges for its services in arranging cash advance items, the following disclosure shall be placed on the itemized statement of goods and services: "We charge you for our services in obtaining \_\_\_\_\_." The funeral home shall specify in the blank space which cash advance items the funeral home makes a charge upon or receives and retains a rebate, commission or trade, or volume discount.~~

**PART XIII.  
RETENTION OF DOCUMENTS.**

**18 VAC 65-20-700. Retention of documents.**

The following shall apply to retention of embalming reports, price lists, and itemized statements:

1. Price lists shall be retained for ~~three years~~ *one year* after the effective date;
2. Itemized statements shall be retained for ~~three years~~ *one year* from the date on which the arrangements were made;

3. ~~Embalming reports shall be retained for three years~~ *one year* after the date of the embalming;

4. Documents shall be maintained on the premises of the funeral establishment and made available for inspection; and

5. In instances where the funeral establishment is sold, documents shall be transferred to the new owner, unless the existing firm is relocating to a new facility.

**NOTICE:** The forms used in administering 18 VAC 65-20-10 et seq., Regulations of the Board of Funeral Directors and Embalmers, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

~~Application for Establishment Licensure/Change of Licensure.~~

~~Application for Surface Transportation and Removal Service Registration.~~

~~Application for Courtesy Card.~~

~~Application for Individual Licensure.~~

~~Licensure Verification Form.~~

~~Appendix I: General Price List.~~

~~Appendix II: Casket Price List; Outer Burial Container Price List.~~

~~Appendix III: Itemized Statement of Funeral Goods and Services Selected.~~

*Application for Funeral Service Licensure (rev. 7/97).*

*Application for Courtesy Card (rev. 7/97).*

*Application for Establishment Licensure/Change of Address (rev. 7/97).*

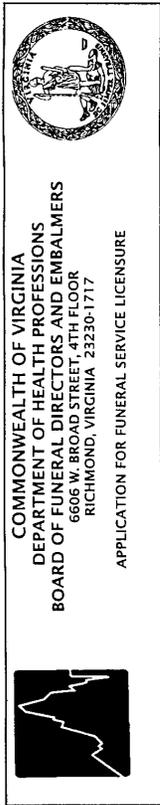
*Application for Waiver of Full-time Manager Requirements (rev. 7/97).*

*Renewal Application for Waiver of Full-time Manager Requirements (rev. 7/97).*

*Licensure Verification Form (rev. 7/97).*

*Application for Surface Transportation and Removal Service Registration (rev. 7/97).*

*Renewal Notice and Application (rev. 7/97).*



COMMONWEALTH OF VIRGINIA  
 DEPARTMENT OF HEALTH PROFESSIONS  
 BOARD OF FUNERAL DIRECTORS AND EMBALMERS  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717  
 APPLICATION FOR FUNERAL SERVICE LICENSURE

**FEES: \$100** Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions to verify your identity and will not be disclosed outside of the Department of Health Professions. **NO LICENSE CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION:** Name in full (please type or print)

LAST	FIRST	MIDDLE/ALTERN
HOME ADDRESS	CITY	STATE
DATE OF BIRTH	SOCIAL SECURITY NUMBER	ZIP CODE
REQUESTED EXAMINATION DATE AND LOCATION	AREA CODE & TELEPHONE NUMBER	
VIRGINIA BEACH	RETURNING	BOARD

**II. PROFESSIONAL LICENSURE IN ANOTHER JURISDICTION.** If you are currently licensed or have been licensed in another jurisdiction, please list the information below and complete the licensure verification form for each and forward to the jurisdictions you have indicated. Use additional sheets if necessary to list all licenses.

Jurisdiction	Date of Issue	Professional Area

SHOULD THE STATUS OF YOUR FUNERAL SERVICE, DIRECTING OR EMBALMING LICENSE(S) IN ANOTHER JURISDICTION CHANGE PENDING CONSIDERATION OF THIS APPLICATION, YOU ARE REQUIRED TO INFORM THIS BOARD IN DETAIL IMMEDIATELY. THE FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REVOCATION OF THE SAME.

**III. EDUCATION:**

1. HIGH SCHOOL NAME	ADDRESS	CITY	STATE	ZIP CODE
DATE OF GRADUATION	DEGREE EARNED			
2. MORTUARY SCIENCE SCHOOL	ADDRESS	CITY	STATE	ZIP CODE
DATE OF GRADUATION	DEGREE EARNED			

**IV. NATIONAL BOARD SCORES**

DATE OF NATIONAL BOARD EXAM	SCORE

**V. REQUIRED DOCUMENTATION:** The following documents must be on file or received in the Board's office 45 days prior to the scheduled examination date. Please indicate as stipulated below:

Certified birth certificate	ATTACHED	ON FILE WITH BOARD OFFICE	OTHER: Explain
Certified high school or GED transcript			
Certified mortuary school transcript			
Certified National Board scores			

Revised: 7/1/97

CONTINUED ON BACK

**VI. AFFIDAVIT**

1. Have you ever been convicted of any criminal offense other than minor traffic violations? Yes  No  If yes, explain: \_\_\_\_\_

2. Have you ever had a license to practice funeral service, use \_\_\_\_\_ voluntarily surrendered \_\_\_\_\_ placed on probation \_\_\_\_\_ suspended \_\_\_\_\_ or have you been otherwise found in violation of laws or any rules that regulate funeral service? Yes  No  If yes, explain: \_\_\_\_\_

**VII. AFFIDAVIT** (To be completed by a Notary Public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I, \_\_\_\_\_, am applying to be licensed to practice Funeral Service in the Commonwealth of Virginia. I will, at all times, abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I understand that should I violate any of these laws or regulations, that action may be taken against my license by due process.

I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission expires \_\_\_\_\_.

Signature of Applicant \_\_\_\_\_

Notary Public \_\_\_\_\_

SEAL



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717



**APPLICATION FOR COURTESY CARD**

SEE: \$50. Check or money order must accompany this application. Applications received without the appropriate fees will be returned. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION: Name in Full (Please print or type)**

LAST	SUFFIX	FIRST	MIDDLE/INITIAL
NAME ADDRESS	CITY	STATE	ZIP CODE
SOCIAL SECURITY NUMBER	DATE OF BIRTH	AREA CODE & TELEPHONE NUMBER	
FINK'S NAME	CITY	STATE	ZIP CODE
FINK'S STREET ADDRESS			

**II. APPLICATION INFORMATION: Please answer yes or no to the following:**

1. Have you ever been convicted of any criminal offense other than a minor traffic violation? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain: \_\_\_\_\_
2. Have you ever had a license to practice funeral service lapse \_\_\_\_\_ voluntarily surrendered \_\_\_\_\_ placed on probation \_\_\_\_\_ suspended \_\_\_\_\_ or have you been otherwise found in violation of laws of any Board that regulates funeral services? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, explain: \_\_\_\_\_

**III. PROFESSIONAL LICENSURE**

If you are currently licensed or have been licensed in another jurisdiction, please list the information below and complete a licensure verification form for each and forward to the jurisdictions you have indicated. Use additional sheets if necessary to list all licenses.

Jurisdiction	Date of Initial Licensure	License Number	Profession Area

SHOULD THE STATUS OF YOUR FUNERAL SERVICE, DIRECTING, OR EMBALMING LICENSES IN ANOTHER JURISDICTION CHANGE PENDING CONSIDERATION OF THIS APPLICATION, YOU ARE REQUIRED TO INFORM THIS BOARD IN DETAIL IMMEDIATELY. THE FAILURE TO DO SO, MAY CONSTITUTE GROUNDS FOR REVOCATION OF THE SAME.

**IV. AFFIDAVIT (To be completed by a Notary Public)**

I, \_\_\_\_\_ County/City of \_\_\_\_\_  
 (we) \_\_\_\_\_ am applying to be issued a Courtesy Card which only allows me to remove bodies, embalm bodies, and arrange funeral in the Commonwealth of Virginia. I understand that being issued a Courtesy Card does not extend to the right to establish or engage generally in the business of funeral directing and embalming. I understand that the Board of Funeral Directors and Embalmers may suspend or revoke my Courtesy Card if I violate any of these laws or regulations, this action may be taken against my Courtesy Card. I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

SEAL

Signature of Applicant

Notary Public

Revised: 7/1/97

CONTINUED ON BACK

**V. TO BE COMPLETED BY THE LICENSURE BOARD HAVING JURISDICTION:**

1. Funeral Service License number: \_\_\_\_\_ was granted on \_\_\_\_\_
2. Funeral Embalmer License number: \_\_\_\_\_ was granted on \_\_\_\_\_
3. Funeral Director License number: \_\_\_\_\_ was granted on \_\_\_\_\_
4. How is this license issued: Reciprocity \_\_\_\_\_ Endorsement \_\_\_\_\_ or as a Primary (original) License \_\_\_\_\_
5. Status of Current License: Current \_\_\_\_\_ Inactive \_\_\_\_\_ Military Abeyance \_\_\_\_\_ Other \_\_\_\_\_
- 6a. Has this licensee ever been suspended, revoked, or otherwise disciplined? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain: \_\_\_\_\_
- 6b. Is there a probationary period in force? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain: \_\_\_\_\_

**CERTIFICATION**

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS FORM IS TRUE IN EVERY RESPECT, IN ACCORDANCE WITH THE RECORDS ON FILE WITH: \_\_\_\_\_  
 (Jurisdiction and official name of Board)

SEAL

Executive Officer's Signature

Title

Date

**EXPLANATIONS:**



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR ESTABLISHMENT LICENSE/CHANGE OF ADDRESS**

Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54-1-16 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia Social Security Number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION**

Establishment Name		Area Code/Telephone Number
Street Address	City	State
Zip Code		
Mailing Address	City	State
Zip Code		

Print Name (if other than establishment name)

**II. ADMINISTRATOR INFORMATION**

Owner	Social Security Number	Area Code/Telephone Number
Co-Owner	Social Security Number	Area Code/Telephone Number
Managing Address	City	State
Manager	Social Security Number	Area Code/Telephone Number
Manager's License Number		

**III. APPLICATION INFORMATION (Check All That Apply)**

( ) New Establishment (\$150.00)  
 Opening Date: \_\_\_\_\_

( ) Change of Name or Trade Name (\$15.00)  
 Effective Date: \_\_\_\_\_  
 Establishment License #: \_\_\_\_\_

( ) Change of Location (\$150.00)  
 Effective Date: \_\_\_\_\_  
 Establishment License Number: \_\_\_\_\_  
 Establishment License #: \_\_\_\_\_

\*Inspection is required. Please notify the Board office 60 days prior to scheduled opening date.

1. Does this establishment replace a facility presently licensed by this Board. Yes \_\_\_ No \_\_\_ If yes, please list the name and license number of that facility and the date it will be officially closed below.

2. Has the above mentioned establishment ever had a license lapse, voluntarily surrendered, placed on probation, revoked, or otherwise been found in violation of the laws of any board that regulates funeral service? If yes, please explain in detail.

NAME: \_\_\_\_\_ LICENSE NUMBER: \_\_\_\_\_ CLOSURE DATE: \_\_\_\_\_

Revised: 7/1/97

**CONTINUED ON BACK**

**V. AFFIDAVIT** (To be completed by a Notary Public)

I (we) \_\_\_\_\_, County/City of \_\_\_\_\_, am applying to have my (our) business licensed/laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice. I (we) understand that should I (we) violate any of these laws or regulations, our action may be taken against my (our) establishment/permit by the process.

I (we) hereby certify that all statements contained in this application, and all representations and documents presented by me (us) in connection with this application are true and correct.

Signature of Owner \_\_\_\_\_ Signature of Co-Owner \_\_\_\_\_  
 Signature of Establishment Manager \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. My Commission expires \_\_\_\_\_.

SEAL

Notary Public



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR WAIVER OF FULL-TIME MANGER REQUIREMENTS**

APPLICATION FEE: \$15.00

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be delayed. You are also required to provide your Social Security Number for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other enforcement agencies. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. MANAGER INFORMATION:** Name in Full (Please print or type) \_\_\_\_\_  
 MANAGER'S SOCIAL SECURITY NUMBER \_\_\_\_\_

MANAGER'S LICENSE NUMBER \_\_\_\_\_  
 AREA CODE & TELEPHONE NUMBER \_\_\_\_\_

**II. IDENTIFYING INFORMATION:**

ESTABLISHMENT #1	ESTABLISHMENT #2
ESTABLISHMENT'S NAME: _____	ESTABLISHMENT'S NAME: _____
STREET ADDRESS: _____	STREET ADDRESS: _____
CITY, STATE, ZIP CODE _____	CITY, STATE, ZIP CODE _____
TRADE NAME (if other than establishment name) _____	TRADE NAME (if other than establishment name) _____

**III. QUALIFYING INFORMATION:**

ESTABLISHMENT #1	ESTABLISHMENT #2
INITIAL LICENSING DATE: _____	INITIAL LICENSING DATE: _____
NUMBER OF FUNERAL CALLS FOR THE PAST THREE YEARS: _____	NUMBER OF FUNERAL CALLS FOR THE PAST THREE YEARS: _____
19____	19____
19____	19____
19____	19____

\*NOTE: SEE REQUIRED DOCUMENTATION

INDICATE THE NUMBER OF MILES BETWEEN THE TWO FUNERAL ESTABLISHMENTS: \_\_\_\_\_

DO EITHER OF THESE ESTABLISHMENTS BEHOLD A FACILITY PRESENTLY LICENSED BY THIS BOARD? YES \_\_\_\_\_ NO \_\_\_\_\_ If yes, please list the name and license number of that facility and the date it will be officially closed below: \_\_\_\_\_

NAME: \_\_\_\_\_ LICENSE # \_\_\_\_\_

CLOSURE DATE: \_\_\_\_\_

HAS THE ABOVE MENTIONED ESTABLISHMENTS EVER HAD A LICENSE LAISE \_\_\_\_\_ VOLUNTARILY SURRENDERED \_\_\_\_\_ PLACED ON PROBATION \_\_\_\_\_ REVOKED \_\_\_\_\_ OR OTHERWISE BEEN FOUND IN VIOLATION OF THE LAWS OF ANY BOARD THAT REGULATES FUNERAL SERVICE \_\_\_\_\_? IF YES, PLEASE EXPLAIN: \_\_\_\_\_

**IV. REQUIRED DOCUMENTATION:**  
 Monthly copies of the "Funeral Director's Monthly Vital Statistics Report" for the past three years for each establishment.

**CONTINUED ON BACK**

Revised: 7/1/97

**V. AFFIDAVIT (To be completed by a Notary Public):**

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I (We) \_\_\_\_\_ am (are) applying to have two businesses managed by one manager. I (we) will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

(We) understand that should I (we) violate any of these laws or regulations, that action may be taken against my(our) establishment permit by due process.

(We) hereby certify that all statements contained in this application, and all representations and documents presented by me (us) in connection with this application are true and correct.

Signature of Establishment #1 Owner/Representative \_\_\_\_\_ Signature of Establishment #2 Owner/Representative \_\_\_\_\_

Signature of Establishment #1 Co-Owner/Representative \_\_\_\_\_ Signature of Establishment #2 Co-Owner/Representative \_\_\_\_\_

Signature of Establishment Manager \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission expires \_\_\_\_\_.

Notary Public \_\_\_\_\_

SEAL



**COMMONWEALTH OF VIRGINIA**  
DEPARTMENT OF HEALTH PROFESSIONS  
BOARD OF FUNERAL DIRECTORS AND EMBALMERS  
6606 W. BROAD STREET, 4TH FLOOR  
RICHMOND, VIRGINIA 23230-1717

**RENEWAL**  
**APPLICATION FOR WAIVER OF FULL-TIME MANGER REQUIREMENTS**

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54-1-16 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the fee of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. MANAGER INFORMATION: Name in Full (Please print or type)**

MANAGER'S NAME: \_\_\_\_\_ MANAGER'S SOCIAL SECURITY NUMBER: \_\_\_\_\_

MANAGER'S LICENSE NUMBER: \_\_\_\_\_ AREA CODE & TELEPHONE NUMBER: \_\_\_\_\_

**II. IDENTIFYING INFORMATION:**

ESTABLISHMENT #1: \_\_\_\_\_ ESTABLISHMENT #2: \_\_\_\_\_

ESTABLISHMENT'S NAME: \_\_\_\_\_ ESTABLISHMENT'S NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP CODE: \_\_\_\_\_

TRADE NAME (if other than establishment name): \_\_\_\_\_

**III. QUALIFYING INFORMATION:**

ESTABLISHMENT #1: \_\_\_\_\_ ESTABLISHMENT #2: \_\_\_\_\_

DATE OF WAIVER: \_\_\_\_\_

NUMBER OF FUNERAL CALLS FOR THE LAST YEAR: \_\_\_\_\_

19\_\_\_\_ 19\_\_\_\_

**\*NOTE: SEE REQUIRED DOCUMENTATION**

INDICATE THE NUMBER OF MILES BETWEEN THE TWO FUNERAL ESTABLISHMENTS: \_\_\_\_\_

DO EITHER OF THESE ESTABLISHMENTS BEHOLD A FACILITY PRESENTLY LICENSED BY THIS BOARD? YES \_\_\_\_\_ NO \_\_\_\_\_ If yes, please list the name and license number of that facility and the date it will be officially closed below:

NAME: \_\_\_\_\_ LICENSE # \_\_\_\_\_

CLOSURE DATE: \_\_\_\_\_

HAS THE ABOVE MENTIONED ESTABLISHMENTS EVER HAD A LICENSE LAISE \_\_\_\_\_ VOLUNTARILY SURRENDERED \_\_\_\_\_ PLACED ON PROBATION \_\_\_\_\_ REVOKED \_\_\_\_\_ OR OTHERWISE BEEN FOUND IN VIOLATION OF THE LAWS OF ANY BOARD THAT REGULATES FUNERAL SERVICE? \_\_\_\_\_ IF YES, PLEASE EXPLAIN \_\_\_\_\_

**IV. REQUIRED DOCUMENTATION:**

Monthly copies of the "Funeral Director's Monthly Vital Statistics Report" for the last three year for each establishment.

Revised: 1/1/98

**CONTINUED ON BACK**

**V. AFFIDAVIT (To be completed by a Notary Public):**

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I (We) \_\_\_\_\_ am (one) applying to have two businesses managed by one manager. I (we) will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I (We) understand that should I (we) violate any of these laws or regulations, that action may be taken against my(our) establishment permit by due process.

I (we) hereby certify that all statements contained in this application, and all representations and documents presented by me (us) in connection with this application are true and correct.

Signature of Establishment #1 Owner/Representative \_\_\_\_\_ Signature of Establishment #2 Owner/Representative \_\_\_\_\_

Signature of Establishment #1 Co-Owner/Representative \_\_\_\_\_ Signature of Establishment #2 Co-Owner/Representative \_\_\_\_\_

Signature of Establishment Manager \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

My Commission expires: \_\_\_\_\_

Notary Public \_\_\_\_\_

**SEAL**



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF FUNERAL PROFESSIONS AND EMBALMERS**  
 6006 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**LICENSE VERIFICATION FORM**

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**APPLICANT:** Please complete the top portion only and send form to the Funeral Directors and Embalmers regulatory board in every jurisdiction from which you are or have been licensed. Photocopy this form if extra copies are needed.

LAST	FIRST	MIDDLE/INITIALS	DATE OF BIRTH
HOME ADDRESS	CITY	STATE	ZIP CODE
SOCIAL SECURITY NUMBER		ALTERNATE TELEPHONE NUMBER	

I hereby authorize the release of the following information to the Virginia Board of Funeral Directors and Embalmers and authorize the Board to secure additional information concerning me or any statement in this application, from any person or source the Board may require. I further agree to submit to questioning by the Board or any member or agent thereof, and to substantiate any statement to the Board or its agent as it deems necessary.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

**NAME OF JURISDICTION:** \_\_\_\_\_

**LICENSE NUMBER IN JURISDICTION:** \_\_\_\_\_

- BOARD:** Please provide information below and return to the Virginia Board of Funeral Directors and Embalmers at the above shown address.
- Funeral Service License number: \_\_\_\_\_ was granted on \_\_\_\_\_
  - Funeral Embalmer License number: \_\_\_\_\_ was granted on \_\_\_\_\_
  - Funeral Director License number: \_\_\_\_\_ was granted on \_\_\_\_\_
  - How is this license issued: respectively \_\_\_\_\_ endorsement \_\_\_\_\_ or as a primary (original) license \_\_\_\_\_
  - Status of Current License: Current \_\_\_\_\_ Inactive \_\_\_\_\_ Military Absence \_\_\_\_\_ Other \_\_\_\_\_
  - Has this license ever been suspended, revoked, or otherwise disciplined? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain: \_\_\_\_\_
  - Is there a probationary period in force? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please explain: \_\_\_\_\_

**CERTIFICATION**

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS FORM IS TRUE IN EVERY RESPECT, IN ACCORDANCE WITH THE RECORDS ON FILE WITH: \_\_\_\_\_  
 (Jurisdiction and official name of Board)

**SEAL**

Executive Officer's Signature \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

**EXPLANATIONS:** \_\_\_\_\_

Revised: 7/1/97



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6006 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR SURFACE TRANSPORTATION AND REMOVAL SERVICE REGISTRATION**

**SEE: \$200** Check or money order must accompany this application. Application received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION Name in full (please type or print)**

Business Name	Area Code/Telephone Number
Phone Number (if other than business name)	
Home Address	City
State	Zip Code
Mailing Address	City
State	Zip Code

**II. ADMINISTRATOR INFORMATION:**

Owner	Social Security Number	Area Code/Telephone Number
Home Address	City	State
Co-Owner	Social Security Number	Area Code/Telephone Number
Home Address	City	State
Manager	Social Security Number	Area Code/Telephone Number
Home Address	City	State

- III. APPLICATION INFORMATION (Check All That Apply)**
- Is this business licensed as a funeral establishment? Yes \_\_\_\_\_ No \_\_\_\_\_
  - Give name and license number of funeral establishment: \_\_\_\_\_
  - Will this business arrange and/or conduct funerals? Yes \_\_\_\_\_ No \_\_\_\_\_
  - Will this business offer to provide for the care or preparation including embalming, of dead human bodies? Yes \_\_\_\_\_ No \_\_\_\_\_
  - Will this business sell or provide funeral related goods and services? Yes \_\_\_\_\_ No \_\_\_\_\_
  - Will this business have personnel licensed by the Board of Funeral Directors and Embalmers as staff members? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, what are the duties: \_\_\_\_\_

**V. AFFIDAVIT (To be completed by a Notary Public)**

I, \_\_\_\_\_ County/City of \_\_\_\_\_ State of \_\_\_\_\_ am (are) applying to have this business registered as a surface transportation and removal service in the Commonwealth of Virginia. I (we) will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice. I (we) understand that should I (we) violate any of these laws or regulations, that action may be taken against my(our) license by due process. I (we) hereby certify that all statements contained in this application, and all representations and documents presented by me(us) in connection with this application are true and correct.

Signature of Applicant \_\_\_\_\_ Signature of Co-Applicant \_\_\_\_\_ Signature of Manager \_\_\_\_\_  
 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ My Commission expires \_\_\_\_\_  
 Notary Public \_\_\_\_\_

SEAL

Revised: 7/1/97



\*\*\*\*\*

**Title of Regulation:** 18 VAC 65-30-10 et seq. **Regulations for Preneed Funeral Planning (amending 18 VAC 65-30-10, 18 VAC 65-30-50, 18 VAC 65-30-60, 18 VAC 65-30-70, 18 VAC 65-30-80, 18 VAC 65-30-90, 18 VAC 65-30-110, 18 VAC 65-30-140, 18 VAC 65-30-170, 18 VAC 65-30-180, and 18 VAC 65-30-200; adding 18 VAC 65-30-220 and 18 VAC 65-30-230; repealing 18 VAC 65-30-20, 18 VAC 65-30-30, 18 VAC 65-30-40, 18 VAC 65-30-150, 18 VAC 65-30-160, 18 VAC 65-30-190, and 18 VAC 65-30-210).**

**Statutory Authority:** §§ 54.1-2400, 54.1-2803 and 54.1-2820 of the Code of Virginia.

**Public Hearing Date:** September 17, 1998 - 9 a.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** Chapters 24 (§ 54.1-2400 et seq.) and 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia provide the basis for this regulation.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 28 establishes the powers and duties of the Board of Funeral Directors and Embalmers and establishes requirements for the preneed sale of funeral services.

**Purpose:** The purpose of these regulations is to protect the public welfare by establishing safeguards and standards for preneed funeral planning. Regulations set forth requirements for the sale and recordkeeping of such arrangements and for the contracting and funding of preneed agreements. Amendments are proposed to implement the recommendations of the Board of Funeral Directors and Embalmers in its report pursuant to Executive Order 15 (94), which were to simplify, clarify, and eliminate redundancy and unnecessary requirements.

**Substance:**

18 VAC 65-30-10. Amendments are proposed to eliminate duplication in definitions and to eliminate those which are redundant or unnecessary since the terms are already defined in the Code of Virginia.

18 VAC 65-30-20, 18 VAC 65-30-30, and 18 VAC 65-30-40. These unnecessary sections are repealed.

18 VAC 65-30-50. Amendments are proposed to reference an applicable code section and to eliminate repetitive regulations.

18 VAC 65-30-60. Amendments are proposed to consolidate and eliminate verbiage.

18 VAC 65-30-70. An amendment is proposed to clarify the requirement for listings of preneed contracts.

18 VAC 65-30-80. This section is amended to eliminate regulations which repeat requirements of law and to specify that information contained in Appendix I and Appendix II is required in preneed arrangements. The proposed language in this section also contains all necessary requirements for the content of the contract, some of which is currently found in other sections.

18 VAC 65-30-90. Amendments are proposed for simplification and clarity.

18 VAC 65-30-110. Amendments are proposed to simplify and clarify the condition under which the contract buyer may not be eligible for a refund.

18 VAC 65-30-140. Amendments are proposed for simplification and clarity.

18 VAC 65-30-150 and 18 VAC 65-30-160. These sections are repealed as the requirements are already stated in the code or elsewhere in regulation.

18 VAC 65-30-170 and 18 VAC 65-30-180. Amendments are proposed to eliminate regulations which repeat requirements of law (code sections are specifically referenced) and to specify the information required to be disclosed for a trust account or for life insurance or annuity as the funding instrument for preneed contracts.

18 VAC 65-30-190. This section is repealed because bonding is not available for preneed funding.

18 VAC 65-30-200. An amendment is editorial only.

18 VAC 65-20-210. Requirements for a designee agreement are proposed under 18 VAC 65-30-80 and, therefore, this section is repealed.

**Issues:**

Issue 1: Board approval of preneed contracts.

During the regulatory review pursuant to Executive Order 15 (94), the board recommended that the requirement for board approval of preneed contracts be eliminated. The board determined that its responsibility was to ensure that licensees comply with statutory law and federal rules and that its regulations should provide a guide for development of contract. It has been the intent of the board to place the responsibility of compliance on the licensee.

During the comment period on the Notice of Intended Regulatory Action, there was one comment expressing concern about the ability of an establishment to ensure compliance without prior board approval of its forms. However, the Assistant Attorney General has advised the board that it should not bear the legal responsibility of approving individual preneed contracts. Therefore the board proposes to amend its regulations to eliminate prior approval by the board of contracts and disclosures and to reference the applicable statutes. As a guide for the information on pricing and disclosure which are required by Virginia law and Federal Trade Commission rules, the regulations refer to a sample contract and disclosure questions found in the appendices.

---

# Proposed Regulations

---

**Advantages to the licensees:** By repealing the requirement for board approval of preneed contracts, the funeral establishments will no longer have the burden of having to submit their forms and contracts whenever a change is made.

**Disadvantages to the licensees:** While there was one comment of concern from an attorney who represents a preneed insurance product about the lack of board approval, there should be no disadvantages to the licensees. As long as the required information and disclosures are contained, the licensee may revise contracts without the delay of waiting for board review and approval. The attached Appendix clearly sets out the format and disclosures which are required by law and federal regulation.

**Advantages or disadvantage to the public:** There should be no advantages or disadvantages to the public, since no requirements for pricing, standards of conduct, or disclosure of information have been changed.

**Issue 2:** Reduction in the number and complexity of regulations.

In compliance with Executive Order 15 (94), the board has examined every regulation for necessity and clarity and has determined that a number of sections of this chapter could be repealed and a number of others simplified. Many of the regulations repeat requirements stated in the Code of Virginia or in the federal Rule of Funeral Industry Practices by the Federal Trade Commission. The board has eliminated the repetition of requirements and referenced the code sections or the appendix for required information and disclosures.

**Advantages or disadvantage to the licensees:** By repealing unnecessary sections, consolidating and simplifying requirements, and reorganizing for clarity, these regulations should be more easily understood. Since the regulations will be reduced and simplified, compliance should also be easier and there may be fewer questions addressed to the board staff. There should be no disadvantages to the licensees.

**Advantages or disadvantage to the public.** There should be no advantages or disadvantages to the public, since no requirements for disclosure of information have been changed.

Estimated Impact:

**Projected number of persons affected and their cost of compliance:** The approximate number of licensees affected by these regulations are as follows:

Funeral establishments	490
Funeral service providers	1,309
Funeral directors	206
Funeral embalmers	9

There will be no cost for compliance by regulated entities or their employers, as there are no new requirements for funding of preneed contracts. There are no fees established in these regulations.

**Cost to the agency for implementation:** The board will incur approximately \$1,500 in cost for printing and mailing Notices of Comment and final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against licensees for violations of these regulations.

**Cost to local governments:** There will be no impact of these regulations on local government.

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

**Summary of the proposed regulation.** The proposed changes to the preneed funeral planning regulations are pursuant to review under Executive Order 15 (94) and are intended to simplify and clarify these regulations. They do not make any changes in the substantive requirements for disclosure of information found in the existing version of the regulations.

**Estimated economic impact.** This proposal does not change the substantive requirements of disclosure for those providing preneed funeral planning services. The amendments to the regulations reorganize and clarify the regulatory requirements. These changes can be expected to reduce somewhat the costs of complying with the regulations. Since there are no changes in the protections afforded consumers, the savings in compliance costs, although small, most likely represent a net economic benefit to Virginia.

**Businesses and entities affected.** These changes will only affect approximately 2,014 establishments, service providers, funeral directors, and funeral embalmers who sell preneed funeral services. These changes will make compliance with the regulations somewhat easier due to improved clarity and consistency of the regulations. The economic value of this change will be small, but it will almost certainly be positive. Since there are no substantive changes to the requirements of this regulation, it is unlikely that there will be any impact on the purchasers of these services. Any reduction in prices due to lower compliance costs would most likely be too small to observe.

Localities particularly affected. No localities will share disproportionately in the costs or benefits from this proposal.

Projected impact on employment. These changes will not have any direct impact on employment in Virginia.

Effects on the use and value of private property. While the value of owning and operating businesses selling preneed funeral services may increase by a small amount, this impact would be too small to measure.

Summary of analysis. This change in the preneed funeral services regulations will, in all probability, have a small positive impact on the Virginia economy.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs in the analysis of the Department of Planning and Budget.

Summary:

*In response to the comprehensive review conducted pursuant to Executive Order 15 (94), the proposed amendments repeal unnecessary or duplicative regulations, simplify current requirements, and eliminate the requirement for prior approval by the board of any preneed contract and disclosure statements.*

**18 VAC 65-30-10. Definitions.**

*In addition to those defined in § 54.1-2800 of the Code of Virginia, the following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:*

~~"At need" means at the time of death or while death is imminent.~~

~~"Board" means the Board of Funeral Directors and Embalmers.~~

~~"Capper," "steerer," or "shill" means a person who serves as a lure or decoy to entice another to purchase a product or to direct the course of action and choice of the buyer in a preneed funeral contract sale. A shill.~~

"Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the behalf of the contract buyer. Cash advance items may include, but are not limited to, cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

"Consideration," "contract price," or "funds" means money, property, or any other thing of value provided to be compensation to a contract seller or contract provider for the funeral services and funeral goods to be performed or furnished under a preneed funeral contract. Consideration does not include late payment penalties and payments required to be made to a governmental agency at the time the contract is entered into.

"Contract" means a written, preneed funeral contract, and all documents pertinent to the terms of the contract under which, for consideration paid to a contract seller or a contract provider by or on behalf of a contract buyer prior to the death of the contract beneficiary, a person promises to furnish, make available, or provide funeral services or funeral goods after the death of a contract beneficiary.

"Contract beneficiary" means the individual for whom the funeral services and supplies are being arranged.

"Contract buyer" means the purchaser of the preneed contract.

"Contract provider" means the funeral establishment designated by the contract buyer and contracting with the contract buyer to provide for funeral services and supplies in the preneed funeral contract.

"Contract seller" means the funeral service licensee who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided.

~~"Contract price" means the same as consideration.~~

~~"Department" means the Department of Health Professions.~~

"Designee" means the individual selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary.

~~"Executive director" means the administrator of the Board of Funeral Directors and Embalmers.~~

"Funding source" means the trust agreement, insurance policy, annuity, personal property, or real estate used to fund the preneed plan.

~~"Funds" means the same as "consideration."~~

"Funeral supplies and services" means the items of merchandise sold or offered for sale or lease to consumers which will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets, combination units, and catafalques. Funeral goods does not mean land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that are sold by a cemetery which complies with § 57-35.11 et seq. of the Code of Virginia. In addition, "funeral supplies and services" does not mean cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment which are sold by a cemetery operating in accordance with § 57-35.11 et seq. of the Code of Virginia.

~~"Funeral service establishment" means any main establishment, branch, or chapel where any part of the profession of funeral directing or the act of embalming is performed.~~

---

# Proposed Regulations

---

~~"General advertising" means advertisement directed to a mass market including, but not limited to, direct mailings; advertisements in magazines, flyers, trade journals, newspapers; advertisements on television and radio; bulk mailings; and direct mailing to a mass population.~~

~~"Guaranteed contract price" means (i) the amount paid by the contract buyer on a preneed funeral contract, and income derived from that amount, or (ii) the amount paid by a contract buyer for a life insurance policy or annuity as the funding source and its increasing death benefit. These amounts shall be accepted as payment in full for the preselected funeral goods and services.~~

~~"Income" means the amount of gain received in a period of time from investment of consideration paid for a preneed contract.~~

~~"In-person communication" means face-to-face communication and telephonic communication.~~

~~"Nonguaranteed contract price" means the costs of items on a preneed funeral contract that are not fixed for the specified funeral goods or funeral services selected and nonguaranteed costs may increase from the date of the contract to the death of the contract beneficiary and the family or estate will be responsible for paying at the time of need for the services and supplies that were nonguaranteed. Cash advance items are not guaranteed.~~

~~"Preneed" means at any time other than at need.~~

~~"Preneed funeral contract" means any agreement where payment is made by the contract buyer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.~~

~~"Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of funeral services; or (ii) the sale of funeral supplies.~~

~~"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or a funeral service provider.~~

~~"Steerer" means an individual used to direct the course of action and choice of the buyer in a preneed funeral contract sale.~~

## **18 VAC 65-30-20. Purpose. (Repealed.)**

~~This chapter establishes the standards to regulate preneed funeral contracts and preneed funeral trust accounts as prescribed in Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia.~~

## **18 VAC 65-30-30. Applicability. (Repealed.)**

~~Subject to this chapter are (i) funeral service licensees, (ii) funeral establishments, and (iii) resident trainees assisting the licensee in the preneed arrangement. All of the above shall be operating in the Commonwealth of Virginia in order to qualify to sell preneed.~~

~~EXEMPTIONS: This chapter does not apply to the preneed sale of cemetery services or supplies regulated under Article 3.2 (§ 57-35.11 et seq.) of Chapter 3 of Title 57 of the Code of Virginia.~~

## **18 VAC 65-30-40. Qualifications of seller. (Repealed.)**

~~A. A person shall not engage in or hold himself out as engaging in the business of preneed funeral planning unless he is licensed for funeral service by the Board of Funeral Directors and Embalmers.~~

~~B. All individuals selling preneed funeral plans shall comply also with the Regulations of the Funeral Directors and Embalmers (18 VAC 65-20-10 et seq.) promulgated by the board.~~

## **18 VAC 65-30-50. Solicitation.**

~~A. In accordance with provisions of § 54.1-2806 of the Code of Virginia, a licensee shall not initiate any preneed solicitation using in-person communication by the licensee, his agents, assistants, or employees.~~

~~Exception: General advertising and solicitation other than in-person communication is acceptable.~~

~~B. After a request to discuss preneed planning is initiated by the contract buyer or interested consumer, any contact and in-person communication shall take place only with a funeral service licensee.~~

~~C. A licensee shall not employ persons known as "cappers" or "steerers," or "solicitors," or other such persons to participate in preneed sales.~~

~~D. A licensee shall not employ directly or indirectly any agent, employee, or other person, part or full time, or on a commission, for the purpose of calling upon individuals to influence, secure, or otherwise promote preneed sales.~~

~~E. Direct or indirect payment or offer of payment of a commission to others by the licensee, his agents, or employees for the purpose of securing preneed sales is prohibited.~~

~~F. C. No licensee engaged in the business of preneed funeral planning or any of his agents shall advertise discounts; accept, advertise, or offer enticements, bonuses, or rebates, discounts, restrictions to, ; or otherwise interfere with the freedom of choice of the general public in making preneed funeral plans.~~

## **18 VAC 65-30-60. Records; general.**

~~A. A licensee shall keep accurate accounts, books, and records of all transactions required by this chapter.~~

~~B. Preneed contracts and reporting documents shall be retained on the premises of the establishment for three years one year after the death of the contract beneficiary.~~

~~C. Required preneed reporting documents shall be retained on the premises of the establishment for three years. (See subsection A of 18 VAC 65-30-70 and subsection D of 18 VAC 65-30-190.)~~

~~D. C.~~ A funeral home shall keep on file a written verification from the insurance company that the insurance or annuity contract complies with § 54.1-2820 B of the Code of Virginia. ~~(See subdivision 6 of 18 VAC 65-30-180.)~~

~~E. D.~~ All preneed records shall be available for inspection by the Department of Health Professions.

**18 VAC 65-30-70. Record reporting.**

A. A contract provider shall keep a chronological listing of all preneed contracts. The listing shall include the following:

1. Name of contract buyer;
2. Date of contract;
3. How contract was funded; *and*
4. *If funeral goods and supplies are stored for the contract buyer, it shall be stated whether up to 10% of funds are retained by the contract provider for contracts funded through trust; and .*
- ~~5. Whether funeral goods and supplies are stored for the contract buyer.~~

B. A contract provider who discontinues its business operations shall notify the board and each existing contract buyer in writing.

**18 VAC 65-30-80. Content and format.**

A. A person residing or doing business within the Commonwealth shall not make, either directly or indirectly by any means, a preneed contract unless the contract: *is made in writing on forms containing all information and disclosures required by law and regulation as prescribed in 18 VAC 65-30-220 and 18 VAC 65-30-230.*

- ~~1. Is made on forms prescribed by the board (see Appendix I); or~~
- ~~2. Is made on forms approved by the board prior to use (see subsection B of this section).~~

~~B. Prior to use, contracts or disclosures which are not identical in format, wording, and content to that prescribed in Appendices I and II shall be approved by the board.~~

~~C. Contracts and disclosure forms prescribed in Appendices I and II shall be received in the board office no later than 10 days prior to a regularly scheduled meeting of the board to be considered for approval by the board at that meeting.~~

~~D. All preneed contracts shall be in writing.~~

~~E. All information on a preneed contract and disclosure statement shall be printed in a clear and easy to read type, style, and in a type size not smaller than 10 points.~~

~~F. Preneed contracts and disclosure statements shall be written in clear, understandable language.~~

~~G. B.~~ *In addition to requirements of § 54.1-2820 of the Code of Virginia, the contract shall identify contain the following:*

- ~~1. The contract seller;~~
- ~~2. Funeral license number of the contract seller;~~
- ~~3. The contract buyer;~~
- ~~4. The contract beneficiary;~~
- ~~5. The date of the contract;~~
- ~~6. The contract number;~~
- ~~7. A complete description of the supplies or services purchased;~~
- ~~8. Whether the price of the supplies and services purchased is guaranteed;~~
- ~~9. Whether the price of the supplies and services purchased is not guaranteed;~~
- ~~10. Any penalties or restrictions:
 
  - ~~a. Geographic restrictions including maximum number of miles traveled without charging an extra fee;~~
  - ~~b. Geographic restrictions including maximum number of miles the establishment is willing to travel; and~~
  - ~~c. The inability of the provider to perform the request of the buyer on merchandise, services, or prearrangement guarantees.~~~~
- ~~11. All disclosure requirements imposed by the board (see Appendix II); and~~
- ~~12. The designee agreement when applicable.~~

~~H. The contract or the disclosure statement as a part of the contract shall contain the name, address, and telephone number of the board and list the board as the regulatory agency which handles consumer complaints.~~

~~I. All preneed contracts shall be signed by the contract seller and the contract buyer.~~

- ~~1. The date and number of the contract;~~
- ~~2. Whether or not the price of the supplies and services purchased is guaranteed;~~
- ~~3. The designee agreement when applicable; and~~
- ~~4. Signatures of the contract seller and the contract buyer.~~

~~C. The contract buyer shall have the right to change the contract provider and the trustee at any time prior to the furnishing of the services or supplies contracted for under the preneed contract.~~

~~D. If a designee agreement has been signed, it shall be attached to the preneed contract as a valid part of the contract. At need, the next of kin shall have the final authority regarding contract beneficiary, final disposition and arrangements.~~

---

# Proposed Regulations

---

## 18 VAC 65-30-90. Disclosures.

A. *At the time of the inquiry*, licensees shall furnish to each person inquiring about preneed arrangements a copy of the: ~~1-~~ general price list; and ~~2-~~ preneed disclosure questions and answers.

~~The licensee shall furnish such information at the time of the inquiry.~~

B. *Immediately upon concluding the arrangement conference*, licensees shall furnish to each person who makes a preneed arrangement a copy of the: ~~1-~~ preneed contract; and ~~2-~~ funding contract.

~~The licensee shall furnish such documents immediately upon concluding the arrangement conference.~~

C. An itemized statement of funeral goods and services shall be given at the time of need even if the arrangements were made through a preneed contract.

## 18 VAC 65-30-110. Cancellation of contract.

A. Any person who makes payment under this contract may terminate the agreement at any time prior to the time for which the services or supplies are furnished.

B. If the contract buyer terminates the contract within 30 days of the execution of the contract, the contract buyer shall be refunded: ~~1-~~ all consideration paid or delivered; and ~~2-~~ any interest or income accrued on it.

C. If the purchaser uses a *revocable trust as the funding source* ~~other than an insurance or annuity policy~~ and terminates the contract after 30 days of the execution of the contract, the contract buyer shall be refunded:

1. All consideration paid or delivered on nonguaranteed items;
2. At least 90% of all consideration paid for guaranteed items; and
3. All interest or income accrued on it.

D. *If the purchaser uses an irrevocable trust as the funding source and terminates the contract after 30 days of its execution, the contract buyer may not be eligible for a refund.*

## 18 VAC 65-30-140. Personal property.

When the consideration consists in whole or in part of any personal property, the following shall occur:

1. Personal property shall be transferred by:
  - a. Actual delivery of the personal property; or
  - b. Transfer of the title to the personal property.
2. Within 30 days of receiving the personal property or the title to the personal property, the licensee or person delivering the property shall:
  - a. Execute a written declaration of trust setting forth the terms, conditions, and considerations upon which the personal property is delivered; and

b. Record the trust agreement in the clerk's office of the circuit court of the locality in which the person delivering the property is living; or

c. Record the preneed contract in the clerk's office of the circuit court of the locality in which the person delivering the property or trust agreement is living provided that the *preneed contract sets forth the terms, conditions, and considerations in subdivision 2 of 18 VAC 65-30-130* are included in the preneed contract of the trust.

## 18 VAC 65-30-150. Right to change contract provider. (Repealed.)

~~The contract buyer shall have the right to change the contract provider and the trustee at any time prior to the furnishing of the services or supplies contracted for under the preneed contract.~~

## 18 VAC 65-30-160. Exemption from levy, garnishment, or distress. (Repealed.)

~~Any money, personal property, or real estate paid, delivered, or conveyed subject to §§ 54.1-2822 through 54.1-2823 shall be exempt from levy, garnishment, or distress.~~

## 18 VAC 65-30-170. Trust accounts.

A. If funds are to be trusted, the *trust account is to be established according to provisions of §§ 54.1-2822 and 54.1-2824 of the Code of Virginia and the following information shall be disclosed in writing to the contract buyer:*

1. The amount to be trusted;
2. The name of the trustee;
3. The disposition of the interest;
4. The fees, expenses, and taxes which may be deducted from the interest;
5. Whether up to 10% is retained by the contract provider; and
6. A statement of the contract buyer's responsibility for taxes owed on the interest.

~~B. If the contract buyer chooses a trust account as the funding source, within 30 days following the date of the receipt of any money paid for a trust-funded preneed contract or interest or income accrued (see 18 VAC 65-30-120), the licensee shall transfer the money from the escrow account and deposit the following amount in a trust account in a bank or saving institution doing business in Virginia:~~

~~1. Nonguaranteed prices. All consideration shall be deposited for a preneed funeral contract in which prices of supplies and services are not guaranteed.~~

~~2. Guaranteed prices. At least 90% of all consideration shall be deposited for a preneed contract in which the prices of goods and services are guaranteed.~~

~~C. The trust funds shall be deposited in separate, identifiable accounts setting forth:~~

- ~~1. Name of depositor;~~
- ~~2. Contract beneficiary;~~
- ~~3. Trustee for contract beneficiary; and~~
- ~~4. Name of establishment which will provide the goods and services.~~

**18 VAC 65-30-180. Life insurance or annuity.**

If a life insurance or annuity policy is used to fund the preneed funeral contract, *the contract shall be in compliance with provisions of § 54.1-2820 B of the Code of Virginia and shall contain the following shall be disclosed in writing information:*

- ~~1. The fact that a life insurance policy or annuity contract is involved or is being used to fund the preneed contract;~~
- ~~2. The following information:
 
  - ~~a. Name of the contract provider;~~
  - ~~b. Name of contract seller;~~
  - ~~c. Funeral license number of contract seller;~~
  - ~~d. Place of employment of contract seller;~~
  - ~~e. Name of insurance agent;~~
  - ~~f. Identification as to whether the insurance agent is a funeral service licensee, and if so, license number;~~
  - ~~g. Insurance agent's insurance license number;~~
  - ~~h. Insurance agent's employer; and~~
  - ~~i. Insurance company represented by insurance agent.~~~~
- ~~3. The relationship of the life insurance policy or annuity contract to the funding of the preneed contract;~~
- ~~4. The nature and existence of any guarantees relating to the preneed contract from the policy or annuity;~~
- ~~5. The impact on the preneed contract of:
 
  - ~~a. Any changes in the life insurance policy or annuity contract including changes in the assignment, contract provider, or use of the proceeds;~~
  - ~~b. Any penalties to be incurred by the policy holder as a result of failure to make premium payments;~~
  - ~~c. Any penalties to be incurred or moneys to be received as a result of cancellation or surrender of the life insurance policy or annuity contract; and~~
  - ~~d. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy or annuity contract and the amount actually needed to fund the preneed contract.~~~~

~~6. The fact that the life insurance or annuity contract complies with § 54.1-2820 B of the Code of Virginia which states that the life insurance or annuity contract shall provide that either:~~

- ~~a. The face value thereof shall be adjusted annually by a factor equal to the Consumer Price Index as published by the Office of Management and Budget of the United States; or~~
- ~~b. A benefit payable at death under such contract that will equal or exceed the sum of all premiums paid for such contract plus interest on it at the annual rate of at least 5.0% compounded annually.~~

- ~~1. Name of the contract provider;~~
- ~~2. Name and funeral license number of contract seller;~~
- ~~3. Place of employment of contract seller;~~
- ~~4. Name of insurance agent and agent's insurance license number;~~
- ~~5. Insurance agent's employer and insurance company represented by insurance agent; and~~
- ~~6. Identification as to whether the insurance agent is a funeral service licensee and, if so, funeral service license number.~~

**PART VII.  
BONDING.**

**18 VAC 65-30-190. Bonding. (Repealed.)**

- ~~A. A performance bond shall be required on the following:~~
- ~~1. The contract provider which retains up to 10% of the consideration invested in a trust account; or~~
  - ~~2. The retail price of funeral goods and supplies which are stored by the contract provider for the contract beneficiary prior to the death of the contract beneficiary.~~
- ~~B. The establishments described in subsection A of this section shall arrange for their own bonding.~~
- ~~C. The amount of bond required shall be based upon the risk of loss determined by the bonding company.~~
- ~~D. The following information concerning the bond shall be maintained at the funeral establishment: (See subsections A, C, and D of 18 VAC 65-30-60.)~~
- ~~1. Amount of the bond;~~
  - ~~2. Company holding the bond;~~
  - ~~3. Documentation that company holding the bond is duly authorized to issue such bond in the Commonwealth; and~~
  - ~~4. Renewal requirements of the bond.~~

---

# Proposed Regulations

---

PART VIII VII.  
SUPPLIES AND SERVICES.

**18 VAC 65-30-200. Supplies and services.**

A. If the contract seller will not be responsible for furnishing the supplies and services to the contract buyer, the contract seller shall attach to the preneed funeral contract a copy of the contract seller's agreement with the contract provider.

B. If any funeral supplies are sold and delivered prior to the death of the contract beneficiary, and the contract seller, contract provider, or any legal entity in which the contract provider or a member of his family has an interest thereafter stores these supplies, the risk of loss or damage shall be upon the contract seller or contract provider during such period of storage.

C. If the particular supplies and services specified in the contract are unavailable at the time of delivery, the contract provider shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship. ~~D. The representative of the deceased shall have the right to choose the supplies or services to be substituted in subsection C of this section.~~

PART IX.  
~~DESIGNEE AGREEMENT REQUIRED CONTENT OF  
CONTRACTS AND DISCLOSURES.~~

**18 VAC 65-30-210. Designee. (Repealed.)**

~~A. A designee agreement shall be used only when the contract beneficiary is mentally alert and capable of appointing his own designee.~~

~~B. Any person may designate through the use of the designee agreement a designee who shall make arrangements for the contract beneficiary's burial or the disposition of his body for burial.~~

~~C. The designee agreement shall be:~~

- ~~1. In writing;~~
- ~~2. Accepted in writing by designee and the designee's signature notarized; and~~
- ~~3. Attached to the preneed contract as a valid part of the contract.~~

~~Appendix I.~~

~~Preneed Funeral Contract Prescribed by the Board.~~

**18 VAC 65-30-220. Content of preneed contracts as prescribed by the board.**

*The following information shall be contained in any contract for preneed funeral planning.*

Date: \_\_\_\_\_

Contract: \_\_\_\_\_

PRENEED FUNERAL CONTRACT

for

(Name of Recipient of Services)

\_\_\_\_\_  
(Zip)\_\_\_\_\_

**I. SUPPLIES AND SERVICES PURCHASED**

*The prices of goods and services below MAY BE GUARANTEED provided the total is paid in full and all interest earned is allowed to accumulate in your account. If any of the prices are guaranteed, no additional cost will incur for your family or estate even though the actual prices of goods and services may increase between the date of this contract and the time of need. (Please see the disclosure document).*

*Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use an item, we will explain the reasons in writing below. If you selected a funeral that may require embalming, such as a funeral with a viewing, you may have to pay for embalming. You do not have to pay for embalming you did not select if you select arrangements such as a direct cremation or immediate burial.*

Guaranteed Services Purchased

I. BASIC SERVICES OF FUNERAL DIRECTOR AND STAFF \_\_\_\_\_

II. FUNERAL HOME FACILITIES

- A. Facilities and Staff for visitation/viewing \_\_\_\_\_
- B. Facilities and Staff for funeral ceremony \_\_\_\_\_
- C. Facilities and Staff for memorial service \_\_\_\_\_
- D. Equipment and Staff for graveside service \_\_\_\_\_

(NOTE TO FUNERAL HOME: If you have additional charges such as facilities and staff for home/church viewing, or a charge for additional staff person or through calculation of manhours, etc., add here as extra items. If you have a charge for equipment for interment, add here.)

III. EMBALMING

- A. Normal remains \_\_\_\_\_
- B. Autopsy remains \_\_\_\_\_

IV. OTHER PREPARATION OF THE BODY

(NOTE: List all items that you placed under Other Preparation on your General Price List.)

V. IMMEDIATE BURIAL \_\_\_\_\_

VI. DIRECT CREMATION \_\_\_\_\_

# Proposed Regulations

VII. TRANSFER OF REMAINS TO FUNERAL ESTABLISHMENT \_\_\_\_\_ \$ \_\_\_\_\_

VIII. FORWARDING REMAINS TO ANOTHER FUNERAL HOME \_\_\_\_\_

IX. RECEIVING REMAINS FROM ANOTHER FUNERAL HOME \_\_\_\_\_

X. AUTOMOTIVE EQUIPMENT

A. Hearse \_\_\_\_\_

B. Limousine \_\_\_\_\_

(NOTE: List all others that you placed on General Price List.)

XI. FUNERAL MERCHANDISE

A. Casket (\*describe)  
\_\_\_\_\_  
\_\_\_\_\_

B. Outer Burial Container (\*describe)  
\_\_\_\_\_  
\_\_\_\_\_

C. List any others  
\_\_\_\_\_

## Supplies Purchased

Clothing \$ \_\_\_\_\_

Temporary marker \$ \_\_\_\_\_

Acknowledgment cards \$ \_\_\_\_\_

Register/attendance books \$ \_\_\_\_\_

Memorial folders \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

SUB-TOTAL COSTS OF (GUARANTEED) SUPPLIES PURCHASED: \_\_\_\_\_

XII. PACKAGE PRICES

(Note: List all package prices by name)

SUBTOTAL COST OF (GUARANTEED) SUPPLIES PURCHASED: \_\_\_\_\_

## Nonguaranteed Goods and Services Purchased

The actual prices of goods and services below are NOT GUARANTEED. These items may include, but not be limited to, obituary notices, death certificates, cemetery fees, flowers, sales tax, etc. The prices are estimated and the estimates will be included in the Grand Total Contract Price. The differences between the estimated prices below and the actual cost will be settled with your family or estate at the time of need:

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

SUBTOTAL ESTIMATED COST OF NONGUARANTEED ITEMS \_\_\_\_\_

GRAND TOTAL FOR PRENEED ARRANGEMENTS

1. Total cost of (Guaranteed) Services Purchased \$ \_\_\_\_\_

2. Total cost of (Guaranteed) Supplies Purchased \$ \_\_\_\_\_

3. Total Estimated cost of nonguaranteed Items \$ \_\_\_\_\_

GRAND TOTAL \$ \_\_\_\_\_

The only warranties, express or implied, granted in connection with the goods sold in this preneed funeral contract, are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE are extended by the (funeral home) \_\_\_\_\_.

## II. GENERAL INFORMATION

In order that the Buyer may understand the relationship of all parties involved in this preneed arrangement and contract, the following is provided:

A. Buyer:

B. Funeral Home Providing Services:

C. Preneed Arranger:

Employed by: (Funeral Home)

Licensed Funeral Director in Virginia: \_\_\_yes \_\_\_no

Funeral Director License Number:

Method of Funding

A. Insurance

B. Trust

1. Amount to be trusted:

2. Name of trustee:

3. Disposition of Interest:

4. Fees, expenses, taxes deducted from earned interest:

5. Buyer's responsibility for taxes owned on interest:

The following information will be given if an insurance policy or annuity contract is used to fund this agreement:

A. Buyer:

B. Insurance Company:

C. Insurance Agent:

Employed by: (Insurance Company)

Licensed Funeral Director in Virginia: \_\_\_yes \_\_\_no

---

# Proposed Regulations

---

Funeral Director License Number  
(If Applicable):

Employed by *Funeral Home* (If Applicable):  
(~~Funeral Home~~) \_\_\_\_\_

D. The life insurance or annuity contract provides either that:

\_\_\_\_\_ The face value thereof shall be adjusted annually by a factor equal to the Consumer Price Index as published by the Office of Management and Budget of the United States; or

\_\_\_\_\_ A benefit payable at death under such contract that will be equal or exceed the sum of all premiums paid for such contract plus thereon at the annual rate of at least 5.0%, compounded annually.

### III. CONSUMER INFORMATION

The Board of Funeral Directors and Embalmers is authorized by § 54.1-2800 et seq. of the Code of Virginia to regulate the practice of preneed funeral planning. Consumer complaints should be directed to:

The Board of Funeral Directors and Embalmers  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
Telephone Number 804-662-9907  
Toll Free Number 1-800-533-1560

### IV. DISCLOSURES

The disclosure statements will be available for your review. The General Price List shall be furnished to you by the preneed arranger. These contain information that you must receive by law and/or the authority of the Board of Funeral Directors and Embalmers. You are entitled to receive all information in clear and simple language including the language of the funding agreement for this preneed arrangement.

If any law, cemetery, or crematory requires the purchase of any of those items listed in Part I, the requirements will be explained in writing.

By signing this contract, buyer acknowledges availability of and opportunity to read a copy of all of the required documents.

### V. TERMINATION OF CONTRACT

This person who funds this contract through a trust agreement may terminate this preneed contract at any time prior to the furnishing of the services or supplies contracted for:

Within 30 days

If you terminate this preneed contract within 30 days of the date of this contract, you will be refunded all payments of whatever type you have made, plus any interest or income you may have earned.

More than 30 days

If you terminate this preneed contract more than 30 days after the date on this contract, you will be refunded whatever amount was required to be placed in a revocable trust fund, plus any interest or income it has earned.

Any person who funds this contract through a trust fund which is irrevocable or through an insurance/annuity policy or through the transfer of real estate/personal property may not be eligible for a refund.

### VI. STATEMENT OF GUARANTEE

By signing this contract, (Funeral Home) \_\_\_\_\_ agrees to the statement checked below (check one):

\_\_\_\_\_ Prefinancing guarantees that no additional payment will be required from the family or estate for guaranteed services and supplies provided the Grand Total of these arrangements is paid in full and the interest is allowed to accumulate in your account (see page 4 for Grand Total amount). Payment of the difference will be required for the nonguaranteed estimated items if they increase in price.

\_\_\_\_\_ The prices for items under supplies and services are not guaranteed.

### VII. AGREEMENT

In witness whereof, the Buyer and the Funeral Home have executed this contract, intending its terms to be in accordance with the Code of Virginia and any regulations implementing the Code. By signing this contract you acknowledge that you have been provided access to and the opportunity to read the Disclosure Statements.

\_\_\_\_\_  
(Designee of Funeral Home) (Buyer)

\_\_\_\_\_  
(Funeral Home) (Contract Date)

### VIII. PENALTIES OR RESTRICTIONS

The (funeral home) \_\_\_\_\_, has the following penalties or restrictions on the provisions of this contract.

1. (Insert geographic restrictions);
2. (Insert an explanation of the Funeral Home's inability to perform the request(s) of the Buyer);
3. (Insert a description of any other circumstances which apply);
4. (Insert information that if particular goods and services specified in the contract are unavailable at the time of need):

A. The funeral home shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship; and

B. The representative of the deceased shall have the right to choose the supplies or services to be substituted.

Addendum to Preneed Contract

DESIGNEE AGREEMENT

I designate \_\_\_\_\_ of (address) to assist with the preneed arrangements in my behalf. This individual is also authorized to work with the funeral home after my death to ensure that these arrangements are fulfilled. The relationship of my designee to me is \_\_\_\_\_.

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

I accept the request of (buyer) \_\_\_\_\_ to assist with his/her preneed arrangements and to work with the funeral home after his/her death to ensure that these arrangements are fulfilled.

Designee: \_\_\_\_\_ Date: \_\_\_\_\_

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Notary: \_\_\_\_\_

Date Commission Expires: \_\_\_\_\_

~~APPENDIX II.  
DISCLOSURE STATEMENTS PRESCRIBED BY THE  
BOARD.~~

DISCLOSURES

**18 VAC 65-30-230. Content of disclosure statements prescribed by the board.**

*The following disclosure statements shall be provided as a part of any contract used for preneed funeral planning:*

We are required by law and/or the Virginia Board of Funeral Directors and Embalmers to provide access to and the opportunity for you to read the following information to assist you in preplanning. A question and answer format is used for clarity and includes the most commonly asked questions.

PRENEED CONTRACTS

-- Is there more than one type of preneed agreement?

Yes. Guaranteed contracts mean that the costs of certain individual items or the cost of the total package will never be more to your family or estate. Nonguaranteed means just the opposite. (See the section entitled "General Funding Information" for more information on guaranteed and nonguaranteed costs.)

Contracts may be funded by insurance/annuity policies, trusts, or transfer of real estate/personal property.

-- What are my protections?

You should take your completed preneed contract home before you sign it and review it with your family or your legal advisor. You have a right to this review before you sign the contract or pay any money.

You should also read carefully the information in this disclosure statement. If you have any questions, contact the seller for more information or contact your legal advisor.

CANCELLATION

-- Can I cancel my preneed agreement if I change my mind? Will I get my money back?

You may cancel payment for supplies or services within 30 days after signing the agreement. If you funded your preneed arrangement through a trust, the preneed arranger will refund all the money you have paid plus any interest or income you have earned.

If you funded your preneed arrangement through a revocable trust and you cancel the preneed contract AFTER the 30 day deadline, you will be refunded all of your money on the items that are not guaranteed and 90% of all your money on the items that are guaranteed. You will also receive any interest or income on that amount. A revocable trust is a trust that you can cancel.

There may be a penalty to withdraw money from a revocable trust account which has already been established in your name. If there is, your contract will give you this information. (See the first question under the section entitled "Payment" below.)

If you have funded your preneed arrangement through an irrevocable trust you will not be able to cancel the trust agreement or receive a refund. An irrevocable trust is one that cannot be cancelled.

If you funded your preneed arrangement through an insurance policy/annuity contract which will be used at the time of your death to purchase the supplies and services you have selected, you will need to pay careful attention to the cancellation terms and conditions of the policy. You may not be eligible for a refund.

PAYMENT

-- What happens to my money after the contract is signed?

Your money will be handled in one of several ways. It may be deposited in a separate trust account in your name. The trust account will list a trustee who will be responsible for handling your account. The funeral home you have selected as your beneficiary will also be listed. You have the right to change the funeral home and the trustee of your account prior to receiving the supplies and services under the preneed contract.

Your money may be used to purchase a preneed life insurance policy which may be used to pay for your arrangements upon your death. The proceeds of the policy will be assigned to the funeral home of your choice. You may change the funeral home assignment at any time prior to receiving the supplies and services under the preneed contract.

You may decide to choose a life insurance policy or a trust account that requires regular premium payments and not have to make an up-front, lump sum payment.

-- May I pay for goods and services with real estate or personal property?

---

# Proposed Regulations

---

Yes. When you pay for these supplies and services in whole or in part with any real estate you may own, the preneed contract that you sign will be attached to the deed on the real estate and the deed will be recorded in the clerk's office of the circuit court in the city or county where the real estate is located.

If you pay for goods and services with personal property other than cash or real estate, the preneed arranger, will declare in writing that the property will be placed in a trust until the time of your death and will give you written information on all the terms, conditions, and considerations surrounding the trust. The preneed arranger will confirm in writing that he has received property.

You may decide not to transfer the title of the personal property to the preneed arranger of your preneed contract. In this situation, you will have to submit information to the preneed arranger in writing that you are giving him the property without a title, and describe the property and where it will be kept until the time of your death.

In either case, the written statements will be recorded in the clerk's office of the circuit court of the city or county in which you live. The written statement does not have to be separate document.

## GENERAL FUNDING INFORMATION

-- If the prices of the goods and services are affected by inflation between now and my death, will the funding I choose be adjusted accordingly?

There is a possibility that the funding may fail to keep up with inflation. This could mean that the funding you choose could have insufficient value to cover all expenses.

-- What happens if my funding is not enough to cover the full cost of these arrangements?

If the entire funeral or specific items in the agreement are guaranteed by the preneed arranger, your family or estate will not have to pay any more for those items provided that you have paid the grand total in full and all interest earned is allowed to accumulate in your account. However, if you have not paid the account in full and have not allowed the interest to accumulate in the account and any items increase in price, your family or estate would be responsible for the extra amount if the funds are not sufficient. In some situations where you pay toward your funding with regular premiums rather than in one lump sum, your account may not be enough at the time of your death to cover everything.

-- What happens to the extra money if my funding is more than what is needed to pay for these arrangements?

Sometimes, as explained in the answer above, your funding account may not have had the time to grow sufficiently before your death to cover items which are guaranteed in price to you, yet have increased in price for the funeral home.

After funeral expenses are paid, there may be money left over. Because of the on-going risk that a funeral home takes

in guaranteeing prices for you, the funeral home may not be required to return this excess money.

Some funding agreements and funeral homes, however, require that extra money be returned to the estate or family. Others do not. You should obtain information concerning this in writing before signing the preneed contract.

The answers to the following questions will depend upon the terms and conditions of the individual's funding and preneed agreements.

Please review your preneed contract and/or funding agreement for answers to these questions.

-- What happens to my preneed contract if I change my assignment from one funeral home to another?

(Funeral home shall place answer here)

-- What happens to my preneed contract if I change the beneficiary of my funding or the use of my proceeds from the funding.

If you make such changes, it could void your contract. You should request specific information from the preneed arranger and the funding arrangement.

-- What will happen to my preneed contract if I fail to make agreed to premium payments to my funding source?

(Funeral home shall place answer here)

-- Do I get any money back if I surrender or cancel my funding arrangements?

(Funeral home shall place answer here)

## TRUST ACCOUNT

-- If my money goes into a trust account, what information will I receive about that account?

If you want your money to go into a trust fund, the trust agreement must furnish you with information about the amount to be deposited into the account, the name of the trustee, information about what happens to the interest your trust account will earn, and information about your responsibility to file and pay taxes on that interest.

If there are filing expenses connected with your trust account, you will be notified what the expenses are and whether you or the preneed arranger is the responsible party for paying those.

-- What happens to the interest earned by the trust?

The interest earned by the trust may be handled in different ways by different trust arrangements. The interest may have to go back into your account if items on your contract are guaranteed. You may be responsible for reporting that interest to the Internal Revenue Service and paying taxes on it. You will be responsible to pay any taxes on the interest earned even if you cancel your trust account.

Some trust accounts cannot be cancelled.

There may be special fees deducted from your interest. However, you may still be responsible for paying taxes on

the entire amount of interest earned before the fees were deducted. Please ask your preneed arranger for a written list of any fees so you will have a clear understanding about them before you sign the contract.

-- If I pay my trust in premium payments, what happens if I die before the grand total of the funeral has been placed in trust?

(Funeral home shall place answer here)

### CLAIMS AGAINST THIS CONTRACT

-- Can someone to whom I owe money make a claim against the money, personal property, or real estate that I have used to pay for this contract?

No. This money or property cannot be used to settle a debt, a bankruptcy, or resolve a claim. These funds cannot be garnished.

-- Can the money or property be taxed?

No. Currently, interest earned on the money you deposit in a trust, savings account, or the value of the property you used for payment can be taxed but not the original amount which you invested. Interest earned on annuities is generally deferred until withdrawal.

### GENERAL GOODS AND SERVICES

-- If I choose goods and services that might not be available at the time of my death, what is the provider required to do?

The funeral home which you select is required to furnish supplies and services that are similar in style and equal in value and quality if what you choose is no longer made or is not available at the time of your death.

Your representative or next-of-kin will have the right to choose the supplies or services to be substituted. However, if the substitute is more expensive than the item originally selected by you, your designee or next-of-kin would be responsible for paying the difference. Under no circumstances will the funeral establishment be allowed to substitute lesser goods and services than the ones you chose.

If, before your death, the funeral home goes out of business or is otherwise unable to fulfill their obligation to you under the preneed contract, you have the right to use the proceeds at the funeral home of your choice.

If the inability to provide services does not become apparent until the time of your death, the individual that you named as your designee could use the funds for services at another funeral home.

-- May I choose the exact item I want now and have the funeral home store it until my death?

If the funeral home or supplier has a storage policy you may ask for this service. If the funeral home or preneed arranger agrees to store these items, the risk of loss or damage shall be upon the funeral home during the storage period.

For example, what would happen if you select a casket which is in-stock at the time you make these arrangements and the funeral home or supplier agrees to store it for you in their warehouse and: (i) damage occurs, (ii) the funeral home or supplier goes out of business (iii) the funeral home or supplier is sold, etc.? You need to be assured in writing of protection in these types of situations.

-- What happens if I choose to have a unique service that is not customary or routine in my community? Must the funeral home comply with my wishes?

The funeral home which you have chosen to conduct your service may be able to only provide certain types of services. They may not be able to fulfill your request. If there is a restriction on what they can provide, you will be notified in writing before you sign the preneed contract.

If the funeral home agrees in writing before you sign the contract to perform such services, the funeral home shall provide you a written, itemized statement of fees which you will be charged.

-- Will the funeral home agree to transport my body to another area for burial?

Again, the funeral home may have restrictions on the distance they are willing to travel to conduct a burial. If restrictions apply, you will be notified in writing.

If the funeral home agrees in writing before you sign the contract to honor your wishes, the funeral home shall provide you a written, itemized statement of any penalties (fees) which you will be charged.

-- I may die and be buried in a city other than one where the funeral home that I select for my goods and services is located. Will the funeral home that I select under this contract deliver my merchandise to the city where I die and am to be buried?

This is entirely up to the funeral home to decide. If the funeral home has restrictions on this, they will notify you in writing. If they agree to ship merchandise to another area for your funeral, you will be notified before signing this contract of the fees involved if they can be determined and guaranteed at this time.

However, the preneed contract arrangements and funding is considered portable. This means that they are available for transfer from one locality to another. It is unusual for actual goods and merchandise to be transferred.

### PRICING

-- How will I know that the prices of items which I select are the same for everyone?

The funeral home maintains a general price list and a casket and outer burial container price list. Your preneed arranger will give this to you before you begin talking about arrangements. After your discussion is finished, you will be given a copy of your preneed contract on which charges will be listed. Charges will only be made for the items you select. If there are any legal or other requirements that mandate that you must buy any items you did not

---

# Proposed Regulations

---

specifically ask for, the preneed arranger will explain the reason for the charges to you in writing.

You may ask a funeral home to purchase certain items or make special arrangements for you. If the funeral home charges you for these services, you will receive an explanation in writing. The charges to you for these services may be higher than if you or your family purchased them directly.

At the time of your death, your family or estate will be given an itemized statement which will list all of the specific charges. This is a requirement of the Federal Trade Commission. Although not required to do so, some funeral homes may also choose to give you an itemized statement when you make these arrangements.

-- What is meant by guaranteed and nonguaranteed prices?

Some preneed arrangers may agree that certain prices are guaranteed. Some may guarantee the price of the total package. Other funeral homes may not guarantee any prices.

Guaranteed prices are those that will not increase for your family or estate at the time of your death. Basically, this means that your funeral arrangement for those items will be covered by and will not exceed your funding and the interest it earns. Nonguaranteed prices are those which might increase or decrease. The nonguaranteed prices may be written in at the time of this contract with you understanding that the price is an estimate only and may increase or decrease. A settlement to that effect may have to be made with your family or representative after your death.

-- Can the preneed arranger and I negotiate a projected charge for the nonguaranteed items based on the rate of inflation?

It is entirely up to the preneed arranger to inform you of the funeral home policy in that regard.

## CASKETS AND CONTAINERS

-- Do I have to buy a vault or a container to surround the casket in the grave?

In most areas of the country, state and local laws do not require that you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container to support the earth above the grave. Either a burial vault or a grave liner will satisfy if such requirements exist.

-- Is a casket required?

A casket is not required for direct cremation. If you want to arrange a direct cremation, you may use an unfinished wood box or an alternative container made of heavy cardboard or composition materials. You may choose a canvas pouch.

-- Do certain cemeteries and crematoriums have special requirements?

Particular cemeteries and crematoriums may have policies requiring that certain goods and services be purchased. If

you decide not to purchase goods and services required by a particular cemetery or crematorium, you have the right to select another location that has no such policy.

## EMBALMING

-- Is embalming always required?

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements such as viewing or visitation with an open casket. You do not have to pay for embalming you did not approve if you select arrangements such as a direct cremation or immediate burial. If the funeral home must charge to conduct an embalming, your designee will be notified of the reasons in writing.

## ASSISTANCE

-- This is all very confusing to me. May I pick someone close to me to help with all of this? May this person also work with the funeral home to ensure that my wishes as written in the preneed contract are carried out?

You may designate in writing a person of your choice to work with the funeral home and preneed arranger either before or after your death to ensure that your wishes are fulfilled. You must sign the statement and have it notarized. The person that you designate must agree to this in writing. Under the laws governing preneed contracts, the individual whom you designate has final authority at the time of your death.

-- Where can I complain if I have a problem concerning my preneed contract, the preneed arranger, or the funeral home?

You may direct your complaints or concerns to:

The Board of Funeral Directors and Embalmers  
Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
Telephone Number (804) 662-9907  
Toll Free Number 1-800-533-1560  
Fax: (804) 662-9943

VA.R. Doc. No. R97-355; Filed July 15, 1998, 11:15 a.m.

\* \* \* \* \*

**Title of Regulation: 18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service (amending 18 VAC 65-40-10, 18 VAC 65-40-40, 18 VAC 65-40-90, 18 VAC 65-40-110, 18 VAC 65-40-130, 18 VAC 65-40-160, 18 VAC 65-40-180, 18 VAC 65-40-200, 18 VAC 65-40-210, 18 VAC 65-40-220, 18 VAC 65-40-250, 18 VAC 65-40-280, 18 VAC 65-40-300, 18 VAC 65-40-320, 18 VAC 65-40-330, and 18 VAC 65-40-340; adding 18 VAC 65-40-170, 18 VAC 65-40-201; repealing 18 VAC 65-40-20, 18 VAC 65-40-30, 18 VAC 65-40-50, 18 VAC 65-40-60, 18 VAC 65-40-70, 18 VAC 65-40-80, 18 VAC 65-40-100, 18 VAC 65-40-120, 18 VAC 65-40-140, 18 VAC 65-40-150, 18 VAC 65-40-170, 18 VAC 65-40-190, 18 VAC 65-40-200, 18 VAC 65-40-230, 18 VAC 65-40-240, 18 VAC 65-40-260, 18 VAC 65-40-270, 18 VAC 65-40-**

**290, 18 VAC 65-40-310, and 18 VAC 65-40-350 through 18 VAC 65-40-630).**

Statutory Authority: § 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: September 17, 1998 - 9 a.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

Basis: Chapters 24 (§ 54.1-2400 et seq.) and 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia provide the basis for this regulation.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 28 establishes the powers and duties of the Board of Funeral Directors and Embalmers and establishes requirements for the resident trainee program in funeral services.

Purpose: The purpose of these regulations is to protect the public health, safety and welfare by establishing requirements for the education and training of resident trainees in funeral services. Amendments are proposed to implement the recommendations of the Board of Funeral Directors and Embalmers in its report pursuant to Executive Order 15 (94), which were to simplify, clarify, and eliminate redundancy and unnecessary requirements.

Substance:

18 VAC 65-40-10. Amendments are proposed to eliminate unnecessary definitions and to eliminate those which are redundant since the terms are already defined in the Code of Virginia.

18 VAC 65-40-20 and 18 VAC 65-40-30. Repealed because they are unnecessary.

18 VAC 65-40-50. Amendments are proposed to consolidate all applicable fees into one section and to specify that fees are not refundable.

18 VAC 65-40-50 through 18 VAC 65-40-80. The sections are to be repealed because the regulations are included in the section on fees.

18 VAC 65-40-90. Amendments are proposed to consolidate renewal and notification requirements into one section.

18 VAC 65-40-100. Amended to eliminate regulations found in another section.

18 VAC 65-40-110. Amendments are proposed to simplify and to include a rule found elsewhere pertaining to reinstatement.

18 VAC 65-40-120. Repealed.

18 VAC 65-40-140 and 18 VAC 65-40-150. Repealed because the requirements are already stated in the Code of Virginia or elsewhere in regulation.

18 VAC 65-40-160. An amendment is proposed to specify that 40 hours a week is considered "full-time."

18 VAC 65-40-170. Repealed because the requirements are already in the Code of Virginia.

18 VAC 65-40-180. Amendments are clarifying and intended to consolidate wording contained elsewhere in this chapter.

18 VAC 65-40-190. Repealed because it is unnecessary.

18 VAC 65-40-210. Amendments are proposed to simplify the language and include applicable requirements in this section.

18 VAC 65-40-220. Amendments are proposed to clarify that the required minimum number of funerals and embalmings may be counted over a 12-month period rather than one calendar year and to allow a trainee to seek additional sites for training if an establishment cannot provide a sufficient number.

18 VAC 65-40-230 and 18 VAC 65-40-240. These sections are repealed because they are unnecessary.

18 VAC 65-40-250. Amendments are proposed to include current requirements for supervision in this section.

18 VAC 65-40-260 and 18 VAC 65-40-270. Repealed because the requirements are in 18 VAC 65-40-250.

18 VAC 65-20-280. Amendments are proposed to specify and clarify that the application for supervision is to be signed by the establishment manager and each licensee who will be providing supervision. It is not necessary for a different application to be submitted by each of those persons.

18 VAC 65-40-290 and 18 VAC 65-40-310. Repealed because they are unnecessary.

18 VAC 65-40-300. Amendments are proposed for this section to require that a new application be submitted if the trainee program is interrupted and a new supervisor is required. The regulation also specifies that only training under direct supervision (as currently defined) is recognized in this program.

18 VAC 65-40-320. Amendments are proposed to clarify that a late report may result in additional time in a traineeship. (Current regulation states that it shall result in additional time but permits the board to waive the requirement.) Proposed amendments also delete the checklist showing a chronological history of training. Other amendments are editorial.

18 VAC 65-40-330. Amendments are editorial and clarifying.

18 VAC 65-40-340. Amendments are proposed to eliminate the specific listings of information which must be provided to the trainee, and specifies that the supervisors in funeral services and in embalming are responsible for providing instruction in the use of forms and lists and for training in all aspects of practice.

---

# Proposed Regulations

---

18 VAC 65-40-350 through 18 VAC 65-40-630. Repealed because they are unnecessary.

## Issues:

Issue 1. Specificity in the regulation of curriculum of a resident trainee program.

Current regulations detail in 18 VAC 65-40-340 through 18 VAC 65-40-630 the specific topics and information to be addressed in the course of providing training to a resident trainee. In its review of these regulations, the board determined that requirements could be generally stated to allow more flexibility for the establishment, the supervisor and the trainee.

To ensure that the trainee and the supervisor are aware of the subject areas which must be covered in order to prepare the trainee for a licensure examination, the board office provides a detailed checklist of information, procedures, ethical issues, and policies. The interim and final reports given to the board provide further assurance that the trainee has met the requirements of law (25 funerals and 25 embalmings) and regulation.

In keeping with the goal of eliminating unnecessary regulation, the board proposes to repeal most of the regulation in the sections referenced above.

**Advantages to the licensees:** With the detailed listing of information and procedures taken out of regulation, the licensee will have more flexibility to tailor the training to the experience level of the trainee and to the specific needs of the establishment and the community it serves. In addition, the board and staff will provide a checklist of areas of training to be covered that may be revised as issues and problems arise. Such flexibility will permit the board to be more responsive to the trainees and to the needs of the public utilizing funeral services.

**Disadvantages to the licensees:** Without the detailed listing of information and procedures in regulation, there may be some unease and uncertainty among trainees and supervisors about the required curriculum. The board believes that the checklist of specifics which meet the general requirements of law and regulation will be sufficient to provide guidance.

**Advantages or disadvantage to the public:** There are no advantages or disadvantages to the public.

Issue 2. Reduction in the number and complexity of regulations.

In compliance with Executive Order 15 (94), the board has examined every regulation for necessity and clarity and has determined that 298 sections of this chapter could be repealed and a number of others simplified. Many of the regulations repeat requirements stated elsewhere in statute or regulation or were found to be unnecessary.

**Advantages or disadvantage to the licensees:** By repealing unnecessary sections, consolidating and simplifying requirements, and reorganizing for clarity, these regulations should be more easily understood. Since the regulations will

be reduced and simplified, compliance should also be easier for trainees and their supervisors. There should be no disadvantages to the licensees.

**Advantages or disadvantage to the public:** There should be no advantages or disadvantages to the public, since requirements for training have not been changed and the need for "direct supervision" has been clarified.

**Estimated Impact:**

**Projected number of persons affected and their cost of compliance:** The approximate number of funeral service trainees affected by these regulations is 180.

There will be little cost for compliance by regulated entities or their employers, as there are no new requirements in proposed regulations. Persons who have their traineeship interrupted and must be reinstated now pay a \$10 fee for reinstatement; the proposed regulations would require a new application with a fee of \$25. Approximately 50 trainees per year will have an increase in costs of \$15 for resumption or reinstatement of a traineeship.

**Cost to the agency for implementation:** The board will incur approximately \$1,500 in cost for printing and mailing Notices of Comment and final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against licensees for violations of these regulations.

**Cost to local governments:** There will be no impact of these regulations on local government.

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

**Summary of the proposed regulation.** The proposed changes to the regulations on the education and training of resident trainees in funeral services are pursuant to review under Executive Order 15 (94) and are intended to simplify and clarify these regulations. They do not make any significant changes in the substantive requirements of the regulations.

**Estimated economic impact.** The amendments to the regulations reorganize and clarify the regulatory

requirements. These changes can be expected to reduce somewhat the costs of complying with the regulations. Since there are no changes in the protections afforded consumers, the savings in compliance costs, although small, most likely represent a net economic benefit to Virginia.

Businesses and entities affected. These changes will only affect the 180 individuals who are in training in order to qualify to offer funeral services. These changes will make compliance with the regulations somewhat easier due to improved clarity and consistency of the regulations. The economic value of this change will be small, but it will almost certainly be positive. Since there are no substantive changes to the requirements of this regulation, it is unlikely that there will be any impact on the purchasers of these services. Any reduction in prices due to lower compliance costs would most likely be too small to observe.

Localities particularly affected. No localities will share disproportionately in the costs or benefits from this proposal.

Projected impact on employment. These changes will not have any direct impact on employment in Virginia.

Effects on the use and value of private property. While the value of a license to offer funeral services may increase by a small amount, this impact will be too small to measure.

Summary of analysis. This change in the funeral services training regulations will, in all probability, have a small, positive impact on the Virginia economy.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The board concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

*In response to the comprehensive review conducted pursuant to Executive Order 15 (94), the proposed amendments repeal unnecessary or duplicative regulations (such as those which restate provisions of the Code of Virginia), simplify current requirements (such as requirements for the application for supervision), and reduce certain regulatory burdens (such as the requirement for a certain number of funerals and embalmings in one calendar year in one funeral establishment).*

PART I.  
GENERAL PROVISIONS.

Article 1.  
~~Definitions, Purpose, Applicability.~~

**18 VAC 65-40-10. Definitions.**

*In addition to words and terms defined in § 54.1-2800 of the Code of Virginia, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:*

~~"Applicant" means a person applying for registration by the board.~~

~~"Board" means the Board of Funeral Directors and Embalmers.~~

~~"Conduct" means to carry out and perform.~~

~~"Direct supervision" means that a licensed funeral service professional is present and on the premises of the facility with the trainee.~~

~~"Full-time school attendance" means that the individual attending mortuary science school is enrolled in 12 or more semester hours of coursework per semester.~~

~~"Full-time work schedule" means that the resident trainee works at least 40 hours per week.~~

~~"Part-time school attendance" means that the individual attending mortuary science school is enrolled in 11 or fewer semester hours of coursework per semester.~~

~~"Registration" means the process of applying to the board to seek approval to serve as a trainee or supervisor.~~

~~"Resident trainee" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the board.~~

~~"Supervisor" means a licensed employee of the establishment which is at the training site. The employee is licensed as an embalmer, funeral director, or funeral service licensee and has agreed to supervise the training program of the resident trainee and who has been approved by the board to provide supervision for the resident trainee.~~

~~"Training site" means the licensed funeral establishment which has agreed to serve as the location for resident training and has been approved by the board for the training.~~

**18 VAC 65-40-20. Purpose. (Repealed.)**

~~This chapter establishes the standards for qualifications, training and practice of persons as resident trainees; sites of training; and supervisors of training in the Commonwealth of Virginia.~~

**18 VAC 65-40-30. Applicability. (Repealed.)**

~~Individuals and establishments subject to this chapter are (i) funeral service resident trainees; (ii) licensed funeral homes serving as training sites; and (iii) funeral service licensees, funeral directors, and embalmers serving as training supervisors.~~

Article 2.  
Fees.

**18 VAC 65-40-40. Initial fees.**

A. The following fees shall be paid as applicable for registration:

- |  |      |
|--|------|
| 1. Funeral service resident trainee registration, <i>reinstatement, or renewal</i> | \$25 |
| 2. Resumption of traineeship after interruption,                                   | \$10 |
| 2. Late fee for renewal up to 30 days after  | \$15 |

---

# Proposed Regulations

---

expiration

- 3. Duplicate copy of trainee registration \$15
- 4. Returned check \$25
- 5. Change of supervisor \$15

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refundable once submitted.

## 18 VAC 65-40-50. ~~Renewal fee. (Repealed.)~~

~~The following annual fee shall be paid for registration renewal:~~

~~Resident trainee registration renewal, \$25~~

## 18 VAC 65-40-60. ~~Reinstatement fee. (Repealed.)~~

~~The following reinstatement fee shall be paid in addition to annual renewal fees for reinstatement of an expired registration up to three years following expiration:~~

~~Resident trainee registration reinstatement, \$10~~

~~Article 3.  
Other Fees.~~

## 18 VAC 65-40-70. ~~Duplicates. (Repealed.)~~

~~Duplicate trainee registration, \$25~~

## 18 VAC 65-40-80. ~~Additional fee information. (Repealed.)~~

- ~~A. There shall be a fee of \$25 for returned checks.~~
- ~~B. Fees shall not be refunded once submitted.~~

~~Article 4.  
Renewals.~~

## 18 VAC 65-40-90. ~~Expiration date Renewal of registration.~~

A. The resident trainee registration shall expire on January 31 of each calendar year *and may be renewed by submission of the renewal notice and prescribed fee.*

B. A person who fails to renew a registration by the expiration date shall be deemed to have an invalid registration. ~~C.~~ No credit will be allowed for a traineeship period served under an expired registration.

C. *The resident trainee is responsible for notifying the board of any changes in name, address, employment, or supervisor. Any notices shall be validly given when mailed to the address on record with the board.*

## 18 VAC 65-40-100. ~~Renewal of registration. (Repealed.)~~

~~A person who desires to renew his registration for the next year shall, not later than the expiration date:~~

- ~~1. Return the renewal notice;~~
- ~~2. Submit the applicable fee; and~~
- ~~3. Notify the board of any changes in name, address, employment, or supervisor.~~

## 18 VAC 65-40-110. Reinstatement of expired registration.

A. The board may consider reinstatement of an expired registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable ~~delinquent renewal fees prescribed in 18 VAC 65-40-50 plus the additional reinstatement fee prescribed in 18 VAC 65-40-60.~~

B. *When a registration is not reinstated within three years of its expiration date, a new application for registration shall be filed and a new training program begun.*

## 18 VAC 65-40-120. ~~Reapplication for registration. (Repealed.)~~

~~When a registration is not reinstated within three years of its expiration date, an applicant for registration shall restart the training program and reapply for traineeship.~~

## PART II. TRAINEE PROGRAM REQUIREMENTS.

~~Article 1.  
Training Program: General.~~

## 18 VAC 65-40-130. Resident training.

A. The trainee program shall consist of at least 18 months of resident training.

B. An individual may hold an active traineeship registration for a maximum of 48 months from the date of initial registration for the traineeship program. The board, in its discretion, may grant an extension of the traineeship registration.

C. A resident trainee shall not attend school full time while serving his traineeship ~~(see 18 VAC 65-40-10).~~

## 18 VAC 65-40-140. ~~Number of trainees limited. (Repealed.)~~

~~When more than two trainees are requested by a licensed funeral establishment, not more than two trainees will be registered per licensed supervisor at any time.~~

## 18 VAC 65-40-150. ~~Approval of funeral training. (Repealed.)~~

~~The approval shall apply to and be valid only to:~~

- ~~1. The resident trainee;~~
- ~~2. The licensed person or persons under whom the training is to be given; and~~
- ~~3. The funeral service establishment or establishments named in the approval statement.~~

## 18 VAC 65-40-160. Trainee work schedule.

Every resident trainee shall be assigned a *full-time* work schedule of at least 40 hours each week in order to obtain credit for such training. The trainee shall be required to receive training in all areas of funeral service. Additional and

further hours may be at the discretion of the supervisor or may be a requirement of the facility.

~~Article 2.~~

~~Resident Trainees: Requirements and Application Process for Registration.~~

**18 VAC 65-40-170. Resident trainee requirements. (Repealed.)**

~~To be approved for registration as a resident trainee, a person shall:~~

- ~~1. Be a graduate of an accredited high school or the equivalent;~~
- ~~2. Obtain a supervisor approved by the board to provide training;~~
- ~~3. Have not been convicted of a felony. The board, in its discretion, may approve an individual convicted of a felony if he has been pardoned or has had his civil rights restored.~~

**18 VAC 65-40-180. Trainee application package.**

~~Every qualified A. Any person seeking who meets the qualifications of § 54.1-2817 of the Code of Virginia may seek registration with the board as a trainee under the Program for Training of Resident Trainees shall submit by submission of an application package, which shall include: documentation of the qualifications and signatures of any supervising licensees.~~

~~B. With the exception of school transcripts, all parts of an application package, including the required fee and any additional documentation as may be required to determine eligibility, shall be submitted simultaneously.~~

- ~~1. Completed and signed application;~~
- ~~2. Fee prescribed in 18 VAC 65-40-40;~~
- ~~3. Additional documentation as may be required by the board to determine eligibility of the applicant.~~

**18 VAC 65-40-190. Submission of incomplete application package; exception. (Repealed.)**

~~All required parts of the application package shall be submitted at the same time. An incomplete package will be returned to the applicant.~~

~~Exception: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board. National examination scores where applicable will also be accepted from the examining authority.~~

**18 VAC 65-40-200. Resumption of traineeship application. (Repealed.)**

~~When a traineeship is interrupted, the trainee shall submit a resumption of traineeship application to the board prior to resuming his traineeship.~~

**18 VAC 65-40-201. Failure to register.**

~~If the resident traineeship is not approved by the board prior to initiation of training, no credit shall be allowed for the length of time served.~~

~~Article 3.~~

~~Establishment Application Requirements.~~

**18 VAC 65-40-210. Training sites.**

~~A. Funeral training shall be given at the main office of the licensed funeral service establishment approved for training or at any branch of such establishment that complies with the provisions of this chapter and is approved by the board as a training site.~~

~~B. An individual, firm, or corporation owning or operating any funeral service establishment shall apply to and be approved by the board prior to permitting funeral training to be given or conducted in the establishment.~~

**18 VAC 65-40-220. Qualifications of training site.**

~~The board shall approve only an establishment or two combined establishments to serve as the training site or sites which:~~

- ~~1. Have a full and unrestricted Virginia license;~~
- ~~2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and~~
- ~~3. Have 35 or more funerals and 35 or more bodies for embalming per calendar year over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required number of funerals or embalmings, the resident trainee may seek approval for an additional training site.~~

**18 VAC 65-40-230. Approval of training site. (Repealed.)**

~~An individual, firm, or corporation owning or operating any funeral service establishment shall apply to and be approved by the board prior to permitting funeral training to be given or conducted in the establishment.~~

**18 VAC 65-40-240. Establishment application package. (Repealed.)**

~~Every qualified establishment or combined establishments seeking approval as a training site or sites shall submit an application package which shall include:~~

- ~~1. Completed and signed application; and~~
- ~~2. Additional documentation as may be required by the board to determine eligibility of the establishment.~~

---

# Proposed Regulations

---

## Article 4.

### Supervisor Application Requirements.

#### **18 VAC 65-40-250. Training Requirements for supervision.**

A. Training shall be conducted under the direct supervision of a licensee or licensees approved by the board.

#### ~~18 VAC 65-40-260. Qualifications of supervisor.~~

~~B. The board shall approve only funeral service licensees, licensed funeral directors, or licensed embalmers to give funeral training who: 1. have a full and unrestricted Virginia funeral license; 2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and 3. are employed full time in the establishment where training occurs.~~

~~C. A supervisor licensed as an embalmer or a funeral director shall provide supervision only in the areas of funeral practice for which he is licensed.~~

~~D. Failure to register as a supervisor may subject the licensee to disciplinary action by the board.~~

#### **18 VAC 65-40-270. Supervisor approval. (Repealed.)**

~~An individual shall apply to and be approved by the board prior to serving as a supervisor.~~

#### **18 VAC 65-40-280. Supervisor application package.**

~~Every qualified person seeking approval of the board as a supervisor shall submit an application package which shall include:~~

- ~~1. Completed and signed application; and~~
- ~~2. Additional documentation as may be required by the board to determine eligibility of the applicant.~~

~~A. A licensee seeking approval by the board as a supervisor shall submit a completed application and any additional documentation as may be required to determine eligibility.~~

~~B. The application for supervision of a resident trainee shall be signed by the establishment manager and by the persons who will be providing supervision for embalming and for the funeral services.~~

#### **18 VAC 65-40-290. Curriculum compliance. (Repealed.)**

~~An approved supervisor shall comply with and shall provide supervision and training as prescribed by this chapter.~~

## Article 5.

### Program Requirements.

#### **18 VAC 65-40-300. Selection of new supervisor Interruption and reinstatement.**

A. If the program is interrupted, the trainee shall obtain a new supervisor and submit a new application for approval.

#### ~~18 VAC 65-40-310. Resumption of training.~~

~~B. Credit shall only be allowed for training under direct supervision. Credit for training shall resume when a new supervisor is approved by the board and the applicant has been reinstated.~~

## Article 6.

### Reporting Requirements.

#### **18 VAC 65-40-320. Report to the board: six-month report; partial report; final report.**

A. The trainee, the supervisor or supervisors, and the establishment shall submit a written report to the board at the end of every six months of training. The report shall:

1. Verify that the trainee has actually served in the required capacity during the preceding six months; and
2. Be received in the board office no later than 10 days following the end of the six-month period. ~~A late report automatically will have credit deducted in two week increments from the completed training time. Late reports may result in additional time being added to the traineeship.~~

B. If the training program is terminated or interrupted prior to completion of a six-month period, the trainee and the supervisor shall submit a partial report to the board with a written explanation of the cause of program termination or interruption.

1. The partial report shall provide the amount of time served and the dates since the last reporting period. Credit for partial reports shall be given in increments of one month.

~~Written explanation of the causes of program termination or interruption shall be provided by the trainee and the supervisor.~~

2. Partial reports shall be received in the board office no later than 10 days after the interruption or termination of the trainee program. Credit may be deducted for late reports.

C. The trainee, the supervisor or supervisors and the establishment manager shall submit written final reports to the board at the end of the apprenticeship period resident traineeship as follows:

1. A Final Trainee Report, which certifies that the trainee has conducted 25 funerals and 25 embalmings, shall be submitted.
2. A trainee, his supervisor and the establishment manager shall submit a notarized affidavit to the board at the end of the trainee program that full compliance has been met with the trainee curriculum the trainee has fully complied with requirements of the trainee program.
- ~~3. A trainee shall submit a completed checklist showing a chronological history of training to the board at the end of the trainee program.~~

All final reports shall be received in the board office no later than 10 days after the completion of the traineeship. ~~Late reports may result in additional time being added to the traineeship.~~

**18 VAC 65-40-330. Failure to submit training report.**

If the trainee, supervisor, or establishment manager fails to submit the reports required in 18 VAC 65-40-320, the trainee ~~shall~~ may forfeit all credit for training or disciplinary action may be taken against the trainee, supervisor and establishment manager. ~~The board may waive such forfeiture.~~

PART III.

TRAINING PROGRAM: FUNERAL SUPERVISORS' RESPONSIBILITIES.

Article 1.  
Regulations and Forms.

**18 VAC 65-40-340. Regulations Supervisors' responsibilities.**

A. The supervisor shall provide the trainee with *all applicable laws and regulations* or sections of regulations relating to the funeral industry as follows:

- ~~1. Regulations of the Board of Funeral Directors and Embalmers;~~
- ~~2. Preneed regulations of the Board of Funeral Directors and Embalmers;~~
- ~~3. Virginia Department of Health regulations governing:
 
  - a. Vital statistics reporting;
  - b. Responsibilities of the medical examiner;
  - c. Cremations and burial at sea;
  - d. Disinterments and reinterments;
  - e. Shipping bodies to another country;
  - f. Shipping bodies by public transport; and
  - g. Filing of death certificates;~~
- ~~4. Occupational Safety and Health Administration (OSHA) regulations;~~
- ~~5. Regulations governing the filing of Veteran's Administration and Social Security claims;~~
- ~~6. Federal Trade Commission's Funeral Rule on funeral industry practices.~~

B. *The supervisor shall provide the trainee with copies of and instruction in the use of all forms and price lists employed by the funeral establishment.*

C. *The supervisor shall provide the trainee with instruction in all aspects of funeral services and shall allow the trainee under direct supervision to conduct all necessary arrangements for a minimum of 25 funerals.*

*D. The embalming supervisor shall provide instruction on all necessary precautions, embalming functions, and reporting forms and shall allow the trainee under direct supervision to perform a minimum of 25 embalmings.*

**18 VAC 65-40-350. Forms. (Repealed.)**

~~The supervisor shall provide the trainee with copies of and explanations for the use of:~~

- ~~1. General price list;~~
- ~~2. Itemized statement of funeral goods and services;~~
- ~~3. Casket price list;~~
- ~~4. Outer burial container price list; and~~
- ~~5. Preneed contract.~~

**18 VAC 65-40-360. Forms completion. (Repealed.)**

~~The supervisor shall instruct the trainee in how to complete, and allow the trainee to complete, final forms for business as follows:~~

- ~~1. Itemized statements of funeral goods and services;~~
- ~~2. Preneed contracts;~~
- ~~3. Death certificates;~~
- ~~4. Veteran and Social Security Administration forms;~~
- ~~5. Cremation forms; and~~
- ~~6. Vital statistic reports.~~

**18 VAC 65-40-370. Preneed funding forms. (Repealed.)**

~~The supervisor shall instruct the trainee on the requirements and use of forms used by funding companies for the investment of preneed funds.~~

Article 2.  
Knowledge of the Community and Others.

**18 VAC 65-40-380. Community resources. (Repealed.)**

~~The supervisor shall provide the trainee with a contact at each of the following:~~

- ~~1. Area hospitals;~~
- ~~2. Area nursing homes;~~
- ~~3. Regional medical examiner;~~
- ~~4. City or county morgue;~~
- ~~5. Police department;~~
- ~~6. Cemeteries and crematoriums; and~~
- ~~7. Churches, mosques, synagogues.~~

**18 VAC 65-40-390. Community funeral customs. (Repealed.)**

~~The supervisor shall instruct the trainee on the funeral customs of the following:~~

- ~~1. Nationalities served by the funeral home;~~

---

# Proposed Regulations

---

- ~~2. Religious rites;~~
- ~~3. Fraternal rites; and~~
- ~~4. Military rites.~~

~~Article 3.  
Merchandising.~~

**18 VAC 65-40-400. ~~Merchandising. (Repealed.)~~**

The supervisor shall instruct the trainee on:

- ~~1. The features and prices of merchandise offered by the establishment, both special order and in-stock merchandise;~~
- ~~2. How to display merchandise and stock the selection room;~~
- ~~3. How to complete information cards to be displayed on caskets; and~~
- ~~4. How to order merchandise.~~

~~Article 4.  
Initial Arrangements and Meeting with the Family.~~

**18 VAC 65-40-410. ~~Initial contact. (Repealed.)~~**

The supervisor shall allow the trainee to observe and then conduct the following:

- ~~1. Taking a death call;~~
- ~~2. Removing a body and transporting it to the funeral home;~~
- ~~3. Placing the body in the preparation or holding room;~~
- ~~4. Obtaining permission for embalming;~~
- ~~5. Documenting verbal permission for embalming; and~~
- ~~6. Documenting the reason for proceeding with an embalming when the next of kin cannot be contacted.~~

**18 VAC 65-40-420. ~~Confidentiality and dignity. (Repealed.)~~**

The supervisor shall instruct the trainee in the meaning of, and ensure that the trainee adheres to, the funeral home policy for:

- ~~1. Honoring the confidentiality of every family and family member; and~~
- ~~2. Honoring the dignity of the dead and the families of the dead at all times.~~

**18 VAC 65-40-430. ~~Initial arrangements. (Repealed.)~~**

The supervisor shall allow the trainee to observe and then to practice with the supervisor the following:

- ~~1. Giving prices over the telephone;~~
- ~~2. The required time to offer the general price list, casket price list, outer burial container price list, and presenting the itemized statement of funeral goods and services to the family;~~

- ~~3. Meeting with the family and discussing prices and disclosures;~~
- ~~4. Taking vital statistics information;~~
- ~~5. Taking information for obituary notices and filing the notices with the newspaper;~~
- ~~6. Showing the family the merchandise in the selection room;~~
- ~~7. Making cash advance arrangements with a third party; and~~
- ~~8. Arranging with and completing the paperwork for cremations and cemetery burials.~~

**18 VAC 65-40-440. ~~Meeting with the family. (Repealed.)~~**

With the supervisor present and in the same room, the supervisor shall allow the trainee to:

- ~~1. Meet with families to discuss prices, disclosures, and making arrangements for at need services;~~
- ~~2. Complete itemized statements of funeral goods and services for presentation to the families;~~
- ~~3. Complete preneed arrangements with families;~~
- ~~4. Explain the features and prices of merchandise to families; and~~
- ~~5. Assist families in choosing at need substitute merchandise when merchandise that is chosen during a preneed arrangement is not available at need.~~

~~Article 5.  
The Service.~~

**18 VAC 65-40-450. ~~Disposition. (Repealed.)~~**

The supervisor shall allow the trainee to observe and then conduct the following arrangement for disposition of the body:

- ~~1. Making cemetery and crematory arrangements;~~
- ~~2. Taking a body to the crematorium; and~~
- ~~3. Disposing of cremains as requested by the family.~~

**18 VAC 65-40-460. ~~Services. (Repealed.)~~**

The supervisor shall allow the trainee to observe and then conduct with the supervisor present, the following arrangements:

- ~~1. Visitation or viewing or both;~~
- ~~2. Chapel, church, and graveside services;~~
- ~~3. Services for disposition of cremains;~~
- ~~4. Funeral processions;~~
- ~~5. Multiple services taking place simultaneously;~~
- ~~6. Direct cremations;~~
- ~~7. Immediate burials;~~

- 8. Receiving bodies from another funeral home;
- 9. Shipping bodies to another funeral home; and
- 10. Preparing information sheet on services for receptionist to use in answering questions from the public.

PART IV.  
RESPONSIBILITIES OF EMBALMING SUPERVISOR.

Article 1.  
Preparation Room.

**18 VAC 65-40-470. Preparation room. (Repealed.)**

The supervisor shall instruct the trainee on the following:

- 1. Stocking the preparation room to meet compliance with regulations;
- 2. Purpose and use of protective clothing and gear during the preparation of a body;
- 3. Cleanliness, disinfection, and sanitation requirements for the preparation room;
- 4. Hazardous and infectious waste management; and
- 5. Cleaning and sterilizing reusable instruments.

Article 2.  
The Embalming.

**18 VAC 65-40-480. Embalming: general. (Repealed.)**

The supervisor shall instruct the trainee on the following:

- 1. Use and purpose of the embalming instruments;
- 2. Use and purpose of the embalming fluids; and
- 3. Use and purpose of the embalming report.

**18 VAC 65-40-490. Embalming. (Repealed.)**

The supervisor shall allow the trainee to observe, and then conduct with the supervisor present and in the same room, the following:

- 1. External disinfection of bodies;
- 2. Cleaning bodies after the embalming;
- 3. Using precautions in an embalming of bodies harboring an infectious disease;
- 4. Preparing bodies with tissue gas;
- 5. Setting the features on bodies;
- 6. Using restorative techniques on damaged bodies;
- 7. Using cosmetology on bodies;
- 8. Clothing bodies;
- 9. Casketing bodies; and
- 10. Embalming bodies.

**18 VAC 65-40-500. Embalming reports. (Repealed.)**

The supervisor shall have the trainee observe and then complete embalming reports.

PART V.  
THE TRAINEE'S RESPONSIBILITIES.

Article 1.  
Regulations and Forms.

**18 VAC 65-40-510. Regulatory agencies. (Repealed.)**

The trainee shall be able to list the state and federal agencies that regulate the funeral industry and be able to describe the roles and functions of each agency as it relates to the funeral industry.

**18 VAC 65-40-520. Regulations. (Repealed.)**

The trainee shall be knowledgeable of the contents of the regulations prescribed in 18 VAC 65-40-340 and be able to explain to the supervisor and the board those regulations and how they apply to the funeral industry.

**18 VAC 65-40-530. Forms. (Repealed.)**

The trainee shall complete the forms prescribed in 18 VAC 65-40-360 and be able to explain to the supervisor and the board the use and content requirements of the forms.

**18 VAC 65-40-540. Preneed. (Repealed.)**

The trainee shall be able to explain to the supervisor and the board preneed funding requirements.

Article 2.  
Knowledge of the Community and Others.

**18 VAC 65-40-550. Community resources. (Repealed.)**

The trainee shall contact at a time of need the funeral home's resource person at each of the facilities prescribed in 18 VAC 65-40-380 and make arrangements as pertinent for transporting, removing, services, or disposition of the dead.

**18 VAC 65-40-560. Funeral customs. (Repealed.)**

The trainee shall be knowledgeable of and be able to explain to the supervisor and the board the funeral customs prescribed in 18 VAC 65-40-390.

Article 3.  
Merchandising.

**18 VAC 65-40-570. Merchandising. (Repealed.)**

The trainee shall:

- 1. Display merchandise and learn to stock the selection room;
- 2. Prepare pricing and information cards to be displayed on the caskets;
- 3. Be able to explain to the supervisor the features and prices of merchandise; and
- 4. Place an order for merchandise.

---

# Proposed Regulations

---

## Article 4.

~~Initial Arrangements and Meeting with the Family.~~

### **18 VAC 65-40-580. Initial contact. (Repealed.)**

~~The trainee shall conduct the activities prescribed in 18 VAC 65-40-410 under the supervision of the supervisor.~~

### **18 VAC 65-40-590. Meeting with the family. (Repealed.)**

~~The trainee shall conduct arrangements with families in the presence of and in the same room with the supervisor as prescribed in 18 VAC 65-40-430 and 18 VAC 65-40-440.~~

## Article 5. The Service.

### **18 VAC 65-40-600. Disposition and services. (Repealed.)**

~~The trainee shall plan and conduct 25 funerals during the traineeship as prescribed in 18 VAC 65-40-450 and 18 VAC 65-40-460.~~

## Article 6. Embalming.

### **18 VAC 65-40-610. Embalming. (Repealed.)**

~~The trainee shall conduct 25 embalmings in the room with and under the supervision of the embalming supervisor. The trainee will conduct all procedures prescribed in 18 VAC 65-40-490.~~

### **18 VAC 65-40-620. Embalming preparation. (Repealed.)**

~~The trainee shall have a knowledge of and be able to explain to the supervisor and the board the purpose and procedures as prescribed in 18 VAC 65-40-470 and 18 VAC 65-40-480.~~

### **18 VAC 65-40-630. Embalming reports. (Repealed.)**

~~The trainee shall complete embalming reports on the 25 embalmings the trainee conducts.~~

## PART ~~VI~~ IV. REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.

**NOTICE:** The forms used in administering 18 VAC 65-40-10 et seq., Resident Trainee Program for Funeral Service, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

### FORMS

~~Application for Apprenticeship.~~

~~Application for Apprenticeship Supervisor.~~

~~General Information for All Trainees, DHP (revised 11/93).~~

~~Resident Trainee Report, DHP-14-004 (revised 11/93).~~

~~Certification of Embalmings, DHP-14-005 (revised 11/93).~~

~~Certification of Funerals, DHP-14-006 (revised 11/93).~~

~~Training Program Funeral Service Supervisor's Responsibilities.~~

~~Training Program Trainee Responsibilities.~~

~~Application for Resident Trainee Program (rev. 7/97).~~

~~Application for Resident Trainee Program Supervisor (rev. 7/97).~~

~~Renewal Notice and Application of Licensure (rev. 7/97).~~



**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF HEALTH PROFESSIONS**  
**BOARD OF FUNERAL DIRECTORS AND EMBALMERS**  
 6606 W. BROAD STREET, 4TH FLOOR  
 RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR RESIDENT TRAINEE PROGRAM**

Application Fee: \$15.00  
 Remittance Fee: \$10.00  
 (Change of Supervisors)

Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.

**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54.1-16 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS. \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION:** Name in full (please type or print)

LAST	SUFFIX	FIRST	MIDDLE/INITIAL
HOME ADDRESS	CITY	STATE	ZIP CODE
DATE OF BIRTH	SOCIAL SECURITY NUMBER	AREA CODE & TELEPHONE NUMBER	

**II. PROFESSIONAL LICENSURE IN ANOTHER JURISDICTION.** If you are currently licensed or have been licensed as a professional or apprentice in another jurisdiction, please list the information below and complete the licensure verification form for each and forward to the jurisdiction you have licensed. (Use additional sheets) as necessary to list all licenses.

Jurisdiction	License Number	Professional Area

SHOULD THE STATUS OF YOUR FUNERAL SERVICE, DIRECTING, OR EMBALMING LICENSE(S) IN ANOTHER JURISDICTION CHANGE PENDING CONSIDERATION OF THIS APPLICATION, YOU ARE REQUIRED TO INFORM THIS BOARD IN DETAIL IMMEDIATELY. THE FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REVOCATION OF THIS SAME.

**III. EDUCATION:**

1. HIGH SCHOOL NAME	CITY	STATE	ZIP CODE
DATE OF GRADUATION	DEGREE EARNED		

**IV. TRAINING SITE INFORMATION**

ESTABLISHMENT'S NAME	LICENSE NUMBER
ADDRESS	STATE
	LICENSE NUMBER
MANAGER'S NAME	LICENSE NUMBER
FUNERAL SERVICE SUPERVISOR	LICENSE NUMBER
EMBALMING SUPERVISOR	LICENSE NUMBER
DATE EMPLOYMENT BEGAN	TOTAL HOURS SCHEDULE TO WORK EACH WEEK (Minimum 40-hour requirement)

**V. REQUIRED DOCUMENTATION:** The following documents shall be submitted with this application. Please indicate as stipulated below:

CERTIFIED HIGH SCHOOL TRANSCRIPT	ATTACHED	ON FILE WITH BOARD OFFICE
CERTIFIED BIRTH CERTIFICATE		OTHER (EXPLAIN)

Revised: 7/1/97

CONTINUED ON BACK

**VI. AFFIDAVIT**

1. Have you ever been convicted of any criminal offense other than minor traffic violations? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, explain: \_\_\_\_\_

2. Have you ever had a license to practice funeral service or a registration for apprenticeship to type \_\_\_\_\_, voluntarily surrendered \_\_\_\_\_, placed on probation \_\_\_\_\_, suspended \_\_\_\_\_, revoked \_\_\_\_\_, or have you been otherwise found in violation of laws of any Board that regulates funeral service? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, explain: \_\_\_\_\_

**VII. AFFIDAVIT** (To be completed by a Notary Public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I, \_\_\_\_\_, am applying to be registered as an apprentice in Funeral Service in the Commonwealth of Virginia. I will, at all times, abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

I understand that should I violate any of these laws or regulations, their action may be taken against my license by due process.

I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

SEAL

\_\_\_\_\_  
Signature of Applicant



**COMMONWEALTH OF VIRGINIA**  
DEPARTMENT OF HEALTH PROFESSIONS  
BOARD OF FUNERAL DIRECTORS AND EMBALMERS  
6606 W. BROAD STREET, 4TH FLOOR  
RICHMOND, VIRGINIA 23230-1717

**APPLICATION FOR RESIDENT TRAINEE PROGRAM SUPERVISOR**



**DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER.** In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number\* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** \*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

**I. IDENTIFYING INFORMATION: Name in Full (Please print or type)**

APPLICANT'S NAME	DATE OF EMPLOYMENT		
ESTABLISHMENT'S NAME	AREA CODE AND TELEPHONE NUMBER	CITY	ZIP CODE
STREET ADDRESS	STATE	CITY	ZIP CODE
MAILING ADDRESS	STATE	CITY	ZIP CODE

**II. SUPERVISOR'S INFORMATION**

FUNERAL SERVICE SUPERVISOR'S NAME	SOCIAL SECURITY NUMBER	LICENSE NUMBER
EMBALMING SUPERVISOR'S NAME	SOCIAL SECURITY NUMBER	LICENSE NUMBER
ESTABLISHMENT MANAGER'S NAME	SOCIAL SECURITY NUMBER	LICENSE NUMBER
ESTABLISHMENT LICENSE NUMBER		

**III. BUSINESS INFORMATION**

Number of embalming procedures performed at establishment in the past year: \_\_\_\_\_

Number of funeral services conducted at establishment in the past year: \_\_\_\_\_

**IV. AFFIDAVIT** (To be completed by a Notary Public)

I, \_\_\_\_\_ County/City of \_\_\_\_\_ State of \_\_\_\_\_

are applying for approval of establishment and individuals as the training site and supervisor(s) for the above captioned apprentice. The supervisor(s) listed above are those responsible for the captioned apprentice shown on page 1 of this application. We will at all times abide by the laws of the Commonwealth and Regulations of the Board of Funeral Directors and Embalmers governing such practice.

We understand that should we violate any of these laws or regulations, that action may be taken against the responsible parties by due process.

We hereby certify that all statements contained in this application, and all representations and documents presented by us in connection with this application are true and correct.

Signature of Manager: \_\_\_\_\_ Signature of Funeral Service Supervisor: \_\_\_\_\_

Signature of Embalmer: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission expires \_\_\_\_\_.

**SEAL**

Notary Public

Revised: 7/1/97

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

## RENEWAL NOTICE AND APPLICATION

Telephone: \_\_\_\_\_  
License, certificate or registration number: \_\_\_\_\_

TYPE OF RENEWAL	CURRENT EXPIRATION DATE	CURRENT AMOUNT DUE	RENEWAL PERIOD	AMOUNT DUE IF RECEIVED AFTER
		\$	FROM _____ TO _____	\$

**MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"**  
**RETURN PAYMENT AND THE COMPLETED BOTTOM PORTION ONLY IN THE ENCLOSED ENVELOPE**  
**KEEP TOP PORTION FOR YOUR RECORDS**

<p><b>DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER</b> In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number* issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities.</p> <p>If the boxes below are empty, write in your Social Security or Virginia DMV Control Number. If the boxes do contain numbers, please verify that they are correct and make any necessary changes.</p> <p style="text-align: center;"><b>NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.</b></p> <p style="text-align: center;">*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.</p>	<p style="text-align: center;"><b>INSTRUCTIONS</b></p> <ol style="list-style-type: none"> <li>1. Verify Social Security or Virginia DMV Control Number at left.</li> <li>2. Complete item "A" below if you do not wish to renew.</li> <li>3. Make any address changes on this application when renewing.</li> <li>4. Make any name changes on this application and enclose a copy of your marriage license or court order.</li> <li>5. Note name and license, certificate or registration number on all enclosures.</li> <li>6. Return the bottom portion of this application in the enclosed envelope.</li> </ol> <p>A. <input type="checkbox"/> Check here if you <b>do not</b> wish to renew, and sign below.</p> <p style="text-align: right;">_____ Signature</p>
--	--

**THIS BOTTOM PORTION MUST BE RETURNED IN ORDER TO RENEW**

Department of Health Professions  
Type of renewal: \_\_\_\_\_  
License, certificate or registration number: \_\_\_\_\_

## BOARD OF PHARMACY

**Title of Regulation:** 18 VAC 110-20-10 et seq. Virginia Board of Pharmacy Regulations (amending 18 VAC 110-20-10, 18 VAC 110-20-20, 18 VAC 110-20-30, 18 VAC 110-20-40, 18 VAC 110-20-50, 18 VAC 110-20-60, 18 VAC 110-20-70, 18 VAC 110-20-90, 18 VAC 110-20-140, 18 VAC 110-20-150, 18 VAC 110-20-170, 18 VAC 110-20-190, 18 VAC 110-20-200, 18 VAC 110-20-210, 18 VAC 110-20-220, 18 VAC 110-20-230, 18 VAC 110-20-240, 18 VAC 110-20-270, 18 VAC 110-20-280, 18 VAC 110-20-290, 18 VAC 110-20-330, 18 VAC 110-20-350, 18 VAC 110-20-360, 18 VAC 110-20-390, 18 VAC 110-20-400, 18 VAC 110-20-420, 18 VAC 110-20-470, 18 VAC 110-20-500, 18 VAC 110-20-540, 18 VAC 110-20-550, 18 VAC 110-20-570, 18 VAC 110-20-580, 18 VAC 110-20-590, 18 VAC 110-20-620, 18 VAC 110-20-640, and 18 VAC 110-20-680; adding 18 VAC 110-20-355, 18 VAC 110-20-395, 18 VAC 110-20-555, 18 VAC 110-20-621, and 18 VAC 110-20-622; repealing 18 VAC 110-20-260 and 18 VAC 110-20-650).

**Statutory Authority:** §§ 54.1-2400, 54.1-3307, and 54.1-3312 of the Code of Virginia.

**Public Hearing Date:** August 18, 1998 - 9 a.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** Chapters 24 (§ 54.1-2400 et seq.), 33 (§ 54.1-3300 et seq.), and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and responsibility to promulgate regulations.

Chapter 33 establishes the Board of Pharmacy and authorizes the board to regulate the practice of pharmacy consistent with public health and safety.

Chapter 34 establishes the Drug Control Act and authorizes the board to ensure the safety of the drugs prescribed and administered in the Commonwealth.

**Purpose:** The purpose of the proposed amendments is to clarify regulations pursuant to recommendations of Executive Order 15 (1994). Proposed amendments also address issues related to the changes in pharmacy practices and are intended to provide protection for the health, safety and welfare of the public consistent with the board's statutory mandate in Chapter 33 of Title 54.1 of the Code of Virginia.

**Substance:**

18 VAC 110-20-10. Several new definitions are proposed to clarify terminology which has been used in regulation and which has not been clearly understood by licensees. New definitions are proposed for "beyond use date," "change of ownership," "floor stock," and "practice location." A term newly used in proposed regulations, "PTCB," is also defined as the Pharmacy Technician Certification Board.

18 VAC 110-20-20. Amendments are proposed to add a fee of \$15 for a returned check, to reorganize the section, and to delete the fee for approval of continuing education providers.

18 VAC 110-20-30. Amendments are proposed to require at least 1,500 hours (current requirement is 1,000 hours) of practical experience, of which 300 hours must be outside the school's practical experience program. Subsection A is amended to require that at least 300 of those hours must be in prescription compounding and dispensing.

18 VAC 110-20-40. Amendments proposed eliminate the distinction between pharmacy interns and externs and allow students to gain practical experience at times concurrent with the school year.

18 VAC 110-20-60. Amendments clarify that the applicant must have met all other requirements and be eligible for licensure prior to sitting for the examination.

18 VAC 110-20-90. The board proposes to eliminate subsections which are already stated in the Code of Virginia and are therefore unnecessary.

18 VAC 110-20-100. Amendments proposed delete the provisions for board approval of continuing education sponsors. The board will continue to approve individual CE courses prior to their being given.

18 VAC 110-20-110. An amendment establishes grounds for disciplinary action against the pharmacy permit if decisions are being made which override control of the pharmacy by persons other than pharmacists.

18 VAC 110-20-130. Proposed amendments provide clarification of the rules regarding pharmacies which are going out of business, closing or changing ownership. In addition to information on the drug stock, the board requires information on the disposition or transfer of all types of records and requires that the records be provided in a format so as to provide continuity of pharmacy services to the public.

18 VAC 110-20-140. An amendment is proposed to establish that any current waiver of facility regulations shall expire 90 days following a change in ownership of an existing pharmacy.

18 VAC 110-20-150. A proposed amendment establishes a standard for lighting levels in pharmacies.

18 VAC 110-20-170. Amendments eliminate from the list a laminar hood (required only for sterile compounding) and permit an electronic scale rather than weights.

18 VAC 110-20-190. A proposed amendment establishes a minimum standard for the door to the enclosed area within the prescription department.

18 VAC 110-20-200. An amendment provides for a policy to be established under which a prescription could be delivered when the pharmacist is not on duty but the counseling requirement could still be met.

18 VAC 110-20-210. Proposed amendments clarify the current requirements for destruction or disposal in

---

## Proposed Regulations

---

compliance with guidelines established by applicable local, state, and federal laws and eliminate the specific information which must be contained on the destruction form from DEA.

18 VAC 110-20-230. An amendment recognizes a person as a nuclear pharmacist who meets the requirements of this chapter or who have NRC approval as a nuclear pharmacist or certification as a nuclear pharmacist by the American Pharmaceutical Association Board of Pharmaceutical Specialties.

18 VAC 110-20-240. An amendment to the requirements for prescription records on an automated data processing system is proposed for consistency with recent changes in the federal rule.

18 VAC 110-20-260. This section is repealed and restated in another part of this chapter.

18 VAC 110-20-270. Amendments are proposed to the subsection on acts restricted to pharmacists to include: (i) the evaluation of a prescription for its completeness, validity, safety and appropriateness of drug therapy and (ii) the determination of whether a prescription may in good faith be dispensed with a listing in regulation of factors to be considered in making that determination. An amendment is also proposed to permit the pharmacists to have up to three unlicensed persons assisting in the prescription department provided those persons have been certified by the PTCB.

18 VAC 110-20-280. Changes proposed for this section include: (i) deletion of the requirement for the prescriber's signature; (ii) an exception for Schedule II controlled substance prescriptions from certified hospices; and (iii) a provision to allow authorizations for refills to be faxed with certain required information.

18 VAC 110-20-290. An amendment is proposed to relax the requirement from 72 hours to 7 days for a written prescription to be provided following an emergency oral prescription of a Schedule II drug.

18 VAC 110-20-330. Amendments conform the regulation to changes in the law on labeling and add a requirement that for a drug possessing a single active ingredient, the generic name of the drug is to be included in addition to any brand name.

18 VAC 110-20-350. An amendment requires a signed release if nonspecial packaging is requested and provided.

18 VAC 110-20-355. Amendments establish requirements for repackaging of bulk drugs to ensure that the repackaged drugs are appropriately identified and labeled and are not out of date.

18 VAC 110-20-360. Subsection A is amended to provide for transfer of prescriptions in accordance with federal laws and regulations and provided the drug can be refilled and the patient has given permission for the transfer.

18 VAC 110-20-390. Amendments replace the outdated language about kickbacks and provides for full disclosure to the patient, the prescriber, or a third party payor of any

program involving rebates or other considerations with respect to prescription orders.

18 VAC 110-20-500. Amendments modify the proceedings and requirements for drug orders given to and administered by a technician in an emergency for consistency with current situations. An amendment also stipulates that records of such administration must be maintained for two years.

18 VAC 110-20-555. New regulations allow for the use of automated dispensing devices in long-term care facilities provided certain requirements for security, loading, checking, dispensing, and recordkeeping are met.

18 VAC 110-20-580. Amendments provide further guidance to veterinarians who supervise the administration of drugs for euthanasia.

18 VAC 110-20-590. An amendment allows for random audits of drug administration records rather than a requirement for review of each record.

Part XIX. Amendments conform board regulations to recent changes in federal rules.

18 VAC 110-20-640. Amendments require installation of a device for detection of breaking subject to certain conditions.

18 VAC 110-20-650. The section is repealed in compliance with a 1996 change in law for the board to no longer regulate manufacturing of cosmetics.

18 VAC 110-20-680. Amendments provide for additional security and sanitary conditions for drugs and devices stored.

### Issues:

Issue 1: Need for additional definitions.

Several terms currently used in regulation have not been clearly defined, and the lack of clarity has generated numerous questions about their meaning and implications for pharmacists attempting to comply with law and regulation. The board has been requested to consider new definitions for "floor stock," "practice location" and "beyond use date." In determining whether such definitions are necessary, the board looked at model regulations by the National Association of Boards of Pharmacy and USP guidelines and considered their usage in the context of the regulation.

The board also considered a definition of "change of ownership" to clarify the nature of the transaction which would be considered as a change of ownership and thereby would subject the pharmacy to laws and regulations pertaining thereto. In its deliberation, the board considered recent disciplinary cases involving change of ownership and comment from interested parties to develop a more concise definition for a better understanding of the requirements and ease of compliance.

A definition for "PTCB" is proposed to provide the meaning for the organization which certifies pharmacy technicians and on which the board proposes to rely for some minimal standard of training of persons working with the pharmacist

in the prescription department by a greater than one to two ratio of pharmacist to technicians. The term "beyond use date" is used in regulations on sterile compounding and other sections.

In addition to changes in definitions, the board proposes to amend regulations for consistency in the use of the term "schools of pharmacy" rather than colleges of pharmacy as is used in some places.

Advantages and disadvantages: The advantages of new definitions for the public and for the licensees are: (i) the removal of ambiguity about requirements of statutes and regulations; (ii) the clarification of terms used in the employment of new technologies permissible by current and proposed regulation; (iii) the expansion of practice by technicians who assist the pharmacist by inclusion of a certifying body in the definitions.

There are no disadvantages for the public which remains protected in their use of pharmacy services. A more explicit definition of "change of ownership" will help to protect the public from transactions which effectively shut down access by the public to prescription records. Other new definitions will provide clearer guidance to pharmacists and others attempting to practice safely.

Issue 2: Requirements for practical experience as a prerequisite for licensure.

The board considered its specific requirements for practical experience and determined that its regulations were not only necessary but were below the minimal standard. To adopt a less restrictive requirement would be a barrier to Virginia pharmacists and pharmacy students in licensure mobility, and in fact, the current requirements do not meet the criteria of most other states. Virginia is only one of four states that require only 1,000 hours of practical experience for licensure in pharmacy. Consequently, it is problematic for our licensees to reciprocate to another state with higher standards.

The requirement for licensure in at least 40 states is 1,500 hours of practical experience (some require even more hours). The academic community has also examined practical experience requirements as a part of their curriculum and determined that more hours of practical experience are essential for graduation. The board proposes to amend its regulation to be consistent with the national norm and with the minimal requirement for pharmacy education. Also, at least 30 other states limit the amount credit given for practical experience gained in an academic setting.

No change is proposed for the 50-hour per week maximum which will be granted for as credit toward that requirement. However, the board considered and has proposed to eliminate the requirement that hours of practical experience outside the school curriculum be gained during school vacations. Proposed regulations would allow the student to get some of those hours by working part time during the school year.

Current regulations require practical experience in "compounding and dispensing," but pharmacy practice is today much broader than that. The board proposes to amend the regulation so practical experience is to be gained in the "practice of pharmacy," which may include counseling and other experiences. To ensure that each new licensee does have some experience in compounding and dispensing, the proposed regulation would stipulate that at least 300 hours has to be in that area.

Likewise, the current regulations distinguish between the "pharmacy interne" and the "student externe." The board proposes to simplify regulations by eliminating the two categories and referring only to "pharmacy interns," regardless of whether the practical experience is gained within or outside the school curriculum.

Advantages and disadvantages: The advantages of the proposed regulations for applicants for licensure are additional flexibility in the times they can work to obtain practical experience, less confusion about terminology, requirements which are more consistent with other states for ease of endorsement or reciprocity, and an expansion of the requirement for practical experience to include aspects of pharmacy other than compounding and dispensing.

There are no disadvantages of proposed regulations to applicants or licensees. Persons who enrolled in a pharmacy program before the effective date of these regulations will be required to meet the current requirement of 1,000 hours of practical experience. Currently, schools such as MCV School of Pharmacy require a six-year curriculum for a degree, during which time it would be expected for a student to have a minimum of 1,500 hours of practical experience.

The advantage of proposed changes to the public is that there will be assurance of additional experience in the practice of pharmacy, including a specified number of hours in the practice of compounding and dispensing. The board is concerned that every licensee have the ability to practice in the prescription area dispensing drugs to the consuming public.

Issue 3: Approval of providers of continuing education.

During regulatory review, the board recommended elimination of the approved provider status for continuing education, as the board is not able to provide continued assurance that CE programs offered by such a provider are of a quality and content to meet board standards. To do so, the board would have to have additional personnel and resources to attend a random sampling of each CE course provided by the provider and to continually review documentation on those courses. Although there would be no overall approval of providers, they would continue to be able to seek board approval for individual CE programs by submission of an application with information on speakers, program content, and other requirements.

Advantages and disadvantages: There are no advantages or disadvantages to the licensees since only one entity has ever applied for approval and the programs offered by that

---

## Proposed Regulations

---

provider are Category I CME and as such automatically approved by the board as approved pharmacy CE. The proposed amendment will in no way reduce the availability of continuing education to pharmacy licensees. There are no advantages or disadvantages to the public or to the agency.

Issue 4: Changes in ownership or closings of existing pharmacies.

There have been recent disciplinary cases which have demonstrated the need for clarification of requirements when a pharmacy closes or changes ownership in order to provide for continuity of pharmacy services to affected patients. The changes will clarify existing requirements for closing of a pharmacy consistent with statute, and clearly set forth requirements and responsibility for appropriate transfer of records if ownership of a pharmacy changes. The changes attempt to ensure continuity of pharmacy services at a same or similar level.

Advantages and disadvantages: The advantages to licensees are that the requirements will be clearly set forth in regulation, rather than extrapolated from several different laws and regulations. The advantages to the public will be that there will be clear requirements for accessibility to pharmacy records in the case of closing or transfer of ownership. The advantage to the agency is that there will now be a clear requirement more easily communicated and enforced.

Issue 5: Requirements for the prescription department.

The changes require that prescription departments have a minimum lighting level of 100 foot candles and clarifies requirements for the gate to the prescription department. The lighting level was added as a result of a study which showed a direct correlation between low lighting and increased prescriptions errors. Because of confusion about how large a gap could exist between the bottom of a prescription department gate/door, the board specified that the gap not be more than six inches.

Advantages and disadvantages: The advantage to the regulated entity in specifying lighting levels and clarification about the gate is that there is now a precise measurable standard and evaluation of compliance is not left to the individual discretion of the inspector. The disadvantage is that for pharmacies with less than 100 foot candles lighting, there will be a cost associated with improving lighting to meet the new requirement. There will be no disadvantage to existing pharmacies with the gate requirement, as existing pharmacies are grandfathered. The advantage to the public is improvement of working conditions for pharmacists which should reduce prescription dispensing errors. The advantage to the agency for both the lighting level and gate is a now measurable standard which inspectors and board members can use in determining compliance. Additionally, if there are less dispensing errors, this may correlate with less disciplinary cases which the agency will have to investigate and adjudicate.

Issue 6: Amendment to acts restricted to a pharmacist; determination of whether a prescription may be dispensed in good faith.

Because of a need demonstrated in a recent disciplinary case, the new language sets forth the factors which should be considered by a pharmacist when determining if a prescription can be filled in good faith.

Advantages and disadvantages: The advantage and disadvantage to pharmacists is a clear directive to consider certain things such as geographical distance from the patient to prescriber to pharmacy when making the determination of validity of a prescription. The directive is not meant to be exclusive of other things, but to include major factors. While clear direction is usually good, it can also be a problem for a pharmacist who does not consider the specific factors listed in the regulations when making a determination to fill a prescription if a prescription is later found to be invalid.

The only advantage to the public may be that less drugs get into illegal channels because of increased responsibility for scrutiny on the part of the pharmacist. The disadvantage may be increased reluctance on the part of a pharmacist to fill prescriptions which appear questionable. The advantage to the agency is more clarity in regulation when handling disciplinary cases.

Issue 7: Increase in the ratio of technicians to pharmacy under certain restrictions.

The board has been asked to consider increasing the ratio of pharmacists to technicians (unlicensed persons assisting the pharmacist in certain dispensing functions). The board has been reluctant to do this in the past because there are currently no minimum competencies for these persons. There is now a national organization which has developed a training curriculum and examination for voluntary certification of pharmacy technicians. The new language allows for an increase in the ratio of pharmacists to unlicensed assistants from the current 1:1 to 1:3 provided the assistants have passed the examination and hold the voluntary certification of this national organization.

Advantages and disadvantages: The advantages to the regulated entities may be some reduction in cost of doing business by allowing increased use of technicians per pharmacist. Disadvantages may be that technicians holding certification may demand increased pay over other unlicensed assistants not holding certification as a pharmacy technician.

The advantages to the public may be better trained ancillary assistance to the pharmacist. The disadvantage of the change may be that pharmacy owners will try to increase volume of prescription dispensing by using more pharmacy technicians which may actually increase rather than decrease the pharmacist's workload. There are no known advantages or disadvantages to the agency.

Issue 8: Compliance with changes in federal rules.

There were several changes in federal regulations by the Drug Enforcement Administration to allow increased

flexibility in recordkeeping and dispensing. Changes include allowing faxing of Schedule II prescriptions for hospice patients, increasing time requirement from 72 hours to 7 days for a physician to mail a written prescription covering emergency oral authorization for a Schedule II drug, and discarding the requirement for pharmacists to stamp a red "C" on Schedule III - V prescriptions if they use an automated data processing system. The board regulation changes conform to the new federal regulations.

**Advantages and disadvantages:** The advantages include increased flexibility for pharmacists and prescribers and uniformity between federal and state law. The advantage to the public is with a prescriber being able to fax a Schedule II prescription for hospice patients which may save a caregiver a trip to the physicians' office just to pick up a prescription. There are no known disadvantages to either the regulated entity or the public and no known advantages or disadvantages to the agency.

**Issue 9:** Amendments to labeling requirements; repackaging of drugs.

The board was petitioned to allow relaxed repackaging requirements for placement of bulk drugs into automated counting and dispensing devices such as Baker cells. The changes do allow pharmacies to use Baker cells and similar devices without maintaining repackaging records, provided all necessary information (or a copy of original manufacturer's labeling) including lot and expiration dates are placed on the actual cell containing the drug. The changes do prohibit mixing of lot numbers and require emptying of a cell before reloading, because each load would have a potentially different beyond use date.

**Advantages and disadvantages:** The advantage to pharmacies is doing away with the repackaging record requirement for this type of repackaging. The disadvantage may be that because regulations do not currently address specifically this type of operation, there may be pharmacies who are not properly labeling the bins or cells holding the bulk drug, and also pharmacies may currently mix lot numbers. The new language may mean that cells have to be refilled at inconvenient times as they are emptied. The advantage to the public is that drugs will not be held in these machines longer than an appropriate beyond use date. There are no known disadvantages to the public. There are no known advantages or disadvantages to the agency.

**Issue 10:** Requirement for label to always show generic name of drug if a single entity product.

Changes were made to the regulations related to labeling of dispensed prescriptions to comply with a 1997 statute change and to also always require that the generic name of a drug product which has only one active ingredient be on the label. This change was made upon petition of a medical practitioner who has had two patients who overdosed because they had two prescription vials at home, each containing the same drug, but labeled with two different brand names. The patients did not realize the two vials contained the same drug and double dosed. The generic

name, being common to both, if required to be on the label would have prevented this.

**Advantages and disadvantages:** There are no known advantages to pharmacies. The disadvantages are that there will be a software change cost to comply with this requirement and that there is not always enough room on a relatively small label to put all required information. The advantage to the public is that double dosing may be avoided by reading the label. Patients will be able to easily determine if two different products are actually the same drug, just made by a different manufacturer. With all the different generic manufacturers of drug products, product identification is becoming more of a problem with consumers. The possible disadvantage to the public is that in order to put all required information on a small label, a pharmacist may have to use a smaller font which is more difficult to read. There is no known advantage or disadvantage to the agency.

**Issue 11:** Requirements for pharmacies to only purchase controlled substances from a distributor authorized by the board.

Any wholesale distributor who distributes prescription drugs in Virginia, whether residing in Virginia or another state, must be licensed with the Virginia Board of Pharmacy. This proposed change would require pharmacies to ensure that any company from which they purchase drugs is appropriately licensed.

**Advantages and disadvantages:** The advantage to pharmacies is that by ensuring proper licensure of the wholesale distributors, pharmacies may reasonably expect that the drugs they receive have been properly obtained from legitimate sources and stored under proper conditions. A disadvantage is that pharmacies will assume responsibility for having to check on licensure prior to ordering from a company. This will not be overly burdensome since most pharmacies only use one or two wholesale distributors and this information is readily available from the board. The advantage to consumers is assurance of quality drug products and decreased opportunity for fraud or diversion. The advantage to the board is better control and information about companies shipping drugs into Virginia. There are no known disadvantages either to consumers or the agency.

**Issue 12:** Requirements for drug kit exchange for an emergency medical services agency.

The changes to this section of the regulation allow some flexibility to EMS agencies in getting an order to the pharmacy for drugs used out of an emergency kit. Current regulations require that the ER physician write an order to cover any drugs used in transit to the hospital. EMS technicians are having increasing difficulty with this requirement because patients are not always transmitted to a hospital and in some cases the ER physician does not agree with the drugs given in transit which were in fact ordered via verbal order from an on-line medical facility or protocol of the agency's operational medical director.

---

# Proposed Regulations

---

Advantages and disadvantages: The advantages to the EMS agencies are that there is now more than one way to obtain an order covering the drugs used on a call. There are no known disadvantages. There are no known advantages or disadvantages to pharmacies. There are no known advantages or disadvantages to either consumers or the agency.

Issue 13: Requirements for use of automated dispensing devices in long-term care facilities.

Currently the use of automated dispensing devices in long-term care facilities is prohibited. The changes would allow the use of such devices in lieu of the emergency drug kits or "stat" boxes currently in use.

Advantages and disadvantages: The advantages to pharmacies serving long-term care facilities would be that one device could replace numerous tackle boxes which are now handled on a rotating exchange basis. The disadvantage is cost of the device. There are no known advantages or disadvantages to consumers or the agency.

## Estimated Impact:

### A. Projected number of entities affected by this regulation:

Licensed pharmacists	7,560
Pharmacies	1,563
Medical equipment suppliers	154
Restricted manufacturers	70
Nonrestricted manufacturers	24
Humane societies	89
Nonresident pharmacies	201
Wholesale distributors	128
Warehousers	14
Nonresident wholesale distributors	194
Business controlled substance registration	234
Continuing education providers	1

B. Projected cost to the agency. The agency will incur some costs (less than \$3,000) for mailings to the Public Participation Guidelines Mailing List, conducting a public hearing, and sending copies of final regulations to regulated entities. However, every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

C. Projected costs to the affected entities. There may be a cost to pharmacies who need to make changes to software in order to comply with the change in labeling requirement. It is difficult to predict the cost of this change, but on average it may cost approximately \$200 to \$300 per pharmacy. Some pharmacies have software maintenance contracts and this change will not create any additional cost. Some pharmacies have already made software changes to accommodate a recent statutory change for pharmacy labels.

There will be no cost associated with the change authorizing the use of automated dispensing devices in long-term care facilities unless the pharmacy wishes to use this technology. The ability to use manual kits is still available.

There may be an increased personnel cost if pharmacies wish to take advantage of the change which allows the use of three unlicensed assistants per pharmacist provided these assistants hold certification as a pharmacy technician. There has been concern expressed during past reviews that certification will push up salaries. However, there is still no requirement for certification if pharmacies still wish to retain the one-to-one ratio.

There may be some increased cost to pharmacies who have to make changes to lighting to meet the new minimum lighting level requirement. However, it is estimated that most pharmacies already meet this requirement. It may cost a pharmacy which does not already have this level of lighting an average of \$500 to upgrade.

D. Citizen input in development of regulation. In the development of regulations, the board made every effort to include citizen input from those engaged in the practice of pharmacy in the communities, in hospitals or other settings, from associations affiliated with the practice, and from businesses providing technology for pharmacies and practitioners. Consequently, the board drafted regulations with a consideration for any fiscal impact on licensees, especially small businesses, and does not anticipate a negative impact on the entities affected by regulation or on the public.

E. Localities affected. There are no localities affected by these regulations in the Commonwealth of Virginia.

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

Summary of the proposed regulation. The proposed regulation amends current regulations governing the practice of pharmacy to implement recommendations from the board's Executive Order 15 (94) review and update the regulation to reflect changes in pharmacy practice. The primary amendments are as follows:

1. Fees would be amended to add a \$15 returned check fee and delete the \$300 application and renewal fees for approved continuing education (CE) providers (pursuant to additional amendments detailed below, the board would only approve individual CE courses, not CE providers);

2. License requirements for pharmacists would be amended to increase from 1,000 to 1,500 the hours or practical experience required, with at least 300 hours "in the area of prescription compounding and dispensing" and at least 300 hours "gained outside of a school of pharmacy practical experience program";

3. Procedures for gaining practical experience would be amended to remove the requirement that "practical experience of the student externe shall be gained at times nonconcurrent with the school year with the exception of school vacations";

4. Requirements for approval of CE programs would be revised to delete all provisions regarding approval of CE sponsors;

5. Provisions regarding pharmacy closings and change of ownership would be amended to require that a pharmacy provide the board information on the proposed disposition of "prescription dispensing records, patient information records, and other required records" 14 days prior to closing, require board approval of any exceptions to that requirement, require that a pharmacy notify the board 14 days before a change of ownership, and require a pharmacy changing ownership to provide new owners with "prescription dispensing records for the two years immediately preceding the date of change of ownership";

6. Requirements for new pharmacies would be amended to specify that waivers of facility regulations granted to a pharmacy expire 90 days after a change in ownership;

7. Physical standards would be amended to require that "lighting levels in the prescription department shall be a minimum of 100 foot candles";

8. Qualifications for nuclear pharmacists would be amended to allow certification by the American Pharmaceutical Association Board of Pharmaceutical Specialties as well as Nuclear Regulatory Commission;

9. Standards for maintenance of Schedule III through V drug records would be revised to waive certain requirements applicable to printed files in instances where a pharmacy "employs an automated data processing system";

10. Requirements regarding dispensing of prescriptions would be amended to specify that pharmacists must evaluate prescriptions for "completeness, validity, safety and appropriateness of drug therapy," and to allow pharmacies "using persons who hold current certification from the Pharmacy Technician Certification Board" to have three assistants present in the prescription department for each pharmacist present, as opposed to the current requirement of one assistant for each pharmacist;

11. Provisions for transmission of prescriptions by fax would be amended to allow an authorized agent to sign

the prescription in lieu of the prescriber,<sup>1</sup> provide an exception to the prohibition against faxed prescriptions of Schedule II drugs in the case of certified hospices, and stipulate that authorizations for refills may be faxed provided the authorization contains certain specified information;

12. Requirements regarding dispensing Schedule II drugs would be amended to increase from three to seven days the amount of time prescribers have after authorizing an emergency oral prescription to provide a written prescription to the pharmacist;

13. Requirements for prescription labeling would be amended to specify that "[f]or any drug product possessing a single active ingredient, the generic name of the drug shall be included on the label in addition to any other brand name" and that generic drug labels "contain the generic's brand name or the manufacturer or distributor of the drug produced";

14. Provisions regarding rebates or other considerations would be revised to require a pharmacist to disclose to prescribers, in addition to patients and third party payors as is currently required, any rebates, special charges, or other considerations received with respect to a prescription;

15. A new provision would be added that requires pharmacists to purchase Schedule II through IV drugs only "from a wholesale distributor licensed or registered by the board," except in instances of emergency purchase from another pharmacy;

16. Pharmacy services to hospitals standards would be amended to allow standing orders for administration of drugs by licensed emergency medical services agencies and to require that records of such administration be maintained by the pharmacy for at least two years;

17. New provisions would be added that would allow the use of automatic dispensing devices in long-term care facilities in lieu of stat boxes or emergency drug kits provided certain requirements are met;

18. Requirements regarding drugs in correctional institutions would be amended to specify that provider pharmacies "shall conduct random audits of returned drug administration records";

19. Language regarding exempted stimulant or depressant drugs would be amended to bring it into conformity with recent changes in the federal Drug Control Act;

20. Provisions regarding safeguards against diversion of drugs would be amended to require manufacturers,

---

<sup>1</sup> According to § 54.1-3408, "an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber."

---

# Proposed Regulations

---

wholesale distributors, and warehouseers of prescription drugs to install "a device for the detection of breaking";

21. All provisions regarding the manufacturer of cosmetics would be deleted from the regulation; and

22. Standards for medical equipment suppliers would be amended to require that a supplier's location "be inspected by the board prior to engaging in business ... be of suitable size and construction, ...have adequate lighting and ventilation, ...be clean and sanitary, ...have a system of temperature control for the storage of any Schedule VI drug or device," and that hypodermic needles, syringes and Schedule VI drugs not be placed in areas where patrons would have access to them.

Estimated economic impact. Those proposed amendments likely to have economic consequences can be divided into six broad categories, those affecting: fees, personnel, physical and equipment standards, procedural requirements, reporting requirements, and training requirements.

Fees. The proposed addition of a \$15 returned check fee is unlikely to have a significant effect on compliance costs. The proposed deletion of the \$300 application and renewal fees for approval of CE providers may have an effect in that providers would no longer be able to pay these fees to receive blanket approval for their CE courses. Instead, they would have to seek approval for each course they offer and pay a \$100 fee for each course approval. Absent data on the number of course offerings per provider, it is not possible to determine whether this change implies an increase or decrease in regulatory compliance costs. On the benefit side, however, it is likely that the change will enable the board to more closely monitor CE course offerings, thereby providing enhanced insurance of their quality.

Personnel. The proposed amendment allowing pharmacies "using persons who hold current certification from the Pharmacy Technician Certification Board" to have three assistants present in the prescription department for each pharmacist present, rather than the current requirement of one assistant per pharmacist, would significantly increase the flexibility that pharmacies have in meeting regulatory staffing requirements. This enhanced flexibility should increase efficiency and reduce compliance costs. Pharmacies that find it profitable to adhere to the proposed ratio of three certified assistants to one pharmacist, as opposed to one uncertified assistant to one pharmacist, will do so and those that do not find it profitable will not. Such a change cannot increase compliance costs and is likely to reduce them. Additionally, it seems probable that relaxing the ratio to take into account the use of better trained personnel would have no effect on health and safety.

Physical and equipment standards. Several of the proposed amendments would revise current physical and equipment standards. These amendments can be grouped into those that are likely to increase and those that are likely to decrease regulatory compliance costs.

Two of the proposed physical and equipment standards amendments would involve relatively straightforward

increases in compliance costs. First, compliance with the suggested requirement that "lighting levels in the prescription department shall be a minimum of 100 foot candles" would entail, according to estimates provided by DHP, approximately \$500 in upgrade costs for pharmacies not already meeting the requirement. DHP cites as justification for this new requirement an unpublished 1994 study which found a correlation between low lighting levels and dispensing errors.<sup>2</sup> Second, the proposed amendment requiring manufacturers, wholesale distributors, and warehouseers of prescription drugs to install "a device for the detection of breaking" will also impose additional compliance costs on the regulated community. DHP indicates, however, that with the possible exception of a small number of nitrous oxide repackagers, the existing burglar alarm systems of almost all other facilities will meet this standard. On the benefit side, DHP indicates that nitrous oxide is a Schedule VI controlled substance, often abused by teens. Requiring nitrous oxide repackagers to install burglar alarm systems should decrease the incidence of theft and abuse.

Two other proposed amendments to physical and equipment standards will probably also increase compliance costs, but in less obvious ways. Suggested new language specifying that waivers of facility regulations expire 90 days after change of ownership represents an increase in regulatory stringency that could significantly increase compliance costs, particularly in instances where revocation of a waiver would require expensive renovations (e.g., a waiver of minimum floor space requirements) and the new owners were unaware of the existence of the waiver at the time of purchase. Moreover, it is unclear what public benefit is derived from revoking a waiver granted for circumstances that presumably were judged not to be a threat to public health and welfare, simply because of a change in ownership. The second proposed amendment likely to have a less than straightforward effect on compliance costs are new requirements specifying that medical equipment suppliers "shall be inspected by the board prior to engaging in business ... shall be of suitable size and construction, shall have adequate lighting and ventilation, shall be clean and sanitary, and shall have a system of temperature control for the storage of any Schedule VI drug or device." Although apparently reasonable, these proposed requirements are sufficiently general that they will offer little guidance to the regulated community as to what constitutes compliance. The uncertainty created by undefined terms such as "suitable" and "adequate" will tend to drive up compliance costs because regulators will be unsure of the level of investment necessary to insure compliance.

Alternatively, the proposal to allow the use of automatic dispensing devices in long-term care facilities in lieu of stat boxes or emergency drug kits will permit facilities that find such devices efficiency enhancing to use them, thereby decreasing compliance costs and improving the delivery of patient services.

---

<sup>2</sup> Allan, Elizabeth L., Relationships Among Facility Design Variables and Medication Errors in a Pharmacy, Auburn University, June 1994.

Procedural requirements. Other proposed amendments would affect various procedural requirements. These proposed amendments can also be divided into those that will likely increase and those that will likely decrease regulatory compliance costs. Specifically, the suggested change mandating notification of prescribers in instances where a pharmacy receives rebates or other considerations regarding a prescription will cause some increase in compliance costs, pharmacists would be required to notify a party they are not required to notify currently. At the same time, however, such notification entails a potentially significant health and safety benefit as it may deter instances of “drug switching,” where pharmacists, in response to incentives offered by drug companies or distributors, fill a prescription with a different drug than that which was specifically prescribed.

A second proposed amendment likely to increase compliance costs is the requirement that pharmacists only purchase Schedule II through IV drugs from wholesale distributors licensed or registered by the board. Currently, any wholesaler distributing drugs in Virginia, whether located in Virginia or out of state, must be licensed with the board. The primary economic consequence of the proposed amendment would be to shift part of the responsibility, and most of the cost, of enforcing this licensing requirement from the board to the pharmacies. From an economic perspective, such a shift may be warranted in that the overall costs of enforcement would likely be reduced. This reduction in enforcement costs is attributable in the main to the fact that it is much easier for pharmacies to identify the distributors they deal with than it is for the board to do so.

In contrast, the proposed amendment that pharmacies providing drugs to correctional facilities “shall conduct random audits of returned drug administration records” should reduce compliance costs. Currently, these pharmacies are required to “review the returned drug administration records for accountability of all dosage units dispensed.” This effectively requires the pharmacy to audit every returned record. Random audits, while still providing insurance against diversion and abuse, will be less costly for the pharmacies to conduct, thereby decreasing compliance costs.

Additionally, the proposed amendment allowing an authorized agent to sign a faxed prescription in lieu of the prescriber will increase the convenience and flexibility afforded to regulants, thereby decreasing regulatory compliance costs. Similarly, the proposed amendment allowing the use of standing orders for the administration of drugs by licensed emergency medical services agencies also increases the convenience and flexibility afforded to regulants, and also would decrease regulatory compliance costs.

Reporting requirements. Several of the proposed amendments either increase or decrease the stringency of various reporting requirements, thereby increasing or decreasing regulatory compliance costs. In this regard, the proposals to require closing pharmacies to provide the board information on the proposed disposition of “prescription

dispensing records, patient information records, and other required records” 14 days prior to closing, and to require pharmacies changing ownership to notify the board 14 days before the change and provide the new owners with “prescription dispensing records for the two years immediately preceding the date of change of ownership,” both represent a significant increase over current reporting requirements and are likely to entail a significant increase in regulatory compliance costs. DHP indicates that these revisions are necessary to address problems that have occurred, where pharmacy records were not properly transferred from prior to new owners, thereby denying pharmacy customers appropriate access to their prescriptions and causing disruptions in pharmacy services. Given such experience, it is likely that the additional compliance costs imposed by these new requirements are outweighed by the benefits of insuring continuity of pharmacy services.

Another proposed amendment that is likely to drive up compliance costs is the requirement that “[f]or any drug product possessing a single active ingredient, the generic name of the drug shall be included on the label in addition to any other brand name” and that generic drug labels “contain the generic’s brand name or the manufacturer or distributor of the drug produced.” This change will compel most pharmacies to update their labeling software. DHP estimates that the cost of these software updates will run between \$200 and \$300 per pharmacy, or between \$313,000 and \$469,000 statewide. The benefit associated with this change is that it will decrease the possibility that patients will overdose by taking two prescriptions, each containing the same drug, but labeled with two different brand names. Information provided by DHP indicates that the risk of such overdoses is not merely hypothetical, as they have actually occurred. However, at this time DPB does not have data on the number or severity of such occurrences. As a result, it is not possible to quantify the reduction in risk that might be attributable to this proposed change in labeling requirements.

In the alternative, two of the proposed changes in reporting requirements are likely to reduce compliance costs. The proposed change that would revise standards for maintenance of Schedule III through V drug records to waive certain requirements applicable to printed files in instances where a pharmacy uses an automated data system, will update the regulation to reflect current technologies and remove outdated, unnecessarily burdensome requirements. Similarly, amending the requirements for dispensing Schedule II drugs to increase from two to seven days the amount of time that prescribers have after authorizing an emergency oral prescription to provide written confirmation to the pharmacist will enhance convenience and regulatory flexibility.

Training requirements. On its face, the propose amendment increasing from 1,000 to 1,500 the hours or practical experience required, with at least 300 hours “in the area of prescription compounding and dispensing” and at least 300 hours “gained outside of a school of pharmacy practical experience program,” would appear to significantly increase

---

# Proposed Regulations

---

compliance costs. This is unlikely to be true however. Current licensure requirements stipulate that practical experience must be obtained through a pharmacy school accredited by the American Council of Pharmaceutical Education (ACPE). Students enrolled in ACPE accredited pharmacy schools are required to have a minimum of 1,500 hours of practical experience upon graduation. This means that increasing the experience requirement from 1,000 to 1,500 hours only updates the regulation to reflect current industry standards and should have no effect on compliance cost for U.S. accredited applicants. It may have an effect on non-U.S. accredited applicants, in instances where experience is obtained from schools that do not meet current U.S. accreditation standards.

Two other proposed amendments to training requirements are likely to reduce regulatory compliance costs. The proposal to delete language requiring practical experience to be gained at times "nonconcurrent with the current school year" will enhance the scheduling flexibility afforded to students and remove an apparently paternalistic regulatory requirement. In addition, the proposal to amend qualifications for nuclear pharmacists to allow certification by the American Pharmaceutical Association Board of Pharmaceutical Specialties as well as Nuclear Regulatory Commission will also enhance regulatory flexibility.

Businesses and entities particularly affected. The proposed regulation will particularly affect the approximately 7,560 pharmacists, 1,563 pharmacies, 154 medical equipment suppliers, 94 manufacturers, and other drug related entities licensed to operate in Virginia as well as their customers and the general public.

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

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

Effects on the use and value of private property. Because the proposed regulation entails amendments that affect physical and equipment standards, it will have an effect on the use and value of private property. The precise nature of this effect is detailed above, in the section on estimated economic impact.

Summary of analysis. The proposed regulation amends current regulations governing the practice of pharmacy to implement recommendations from the board's Executive Order 15 (94) review and update the regulation to reflect changes in pharmacy practice. Those amendments likely to have economic consequences can be divided into six broad categories, those affecting: fees, personnel, physical and equipment standards, procedural requirements, reporting requirements, and training requirements.

Proposed changes to the fee schedule are relatively minor and unlikely to have significant economic consequences. With respect to personnel requirements, an amendment is proposed that will increase pharmacy staffing flexibility, thereby, likely inducing some reduction in regulatory compliance costs.

Several amendments have been proposed regarding physical and equipment standards. In some cases these amendments will require the modification of physical structures or the purchase of new equipment, thereby imposing relatively straightforward increases in compliance costs. These increases do not, however, appear out of line with the likely increase in public health and safety benefits that would also be attributable to the amendments.

Two of the proposed amendments to physical and equipment standards are likely to cause less straightforward increases in regulatory compliance costs however. Specifically, the proposal to specify that waivers of facility regulations expire 90 days after change of ownership could significantly increase compliance costs. Moreover, it is unclear what public benefit is derived from revoking a waiver granted for circumstances that presumably were judged not to be a threat to public health and welfare, simply because of a change in ownership. The second proposed amendment relates to new standards for board inspection of medical equipment suppliers. In this case, as written the new standards are sufficiently general that they offer little guidance to regulators regarding what would constitute adequate compliance. This uncertainty will cause an increase in compliance costs with no corresponding benefit.

The proposed changes to procedural, reporting, and training requirements in some cases impose new standards that will necessitate an increase in the compliance costs borne by the regulated community. In all cases, however, these additional costs do not appear out of line with the concomitant increase in public health and safety benefits that is likely accrue from the proposed changes. In other cases, amendments are proposed that will increase regulatory flexibility and, thereby tend to reduce the compliance costs borne by the regulated community.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the analysis of the Department of Planning and Budget.

## Summary:

*Amendments are proposed to provide greater clarity and understanding of requirements for the practice of pharmacy pursuant to recommendations from the comprehensive review conducted in compliance with Executive Order 15 (94). The board recommends amending regulations to revise and update definitions and educational requirements, eliminate redundant or unnecessary regulations, and delete board approval of continuing education programs.*

*Proposed amendments establish grounds for disciplinary action against a pharmacy permit if decisions are being made to override the control of the pharmacy by the pharmacist. Proposed amendments provide clarification of the rules regarding pharmacies which are going out of business, closing or changing ownership and would permit the waiver of facility regulations to expire 90 days after a change of ownership.*

*The board also proposes to establish a minimum standard for lighting and for the door to the enclosed area of the pharmacy, allow electronic scales, clarify the drug destruction rules, and set a policy for a prescription to be delivered to the customer when the pharmacist is not on duty.*

*Regulations are proposed to clarify those acts which are restricted to the pharmacist, update the rules on transmission of a prescription order by facsimile machine, relax the requirement for a written prescription following an emergency dispensing of Schedule II drugs, and allow the pharmacist to supervise an additional technician provided the technicians are certified by the Pharmacy Technician Certification Board.*

*Amendments to regulations on labeling are proposed to conform to recent changes in the law, to require a signed release for nonspecial packaging, establish requirements for repackaging of bulk drugs, and clarify the language on rebates and other considerations. Regulations for pharmacy services in institutions and other facilities are modified to provide more flexibility or to protect from diversion of drugs and ensure sanitary conditions.*

### **18 VAC 110-20-10. Definitions.**

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

"ACPE" means the American Council on Pharmaceutical Education.

"Aseptic processing" means the technique involving procedures designed to preclude contamination of drugs, packaging, equipment, or supplies by microorganisms during processing.

"Beyond-use date" means the date beyond which the integrity of a compounded, repackaged, or dispensed drug can no longer be assured and as such is deemed to be adulterated or misbranded as defined in §§ 54.1-3461 and 54.1-3462 of the Code of Virginia.

"Board" means the Virginia Board of Pharmacy.

"CE" means continuing education as required for renewal of licensure by the Board of Pharmacy.

"CEU" means a continuing education unit awarded for credit as the equivalent of 10 contact hours.

"Change of ownership" for any facility holding a permit, registration, or license with the Board of Pharmacy means any acquisition of an existing facility, or of any corporation under which the facility is either directly or indirectly organized, by another person or entity.

"Class 100 environment" means an atmospheric environment which contains less than 100 particles, 0.5 microns in diameter, per cubic foot of air.

"Closed system transfer" means the movement of sterile products from one container to another in which the container-closure system and transfer devices remain intact throughout the entire transfer process, compromised only by the penetration of a sterile, pyrogen-free needle or cannula through a designated stopper or port to effect transfer, withdrawal, or delivery, to include the withdrawal of a sterile solution from an ampul in a class 100 environment.

"Compliance packaging" means packaging for dispensed drugs which is comprised of a series of containers for solid oral dosage forms and which is designed to assist the user in administering or self-administering the drugs in accordance with directions for use.

"Contact hour" means the amount of credit awarded for 60 minutes of participation in and successful completion of a continuing education program.

"Cytotoxic drug" means a drug which has the capability of killing living cells.

"Electronic transmission prescription" is any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted from a practitioner authorized to prescribe directly to a pharmacy without interception or intervention from a third party, or from one pharmacy to another pharmacy.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Facsimile (FAX) prescription" means a written prescription or order which is transmitted by an electronic device over telephone lines which sends the exact image to the receiver (pharmacy) in a hard copy form.

"Floor stock" means a supply of drugs which have been distributed or dispensed, not for a specific patient pursuant to a valid prescription, but for the purpose of general administration by a prescriber or other authorized person pursuant to a valid order of a prescriber.

"Foreign college school of pharmacy" means a school outside the United States and its territories offering a course of study in basic sciences, pharmacology, and pharmacy of at least four years in duration resulting in a degree that qualifies a person to practice pharmacy in that country.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the USAN and the USP Dictionary of Drug Names.

"Hermetic container" means a container that is impervious to air or any other gas under the ordinary or customary conditions of handling, shipment, storage, and distribution.

"Home infusion pharmacy" means a pharmacy which compounds solutions for direct parenteral administration to a patient in a private residence, long-term care facility or hospice setting.

---

## Proposed Regulations

---

*"Hospital" or "nursing home"* means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

*"Inactive license"* means a license which is registered with the Commonwealth but does not entitle the licensee to practice, the holder of which is not required to submit documentation of CE necessary to hold an active license.

*"Light resistant container"* means a container that protects the contents from the effects of light by virtue of the specific properties of the material of which it is composed, including any coating applied to it. Alternatively, a clear and colorless or a translucent container may be made light-resistant by means of an opaque covering, in which case the label of the container bears a statement that the opaque covering is needed until the contents have been used. Where a monograph directs protection from light, storage in a light-resistant container is intended.

*"Long-term care facility"* means a nursing home, retirement care, mental care or other facility or institution which provides extended health care to resident patients.

*"Nuclear pharmacy"* means a pharmacy providing radiopharmaceutical services.

*"Open-system transfer"* means the combining of products in a nonsealed reservoir before filling or when a solution passes through the atmosphere during a transfer operation.

*"Permitted physician"* means a physician who is licensed pursuant to § 54.1-3304 of the Code of Virginia to dispense drugs to persons to whom or for whom pharmacy services are not reasonably available.

*"Personal supervision"* means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act being performed. Neither prior nor future instructions shall be sufficient nor, shall supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

*"Practice location"* means any location in which a prescriber evaluates or treats a patient.

*"Prescription department"* means any contiguous or noncontiguous areas used for the compounding, dispensing and storage of all Schedule II through VI drugs and devices and any Schedule I investigational drugs.

*"PTCB"* means the Pharmacy Technician Certification Board, co-founded by the American Pharmaceutical Association and the American Society of Health System Pharmacists, as the national organization for voluntary examination and certification of pharmacy technicians.

*"Radiopharmaceutical"* means any article that exhibits spontaneous decay or disintegration of any unstable atomic nucleus, usually accompanied by the emission of ionizing radiation and any nonradioactive reagent kit or nuclide generator which is intended to be used in the preparation of any such article.

*"Repackaged drug"* means any drug removed from the manufacturer's original package and placed in different packaging.

*"Safety closure container"* means a container which meets the requirements of the federal Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476), i.e., in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five-minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

*"Satellite pharmacy"* means a pharmacy which is noncontiguous to the centrally permitted pharmacy of a hospital but at the location designated on the pharmacy permit.

*"Special packaging"* means packaging that is designed or constructed to be significantly difficult for children under five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

*"Special use permit"* means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

*"Sterile pharmaceutical product"* means a dosage form free from living microorganisms.

*"Storage temperature"* means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. *"Cold"* means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).
2. *"Room temperature"* means the temperature prevailing in a working area.
3. *"Controlled room temperature"* is a temperature maintained thermostatically that encompasses the usual and customary working environment of 20° to 25°C (68° to 77°F); that results in a mean kinetic temperature calculated to be not more than 25°C; and that allows for excursions between 15° and 30°C (59° and 86°F) that are experienced in pharmacies, hospitals, and warehouses.
4. *"Warm"* means any temperature between 30° and 40°C (86° and 104°F).
5. *"Excessive heat"* means any temperature above 40°C (104°F).

6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to the destructive alteration of its characteristics, the container label bears an appropriate instruction to protect the product from freezing.

7. "Cool" means any temperature between 8° and 15°C (46° and 59°F).

"Terminally ill" means a patient with a terminal condition as defined in § 54.1-2982 of the Code of Virginia.

"Tight container" means a container that protects the contents from contamination by extraneous liquids, solids, or vapors, from loss of the drug, and from efflorescence, deliquescence, or evaporation under the ordinary or customary conditions of handling, shipment, storage, and distribution, and is capable of tight reclosure. Where a tight container is specified, it may be replaced by a hermetic container for a single dose of a drug and physical tests to determine whether standards are met shall be as currently specified in United States Pharmacopoeia-National Formulary.

"Unit dose container" means a container that is a single-unit container, as defined in United States Pharmacopoeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a system in which multiple drugs in unit dose packaging are dispensed in a single container, such as a medication drawer or bin, labeled only with patient name and location. Directions for administration are not provided by the pharmacy on the drug packaging or container but are obtained by the person administering directly from a physician's prescriber's order or medication administration record.

"U.S.P.-N.F." means the United States Pharmacopoeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

**18 VAC 110-20-20. Fees.**

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Fee for initial pharmacist licensure.

1. The application fee for a pharmacist license shall be \$50.
2. The fees for taking all required examinations shall be paid directly to the examination service as specified by the board.

3. The application fee for a person whose license has been revoked or suspended indefinitely shall be \$300.

C. Renewal of pharmacist license.

1. The annual fee for renewal of a pharmacist license shall be \$50.
2. The annual fee for renewal of an inactive pharmacist license shall be \$35.
3. If a pharmacist fails to renew his license within the Commonwealth by the renewal date, he must pay the back renewal fee and a \$25 late fee within 60 days of expiration.
4. Failure to renew a pharmacist license within 60 days following expiration shall cause the license to lapse and shall require the submission of a reinstatement application, payment of all unpaid renewal fees, and a delinquent fee of \$50.

D. Other licenses or permits.

- ~~1. The annual permit fee to conduct a resident or nonresident pharmacy shall be \$200.~~
- ~~2. The annual license fee for a permitted physician to dispense drugs shall be \$200.~~
- ~~3. An application for a change of the pharmacist in charge shall be accompanied by a fee of \$25.~~
- ~~4. An application for a change of location or a remodeling which requires an inspection shall be accompanied by a fee of \$100.~~
- ~~5. A nonrestricted manufacturing permit shall be \$200 annually.~~
- ~~6. A restricted manufacturing permit shall be \$150 annually.~~
- ~~7. A wholesale distributor license shall be \$200 annually.~~
- ~~8. A warehouser permit shall be \$200 annually.~~
- ~~9. A permit for a medical equipment supplier shall be \$150 annually.~~
- ~~10. A permit for a licensed humane society shall be \$10 annually.~~

1. The following fees shall be required upon submission of a new facility application, change of ownership of an existing facility, or annual renewal:

a. Pharmacy permit	\$200
b. Permitted physician to dispense drugs	\$200
c. Nonrestricted manufacturing permit	\$200
d. Restricted manufacturing permit	\$150
e. Wholesale distributor license	\$200
f. Warehouser permit	\$200

---

# Proposed Regulations

---

- g. Medical equipment supplier permit \$150
- h. Licensed humane society permit \$10

2. The following fees shall be required for facility changes:

- a. Application for a change of the pharmacist-in-charge \$25
- b. Application for a change of location or a remodeling which requires an inspection \$100

3. The following fees shall be required for late renewals or reinstatement.

- 44. a. If a licensee fails to renew a required license or permit prior to the expiration date, a \$25 late fee shall be assessed.
- 42. b. If a required license or permit is not renewed within 60 days after its expiration, the license or permit shall lapse, and continued practice or operation of business with a lapsed license or permit shall be illegal. Thereafter, reinstatement shall be at the discretion of the board upon submission of an application accompanied by all unpaid renewal fees and a delinquent fee of \$50.

## E. Controlled substances registration.

- 1. The annual fee for a controlled substances registration as required by § 54.1-3422 of the Code of Virginia shall be \$20.
- 2. If a registration is not renewed within 60 days of the expiration date, the back renewal fee and a \$10 late fee shall be paid prior to renewal.
- 3. If a controlled substance registration has been allowed to lapse for more than 60 days, all back renewal fees and a \$25 delinquent fee must be paid before a current registration will be issued. Engaging in activities requiring a controlled substance registration without holding a current registration is illegal and may subject the registrant to disciplinary action by the board. Reinstatement of a lapsed registration is at the discretion of the board and may be granted by the executive director of the board upon completion of an application and payment of all fees.

## F. Other fees.

- 1. A request for a duplicate wall certificate shall be accompanied by a fee of \$25.
- 2. A request for certification of grades to another board shall be accompanied by a fee of \$25.
- 2. The fee for a returned check shall be \$15.
- ~~G.~~ 3. The fee for board approval of continuing education programs and providers. 1. The application fee for approval of an individual CE program is \$100.
- 2. The application fee for approval of provider status is \$300.

~~3. Renewal of approved provider status is \$300 paid biennially.~~

## 18 VAC 110-20-30. Requirements for practical experience.

A. Each applicant for licensure by examination shall have gained practical experience in *the practice of pharmacy*, to include no less than 300 hours in the area of prescription compounding and dispensing within a pharmacy for a period of not less than six months.

B. ~~During the six months of practical experience required,~~ An applicant shall accumulate a minimum of 4,000 1,500 hours of practical experience, of which at least 300 hours shall be gained outside of a school of pharmacy practical experience program. For purposes of this chapter, credit will not be given for more than 50 hours in any one week. Students enrolled in a school of pharmacy prior to January 1, 1999, are required to have a minimum of 1,000 hours.

C. All practical experience credit required shall only be gained after completion of the first professional year in an approved school of pharmacy.

D. Practical experience gained in a college school of pharmacy which has a program designed to provide the applicant with practical experience in all phases of pharmacy practice and which program is approved by the American Council on Pharmaceutical Education will be accepted by the board for the time period during which the student is actually enrolled. The applicant will be required to gain any additional experience *outside the school program* as needed toward fulfilling the six months and 1,000 hours of experience required to meet the requirements of subsections A and B of this section.

~~E. An applicant shall not be admitted to the examination unless all of the practical experience has been gained.~~

## 18 VAC 110-20-40. Procedure for gaining practical experience outside of an accredited college clerkship program.

A. Each pharmacy student or graduate of an approved school of pharmacy who desires to gain practical experience in a pharmacy within the Commonwealth shall register with the board on a form provided by the board prior to becoming so engaged as a *pharmacy intern*. This requirement shall also apply to students gaining practical experience within the Commonwealth for licensure in another state. ~~The student shall be called a "student externe."~~

~~B. Graduates of an approved school of pharmacy who wish to gain practical experience within the Commonwealth shall register with the board prior to being so engaged. Such graduates shall be called "pharmacy interne."~~

~~C.~~ B. The applicant shall be supervised by a pharmacist who holds an unrestricted license and assumes full responsibility for the training, supervision and conduct of the ~~externe or the interne intern~~. The supervising pharmacist shall not supervise more than one ~~interne or externe pharmacy intern~~ during the same time period.

~~D.~~ The practical experience of the student ~~externe~~ shall be gained at times nonconcurrent with the school year with the exception of school vacations.

~~E.~~ C. The *intern* registration of a *pharmacy* student ~~externe~~ shall be valid only while the student is enrolled in a school of pharmacy. The registration card issued by the board shall be returned to the board upon failure to be enrolled.

~~F.~~ D. Practical experience gained within any state must be registered with and certified by the board of that state in order to be accepted or certified by this board.

~~G.~~ E. All practical experience of the ~~student externe or pharmacy interne~~ *intern* shall be evidenced by an affidavit which shall be filed prior to or with the application for examination for licensure.

~~H.~~ F. An applicant for examination shall file affidavits or certificates of experience on a form prescribed by the board no less than 30 days prior to the date of the examination.

### **18 VAC 110-20-50. Curriculum and approved colleges schools of pharmacy.**

A. The following minimum educational requirements ~~for licensure~~ for the specified periods shall be recognized by the board for the purpose of licensure.

1. On and after June 1, 1928, but before June 1, 1936, the applicant for licensure shall have been graduated from a three-year course of study with a pharmacy graduate or pharmacy college degree in pharmacy awarded.
2. On and after June 1, 1936, but before June 1, 1964, the applicant for licensure shall have been graduated from a four-year course of study with a Bachelor of Science degree in pharmacy awarded.
3. On and after June 1, 1964, the applicant for licensure shall have been graduated from at least a five-year course of study with a Bachelor of Science degree in pharmacy or a Doctorate of Pharmacy degree awarded.

B. In order to be licensed as a pharmacist within this Commonwealth, the applicant shall have been granted the first professional degree from a program of a ~~college school~~ of pharmacy which meets the requirements of § 54.1-3312 of the Code of Virginia.

### **18 VAC 110-20-60. Content of the examination and grades required; limitation on admittance to examination.**

A. *Prior to admission to any examination required for licensure, the applicant shall have met all other requirements, but in no case shall the applicant be admitted if grounds exist to deny licensure under § 54.1-3316 of the Code of Virginia.*

~~A.~~ B. The applicant shall achieve a passing score as determined by the board on the licensure examination ~~for licensure as a pharmacist~~ which is approved by the board and which shall consist of an integrated examination of

pharmacy practice, pharmacology, pharmacy mathematics, and such other subjects as are necessary to assure that the candidate possesses the necessary knowledge and skills to practice pharmacy. ~~The board will additionally examine the candidates' knowledge of federal and state laws related to pharmacy practice.~~

~~B.~~ C. The ~~passing grade on the integrated pharmacy examination shall be not less than 75. The passing grade on any law examination shall be not less than 75~~ applicant shall also achieve a passing score as determined by the board on an examination which tests the candidate's knowledge of federal and state laws related to pharmacy practice.

~~C.~~ D. When an applicant for licensure by examination fails to meet the passing requirements of ~~subsection B of this section~~ the board-approved integrated pharmacy examination on three occasions, he shall not be readmitted to the ~~examinations~~ examination until he has completed an additional six months of practical experience as a pharmacy ~~interne~~ *intern* as set forth in 18 VAC 110-20-40.

### **18 VAC 110-20-70. Requirements for foreign-trained applicants.**

Applicants for licensure who were trained in foreign ~~colleges schools~~ of pharmacy shall meet the following requirements:

1. Obtain from the Foreign Pharmacy Graduate Examination Committee (FPGEC) of the National Association of Boards of Pharmacy (NABP) verification of the following:
  - a. That the applicant is a graduate of a foreign ~~college school~~ of pharmacy.
  - b. That the applicant has received a score acceptable to the board on the Foreign Pharmacy Graduate Equivalency Examination (FPGEE).
  - c. That the applicant has received a score acceptable to the board on the Test of English as a Foreign Language (TOEFL).
2. Complete the Test of Spoken English (TSE) as given by the Educational Testing Service with a score acceptable to the board.
3. Fulfill the requirements for practical experience as prescribed in 18 VAC 110-20-30 A and B and all of 18 VAC 110-20-40.
4. Fulfill the requirements for the examination and passing grade as prescribed in 18 VAC 110-20-60.

### **18 VAC 110-20-90. Requirements for continuing education.**

A. On and after December 31, 1993, a licensee shall be required to have completed a minimum of 1.5 CEU's or 15 contact hours of continuing pharmacy education in an approved program for each annual renewal of licensure. CEU's or hours in excess of the number required for renewal may not be transferred or credited to another year.

---

# Proposed Regulations

---

~~B. An A pharmacy education program approved for continuing pharmacy education program is:~~

- ~~1. One that is approved by the American Council on Pharmaceutical Education and carries the provider logo and number of the (ACPE);~~
- ~~2. One that is approved as a Category I Continuing Medical Education (CME) course, the primary focus of which is pharmacy, pharmacology or drug therapy; or~~
- ~~3. One that is approved by the board.~~

~~C. A licensee is exempt from completing CE requirements and considered in compliance on the first renewal date following his initial licensure.~~

~~D. C. The board may grant an extension of up to one year for the completion of CE requirements upon a written request from the licensee prior to the renewal date pursuant to § 54.1-3314 E of the Code of Virginia. Any subsequent extension shall be granted only for good cause shown. Such an extension shall not relieve the licensee of the requirement for CEU's or hours.~~

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

~~F. D. Licensees are required to attest to compliance with CE requirements on their annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. Licensees selected for audit must provide original documents certifying that they have fulfilled their CE requirements by the deadline date as specified by the board.~~

~~G. E. All licensees are required to maintain original documents verifying the date and subject of the program or activity, the CEU's or contact hours, and certification from an approved provider. Documentation shall be maintained for a period of two years following renewal in a file available to inspectors at the pharmacist's principal place of practice or, if there is no principal place of practice, at the pharmacist's address of record.~~

~~H. F. A pharmacist who holds an inactive license, who has allowed his license to lapse or who has had his license suspended or revoked must submit evidence of completion of CEU's or hours equal to the requirements for the number of years in which his license has not been active.~~

~~I. Pharmacists who are licensed by other states and who have obtained a minimum of 1.5 CEU's or 15 contact hours of approved CE programs of such other states need not obtain additional hours.~~

## **18 VAC 110-20-100. Approval of continuing education programs and providers.**

A. The board will approve without application or further review any program offered by a ACPE-approved provider and will accept for credit certificates bearing the official ACPE logo and program number.

B. The board may approve an individual CE program or may grant approved provider status under the following provisions:

### ~~1. Approval of an individual CE program.~~

~~a. 1. An approved individual program is a course, activity, or lecture which includes subject matter related to the competency of the practice of pharmacy and which has been approved for CE credit by the board.~~

~~b. 2. In order to receive approval for an individual program, the sponsor or provider must make application prior to the program offering on a form provided by the board. The information which must be provided shall include but not be limited to: name of provider, location, date and time of program, charges to participants, description of program content and objectives, credentials of speaker or author, method of delivery, evaluation procedure, evidence of a pre and post test, credits requested, mechanism for record-keeping, and any such information as the board deems necessary to assure quality and compliance.~~

~~c. 3. The sponsor making application for board approval of an individual program must pay a fee as required in 18 VAC 110-20-20 G of this chapter.~~

~~d. 4. The board shall notify the provider or sponsor within 60 days following the receipt of a completed application of approval or disapproval of a program and the number of credits which may be awarded.~~

### ~~2. Approval of CE provider status.~~

~~a. An approved provider is any person, corporation, school, association, or other entity who has demonstrated an ability to provide qualified CE programs and has met the requirements of the board for approved provider status.~~

~~b. An applicant for approved provider status must have sponsored at least three individually board approved programs for a minimum period of two years immediately preceding the submission of application for approved status.~~

~~c. The application for approved provider status shall include but not be limited to: information on the entity making application, a listing of approved CE programs offered during the last two years, accreditation, methods of promotion and delivery of programs, assessment process, maintenance of records, policy on grievances and tuition, standards for selection of speakers, program goals and objectives, and a description of facilities adequate to meet these objectives.~~

~~d. The application for approved provider status shall be accompanied by a fee as required in 18 VAC 110-20-20 G.~~

~~e. An applicant who has been granted approved provider status is permitted to offer CE programs by submitting to the board information on that offering at~~

~~least 10 days prior to the program. The approved provider is not required to submit application for approval of each individual program nor to pay the fee for such approval.~~

~~f. An approved provider must have that status renewed every two years, must pay the renewal fee, and must provide information on program offerings to the board for review.~~

~~g. The board may revoke or suspend an approval of a provider or refuse to renew such approval if the provider fails to maintain the necessary standards and requirements.~~

~~3. Certificate of completion.~~ 5. The provider of an approved program shall provide to each participant who completes the required hours and passes the post test a certification with the name of the provider, name of the participant, description of course and method of delivery, number of hours credited, date of completion, and program identification number.

~~4. Maintenance of records.~~ 6. The provider of an approved program shall maintain all records on that program, its participants, and hours awarded for a period of three years and shall make those records available to the board upon request.

~~5. Monitoring of programs.~~ 7. The board shall periodically review and monitor programs. The provider of a CE program shall waive registration fees for a representative of the board for that purpose.

~~6. Changes in programs or providers.~~ 8. Any changes in the information previously provided about an approved program or provider must be submitted or the board may withdraw its approval.

#### **18 VAC 110-20-110. Pharmacy permits generally.**

A. A pharmacy permit shall not be issued to a pharmacist to be simultaneously in charge of more than one pharmacy.

B. The pharmacist-in-charge or the pharmacist on duty shall control all aspects of the practice of pharmacy. Any decision overriding such control of the pharmacist-in-charge or other pharmacist on duty ~~by nonpharmacist personnel~~ shall be deemed the practice of pharmacy *and may be grounds for disciplinary action against the pharmacy permit.*

C. When the pharmacist-in-charge ceases practice at a pharmacy or no longer wishes to be designated as pharmacist-in-charge, he shall take a complete and accurate inventory of all Schedule II through V controlled substances on hand and shall immediately return the pharmacy permit to the board.

D. An application for a permit designating the new pharmacist-in-charge shall be filed with the required fee within 14 days on a form provided by the board. It shall be unlawful for a pharmacy to operate without a new permit past the 14-day deadline.

#### **18 VAC 110-20-130. Pharmacies Pharmacy closings, going out of business, and change of ownership.**

A. At least 14 days prior to the closing date *a pharmacy closes in accordance with § 54.1-3434.01 of the Code of Virginia or goes out of business*, the owner shall notify the board ~~shall be notified by the pharmacist-in-charge or owner.~~ The *proposed* disposition of all Schedule II through VI drugs, *prescription dispensing records, patient information records, and other required records* shall be reported to the board. If the pharmacy drug stock *is and records are* to be transferred to another licensee, the ~~pharmacist-in-charge or~~ owner shall inform the board of the name and address of the licensee to whom the drugs *and records* are being transferred and the date of transfer.

B. Exceptions to the public notice as required in § 54.1-3434.01 of the Code of Virginia and the notice required in subsection A of this section shall be *approved by the board and may include* sudden closing due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or other emergency circumstances ~~as approved by the board.~~

C. In the event of an exception to the notice as required in § 54.1-3434.01 of the Code of Virginia and in subsection A of this section, the pharmacist-in-charge *or owner* shall provide notice as far in advance of closing as allowed by the circumstances.

D. *At least 14 days prior to any change in ownership of an existing pharmacy, the owner shall notify the board of the pending change. Upon any change in ownership of an existing pharmacy, the prescription dispensing records for the two years immediately preceding the date of change of ownership and other required patient information shall be provided to the new owners on the date of change of ownership in substantially the same format as previously used immediately prior to the transfer to provide continuity of pharmacy services. The previous owner shall be held responsible for the proper transfer of records on the date of the transfer. The format of the prescription dispensing records must also comply with the requirements of Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia, and this chapter. Failure to comply with this chapter during a change in ownership shall be deemed to be a closing of the existing pharmacy for which the existing pharmacy owner shall be required to provide notice to the board and public in accordance with § 54.1-3434.01 of the Code of Virginia and subsection A of this section.*

#### **18 VAC 110-20-140. New pharmacies and changes to existing pharmacies.**

A. Any person wishing to open a new pharmacy, *change ownership of an existing pharmacy*, change the location of an existing pharmacy, or move the location or make structural changes to an existing prescription department shall file an application with the board.

---

# Proposed Regulations

---

*B. Any waiver of facility regulations granted to a pharmacy shall expire 90 days following a change in ownership of an existing pharmacy.*

~~B.~~ C. The proposed location or structural changes shall be inspected by an authorized agent of the board prior to issuance of a permit.

1. Pharmacy permit applications which indicate a requested inspection date, or requests which are received after the application is filed, shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

2. Requested inspection dates which do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

3. At the time of the inspection, the dispensing area shall comply with 18 VAC 110-20-150, ~~18 VAC 110-20-160, 18 VAC 110-20-170, 18 VAC 110-20-180, and through 18 VAC 110-20-190 of this chapter.~~

~~C.~~ D. Upon completion of the inspection, the executive director of the board shall review the findings of the inspection. Drugs shall not be stocked within the proposed pharmacy or moved to a new location until approval is granted or the permit is issued by the executive director of the board or his designee.

## **18 VAC 110-20-150. Physical standards for all pharmacies.**

A. The prescription department shall not be less than 240 square feet. The patient waiting area or the area used for devices, cosmetics, and proprietary medicines shall not be considered a part of the minimum 240 square feet. The total area shall be consistent with the size and scope of the services provided.

B. Access to stock rooms, rest rooms, and other areas other than an office that is exclusively used by the pharmacist shall not be through the prescription department. A rest room in the prescription department, used exclusively by pharmacists and personnel assisting with dispensing functions, may be allowed provided there is another rest room outside the prescription department available to other employees and the public. This subsection shall not apply to prescription departments in existence prior to the effective date of this chapter.

C. The pharmacy shall be constructed of permanent and secure materials. Trailers or other moveable facilities or temporary construction shall not be permitted.

D. The entire area of the location of the pharmacy practice, including all areas where drugs are stored shall be well-lighted and well-ventilated; *lighting levels in the prescription department shall be a minimum of 100 foot candles*; the proper storage temperature shall be maintained to meet U.S.P.-N.F. specifications for drug storage.

E. The prescription department counter work space shall be used only for the compounding and dispensing of drugs and necessary record keeping.

F. A sink with hot and cold running water shall be within the prescription department.

G. Adequate refrigeration facilities equipped with a monitoring thermometer for the storage of drugs requiring cold storage temperature shall be maintained within the prescription department, if the pharmacy stocks such drugs.

## **18 VAC 110-20-170. Required minimum equipment.**

The pharmacist-in-charge shall be responsible for maintaining the following equipment:

1. A current copy of the United States Pharmacopeia Dispensing Information Reference Book.

2. A set of Prescription Balances, sensitive to 15 milligrams, and weights *or an electronic scale*.

3. A copy of the current Virginia Drug Control Act and board regulations.

4. A current copy of the Virginia Voluntary Formulary.

~~5. A laminar flow hood for pharmacies engaging in the compounding of sterile product(s).~~

~~6.~~ 5. Other equipment, supplies, and references consistent with the pharmacy's scope of practice and with the public safety.

## **18 VAC 110-20-190. Prescription department enclosures.**

A. The prescription departments of each pharmacy shall be provided with enclosures subject to the following conditions:

1. The enclosure shall be constructed in such a manner that it protects the controlled drug stock from unauthorized entry and from pilferage at all times whether or not a pharmacist is on duty.

2. The enclosure shall be of sufficient height as to prevent anyone from reaching over to gain access to the drugs.

3. Entrances to the enclosed area must have a door ~~which extends with no more than a six-inch gap from the floor and which is at least as high as the adjacent counters or adjoining partitions structure.~~ *The requirement for a maximum six-inch gap shall not apply to those pharmacies in existence prior to [insert effective date], with the exception of any pharmacy which experiences a related diversion or theft.*

4. Doors to the area must have locking devices which will prevent *unauthorized* entry in the absence of the pharmacist.

B. The door keys and alarm access code to the dispensing areas shall be subject to the following requirements:

1. Only pharmacists practicing at the pharmacy and authorized by the pharmacist-in-charge shall be in

possession of any keys to the locking device on the door to such enclosure.

2. The pharmacist may place a key or the access code in a sealed envelope or other container with the pharmacist's signature across the seal in a safe or vault within the pharmacy or other secured place. This key or code shall only be used to allow entrance to the prescription department by other pharmacists.

C. The prescription department is restricted to pharmacists, ~~externes,~~ and ~~internes~~ *interns* who are practicing at the pharmacy. Clerical assistants and other persons designated by the pharmacist may be allowed access by the pharmacist but only during the hours the pharmacist is on duty.

### 18 VAC 110-20-200. Storage of drugs, devices, and controlled paraphernalia.

A. Prescriptions awaiting delivery. Prescriptions prepared for delivery to the patient may be placed in a secure place outside of the prescription department and access to the prescriptions restricted by the pharmacist to designated clerical assistants. With the permission of the pharmacist, the prepared prescriptions may be transferred to the patient at a time when the pharmacist is not on duty. *If a prescription is delivered at a time when the pharmacist is not on duty, written procedures shall be established and followed by the pharmacy which detail a method of compliance with counseling requirements of § 54.1-3319 of the Code of Virginia.*

B. Dispersion of Schedule II drugs. Schedule II drugs shall either be dispersed with other schedules of drugs or shall be maintained within a locked cabinet, drawer, or safe.

C. Safeguards for controlled paraphernalia. Controlled paraphernalia shall not be placed on open display or in an area completely removed from the prescription department whereby patrons will have free access to such items or where the pharmacist cannot exercise reasonable supervision and control.

D. Expired drugs; security. Any drug which has exceeded the expiration date shall not be dispensed or sold; it shall be separated from the stock used for dispensing. Expired prescription drugs shall be maintained in a designated area within the prescription department until proper disposal.

### 18 VAC 110-20-210. Disposal of ~~Schedule II through V~~ drugs by pharmacies.

If a pharmacist-in-charge wishes to dispose of unwanted ~~Schedule II through V~~ drugs, he shall use one of the following procedures:

1. Transfer the drugs to another person or entity authorized to possess ~~Schedule II through V~~ or *provide for proper disposal of such drugs;* or
2. Destroy the drugs ~~according to~~ *by burning in an incinerator in compliance with all applicable local, state, and federal laws and regulations. If Schedule II through*

*V drugs are to be destroyed, the following procedures shall apply:*

a. At least 14 days prior to the destruction date, the pharmacist-in-charge shall provide a written notice to the board office; the notice shall state the following:

- (1) Date, time, manner, and place of destruction.
- (2) The names of the pharmacists who will witness the destruction process.

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

c. The actual destruction shall be witnessed by the pharmacist-in-charge and another pharmacist not employed by the pharmacy.

~~d. The drugs shall be destroyed in accordance with all applicable local, state and federal laws and regulations by burning in an incinerator or by other methods approved in advance by the board.~~

~~e. d.~~ The DEA drug destruction form shall be *fully completed and used to make a* as the record of all drugs to be destroyed. *A copy of the destruction form shall be retained at the pharmacy with other inventory records.*

~~f. Each form shall show the following information:~~

~~(1) Legible signatures and license numbers of the pharmacist-in-charge and the witnessing pharmacist;~~

~~(2) The method of destruction; and~~

~~(3) The date of the destruction.~~

~~g. At the conclusion of the destruction of the drug stock:~~

~~(1) A copy of the completed destruction form shall be sent to Drug Enforcement Administration, Washington Field Division, Tech World Plaza, 800 K Street, N.W., St. 500, Washington, D.C. 20001, Attn: Diversion Control Group.~~

~~(2) A copy of the completed destruction form shall be sent to the office of the board.~~

~~(3) A copy of the completed destruction form shall be retained with the pharmacy inventory records.~~

### 18 VAC 110-20-220. General requirements for pharmacies providing radiopharmaceutical services.

A. A permit to operate a pharmacy providing radiopharmaceutical services shall be issued only to a qualified nuclear pharmacist as defined in 18 VAC 110-230. In emergency situations, in the ~~pharmacist's~~ absence of the nuclear pharmacist, he may designate one or more other qualified pharmacists to have access to the licensed area. These individuals may obtain single doses of

---

# Proposed Regulations

---

radiopharmaceuticals for the immediate emergency and shall document such withdrawals in the control system.

B. Pharmacies providing ordinary pharmacy services in addition to radiopharmaceutical services shall comply with all regulations applicable to pharmacies in general. Pharmacies providing only radiopharmaceutical services shall comply with all regulations related to physical standards, sanitary conditions and security.

C. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25 square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office area.

D. A prescription order for a radiopharmaceutical shall be dispensed in a unit-dose package. A pharmacy may furnish the radiopharmaceuticals for office use only to practitioners for an individual patient except for the occasional transfer to a pharmacist.

E. In addition to any labeling requirements of the board for nonradioactive drugs, the immediate outside container of a radioactive drug to be dispensed shall also be labeled with: (i) the standard radiation symbol; (ii) the words "Caution--Radioactive Material"; (iii) the name of the radionuclide; (iv) the chemical form; (v) the amount of radioactive material contained, in millicuries or microcuries; (vi) if a liquid, the volume in milliliters; (vii) the requested calibration time for the amount of radioactivity contained; and (viii) the practitioner's name and the assigned lot number.

F. The immediate inner container shall be labeled with: (i) the standard radiation symbol; (ii) the words "Caution--Radioactive Material"; and (iii) the prescription number.

G. The amount of radioactivity shall be determined by radiometric methods for each individual dose immediately prior to dispensing.

H. Nuclear pharmacies may redistribute approved radioactive drugs if the pharmacy does not process the radioactive drugs in any manner nor violate the product packaging.

## **18 VAC 110-20-230. Qualification as a nuclear pharmacist.**

In order to practice as a nuclear pharmacist, a pharmacist shall possess the following qualifications:

1. Meet Nuclear Regulatory Commission (NRC) standards of training for medically used or radioactive by-product material.
2. Have received a minimum of 200 contact hours of didactic instruction in nuclear pharmacy.

3. Attain a minimum of 500 hours of clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services, or in a structured clinical nuclear pharmacy training program in an approved ~~college~~ school of pharmacy.

4. Submit *to the board* an affidavit of experience and training ~~to the board~~ *meeting the requirements of subdivisions 1, 2 and 3 of this section; documentation of NRC approval as an authorized nuclear pharmacist; or documentation of certification as a nuclear pharmacist by the American Pharmaceutical Association Board of Pharmaceutical Specialties.*

## **18 VAC 110-20-240. Manner of maintaining records, prescriptions, inventory records.**

A. Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule VI drugs but shall not be maintained with other records of the pharmacy.

3. All records of Schedule II through V drugs shall be maintained at the same location as the stock of drugs to which the records pertain except that records maintained in an off-site database shall be retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

4. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54.1-3404 of the Drug Control Act, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.

5. All inventories required by § 54.1-3404 of the Code of Virginia shall be signed and dated by the person taking the inventory and shall indicate whether the inventory was taken prior to the opening of business or after close of business. A 24-hour pharmacy with no opening or closing of business shall clearly document whether the receipt or distribution of drugs on the inventory date occurred before or after the inventory was taken.

6. All records required by this section shall be filed chronologically.

B. Prescriptions.

1. A hard copy prescription shall be placed on file for every initial prescription dispensed and be maintained for two years from the date of last refill. All prescriptions shall be filed chronologically by date of initial dispensing.

2. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.

3. Schedule III through V drugs. Prescriptions for Schedule III through V drugs shall be maintained either in a separate prescription file for drugs listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescriptions of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than one inch high and filed in the prescription file for drugs listed in the usual consecutively numbered prescription file for Schedule VI drugs. *However, if a pharmacy employs an automated data processing system or other electronic recordkeeping system for prescriptions which permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed, and date filled, then the requirement to mark the hard copy prescription with a red "C" is waived.*

**18 VAC 110-20-260. Pharmacy repackaging of drug; records required; labeling requirements. (Repealed.)**

~~A. Pharmacies in which bulk reconstitution of injectables, bulk compounding or the repackaging of drugs is performed shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the drug(s) used, strength, if any, date repackaged, quantity prepared, initials of the pharmacist supervising the process, the assigned control number, the manufacturer's or distributor's name and control number, and an expiration date.~~

~~B. The drug name, strength, if any, the assigned control number, or the manufacturer's or distributor's name and control number, and an appropriate expiration date shall appear on any subsequently repackaged or reconstituted units as follows:~~

~~1. If U.S.P.-N.F. Class B or better packaging material is used for oral unit dose packages, an expiration date not to exceed six months or the expiration date shown on the original manufacturing bulk container, whichever is less, shall appear on the repackaged or reconstituted units.~~

~~2. If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned.~~

~~3. If U.S.P.-N.F. Class C or less packaging material is used for oral, solid medication, an expiration date not to exceed 30 days shall appear on the repackaged or reconstituted units.~~

**18 VAC 110-20-270. Dispensing of prescriptions; acts restricted to pharmacists; certification of completed prescription.**

A. The following acts shall be performed by a pharmacist, or by a ~~student externe or pharmacy interne intern~~, provided

a method for direct monitoring by the pharmacist of such acts ~~of the externe or interne~~ is provided:

*1. The evaluation of a prescription for its completeness, validity, safety and appropriateness of drug therapy in conformity with provisions of §§ 54.1-3303, 54.1-3319, 54.1-3408, 54.1-3408.1, and 54.1-3410 of the Code of Virginia and to current practices in pharmacy.*

~~2.~~ 2. The ~~accepting~~ receiving of an oral prescription from a practitioner or his authorized agent and the ~~reducing~~ transcribing of such oral or electronically transmitted prescription to ~~writing~~ hard copy or directly into a data processing system.

~~2.~~ 3. The personal supervision of the compounding of extemporaneous preparations.

~~3.~~ 4. The conducting of a prospective drug review as required by § 54.1-3319 of the Code of Virginia prior to the dispensing or refilling of any prescription.

4. 5. The providing of drug information to the public or to a practitioner.

5. 6. The communication with the practitioner regarding any changes in a prescription, substitution of the drug prescribed, ~~refill authorizations~~, drug therapy, or patient information.

6. 7. The direct supervision of those persons assisting the pharmacist in the prescription department under the following conditions:

a. Only one person who is not a pharmacist may be present in the prescription department at any given time with each pharmacist for the purpose of assisting the pharmacist in preparing and packaging of prescriptions or for the purpose of requesting or receiving refill authorization provided there is no change from the original prescription. If the pharmacy is using persons who hold current certification from PTCB, the ratio may be one pharmacist to three assistants.

b. In addition to the person or persons authorized in subdivision 6 7 a of this subsection, personnel authorized by the pharmacist may be present in the prescription department for the purpose of performing clerical functions, to include data entry of prescription and patient information into a computer system or a manual patient profile system.

B. After the prescription has been prepared and prior to the delivery of the order, the pharmacist shall inspect the prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a certification of the accuracy of, and the responsibility for, the entire transaction.

C. If a pharmacist declines to fill a prescription for any reason other than the unavailability of the drug prescribed, he shall record on the back of the prescription the word "declined"; the name, address, and telephone number of the

---

# Proposed Regulations

---

pharmacy; the date filling of the prescription was declined; and the signature of the pharmacist.

## **18 VAC 110-20-280. Transmission of a prescription order by facsimile machine.**

A. Prescription orders for Schedule III through VI drugs may be transmitted to pharmacies by facsimile device (FAX) upon the following conditions:

1. The transmission shall occur only with permission of the patient.
2. A valid faxed prescription ~~must~~ *shall* contain all required information for a ~~written~~ prescription, including the prescriber's signature. *An authorized agent, as defined in § 54.1-3408 of the Code of Virginia, may transmit an oral prescription by facsimile and may sign the prescription in lieu of the prescriber.*
3. A faxed prescription shall be valid only if faxed from the prescriber's practice location and only if the following additional information is recorded on the prescription prior to faxing:
  - a. Documentation that the prescription has been faxed;
  - b. The date that the prescription was faxed;
  - c. The printed name, address, phone number, and fax number of the authorized prescriber and the pharmacy to which the prescription was faxed; and
  - d. The institution, if applicable, from which the prescription was faxed, including address, phone number and fax number.

B. Prescription orders for Schedule II drugs may only be faxed for information purposes and may not serve as the original written prescription authorizing dispensing, except for orders to be administered to nursing home and home infusion patients in accordance with § 54.1-3408 of the Code of Virginia *and except for prescriptions written for a Schedule II narcotic substance for patients residing in a hospice certified by Medicare under Title XVIII or licensed by the state. The prescriber shall note on the prescription if the patient is a hospice patient, and the prescription shall meet all requirements for a written prescription including the prescriber's signature.*

C. If the faxed prescription is of such quality that the print will fade and not remain legible for the required retention period, the receiving pharmacist shall copy *or transcribe* the faxed prescription on paper of permanent quality.

*D. Authorizations for refills may be faxed by the prescriber to the pharmacy provided the authorization includes patient name, address, drug name and strength, quantity, directions for use, prescriber's name, prescriber's signature or agent's name, and date of authorization.*

## **18 VAC 110-20-290. Dispensing of Schedule II drugs.**

A. A prescription for a Schedule II drug shall be dispensed in good faith but in no case shall it be dispensed more than

six months after the date on which the prescription was issued.

B. A prescription for a Schedule II drug shall not be refilled except as authorized under the conditions for partial dispensing as set forth in 18 VAC 110-20-310.

C. In case of an emergency situation, a pharmacist may dispense a drug listed in Schedule II upon receiving oral authorization of a prescribing practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period;
2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in § 54.1-3410 of the Drug Control Act, except for the signature of the prescribing practitioner;
3. If the pharmacist does not know the practitioner, he shall make a reasonable effort to determine that the oral authorization came from a practitioner using his phone number as listed in the telephone directory or other good-faith efforts to ensure his identity; and
4. Within ~~72 hours~~ *seven days* after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of § 54.1-3410 of the Drug Control Act, the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it must be postmarked within the ~~72-hour~~ *seven-day* period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the nearest office of the Drug Enforcement Administration and the board if the prescribing practitioner fails to deliver a written prescription to him. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing practitioner.

## **18 VAC 110-20-330. Labeling of prescription as to content and quantity.**

Unless otherwise directed by the prescribing practitioner, any drug dispensed pursuant to a prescription shall bear on the label of the container, in addition to other requirements of §§ 54.1-3410 and 54.1-3463 of the Code of Virginia, the following information:

1. The drug name and strength, when *strength* is applicable:
  - a. ~~If a trade name drug is dispensed, the trade name of the drug or the generic name of the drug. For any drug product possessing a single active ingredient, the~~

generic name of the drug shall be included on the label in addition to any other brand name.

b. If a generic drug is dispensed in place of a trade name drug, when a prescription is written for a brand name drug, in addition to the requirements of § 32.1-87 A of the Code of Virginia, one of the following methods shall be used:

(1) ~~The generic name,~~

(2) ~~A name for the product dispensed which appears on the generic manufacturer's label, or~~

(3) ~~the label shall contain the generic name followed by the words "generic for" followed by the trade brand name of the drug for which the generic drug is substituted prescribed, and in accordance with § 32.1-87 A of the Code of Virginia, the label shall also contain the generic's brand name or the manufacturer or distributor of the drug dispensed.~~

2. The number of dosage units; or, if liquid, the number of milliliters dispensed.

**18 VAC 110-20-350. Special packaging.**

A. Each drug dispensed to a person in a household shall be dispensed in special packaging except when otherwise directed in a prescription by a practitioner, when otherwise requested by the purchaser, or when such drug is exempted from 16 CFR § 1702.1 et seq. promulgated pursuant to the Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476).

B. Each pharmacy may have a sign posted near the prescription department advising the patients that nonspecial packaging may be requested.

C. If nonspecial packaging is requested, ~~documentation a signed release of such request shall be obtained pursuant to § 54.1-3427 of the Code of Virginia and maintained for two years from the date of dispensing.~~

**18 VAC 110-20-355. Pharmacy repackaging of drug; records required; labeling requirements.**

A. *Pharmacies in which bulk reconstitution of injectable, bulk compounding or the prepackaging of drugs is performed shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the drug(s) used; strength, if any; date repackaged; quantity prepared; initials of the pharmacist supervising the process; the assigned control number; the manufacturer's or distributor's name and control number; and an expiration date.*

B. *The drug name; strength, if any; the assigned control number or the manufacturer's or distributor's name and control number; and an appropriate expiration date shall appear on any subsequently repackaged or reconstituted units as follows:*

1. *If U.S.P.-N.F. Class B or better packaging material is used for oral unit dose packages, an expiration date not*

*to exceed six months or the expiration date shown on the original manufacturing bulk container, whichever is less, shall appear on the repackaged or reconstituted units.*

2. *If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned.*

3. *If U.S.P.-N.F. Class C or less packaging material is used for oral, solid medication, an expiration date not to exceed 30 days shall appear on the repackaged or reconstituted units.*

C. *Pharmacies using automated counting devices or dispensers in which drugs are removed from manufacturer's original packaging and placed in bulk bins shall label the bin with the drug name; strength, if any; the name of the manufacturer or distributor; control or lot number; and an expiration date which does not exceed six months from the date of repackaging and which also does not exceed the manufacturer's expiration date. No two separate lot numbers shall be mixed in the same bin; bins shall be emptied prior to being refilled.*

**18 VAC 110-20-360. Issuing a copy of a prescription that can be refilled.**

A. *Consistent with federal laws and regulations, a copy of a prescription for a drug which shall be given upon request to another pharmacist provided the drug can be refilled pursuant to § 54.1-3411 of the Code of Virginia, can be refilled at the time the copy is issued shall be given upon request to another pharmacist and provided the patient has given permission for the transfer.*

B. The transfer of original prescription information for a drug listed in Schedules III through VI for the purpose of refill dispensing is permissible between pharmacies if the transfer is communicated directly between two pharmacists either orally, by facsimile machine or by electronic transmission, and the transferring pharmacist records the following information:

1. Records the word "VOID" on the face of the invalidated prescription;

2. Records on the reverse of the invalidated prescription the name, address, and the Drug Enforcement Administration (DEA), registry number of the pharmacy to which it was transferred, except for a prescription for a Schedule VI drug, and the name of the pharmacist receiving the prescription information; and

3. Records the date of the transfer and the name of the pharmacist transferring the information, or in the case of an electronic transmission, the name of the pharmacist releasing the information.

C. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

1. Write the word "TRANSFER" on the face of the transferred prescription.

---

# Proposed Regulations

---

2. Provide all information required to be on a prescription and include:

- a. Date of issuance of original prescription;
- b. Original number of refills authorized on the original prescription;
- c. Date of original dispensing;
- d. Number of valid refills remaining and date of last refill;
- e. Pharmacy name, address, DEA registry number except for Schedule VI prescriptions, and original prescription number from which the prescription information was transferred; and
- f. Name of transferring pharmacist.

3. Both the original and transferred prescription shall be maintained for a period of two years from the date of last refill.

D. Nothing in this chapter shall prevent the giving of a prescription marked "For Information Only" to a patient.

E. Pharmacists may use computer systems in lieu of recording on the hard copy prescription provided that the system used clearly meets all requirements of subsections B and C of this section while retaining all previous dispensing information.

F. For prescriptions transferred between pharmacies using a common database, the pharmacy receiving the prescription shall not be required to maintain a hard copy pursuant to 18 VAC 110-20-240 B provided that the system used is capable of generating a hard copy of the transferred prescription upon request or except as required by federal law.

## **18 VAC 110-20-390. Kickbacks, fee-splitting, Rebates or other considerations; interference with supplier.**

A. A pharmacist shall not ~~solicit or foster prescription practice with a prescriber of drugs or any other person providing for~~ participate in any program involving or accept from any payor rebates, "kickbacks," fee-splitting, or special charges in exchange for or other considerations with respect to a prescription ~~orders~~ unless fully disclosed in writing to the patient, the prescriber, and any third party payor.

B. A pharmacist shall not interfere with the patient's right to choose his supplier of medication or cooperate with any person or persons in denying a patient the opportunity to select his supplier of prescribed medications.

## **18 VAC 110-20-395. Purchase of drugs.**

*Except for an emergency purchase from another pharmacy, a pharmacist may only purchase Schedule II through VI drugs from a wholesale distributor licensed or registered by the board.*

## **18 VAC 110-20-400. Returning of drugs and devices.**

Drugs or devices ~~shall not~~ may be accepted for return or exchange by any pharmacist or pharmacy for resale after such drugs and devices have been taken from the premises where sold, distributed, or dispensed ~~unless~~ provided such drug or devices are in the manufacturer's original sealed containers or in unit-dose container which meets the U.S.P.-N.F. Class A or Class B container requirement and provided such return or exchange is consistent with federal law and regulation.

## **18 VAC 110-20-420. Unit dose dispensing system.**

A. A unit dose drug dispensing system may be utilized for the dispensing of drugs to patients in a hospital or long-term care facility. The following requirements shall apply regardless of whether licensed or unlicensed persons administer medications:

1. Any equipment outside the pharmacy used to house drugs to be administered in a unit dose system shall be fitted with a locking mechanism and be locked at all times when unattended.

2. A signed order by the prescribing practitioner shall accompany the requests for a Schedule II drug, except that a verbal order for a hospital patient for a Schedule II controlled substance may be transmitted to a licensed nurse or pharmacist employed by the hospital who will promptly reduce the order to writing in the patient's chart. Such an order shall be signed by the prescriber within 72 hours.

3. Properly trained personnel may transcribe the ~~physician's~~ prescriber's drug orders to a patient profile card, fill the medication carts, and perform other such duties related to a unit dose distribution system provided these are done under the personal supervision of a pharmacist.

4. All dosages and drugs shall be labeled with the drug name, strength, lot number and expiration date when indicated.

5. The patient's individual drug drawer or tray shall be labeled with the patient's name and location.

6. All unit dose drugs intended for internal use shall be maintained in the patient's individual drawer or tray unless special storage conditions are necessary.

7. A back-up dose of a drug of not more than one dose unit may be maintained in the patient's drawer, tray, or special storage area provided that the dose is maintained in the patient's drawer, tray, or special storage area with the other drugs for that patient.

8. A record shall be made and maintained within the pharmacy for a period of one year showing:

- a. The date of filling of the drug cart;
- b. The location of the drug cart;
- c. The initials of person who filled the drug cart; and

d. The initials of the pharmacist checking and certifying the contents of the drug cart in accordance with the provisions in 18 VAC 110-20-270 B.

9. A patient profile record or medication card will be accepted as the dispensing record of the pharmacy for unit dose dispensing systems only, subject to the following conditions:

a. The record of dispensing must be entered on the patient profile record or medication card at the time the drug drawer or tray is filled.

b. In the case of Schedule II through V drugs, after the patient profile record or medication card has been completed, the card must be maintained for two years.

c. In the case of the computer-based distribution system, a uniformly maintained "fill list" or other document containing substantially the same information may be accepted as the dispensing record for Schedule II through VI drugs. Records of disposition/administration for floor stock drugs as provided in 18 VAC 110-20-460 B will be accepted for drugs distributed as floor stock.

B. In providing unit dose systems to hospitals or long-term care facilities where only those persons licensed to administer are administering drugs, the pharmacy shall dispense not more than a seven-day supply of a drug in a solid, oral dosage form at any one given time.

C. In addition to the requirements listed in subsection A of this section, the following requirements apply to those long-term care facilities in which unlicensed persons administer drugs:

1. The pharmacy providing medications to such facility shall dispense no more than a 72-hour supply of drugs in a solid, oral dosage form at any one given time.

2. The pharmacy shall provide to persons administering medications training specific to the particular unit dose system being used.

3. The pharmacy shall provide a medication administration record to the facility listing each drug to be administered with full dosage directions to include no abbreviations.

4. The drugs in a unit dose system shall be placed in slots within a drawer labeled or coded to indicate time of administration.

### **18 VAC 110-20-470. Emergency room.**

All drugs in the emergency department shall be under the control and supervision of the pharmacist-in-charge and shall be subject to the following additional requirements:

1. All drugs kept in the emergency room shall be in a secure place from which unauthorized personnel and the general public are excluded.

2. Oral orders for medications shall be reduced to writing and shall be signed by the practitioner.

3. A medical practitioner may dispense drugs to his patients if in a bona fide medical emergency or when pharmaceutical services are not readily available and if permitted to do so by the hospital; the drug container and the labeling shall comply with the requirements of this chapter and the Drug Control Act.

4. A record shall be maintained of all drugs administered in the emergency room.

5. A separate record shall be maintained on all drugs, including drug samples, dispensed in the emergency room. The records shall be maintained for a period of two years showing:

a. Date and time dispensed;

b. Patient's name;

c. ~~Physician's~~ Prescriber's name;

d. Name of drug dispensed, strength, dosage form, quantity dispensed, and dose.

### **18 VAC 110-20-500. ~~Certified Licensed emergency medical technician service agencies program.~~**

The pharmacy may prepare a drug kit for a ~~Certified licensed emergency medical Technician Program services agency~~ provided:

1. The pharmacist-in-charge of the hospital *pharmacy* shall be responsible for all controlled drugs contained in this drug kit.

2. The drug kit is sealed in such a manner that it will preclude any possibility of loss of drugs.

3. Drugs may be administered by a technician upon an oral order *or written standing order* of an authorized medical practitioner *in accordance with § 54.1-3408 of the Code of Virginia*. ~~The Oral order orders~~ shall be reduced to writing by the technician and shall be signed by ~~the physician a medical practitioner~~. *Written standing orders shall be signed by the operational medical director for the emergency medical services agency. The technician shall make a record of all drugs administered to a patient. This administration record shall be signed by the medical practitioner who assumes responsibility for the patient at the hospital. If the patient is not transported to the hospital or if the attending medical practitioner at the hospital refuses to sign the record, a copy of this record shall be signed and placed in delivery to the hospital pharmacy who was responsible for that kit exchange by the agency's operational medical director within seven days of the administration.*

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. ~~A The record signed by the physician for of the drugs administered shall accompany the opened kit when exchanged.~~ An accurate record shall be

---

# Proposed Regulations

---

maintained by the pharmacy on the exchange of the drug kit for a period of one year.

5. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations *for a period of not less than two years*.

## **18 VAC 110-20-540. Emergency drug kit.**

The pharmacist providing services may prepare an emergency kit for a facility in which only those persons licensed to administer are administering drugs under the following conditions:

1. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.
2. The contents of the kit shall be determined by the provider pharmacist in consultation with the medical and nursing staff of the institutions and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL may be included.
3. The kit is sealed in such a manner that it will preclude any possible loss of the drug.
4. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for replenishing.
5. Any drug used from the kit shall be covered by a prescription, signed by the ~~physician~~ *prescriber*, when legally required, within 72 hours.

## **18 VAC 110-20-550. Stat-drug box.**

An additional drug box called a stat-drug box may be prepared by a pharmacy to provide for initiating therapy prior to the receipt of ordered drugs from the pharmacy. A stat-drug box shall be provided to those facilities in which only those persons licensed to administer are administering drugs and shall be subject to the following conditions:

1. The box is sealed in such a manner that will preclude the loss of drugs.
2. When the stat-drug box has been opened, it is returned to the pharmacy.
3. Any drug used from the box shall be covered by a drug order signed by the ~~practitioner~~ *prescriber*, when legally required, within 72 hours.
4. There shall be a listing of the contents of the box maintained in the pharmacy and also attached to the box in the facility. This same listing shall become a part of the policy and procedure manual of the facility served by the pharmacy.
5. The drug listing on the box shall bear an expiration date for the box. The expiration date shall be the day on which the first drug in the box will expire.

6. The contents of the box shall be limited to those drugs in which a delay in initiating therapy may result in harm to the patient.

- a. The listing of drugs contained in the stat-drug box shall be determined by the provider pharmacist in consultation with the medical and nursing staff of the long-term care facility.
- b. The stat-drug box shall contain no Schedule II drugs.
- c. The stat-drug box shall contain no more than one Schedule III through V drug in each therapeutic class and no more than five doses of each.

## **18 VAC 110-20-555. Use of automated dispensing devices.**

*A. An automated dispensing device may be used in place of stat drug boxes or emergency drug kits provided the conditions of subdivisions 1, 2, and 5 of 18 VAC 110-20-540 and subdivisions 3 and 6 of 18 VAC 110-20-550 have been met. In addition to these provisions, the drugs placed in these devices shall be limited to the drugs which would have been stocked in the stat drug boxes and emergency kits, and the quantity of any one drug shall not exceed the total quantity which would have been stored at one facility in all stat boxes and emergency kits combined. No more than a 48-hour supply per each 50 residents per drug may be stocked in the device.*

*B. The use of such devices is limited to those long-term care facilities where only persons holding a license to administer drugs are actually administering. Use of automated dispensing devices in long-term care facilities shall be in compliance with the following:*

1. *Drugs placed in automated dispensing devices shall be in the manufacturer's sealed original packaging or in repackaged containers in compliance with the requirements of 18 VAC 110-20-260 relating to repackaging, labeling, and records.*
2. *Prior to the removal of drugs from the pharmacy, a delivery record shall be generated for all drugs to be placed in an automated dispensing device which shall include the date; drug name, dosage form, and strength; quantity; nursing home; and a unique identifier for the specific device receiving drugs; and initials of the pharmacist checking the order of drugs to be removed from the pharmacy and the records of distribution.*
3. *Drugs may be loaded in the device by a pharmacist or by a person licensed to administer drugs working at the long-term care facility.*
4. *At the time of loading, the delivery record for all Schedule II through V drugs shall be signed by a nurse or other person authorized to administer drugs from that specific device, and the record returned to the pharmacy and maintained in chronological order for a period of two years from date of delivery.*

5. At the time of loading any Schedule II through V drug, the person loading will verify that the count of that drug in the automated dispensing device is correct. Any discrepancy noted shall be recorded on the delivery record and immediately reported to the pharmacist in charge, who shall be responsible for reconciliation of the discrepancy or properly reporting of a loss.

6. The provider pharmacy shall have the capability of on-line communication with any automated dispensing devices in a long-term care facility. The pharmacy shall be capable of producing a hard copy record of administration from the device which shall show patient name, drug name and strength, dose administered, date and time of administration, and identity of person administering the drug. Except for emergency or urgent administration during times when a pharmacist is not available, the pharmacist shall review and approve a new order prior to a dose being removed for administration to a patient.

7. A pharmacist shall conduct at least a weekly audit and review of all distribution and administration of Schedule II through V drugs from each automated dispensing device. The audit shall reconcile the quantities loaded into the device and still on hand with the quantities removed from the device for administration. This audit shall also check for compliance with written procedures for security and use of the automated dispensing devices, accuracy of administration from the device, and proper recordkeeping. A check by the pharmacy shall be made to ensure that a valid order exists for each dose administered from the automated dispensing device. The hard copy administration records printed out and reviewed in the audit shall be initialed and dated by the pharmacist conducting the audit and maintained in the pharmacy for a period of two years.

8. Automated dispensing devices shall be inspected monthly by pharmacy personnel to verify proper storage, proper location of drugs within the device, expiration dates, the security of drugs and validity of access codes.

9. Personnel allowed access to an automated dispensing device shall have a specific access code which records the identity of the person accessing the device.

10. Proper use of the automated dispensing devices and means of compliance with requirements shall be set forth in the pharmacy's policy and procedure manual.

## **18 VAC 110-20-570. Drugs in infirmaries/first aid rooms.**

A. Controlled drugs purchased by an institution, agency, or business within the Commonwealth, having been purchased in the name of a practitioner licensed by the Commonwealth of Virginia and who is employed by an institution, agency, or business which does not hold a pharmacy permit, shall be used only for administering to those persons at that institution, agency, or business.

B. All controlled drugs shall be maintained and secured in a suitable locked storage area, the key to which will be in the possession of the practitioner or nurse who is under the direction and supervision of the practitioner.

C. Such institution, agency, or business shall adopt a specific protocol for the administration of prescription drugs, listing the inventory of such drugs maintained, and authorizing the administering of such drugs in the absence of a practitioner in an emergency situation when the timely prior verbal or written order of a ~~physician~~ prescriber is not possible. Administering of such drugs shall be followed by written orders.

1. For the purpose of this chapter, emergency shall be defined as a circumstance requiring administration of controlled drugs necessary to preserve life or to prevent significant or permanent injury or disability.

2. The protocol shall be maintained for inspection and documentation purposes.

D. A nurse may, in the absence of a practitioner, administer and provide nonprescription drugs in unit dose containers in quantities which in the professional judgment of the nurse will maintain the person at an optimal comfort level until the person's personal practitioner can be consulted. The administering and providing of such medication must be in accordance with explicit instructions of a specific protocol promulgated by the practitioner in charge of the institution, agency, or business.

## **18 VAC 110-20-580. Humane societies and animal shelters.**

A humane society or animal shelter, after having obtained the proper permits pursuant to state and federal laws, may purchase, possess and administer any drug approved by the State Veterinarian to euthanize injured, sick, homeless and unwanted domestic pets and animals provided that these procedures are followed:

1. A veterinarian shall provide general supervision for the facility and ~~appropriate~~ shall provide and certify training in accordance with guidelines set forth by the State Veterinarian to the person(s) responsible for administration of the drugs.

2. The person in charge of *administration of drugs for euthanasia* for the facility shall obtain the required permit and controlled ~~substance~~ substances registration from the board and shall be responsible for maintaining proper security and required records of all controlled substances obtained *and administered*.

a. If that person ceases employment with the facility or relinquishes his position, he shall immediately return the permit to the board and shall take a complete and accurate inventory of all drugs in stock.

b. An application for a new permit shall be filed with the required fee within 14 days on a form provided by the board. At that time, the new *responsible person* ~~is~~

---

# Proposed Regulations

---

~~charge of the facility~~ shall take a complete and accurate inventory of all drugs in stock.

3. Drugs shall be stored in a secure, *locked* place and only the person(s) responsible for administering may have access to the drugs.
4. Any drug used shall be obtained and administered in the injectable form only.
5. All invoices and order forms shall be maintained for a period of two years.
6. Complete and accurate records shall be maintained for two years on the administration of the drug; the record shall show the *name and strength of the drug*, date of administration, the species of the animal, the weight of animal, the amount of drug administered and signature of the person administering the drug.

## **18 VAC 110-20-590. Drugs in correctional institutions.**

All prescription drugs at any correctional unit shall be obtained only on an individual prescription basis from a pharmacy and subject to the following conditions:

1. All prepared drugs shall be maintained in a suitable locked storage area with only the person responsible for administering the drugs having access.
2. Complete and accurate records shall be maintained of all drugs received, administered and discontinued. The administration record shall show the:
  - a. Prescription number;
  - b. Drug name and strength;
  - c. Number of dosage units received;
  - d. ~~Physician's~~ *Prescriber's* name; and
  - e. Date, time and signature of person administering the individual dose of drug.
3. All unused or discontinued drugs shall be sealed and the amount in the container at the time of the sealing shall be recorded on the drug administration record. Such drugs shall be returned to the provider pharmacy along with the drug administration record within seven days.

a. The provider pharmacy shall ~~review the conduct random audits of~~ returned drug administration records for accountability ~~of all dosage units dispensed.~~

b. The drug administration records shall be filed in chronological order by the provider pharmacy and maintained for a period of one year or, at the option of the facility, the records may be returned by the provider pharmacy to the facility.

c. Drugs may be returned to the provider pharmacy stock in compliance with the provisions of 18 VAC 110-20-400.

d. Other drugs shall be disposed of or destroyed by the provider pharmacy in accordance with local, state, and federal regulations.

4. Emergency and stat-drug box. An emergency box and a stat-drug box may be prepared for the facility served by the pharmacy pursuant to 18 VAC 110-20-540 and 18 VAC 110-20-550 ~~of this chapter~~ provided that the facility employs one or more full-time physicians, registered nurses, licensed practical nurses, *physician assistants* or correctional health assistants.

## **18 VAC 110-20-620. ~~Excepted compounds~~ Exempted prescription products.**

The list of ~~excepted compounds~~ *exempt prescription products* set forth in 21 CFR § 1308.32 is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 *of the Drug Control Act*; the ~~excepted compounds~~ *exempted prescription products* are drugs which are subject to the provisions of § 54.1-3455 of the Drug Control Act.

## **18 VAC 110-20-621. Exempted anabolic steroid products.**

*The list of exempt anabolic steroid products set forth in 21 CFR 1308.34 is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act; the exempted anabolic steroid products are drugs which are subject to the provisions of § 54.1-3455 of the Drug Control Act.*

## **18 VAC 110-20-622. Excluded veterinary anabolic steroid implant products.**

*The list of excluded veterinary anabolic steroid implant products set forth in 21 CFR 1308.26 is adopted only for legitimate veterinary use pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act; the exempted anabolic steroid products are drugs which are subject to the provisions of § 54.1-3455 of the Drug Control Act when used for implant to cattle or other nonhuman species. These products are not excluded from Schedule III if prescribed, administered, dispensed, or otherwise distributed for human use.*

## **18 VAC 110-20-640. Safeguards against diversion of drugs.**

The following requirements shall apply to manufacturers, wholesale distributors, or warehousemen of prescription drugs:

1. The holder of the permit shall restrict all areas in which prescription drugs are manufactured, stored, or kept for sale, to only designated and necessary persons.
2. The holder of the permit shall provide reasonable security measures for all drugs in the restricted area.
3. *The holder of the permit, except for those manufacturers or distributors of only medical gases other than nitrous oxide, shall install a device for the detection of breaking subject to the following conditions:*

a. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

b. The installation shall be hard wired and both the installation and device shall be based on accepted burglar alarm industry standards.

c. The device shall be maintained in operating order and shall have an auxiliary source of power.

d. The device shall fully protect all areas where prescription drugs are stored and shall be capable of detecting breaking by any means when activated.

e. Access to the alarm system shall be restricted to only designated and necessary persons, and the system shall be activated whenever the drug storage areas are closed for business.

~~3.~~ 4. The holder of the permit shall not deliver any drug to a licensed business at which there is no one in attendance at the time of the delivery nor to any person who may not legally possess such drugs.

~~4.~~ The holder of the permit shall comply with the security requirements set forth in 18 VAC 110-20-180.

~~5.~~ This chapter shall not apply to the holder of a permit to manufacture or distribute only medical gases.

**18 VAC 110-20-650. Manufacturing of cosmetics. (Repealed.)**

~~The building in which cosmetics are manufactured, processed, packaged and labeled, or held shall be maintained in a clean and orderly manner and shall be of suitable size, construction and location in relation to surroundings to facilitate maintenance and operation for their intended purpose. The building shall:~~

~~1. Provide adequate space for the orderly placement of equipment and materials used.~~

~~2. Provide adequate lighting and ventilation.~~

~~3. Provide adequate washing, cleaning, and toilet facilities.~~

**18 VAC 110-20-680. Medical equipment suppliers.**

A. A medical equipment supplier may dispense to the ultimate consumer the following: prescription devices, medicinal oxygen, Schedule VI drugs which have no medicinal properties and are used in the operation and cleaning of medical devices, and hypodermic needles and syringes as authorized by § 54.1-3435.3 of the Drug Control Act ~~supplier's location shall be inspected by the board prior to engaging in business. The location shall be of suitable size and construction, shall have adequate lighting and ventilation, shall be clean and sanitary, and shall have a system of temperature control to provide for specified storage conditions for any Schedule VI drug or device.~~

B. Hypodermic needles and syringes and Schedule VI drugs shall not be placed on open display or in an open area

where patrons will have access to such items. No Schedule VI devices shall be placed in an area where responsible parties cannot exercise reasonable supervision and control.

~~B.~~ C. A medical equipment supplier shall receive a valid order from a practitioner prior to dispensing and shall maintain this order on file on the premises for a period of two years from date of last dispensing.

~~C.~~ D. Medical equipment suppliers shall make a record at the time of dispensing. This record shall be maintained on the premises for two years from date of dispensing and shall include:

1. Name and address of patient;
- ~~2. Name and address of physician ordering;~~
- ~~3.~~ 2. Item dispensed and quantity, if applicable; and
4. 3. Date of dispensing.

DOCUMENT INCORPORATED BY REFERENCE

The United States Pharmacopoeia - National Formulary USP23-NF18, January 1, 1995, United States Pharmacopoeia Convention.

**NOTICE:** The forms used in administering 18 VAC 110-20-10 et seq., Virginia Board of Pharmacy Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Pharmacy, 6606 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Application for Registration as an Externe/Interne (eff. 5/93).

Application for Licensure as a Pharmacist by Examination (Revised 4/96 rev. 6/97).

Application for Pharmacist License to be Reactivated (rev. 8/95).

Application for Approval of a Continuing Education Program (rev. 6/97).

Application for License to Dispense Drugs (eff. 5/93 rev. 6/97).

Application for a Pharmacy Permit (rev. 4/98).

Application for a Non-Resident Pharmacy Registration (rev. 6/97).

Application for a Permit as a Medical Equipment Supplier (rev. 6/97).

Application for a Restricted Manufacturer's Permit (rev. 6/97).

Application for a Non-Restricted Manufacturer's Permit (rev. 6/97).

---

# Proposed Regulations

---

Application for a Permit as a Warehouser (~~off. 5/93~~ rev. 6/97).

Application for a License as a Wholesale Distributor (rev. 6/97).

Application for a Non-Resident Wholesale Distributor Registration (~~Revised 1996~~ rev. 6/97).

~~Application for a Controlled Substances Registration.~~

Application for Reinstatement of Controlled Substance Registration (rev. 6/97).

Renewal Notice and Application (rev. 7/97).

Application for Controlled Substances Registration Certificate for Nonpractitioners (~~1996~~ rev. 6/97).

Application for Reinstatement of License (rev. 6/97).

~~Application for Continuing Education Provider (Revised 1996)~~

*Application for Reinstatement of Permit (rev. 6/97).*

Application for Permit as a Humane Society (~~Revised 1996~~ rev. 6/97).

Application for Registration as an Interne for Graduates of a Foreign College of Pharmacy (rev. 6/97).

Instructions for Graduates of Foreign Schools of Pharmacy (rev. 6/97).

~~Destruction of Controlled Substances Schedule II through V Drugs (rev. 6/97).~~

Registrants Inventory of Drugs Surrendered, DEA Form 41 (June 1986).

Closing of Pharmacy (rev. 6/97).

VA.R. Doc. No. R97-310; Filed July 15, 1998, 11:08 a.m.

## BOARD OF SOCIAL WORK

**Title of Regulation: 18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work (amending 18 VAC 140-20-10, 18 VAC 140-20-30, 18 VAC 140-20-40, 18 VAC 140-20-50, 18 VAC 140-20-60, 18 VAC 140-20-70, 18 VAC 140-20-110, 18 VAC 140-20-150; adding 18 VAC 140-20-35, 18 VAC 140-20-37 and 18 VAC 140-20-45; repealing 18 VAC 140-20-80 and 18 VAC 140-20-90).**

**Statutory Authority: § 54.1-2400 and Chapter 37 (§ 54.1-3700 et seq.) of Title 54.1 of the Code of Virginia.**

**Public Hearing Date: September 11, 1998 - 10 a.m.**

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis: Chapter 24 (§ 54.1-2400 et seq.) and Chapter 37 (§ 54.1-3700 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations.**

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to assess fees, establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 37 establishes the Board of Social Work and authorizes that board to administer the licensure of social workers and clinical social workers, and to establish requirements for the voluntary certification of its licensees as sex offender treatment providers.

In addition, § 54.1-103 authorizes the board to promulgate regulations specifying additional training or conditions for individuals seeking licensure by reciprocity or endorsement.

**Purpose:** In response to Governor Allen's Executive Order 15 (94), the board conducted a comprehensive review of its regulations to ensure that the only regulations that remain in effect are those that are essential to protect the health, safety and welfare of the public.

One of the mandates of that Executive Order was that the regulations be clearly written and are easily understandable. In compliance with this mandate, the board is proposing reformatting its regulations, eliminating obsolete and unnecessary language, and including new language where needed to clarify requirements.

The Executive Order also mandated that no regulation should remain in effect if there are less burdensome or intrusive alternatives available to achieve the purpose of the regulations. To reduce the burden of its regulation on applicants, the board is proposing an endorsement provision to expedite licensure of applicants with lengthy experience licensed in other jurisdictions.

To comply with a statutory mandate enacted by the 1994 General Assembly for the board to promulgate regulations for the voluntary certification of its licensees as sex offender treatment providers, the board is proposing a new regulation to direct its licensees to the Board of Psychology which has promulgated regulations for this certification.

**Substance:** The key provisions of each amended regulation are summarized as follows:

18 VAC 140-20-10. Terms used in the regulations that are defined in statute are referenced by Code of Virginia citation to avoid duplication. Terms that are common usage terms whose meanings are not altered in the context of the regulations are deleted. A definition for "clinical social work services" which is used in the regulation but not defined in either regulation or statute is proposed. The definition of "clinical course of study" is amended to reinforce the requirement for advanced clinical course work which differs from course work offered in the recently developed social work administrative track.

18 VAC 140-20-30. The proposed amendment eliminates fees that are obsolete. No changes to current fees are proposed.

18 VAC 140-20-35. The board proposes including a new section to endorse the Regulations Governing the Certification of Sex Offender Treatment Providers for its

licensees who seek voluntary certification as sex offender treatment providers.

18 VAC 140-20-37. The board proposes a new section to clarify for the public the statutory restriction that only licensed clinical social workers may practice at the autonomous level.

18 VAC 140-20-40. The board proposes a new title for this section to parallel the following new section which sets forth requirements for licensure by endorsement. Elimination of language which duplicates statute is also proposed. Language appended to subdivision A 2 b has been moved from 18 VAC 140-20-50 D to reorganize the regulations in a more concise format.

18 VAC 140-20-45. A new section is proposed to simplify the application process for experienced social work practitioners licensed in other jurisdictions who are moving to Virginia.

18 VAC 140-20-50. The majority of changes proposed for this section represent reorganization and simplification of the language to reduce the number of subdivisions and consolidate requirements into subject categories. No change in the actual requirements for licensure is being proposed. Deletion of language with specific reference to full-time or part-time experience is proposed since the total and supervised hour requirements are identical, regardless of the number of hours worked per week. Language is added to reinforce the existing requirement that supervision must be registered for board approval prior to its onset. Language is added to ensure that supervisors close to bordering states understand that they must be licensed in the jurisdiction where the trainee is providing social work services.

18 VAC 140-20-60. Proposed amendments parallel those for the previous section to reorganize and simplify the language with no changes to the actual requirements. The board proposes deletion of the words "diagnostic" and "treatment" from subdivision C 2 b since these terms designate clinical services which are not within the scope of practice of licensed social workers.

18 VAC 140-20-70. Deletion of the provision for examination waiver in subsection A is proposed as it duplicates the new endorsement procedure set forth in proposed 18 VAC 140-20-45. Deletion of subsection C is also proposed because examination frequency and notification of candidates are established in the contract with the examination vendor.

18 VAC 140-20-80. The board proposes relocation of subsection B to 18 VAC 140-20-70, deletion of subsection A which does not constitute a rule, and repeal of this section.

18 VAC 140-20-90. Repeal of this section is proposed because the board no longer administers oral examinations, which are now prohibited by law.

18 VAC 140-20-110. The board proposes amending subsection B to refer reinstatement applicants to the application procedures set forth in previous sections.

18 VAC 140-20-150. The board proposes minor word changes to make the regulation more definitive.

## Issues.

### Issue 1: Definitions.

Several definitions in the regulations are unnecessary because they are either commonly used terms or already defined in statute. A practice definition for "social work" appears in statute, but no practice definition for "clinical social work" exists in current statute or in regulation. The board proposes to delete unnecessary definitions, cite Code of Virginia sections where possible and include a new definition for "clinical social work services."

**Advantages:** Referencing definitions in the Code of Virginia and removing unnecessary definitions streamlines the regulations and eliminates duplication. Additionally, the regulations will remain in conformance with statute in the event statutory definitions are amended. The definition of "clinical social work services" defines a phrase used in the regulations and clarifies the scope of practice in which clinical social work licensure applicants must receive their training before becoming licensed to perform clinical social work independently.

**Disadvantages:** The proposed changes present no disadvantages to the general public, applicants, licensees, the board or the agency.

### Issue 2: Fees.

Fees that became obsolete on June 30, 1997, are listed in the current regulation and deleted in these amendments.

**Advantages:** Deletion of obsolete fees will prevent misreading of the regulation and possible submission of incorrect fees.

**Disadvantages:** There are no disadvantages to the proposed changes.

### Issue 3: Sex offender treatment provider certification.

Section 54.1-3505 of the Code of Virginia mandates that the board promulgate regulations for the voluntary certification of its licensees as sex offender treatment providers and consider the standards recommended by the Advisory Committee on Certified Practices pursuant to § 54.1-3610. The board has considered those standards, which are now the Board of Psychology's Regulations Governing the Certification of Sex Offender Treatment Providers, and has determined that those standards are acceptable for the voluntary certification of its licensees. Following the advise of the Attorney General's Office, the board is proposing inclusion of this section to direct its licensees seeking certification to the Board of Psychology.

**Advantages:** Promulgation of a separate set of regulations that are either incongruous with or a duplication of the Board of Psychology's regulations would be a poor use of the board's time and budget, and confusing to the public. Endorsement of the existing regulations allows for one set of requirements and practice standards for all certificate holders.

**Disadvantages:** There is no disadvantage to the proposed change.

---

# Proposed Regulations

---

## Issue 4: Practice setting.

Although § 57.1-3700 specifies that clinical social workers are qualified to function at the autonomous level, it is not clear that individuals licensed as social workers may not function autonomously. Historically, social workers have been employed exclusively in government services or nonprofit settings which offer special services to individuals who require public services to improve their social condition. These settings are inherently more structured than private settings, with appropriate on-site supervision, and meet the conditions of exemption from the requirements for licensure in § 54.1-3701. Therefore, the social work license has been a voluntary license, authorizing holders working in settings in which licensure is not mandated by law to use the title "licensed social worker." With recent changes in the private health care services engendered by managed care, the board office is receiving inquiries about the kinds of services social workers may provide in private, for-profit settings. The board developed minimal licensure requirements for social workers with the understanding that these individuals would not be engaging in independent, unsupervised practice in private settings. In light of the changing health care environment, the board proposes inclusion of this section to provide clarification that licensed social workers may not practice autonomously.

**Advantages:** Inclusion of this language may help prevent inappropriate service provision under the social work license in private, for-profit settings. Applicants, licensees, supervisors, employers and consumers who may be unclear about the restrictions of this license will benefit from the clarification.

**Disadvantages:** The proposed change presents no disadvantage to the general public, applicants, licensees, the board or the agency.

## Issue 5: Requirements for licensure examination.

Subsections A through C of 18 VAC 140-20-40 contain language that duplicates statute or is unnecessary. The board proposes deletion of these subsections.

In 1995, the board amended this section to simplify the application process; however, applicants who are unable to contact past supervisors need an alternative mechanism to document supervision. The proposed language provides specific instructions to these individuals.

**Advantages:** Applicants who are unable to contact former supervisors will have clear guidelines to follow for documentation of their supervised training.

**Disadvantages:** There are no disadvantages to the applicants or the board, because the language formalizes a process currently used by the board for applicants who cannot contact former supervisors.

## Issue 6: Endorsement provision.

At issue is the unnecessary impediment of documenting past supervision for individuals who relocate to Virginia after lengthy practice under equivalent licensure in other jurisdictions. As mentioned above, documentation of

supervised training can be very difficult for individuals who completed their training many years ago. The board is proposing an endorsement provision to facilitate the application process for individuals licensed in other jurisdictions with lengthy practice experience.

**Advantages:** The endorsement provision will expedite licensure for experienced practitioners, therefore preventing delays in obtaining employment.

**Disadvantages:** The licensure verification form for endorsement applicants will require additional information from the issuing jurisdiction. However, if the issuing jurisdiction is unwilling to provide this information, the board will accept a certified copy of the applicant's original application package which explains the supervision received.

## Issue 7: Education and experience requirements.

The experience requirements for social work and clinical social work licensure are excessively lengthy and contain some duplication. Language pertaining to part-time experience is unnecessary since there is no difference in the hour requirements for full-time vs. part-time work. The board proposes reorganizing the text to streamline the regulations and regroup the subject matter by category.

Although the current regulations require that trainees in nonexempt settings register supervision prior to the onset of training, it is not uncommon for applicants to express frustration when the board rejects supervision hours that were not registered. In private, for-profit settings in which licensure is required for provision of services, registration is necessary to provide licensure exemption to trainees under Virginia law and to put trainees under the board's jurisdiction. The board proposes language to emphasize this registration requirement and prevent misunderstandings.

Another point of confusion for applicants and supervisors practicing close to bordering states is the licensure jurisdiction of the supervisor. In some cases, a trainee may provide services in a variety of settings which are located in different jurisdictions. Supervising a social work trainee is considered an aspect of practicing social work which requires a license in accordance with the laws and regulations of the jurisdiction in question. The board has interpreted the jurisdiction of supervision to be the one in which the trainee is providing services. The supervisor is responsible for the professional activities of the trainee, which must be in compliance with the laws and regulations of that jurisdiction. The board proposes language to make this requirement clear to applicants and supervisors.

**Advantages:** The proposed changes will streamline the regulation and put the requirements in a more logical order, making them easier to follow. Clarification of supervision requirements will help trainees and supervisors follow the appropriate procedures for the jurisdiction in question.

**Disadvantages:** The proposed change presents no disadvantage to the general public, applicants, licensees, the board or the agency.

## Issue 8: Examinations.

With the inclusion of the proposed endorsement provision, the statement of examination waiver in subsection A of 18 VAC 140-20-70 is no longer necessary. The board determined that the language in subsection C of this section and in 18 VAC 140-20-80 is not essential to the regulation. Since Virginia law prohibits administration of oral examinations, 18 VAC 140-20-90 is obsolete. The board is proposing deletion of subsections A and C of 18 VAC 140-20-70, and repeal of 18 VAC 140-20-80 and 18 VAC 140-20-90.

**Advantages:** Removal of obsolete and unnecessary language will streamline the regulations.

**Disadvantages:** The proposed change presents no disadvantage to the general public, applicants, licensees, the board or the agency.

**Issue 9: Renewal of expired license.**

When the board changed its renewal fees and schedule from an annual to biennial schedule effective March 5, 1997, the existing rule that individuals must pay renewal fees for the expired and current renewal period was omitted. The board proposes a clarification of this reinstatement requirement.

The current instruction for reapplication for a licensed lapsed more than four years includes a vague requirement for submission of evidence of competency to resume practice. The board proposes simply referencing the application processes set forth in previous sections.

**Advantages:** The proposed changes provide clearer instructions to reinstatement applicants on required fees and the process for reapplication.

**Disadvantages:** The proposed change presents no disadvantage to the general public, applicants, licensees, the board or the agency.

Estimated Fiscal Impact of the Regulation:

Projected number of persons affected and their cost of compliance:

The number of licensees affected by these regulations are as follows (as of December 1997):

Licensed Clinical Social Workers	3,320
Licensed Social Workers	277
Registered Social Workers	125
Associate Social Workers	9

No fee changes are being proposed. The endorsement provision should expedite processing of applicants who have been licensed in other states by about four months. These applicants constitute approximately 25% of the 300 individuals that become licensed in Virginia each year. Assuming earnings of \$2,000 to \$3,000 per month, the potential earnings that might otherwise be lost could be \$8,000 to \$12,000. More significantly, endorsement applicants will be less likely to miss employment opportunities if issuance of the license is expedited.

**Costs to the agency for implementation:** Approximately \$2,000 will be incurred for printing and mailing public notices and amended regulations.

Endorsing regulations of the Board of Psychology for voluntary certification of social work licensees, rather than developing separate regulations will save the board approximately \$5,000 in meeting and mailing fees.

All costs to the agency are derived from fees paid by licensees, and no fee increases are necessary.

**Costs to local governments:** The proposed amendments will not fiscally impact local governments.

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

1. Language would be added clarifying that sex offender treatment providers are certified by the Board of Psychology;
2. Language would be added reiterating the statutory restriction that only licensed clinical social workers may practice at the autonomous level;
3. Provisions would be added permitting licensure by endorsement;
4. Language would be added specifying that supervisors must be licensed "in the jurisdiction in which the clinical services are being rendered";
5. Language regarding board scheduling and notification of written examinations would be deleted, as written exams are now administered by contract vendor;
6. Language regarding administration of oral exams by the board would be deleted, as board provision of oral exams is not prohibited by statute.

**Estimated economic impact.** The majority of the proposed amendments are simple clarifications. Although these clarifications will make the regulation easier to understand and more useful for the regulated community, they do not imply a change in current practices and will not have significant economic consequences. The proposal to permit licensure by endorsement will allow practitioners relocating from other states, who have obtained equivalent licensure in those jurisdictions, to obtain licensure in Virginia without having to provide documentation of past supervision. The

---

# Proposed Regulations

---

primary economic consequence of this proposed change would be to remove a seemingly unnecessary impediment to licensure and, thereby, reduce regulatory compliance costs.

Businesses and entities particularly affected. The proposed regulation will particularly affect the approximately 3,320 licensed clinical social worker, 277 licensed social workers, 125 registered social workers, 9 associate social workers currently licensed by the Board of Social Work, all those seeking licensure in the future and the general public.

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

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

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

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the analysis of the Department of Planning and Budget.

## Summary:

*The proposed amendments clarify the regulations by reformatting them, eliminating obsolete and unnecessary language, and including new language where needed to clarify requirements.*

*The proposed amendments also include an endorsement provision to expedite licensure of applicants with lengthy experience licensed in other jurisdictions.*

*To comply with a statutory mandate enacted by the 1994 General Assembly for the board to promulgate regulations for the voluntary certification of its licensees as sex offender treatment providers, the amendments direct licensees to the Board of Psychology which has promulgated regulations for this certification.*

## **18 VAC 140-20-10. Definitions.**

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-3700 of the Code of Virginia:

Board

Casework

Casework management and supportive services

Clinical social worker

Practice of social work

Social worker

~~In addition to those defined in § 54.1-3700 of the Code of Virginia,~~ B. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Accredited school of social work" means a school of social work accredited by the Council on Social Work Education.

~~"Applicant" means a person who has submitted a completed application for licensure as a social worker with the appropriate fees.~~

~~"Board" means the Virginia Board of Social Work.~~

~~"Candidate for licensure" means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.~~

"Clinical course of study" means graduate course work which includes *specialized advanced* courses in human behavior and social environment, social policy, research, clinical practice with individuals, families, groups and a clinical practicum which focuses on diagnostic, prevention and treatment services.

"Clinical social work services" include the application of social work principles and methods in performing assessments and diagnoses based on a recognized manual of mental and emotional disorders or recognized system of problem definition, preventive and early intervention services and treatment services, including but not limited to psychotherapy and counseling for mental disorders, substance abuse, marriage and family dysfunction, and problems caused by social and psychological stress or health impairment.

"Exempt practice" is that which meets the conditions of exemption from the requirements of licensure as defined in § 54.1-3701 of the Code of Virginia.

"Nonexempt practice" is that which does not meet the conditions of exemption from the requirements of licensure as defined in § 54.1-3701 of the Code of Virginia.

"Supervision" means the relationship between a supervisor and supervisee which is designed to promote the development of responsibility and skill in the provision of social work services. Supervision is the inspection, critical evaluation, and direction over the services of the supervisee. Supervision shall include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation.

## **18 VAC 140-20-30. Fees.**

A. The board has established fees for the following:

	After 12/31/96	After 6/30/97
1. Registration of supervision	\$ 25	\$ 25
2. Application processing	\$100	\$100
3. Biennial license <i>renewal</i>		
a. Registered social worker	\$ 25	\$ 35
b. Associate social worker	\$ 25	\$ 35

c. Licensed social worker	\$75	\$110
d. Licensed clinical social worker	\$400	\$125
4. Penalty for late renewal	\$40	\$ 10
5. Verification of license to another jurisdiction	\$40	\$ 10
6. Additional or replacement licenses	\$40	\$ 10
7. Additional or replacement wall certificates	\$45	\$ 15
8. Returned check	\$45	\$ 15
9. Reinstatement following disciplinary action	\$200	\$200

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. Examination fees shall be paid directly to the examination service according to its requirements.

**18 VAC 140-20-35. Sex offender treatment provider certification.**

Anyone licensed by the board who is seeking certification as a sex offender treatment provider shall obtain certification under the Board of Psychology and adhere to the board's Regulations Governing the Certification of Sex Offender Treatment Providers, 18 VAC 125-30-10 et seq.

**18 VAC 140-20-37. Licensure; general.**

Licensed social workers may practice in exempt practice settings under appropriate supervision. Only licensed clinical social workers may practice at the autonomous level.

**18 VAC 140-20-40. General Requirements for licensure by examination.**

~~A. No person shall practice as a social worker or clinical social worker in the Commonwealth of Virginia except as provided for in the Code of Virginia and this chapter.~~

~~B. The individual obtaining the two years of required experience shall not call himself a licensed clinical social worker, solicit clients, bill for his services, or in any way represent himself as a licensed clinical social worker until such time that a license has been issued.~~

~~C. Licensure by this board to practice as a social worker or clinical social worker shall be determined by examination.~~

~~D. Every applicant for examination for licensure by the board shall:~~

1. Meet the education and experience requirements prescribed in 18 VAC 140-20-50 or 18 VAC 140-20-60 of this chapter for the category of practice in which licensure is sought.

2. Submit in one package to the board office, not less than 90 days prior to the date of the written examination:

- a. A completed notarized application;
- b. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of 18 VAC 140-20-50 or 18 VAC 140-20-60 along with documentation of the supervisor's out-of-state license where applicable. *Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision; and*
- c. The application fee prescribed in 18 VAC 140-20-30;
- d. Official transcript or transcripts in the original sealed envelope submitted from the appropriate institutions of higher education directly to the applicant; and
- e. Documentation of applicant's out-of-state licensure where applicable.

**18 VAC 140-20-45. Requirements for licensure by endorsement.**

Every applicant for licensure by endorsement shall submit in one package:

1. A completed application and the application fee prescribed in 18 VAC 140-20-30.
2. Documentation of social work licensure in good standing obtained by standards substantially equivalent to those outlined in 18 VAC 140-20-50 and 18 VAC 140-20-60 as verified by the out-of-state licensing agency on a board approved form.
3. Verification of a passing score as established by the board on a board approved national exam.
4. Official transcript or transcripts in the school's original sealed envelope.
5. Verification of active practice in another jurisdiction for 36 out of the past 60 months.
6. Certification that the applicant is not the respondent in any pending or unresolved board action in another jurisdiction or in a malpractice claim.

**18 VAC 140-20-50. Education and experience requirements for licensed clinical social worker.**

A. Education. The applicant shall hold a minimum of a master's degree from an accredited school of social work. Graduates of foreign institutions ~~must~~ shall establish the

---

# Proposed Regulations

---

equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council of Social Work Education.

1. The degree program shall have included a graduate clinical course of study; or
2. The applicant shall provide documentation of having completed specialized experience, course work or training acceptable to the board as equivalent to a clinical course of study.

B. *Supervised experience.* *Supervised experience obtained prior to [insert effective date of this chapter] may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered. Supervised experience obtained in nonexempt settings in Virginia without prior written board approval will not be accepted toward licensure.*

1. *Registration.* *An individual who proposes to obtain supervised post-master's degree experience in Virginia shall, prior to the onset of such supervision:*

- a. *Register on a form provided by the board and completed by the supervisor and the supervised individual; and*
- b. *Pay the registration of supervision fee set forth in 18 VAC 140-20-30.*

2. *Hours.* *The applicant shall have had two years of full-time completed a minimum of 3,000 hours of supervised post-master's degree experience in the delivery of clinical social work services or the equivalent in part-time experience. The post-master's degree experience, whether full-time or part-time, shall be under supervision satisfactory to the board as prescribed in this chapter. A minimum of one hour of individual face-to-face supervision shall be provided each week for a total of at least 100 hours.*

1. ~~Full-time experience in the delivery of clinical services is defined as a minimum of 3,000 hours of work~~ a. *Experience shall be acquired in no less than two nor more than four years.*

- a. ~~Of these 3,000 hours, trainees~~ b. *Supervisees shall average no less than 15 hours per week in face-to-face client contact, for a minimum of 1,380 hours in the two-year period. b- The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.*

2. ~~Part-time equivalent experience in the delivery of clinical services for a total of 3,000 hours of work experience.~~

- a. ~~Of the 3,000 hours, 1,380 hours shall be spent in face-to-face client contact.~~
- b. ~~The remaining hours may be spent in ancillary duties and activities supporting the delivery of clinical services.~~

~~3. Supervision and experience obtained prior to the effective date of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.~~

4. 3. An individual who does not become a candidate for licensure after four years of supervised ~~training in a nonexempt practice~~ experience shall submit evidence to the board showing why the training should be allowed to continue.

C. ~~Supervision requirements for applicants in nonexempt practices~~ *Requirements for supervisors.*

1. ~~An individual who proposes to obtain supervised post-graduate experience in a nonexempt practice in Virginia shall, prior to the onset of such supervision:~~

- a. ~~Be registered on a form provided by the board and completed by the supervisor and the supervised individual; and~~
- b. ~~Pay the registration of supervision fee prescribed by the board.~~

2. 1. ~~The supervisor providing supervision under subdivision 1 of this subsection shall:~~ a. be a licensed clinical social worker *in the jurisdiction in which the clinical services are being rendered* with at least five years post-Master of Social Work clinical experience, ~~or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed clinical social worker with at least five years post-MSW clinical experience constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to licensed clinical social worker supervision; and The board may consider supervisors with commensurate qualifications if the applicant can demonstrate an undue burden due to geography or disability.~~

2. *The supervisor shall:*

- b. a. Be responsible for the casework activities of the prospective applicant as set forth in ~~subdivision 2-c and 2-d~~ of this subsection once the supervisory arrangement is accepted.

- e. b. Review and approve the diagnostic assessment and treatment plan of a representative sample of the clients assigned to the applicant during the course of supervision. The sample should be representative of the variables of gender, age, diagnosis, length of treatment and treatment method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor. The supervisor shall be available to the applicant on a regularly scheduled basis for supervision. The supervisor will maintain documentation, for five years post supervision, of which clients were the subject of supervision;

~~d. c.~~ Provide supervision only for those casework activities for which the supervisor has determined the applicant is competent to provide to clients;

~~e. d.~~ Provide supervision only for those activities for which the supervisor is qualified.

~~f. The supervisor shall~~ e. Evaluate the supervisee's knowledge *and document minimal competencies* in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients.

~~g. Provide documentation, at the time of application for licensure, on forms provided by the board, that the supervisee is at least minimally competent in the areas listed in subdivision 4-2-f of this subsection before the supervisee will be eligible to take the written examination.~~

~~3. The experience shall include at least 100 hours of face-to-face supervision during the period of supervision. A minimum of one hour of individual face-to-face supervision per week shall be provided for the period of supervision.~~

4. 3. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

~~D. Documentation of supervised experience. At the time of application for licensure, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.~~

~~1. Applicants for licensure who have worked full time for a minimum of two years in the delivery of clinical social work services need document only their full-time employment provided the experience requirement has been met.~~

~~2. Applicants for licensure who have worked part time in the delivery of clinical services will need to document the experience as prescribed in subdivision B-2 of this section.~~

~~3. Applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised.~~

~~4. The affidavit shall specify dates of employment, job responsibilities, supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.~~

E. D. Supervision requirements for applicants in exempt practices. Individuals may obtain the required supervision and experience without registration of supervision provided such experience:

1. Is obtained in an exempt practice.

2. Meets all other requirements of the board for supervised experience as set forth in this chapter.

**18 VAC 140-20-60. Education and experience requirements for licensed social worker.**

A. Education. The applicant shall hold a bachelor's or a master's degree from an accredited school of social work. Graduates of foreign institutions must establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

~~B. Supervised experience-master's degree applicants. Master's degree applicants are not required to have professional experience in the field. Supervised experience obtained prior to [insert the effective date of this chapter] may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered. Supervised experience obtained in nonexempt settings in Virginia without prior written board approval will not be accepted toward licensure.~~

1. Registration. An individual who proposes to obtain supervised post-master's degree experience in Virginia shall, prior to the onset of such supervision, register a supervision contract with the board as set forth in 18 VAC 140-20-50 B.

2. Hours.

~~C. Experience-~~ a. Bachelor's degree applicants- shall have had two years completed a minimum of 3,000 hours of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board. A minimum of one hour of face-to-face supervision shall be provided each week for the period of supervision for a total of at least 100 hours.

1. Full-time experience in casework management and supportive services is defined as a minimum of 3,000 hours of work b. Experience shall be acquired in no less than two nor more than four years.

2. Part-time equivalent experience in casework management and supportive services is defined as at least 3,000 hours of work experience acquired in no less than four years.

~~D. Supervision requirement for bachelor's degree applicant in nonexempt practices-~~

1. An individual who proposes to obtain supervised post-bachelor's degree experience in Virginia shall, prior to the onset of such supervision:

a. Be registered on a form provided by the board and completed by the supervisor and supervised individual; and

---

# Proposed Regulations

---

~~b. Pay the registration of supervision fee as prescribed by the board.~~

## C. Requirements for supervisors.

~~2- 1. The supervisor providing supervision shall: a. be a licensed social worker with a master's degree, or a licensed clinical social worker, or an individual who the board finds is qualified to supervise after a finding that the requirement for a supervisor who is a licensed social worker with a master's degree or a licensed clinical social worker constitutes an undue burden on the applicant. Undue burden shall include issues such as geography or disability which limits supervisee's access to supervision listed above; in the jurisdiction in which the social work services are being rendered. If this requirement places an undue burden on the applicant due to geography or disability, the board may consider individuals with comparable qualifications.~~

### 2. The supervisor shall:

~~b. a. Be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board;~~

~~c. b. Review and approve the diagnostic assessment and treatment service plan of a representative sample of cases assigned to the applicant during the course of supervision. The sample should be representative of the variables of gender, age, diagnosis assessment, length of treatment service and treatment casework method within the client population seen by the applicant. It is the applicant's responsibility to assure the representativeness of the sample that is presented to the supervisor. The supervisor shall be available to the applicant on a regularly scheduled basis for supervision. The supervisor will maintain documentation, for five years post supervision, of which clients were the subject of supervision;~~

~~d. c. Provide supervision only for those casework management and support services activities for which the supervisor has determined the applicant is competent to provide clients;~~

~~e. d. Provide supervision only for those activities for which the supervisor is qualified; and~~

~~f. e. The supervisor shall evaluate the supervisee in the areas of professional ethics and professional competency.~~

~~3. Supervision and experience obtained prior to the implementation of these regulations may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.~~

~~4. The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.~~

~~5. 3. Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.~~

## ~~E. Documentation of supervised experience.~~

~~1. At the time of application, applicants shall provide to the board documentation of the supervised experience from all supervisors or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board.~~

~~2. Applicants whose former supervisor is deceased or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive office of the agency, corporation, or partnership in which the applicant was supervised.~~

~~3. The affidavit shall specify dates of employment, job responsibilities, the supervisor's name and last known address, and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.~~

~~F. D. Supervision requirements for applicant in exempt practice. Individuals may obtain the required supervised experience without registration of supervision provided such experience:~~

~~1. Is obtained in an exempt practice.~~

~~2. Meets all other requirements of the board for supervised experience as set forth in this chapter.~~

## **18 VAC 140-20-70. General examination requirements requirement.**

~~A. The board may waive the written examination if the applicant has been certified or licensed in another jurisdiction by standards and procedures equivalent to those of the board.~~

~~B. A. An applicant for licensure by the board as a social worker or clinical social worker shall pass a written examination at times prescribed by the board.~~

~~B. The board shall establish passing scores on the written examination.~~

~~C. A written examination shall be administered at least twice each year. The board may schedule such additional examinations as it deems necessary.~~

~~1. The executive director of the board shall notify all candidates in writing of the time and place of the examinations for which they have been approved to sit, and of the fees for these examinations.~~

~~2. The candidate shall submit the applicable fees following the instructions under 18 VAC 140-20-30 B.~~

## **18 VAC 140-20-80. Written examination. (Repealed.)**

~~A. The written examination comprises an examination consisting of standardized multiple-choice questions. These questions may cover all or some of the following areas: human growth and development; social work practice with individuals, families, couples and groups; supervision; social~~

~~policy; administration; social work research; community organization and planning; and ethical principles of social work practice in addition to other areas deemed relevant to the board.~~

~~B. The board will establish passing scores on the written examination.~~

~~PART IV.  
ADDITIONAL DOCUMENTATION OF COMPETENCE.~~

~~**18 VAC 140-20-90. Candidates who took and failed an oral examination. (Repealed.)**~~

~~Candidates who have previously taken and failed an oral examination administered by the Board of Social Work shall reapply and submit the appropriate form from their supervisor stating that the candidate meets the minimum competency levels in the six skill areas as follows:~~

- ~~1. Skill in the application of an identified theory base.~~
- ~~2. Skill in the application of a differential diagnosis.~~
- ~~3. Skill in establishing and monitoring a treatment plan.~~
- ~~4. Skill in the development and appropriate use of the professional relationship.~~
- ~~5. Skill in assessing the client for risk of imminent danger and taking appropriate and necessary action to protect the safety of the client, the public, and the social worker when necessary.~~
- ~~6. Skill in implementing a professional and ethical relationship with clients.~~

~~PART V IV.  
LICENSURE RENEWAL; REINSTATEMENT.~~

~~**18 VAC 140-20-110. Renewal of expired license.**~~

~~A. A social worker or clinical social worker whose license has expired may renew that license within four years after its expiration date by:~~

- ~~1. Providing evidence of having met all applicable requirements.~~
- ~~2. Paying the penalty for late renewal and the biennial license fee for each biennium as prescribed in 18 VAC 140-20-30.~~

~~B. A social worker or clinical social worker who fails to renew the license for four years or more and who wishes to resume practice shall reapply on forms provided by the board, submit evidence satisfactory to the board that he is prepared to resume practice in a competent manner, and pay fees prescribed in 18 VAC 140-20-30 according to the requirements of 18 VAC 140-20-40 or 18 VAC 140-20-45.~~

~~PART V V.  
COMMITTEES.~~

~~PART V VI.  
STANDARDS OF PRACTICE.~~

~~**18 VAC 140-20-150. Professional conduct.**~~

~~Persons whose activities are regulated by the board licensed as social workers and clinical social workers shall:~~

- ~~1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.~~
- ~~2. Be able to justify all service rendered to clients as necessary for diagnostic or therapeutic purposes.~~
- ~~3. Practice only within the competency areas for which they are qualified by education or experience, or both.~~
- ~~4. Report to the board known or suspected violations of the laws and regulations governing the practice of social work.~~
- ~~5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.~~
- ~~6. Ensure that clients are aware of fees and billing arrangements before rendering services.~~
- ~~7. Keep confidential their counseling therapeutic relationships with clients and disclose client records to others only with written consent of the client, with the following exceptions: (i) when the client is a danger to self or others; or (ii) as required by law.~~
- ~~8. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.~~
- ~~9. Not engage in dual relationships with clients, former clients, supervisees, and supervisors that might compromise the client's, former client's, or supervisee's well-being, impair the social worker's or supervisor's objectivity and professional judgment or increase the risk of exploitation. This includes, but is not limited to, such activities as counseling close friends, sexual partners, employees or relatives, and engaging in business relationships with clients. Engaging in sexual intimacies with current clients or supervisees is prohibited.~~
- ~~10. Maintain clinical records on each client. The record shall include identifying information to substantiate diagnosis and treatment plan, client progress, and termination. The clinical record shall be preserved for at least five years post termination.~~
- ~~11. Ensure that clients have provided informed consent to treatment.~~

---

# Proposed Regulations

---

**NOTICE:** The forms used in administering 18 VAC 140-20-10 et seq., Regulations Governing the Practice of Social Work, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

## FORMS

~~Registration Of Supervision Post Graduate Degree Supervised Experience.~~

~~Verification Of Clinical Supervision Form.~~

~~Clinical Social Worker License Application, rev. 9/96.~~

~~Licensure Verification Of Applicant.~~

~~Verification Of Casework Management And Supportive Services.~~

~~Social Worker License Application, rev. 9/96.~~

~~Renewal Notice And Application, 9/96.~~

*Social Worker Licensure Application (rev. 12/97).*

*Clinical Social Worker Licensure Application (rev. 12/97).*

*Registration of Supervision (rev. 12/97).*

*Verification of Clinical Supervision (rev. 12/97).*

*Verification of Casework Management and Supportive Services (rev. 12/97).*

*Out-of-State Licensure Verification.*

*Renewal Notice and Application (rev. 7/97).*



**COMMONWEALTH OF VIRGINIA**  
**BOARD OF SOCIAL WORK**  
 Department of Health Professions  
 6606 West Broad Street, 4th Floor  
 Richmond, Virginia 23230-1717  
 (804) 662-9914

**SOCIAL WORKER  
 LICENSURE APPLICATION**

I hereby make application for licensure to practice as a Social Worker in the Commonwealth of Virginia. The following evidence of my qualifications is submitted with a check or money order in the amount of \$100.00 made payable to the Treasurer of Virginia. The application fee is non-refundable.

<p><b>INSTRUCTIONS</b> PLEASE TYPE OR PRINT</p> <p>Applicants must complete all sections. Applications lacking a Social Security Number or a Virginia Department of Motor Vehicles Control Number will not be processed. This number will be used for identification and will not be disclosed for other purposes except as provided for by law. Completed application should be mailed to the above address to arrive no less than 90 days prior to the date of the written examination.</p> <p><b>I. GENERAL INFORMATION</b></p> <p>Name (Last, First, M.I., Suffix, Maiden Name) _____ Social Security Number or Virginia DMV Control Number _____ Date of Birth _____</p> <p>Mailing Address (Street and/or Box Number, City, State, ZIP Code) _____ Home Telephone Number _____</p> <p>Business Name and Address (if different from above) _____ Business Telephone Number _____</p> <p><b>LICENSURE/CERTIFICATION</b> - List all the states in which you now hold or have ever held an occupational license or certificate to practice as a social worker in order of attainment. For each license or certificate indicated below, whether current or lapsed, you must submit a Verification of Licensure form completed by the issuing jurisdiction.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>STATE</th> <th>LICENSE/CERTIFICATE NUMBER</th> <th>ISSUE DATE</th> <th>TYPE OF LICENSE/CERTIFICATE</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p><b>STANDARDS OF PRACTICE</b> - Your practice is limited to your demonstrated areas of competence. Please list below your specialized areas of practice that can be supported by documentation of training or education.</p> <p style="text-align: center;">Client Population</p> <p style="text-align: center;">Skills to be Used</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE									<p><b>USE BLACK INK</b></p> <p>Applicants lacking a Social Security Number or a Virginia Department of Motor Vehicles Control Number will not be processed. This number will be used for identification and will not be disclosed for other purposes except as provided for by law. Completed application should be mailed to the above address to arrive no less than 90 days prior to the date of the written examination.</p> <p><b>II. EDUCATION:</b></p> <p>1. State in chronological order the name and location of each school or other institution, beyond high school, that you have attended.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Institution</th> <th colspan="2">Dates of Attendance</th> <th rowspan="2">Major and/or Concentration</th> <th rowspan="2">Degree Received</th> <th rowspan="2">Date Degree Conferred</th> </tr> <tr> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>2. List in chronological order the field instruction you have had.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Agency</th> <th colspan="2">Dates (Mo./Yr.)</th> <th rowspan="2">Hours per Week</th> <th rowspan="2">Duties (Types of learning experiences as related to specialty area of practice)</th> </tr> <tr> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred	From	To													Agency	Dates (Mo./Yr.)		Hours per Week	Duties (Types of learning experiences as related to specialty area of practice)	From	To										
STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE																																															
Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred																																													
	From	To																																																
Agency	Dates (Mo./Yr.)		Hours per Week	Duties (Types of learning experiences as related to specialty area of practice)																																														
	From	To																																																

**ANSWER THE FOLLOWING QUESTIONS:**

1. Have you ever been denied the privileges of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where: _____	YES [ ]	NO [ ]
2. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, explain in detail (use extra paper if necessary): _____	[ ]	[ ]
3. Have you ever been convicted of a violation of or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except for driving under the influence.) If yes, explain in detail: _____	[ ]	[ ]
4. In the last twelve (12) months, have you been unable to practice social work by reason of excessive use of alcohol, drugs, chemicals or any other type of material or as a result of any mental or physical condition? If yes, please provide a letter of explanation. _____	[ ]	[ ]
5. Have you ever been censured, warned, or requested to withdraw from your employment, terminated from any health care facility, agency, or practice? If yes, provide an explanation on a separate sheet of paper. _____	[ ]	[ ]

**III. SUPERVISED SOCIAL WORK EXPERIENCE** (To be completed by Bachelor of Social Work applicants only)  
 Indicate below person(s) designated as your supervisor(s) for social work supervised experience, to whom verification form(s) will be sent.

Supervisor's Name			
Institution or Business Name and Address			
Supervisor's Professional License	License Number	State Where Licensed	
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision	
Description of Supervision			
Description of Applicant's Professional Work During the Supervision			
Supervisor's Name			
Institution or Business Name and Address			
Supervisor's Professional License	License Number	State Where Licensed	
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision	
Description of Supervision			
Description of Applicant's Professional Work During the Supervision			
Supervisor's Name			
Institution or Business Name and Address			
Supervisor's Professional License	License Number	State Where Licensed	
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered	Total Hours Face-to-Face Supervision	
Description of Supervision			
Description of Applicant's Professional Work During the Supervision			

**IV. PROFESSIONAL EMPLOYMENT EXPERIENCE**  
 List in chronological order the entire professional employment experience you have had after receiving your undergraduate degree (if you are a B.S.W. applicant) or your graduate degree (if you are an M.S.W. applicant).

Dates of Employment	Employer	Address	Hours Per Week	Supervisor	Duties

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

**AFFIDAVIT**  
 (To be completed before a notary public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

Name \_\_\_\_\_ being duly sworn, says that he/she is the person who is referred to in the foregoing application for licensure as a social worker in the Commonwealth of Virginia; that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

Signature of Applicant \_\_\_\_\_

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires on \_\_\_\_\_.

\_\_\_\_\_  
 Signature of Notary Public

**SEAL**



**COMMONWEALTH OF VIRGINIA**  
BOARD OF SOCIAL WORK

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9914

**CLINICAL SOCIAL WORKER  
LICENSURE APPLICATION**

I hereby make application for licensure to practice as a Clinical Social Worker in the Commonwealth of Virginia. The following evidence of my qualifications is submitted with a check or money order in the amount of \$100.00 made payable to the Treasurer of Virginia. The application fee is non-refundable.

<b>INSTRUCTIONS</b>		<b>PLEASE TYPE OR PRINT</b>		<b>USE BLACK INK</b>	
Applicants must complete all sections. Applications lacking a Social Security Number or a Virginia Department of Motor Vehicles Control Number will not be processed. This number will be used for identification and will not be disclosed for other purposes except as provided for by law. Completed application should be mailed to the above address to arrive no less than 90 days prior to the date of the written examination.					
<b>I. GENERAL INFORMATION</b>					
Name (Last, First, M.I., Suffix, Maiden Name)		Social Security Number or Virginia DMV Control Number		Date of Birth	
Mailing Address (Street and/or Box Number, City, State, ZIP Code)			Home Telephone Number		
Business Name and Address (if different from above)			Business Telephone Number		
<b>LICENSE/CERTIFICATION</b> - List all the states in which you now hold or have ever held an occupational license or certificate to practice as a social worker in order of attainment. For each license or certificate indicated below, whether current or lapsed, you must submit a Verification of Licensure form completed by the issuing jurisdiction.					
STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE		
<b>COMPETENCIES</b> - The Standards of Practice limit your practice to your demonstrated areas of competence. Please list below your specialized areas of practice that can be supported by documentation of training or education. (Use additional paper, if necessary.)					
Client Population					
Skills to be Used					

**ANSWER THE FOLLOWING QUESTIONS:**

1. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where:	YES [ ]	NO [ ]
2. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, explain in detail (use extra paper if necessary):	[ ]	[ ]
3. Have you ever been convicted of a violation of or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except for driving under the influence.) If yes, explain in detail:	[ ]	[ ]
4. In the last twelve (12) months, have you been unable to practice social work by reason of excessive use of alcohol, drugs, chemicals or any other type of material or as a result of any mental or physical condition? If yes, please provide a letter of explanation.	[ ]	[ ]
5. Have you ever been censured, warned, or requested to withdraw from your employment, terminated from any health care facility, agency, or practice? If yes, provide an explanation on a separate sheet of paper.	[ ]	[ ]

**II. EDUCATION:**

1. List in chronological order the name and location of each school or other institution, beyond high school, that you have attended.

Institution	Dates of Attendance		Major and/or Concentration	Degree Received	Date Degree Conferred
	From	To			

2. List in chronological order the field instruction you have had (while in graduate school only).

Agency	Dates (Mo./Yr.)		Hours per Week	Duties (Types of learning experiences as related to specialty area of practice)
	From	To		

**III. SUPERVISED CLINICAL SOCIAL WORK EXPERIENCE**  
 Indicate below person(s) designated as your supervisor(s) for clinical social work supervised experience. For each supervisor indicated, include a completed Verification of Supervision form.

Supervisor's Name	
Institution or Business Name and Address	
Supervisor's Professional License	License Number
State Where Licensed	
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered
Total Hours Face-to-Face Supervision	
Description of Supervision	
Description of Applicant's Professional Work During the Supervision	
Supervisor's Name	
Institution or Business Name and Address	
Supervisor's Professional License	License Number
State Where Licensed	
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered
Total Hours Face-to-Face Supervision	
Description of Supervision	
Description of Applicant's Professional Work During the Supervision	
Supervisor's Name	
Institution or Business Name and Address	
Supervisor's Professional License	License Number
State Where Licensed	
Dates Applicant was Supervised From: To:	Hours per Week Supervision Rendered
Total Hours Face-to-Face Supervision	
Description of Supervision	
Description of Applicant's Professional Work During the Supervision	

**IV. PROFESSIONAL EMPLOYMENT EXPERIENCE**  
 List in chronological order the entire professional employment experience you have had after receiving your master's degree in Clinical Social Work. List present position first and date back to your master's degree.

Dates of Employment	Employer	Address	Hours Per Week	Supervisor	Duties

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

**AFFIDAVIT**  
 (To be completed before a notary public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

Name \_\_\_\_\_, being duly sworn, says that he/she is the person who is referred to in the foregoing application for licensure as a clinical social worker in the Commonwealth of Virginia, that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law, and that he/she has read and understands this affidavit.

Signature of Applicant \_\_\_\_\_

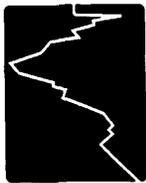
Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My commission expires on \_\_\_\_\_

Signature of Notary Public \_\_\_\_\_

**SEAL**

\*\*\* GRADUATE TRANSCRIPT MUST ACCOMPANY THIS REGISTRATION FORM \*\*\*



**COMMONWEALTH OF VIRGINIA  
BOARD OF SOCIAL WORK**

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9914

**REGISTRATION OF SUPERVISION  
POST-GRADUATE DEGREE SUPERVISED EXPERIENCE.**

**FEES:** \$25.00 Initial Registration (one supervisor)  
\$25.00 Each Additional Registration  
Make all checks payable to THE TREASURER OF VIRGINIA - Registration fees are NON-REFUNDABLE

THIS FORM IS TO BE COMPLETED BY THE TRAINEE AND THE SUPERVISOR

**TO BE COMPLETED BY TRAINEE (Please type or print):**

**CHECK ONE:**  Initial Registration  Add Supervisor  Change Supervisor

Name (Last, First, M.I., Suffix, Maiden Name)	Social Security Number	Date of Birth
Mailing Address (Street and/or Box Number, City, State, ZIP Code)		Home Telephone Number
Business Name and Address		Business Telephone Number

**EDUCATION:** List in chronological order the name and location of each graduate school or other institution where graduate course work has been completed. GRADUATE TRANSCRIPTS MUST BE SUBMITTED DIRECTLY TO THE BOARD OFFICE FROM THE APPLICANT. See instruction sheet for details.

	Dates of Attendance		Major and/or	Degree	Date Degree
	From	To			

**TO BE COMPLETED BY SUPERVISOR (Please type or print):**

Name (Last, First, M.I., Suffix, Maiden Name)	Date Masters Degree Conferred
Business Name and Address	Telephone Number
Professional License*	License Number
	Initial Licensure Date
	Licensure Expiration Date
State: _____ *(If supervisor is not licensed in Virginia, submit copy of valid license.)	
Do you have five years post-MSW clinical experience? Yes <input type="checkbox"/> No <input type="checkbox"/>	

**SUPERVISION TO BE PROVIDED** - Provide detailed information of supervision to be given. For example: assess counseling skills; review treatment plans; monitor assessments, case records and statistics; supervise family interventions and family groups; monitor discharge planning; case follow-up; crisis intervention and referrals; provide case management and maintenance of case records.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**DATE SUPERVISION BEGINS:** Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

Indicate whether setting is exempt \_\_\_\_\_ OR non-exempt \_\_\_\_\_

**DECLARATION OF SUPERVISOR:**

I am the trainee's direct supervisor \_\_\_\_\_ OR off-site supervisor \_\_\_\_\_ (check one only please)

s supervisor, I assume responsibility for the clinical activities of the individual as outlined in subsection C.2 of section 18 VAC 140-20-50 of the Regulations Governing the Practice of Social Work.

Signature of Supervisor \_\_\_\_\_ Date \_\_\_\_\_





**COMMONWEALTH OF VIRGINIA**  
**BOARD OF SOCIAL WORK**  
 Department of Health Professions  
 6606 West Broad Street, 4th Floor  
 Richmond, Virginia 23230-1717  
 (804) 662-9914

**VERIFICATION OF CASEWORK MANAGEMENT AND SUPPORTIVE SERVICES**

To verify completion of supervised casework management experience, this form is to be completed by the supervisor and submitted with the application package.

Applicant's Name: \_\_\_\_\_  
 Supervisor's Name: \_\_\_\_\_  
 Supervisor's Business Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Type of License: \_\_\_\_\_ License Number: \_\_\_\_\_ State of License: \_\_\_\_\_  
 Dates the applicant was employed: \_\_\_\_\_ Dates the applicant was under your supervision: \_\_\_\_\_  
 From: \_\_\_\_\_ To: \_\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_  
 (month/day/year) (month/day/year) (month/day/year) (month/day/year)  
 Total number of hours applicant worked per week: \_\_\_\_\_  
 a. Number of hours per week of individual, face-to-face clinical supervision: \_\_\_\_\_  
 b. Total number of hours of individual, face-to-face clinical supervision: \_\_\_\_\_

**DUTIES PERFORMED BY THE APPLICANT UNDER YOUR SUPERVISION:**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SUPERVISION PROVIDED TO APPLICANT:**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing is true and correct.  
 \_\_\_\_\_ Supervisor's Signature \_\_\_\_\_ Date \_\_\_\_\_

8. **Professional Identity and Ethics**

Applicant uses supervision and shows continuing development of clinical skills.	Yes   <input type="checkbox"/>	No   <input type="checkbox"/>
Applicant demonstrates knowledge of strengths and limitations of a clinical social worker and the distinctive contributions of other mental health and health professionals.	Yes   <input type="checkbox"/>	No   <input type="checkbox"/>
Applicant makes appropriate referrals to other health providers and resources in the community.	Yes   <input type="checkbox"/>	No   <input type="checkbox"/>
Applicant knows and understands the laws related to life-threatening situations, child abuse, elder abuse, physical abuse, etc.	Yes   <input type="checkbox"/>	No   <input type="checkbox"/>
Applicant understands and has discussed the ethics of confidentiality and other legal and ethical issues.	Yes   <input type="checkbox"/>	No   <input type="checkbox"/>

In your opinion has the applicant demonstrated competency in clinical social work practice sufficient for licensing and the independent practice as a clinical social worker?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**DECLARATION OF SUPERVISOR:**

I declare that, to the best of my knowledge, the foregoing is true and correct.

\_\_\_\_\_  
 Supervisor's Signature

\_\_\_\_\_  
 Date

# Proposed Regulations

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

## RENEWAL NOTICE AND APPLICATION

Telephone:  
License, certificate or registration number:

TYPE OF RENEWAL	CURRENT EXPIRATION DATE	CURRENT AMOUNT DUE	FROM	RENEWAL PERIOD TO	AMOUNT DUE IF RECEIVED AFTER
		\$			\$

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"  
RETURN PAYMENT AND THE COMPLETED BOTTOM PORTION ONLY IN THE ENCLOSED ENVELOPE  
KEEP TOP PORTION FOR YOUR RECORDS

<p><b>DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER</b> In accordance with § 54-1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. If the boxes below are empty, write in your Social Security or Virginia DMV Control Number. If the boxes do contain numbers, please verify that they are correct and make any necessary changes.</p> <p><b>NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.</b></p> <p>*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.</p>	<p><b>INSTRUCTIONS</b></p> <ol style="list-style-type: none"> <li>1. Verify Social Security or Virginia DMV Control Number at left.</li> <li>2. Complete item "A" below if you do not wish to renew.</li> <li>3. Make any address changes on this application when renewing.</li> <li>4. Make any name changes on this application and enclose a copy of your marriage license or court order.</li> <li>5. Note name and license, certificate or registration number on all enclosures.</li> <li>6. Return the bottom portion of this application in the enclosed envelope.</li> </ol> <p>A. <input type="checkbox"/> Check here if you do not wish to renew, and sign below.</p> <p>_____ Signature</p>
--	--

THIS BOTTOM PORTION MUST BE RETURNED IN ORDER TO RENEW

Department of Health Professions  
Type of renewal:  
License, certificate or registration number:

 <p><b>COMMONWEALTH OF VIRGINIA</b> BOARD OF SOCIAL WORK</p> <p>Department of Health Professions 6606 West Broad Street, 4th Floor Richmond, Virginia 23230-1717 (804) 662-9914</p>	<p style="text-align: center;"><b>OUT OF STATE LICENSURE VERIFICATION</b></p> <p style="text-align: center;">TO BE COMPLETED BY VIRGINIA APPLICANT</p> <p>Name: _____ Address: _____</p> <p>License Number: _____ Social Security Number: _____</p> <p style="text-align: center;">TO BE COMPLETED BY STATE BOARD OF SOCIAL WORK</p> <p>Please furnish the information requested, sign and verify the document, and place the completed form in an envelope, seal the envelope and provide it to the applicant in person or by mail. The applicant will include the verification of licensure with his/her Virginia application. Thank you.</p> <p>Title of License: _____ License Number: _____</p> <p>Issue Date: _____ Expiration Date: _____</p> <p>By Examination _____ By Endorsement _____ By Waiver _____ By Reciprocity _____</p> <p>Type of Examination: AASSWB (ASI) _____ PES _____ Other _____</p> <p>Date of Examination: _____</p> <p>Cur-Off Score _____ Applicant's Score _____</p> <p>Level of Examination Taken: Basic _____ Intermediate _____ Advanced _____ Clinical _____</p> <p>Has the license ever been surrendered, suspended, or revoked? [ ] Yes [ ] No</p> <p>If yes, please give full particulars on a separate sheet.</p> <p>Certification by the authorized Licensure Official of the State Board of _____</p> <p>State of _____</p> <p style="text-align: right;">I certify that the information is correct.</p> <p style="text-align: right;">_____ Authorized Licensure Official</p> <p style="text-align: right;">_____ Title</p> <p style="text-align: right;">_____ Jurisdiction/State</p> <p style="text-align: right;">_____ Date</p> <p style="text-align: center;">SEAL</p>
--	--

VA.R. Doc. No. R97-614; Filed July 15, 1998, 11:18 a.m.

## BOARD OF VETERINARY MEDICINE

**Title of Regulation:** 18 VAC 150-20-10 et seq. **Regulations Governing the Practice of Veterinary Medicine (amending 18 VAC 150-20-10, 18 VAC 150-20-30, 18 VAC 150-20-70, 18 VAC 150-20-100, 18 VAC 150-20-110, 18 VAC 150-20-120, 18 VAC 150-20-130, 18 VAC 150-20-140, 18 VAC 150-20-180, 18 VAC 150-20-190, 18 VAC 150-20-200 and 18 VAC 150-20-210; adding 18 VAC 150-20-75, 18 VAC 150-20-115, 18 VAC 150-20-185, 18 VAC 150-20-195 and 18 VAC 150-20-205; repealing 18 VAC 150-20-40, 18 VAC 150-20-50, 18 VAC 150-20-60, 18 VAC 150-20-80, 18 VAC 150-20-90, 18 VAC 150-20-150, 18 VAC 150-20-160 and 18 VAC 150-20-170).**

**Statutory Authority:** § 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

**Public Hearing Date:** September 17, 1998 - 9 a.m.

Public comments may be submitted until October 2, 1998.

(See Calendar of Events section for additional information)

**Basis:** Chapters 24 (§ 54.1-2400 et seq.) and 38 (§ 54.1-3800 et seq.) of the Code of Virginia provide the basis for this regulation.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 38 establishes the Board of Veterinary Medicine and the mandate for licensure of veterinarians and veterinary technicians. It further requires that all animal facilities be licensed and that the board set standards for those facilities.

**Purpose:** The purpose of these regulations is to protect the public health, safety, and welfare by establishing requirements for those seeking licensure as veterinarians or veterinary technicians and by setting standards for equipment and practice in animal facilities. Amendments are proposed to implement the recommendations of the board in its report pursuant to Executive Order 15 (94), which were to simplify, clarify, and eliminate redundancy and unnecessary requirements.

**Substance:**

18 VAC 150-20-10. Amendments are proposed to eliminate definitions which are redundant or unnecessary. The term "surgery" is amended to clarify those procedures which may only be performed by a licensed veterinarian. A new definition of "restricted service facility" is proposed to correlate to amended regulations and to the terminology actually used by the board in issuing animal facility permits.

18 VAC 150-20-30. The amendment eliminates outdated requirements for a register book to be maintained. A current requirement for posting of licenses and permits has been inserted in this section, and the title is amended to reflect the subject of the remaining text.

18 VAC 150-20-40, 18 VAC 150-20-50, and 18 VAC 150-20-60. It is proposed that these sections be repealed as the requirements are now unnecessary.

18 VAC 150-20-70. Amendments are proposed to: (i) eliminate unnecessary language and clarify the renewal process; (ii) specify that approved continuing education must be clinical courses; (iii) update the listing of approved sponsors of continuing education to reflect current terminology and broaden those which may provide education through information networks or journals; (iv) clarify what is required of an inactive licensee who wishes to resume active practice; and (v) repeal requirements for facility permits, which are to be included in another section.

18 VAC 150-20-75. A new section is proposed to set forth current requirements on lapsed licenses and reinstatement.

18 VAC 150-20-80 and 18 VAC 150-20-90. These sections are repealed because the requirement for posting is now found in another section and the second section is unnecessary.

18 VAC 150-20-100. Amendments are proposed to specify that all applicable fees are to be paid to the Treasurer of Virginia and to eliminate fees which were in effect in years prior to 1997. Reinstatement fees for veterinarians and veterinarian technicians are added as well as those fees which necessitate an inspection (animal facility permit registration, change of location, and reinspection have been raised from \$100 to \$150).

18 VAC 150-20-110. Amendments are proposed to eliminate the requirements which are considered unnecessary, such as submission of a passport photograph with an application. The board also proposes to eliminate its jurisprudence examination and require a signed statement that the applicant has read and understands the statutes and regulations. Requirements for reexamination have also been eliminated since the licensure examination is no longer administered by the board.

18 VAC 150-20-111. Current requirements for licensure by examination of veterinary technicians are placed in a new section. The board also proposes changes similar to those made in the requirements for licensure in 18 VAC 150-20-110.

18 VAC 150-20-120. Requirements for licensure by endorsement for veterinarians and veterinary technicians have been consolidated into one section. The board proposes to reduce the current requirement for five years of clinical practice in another state to two of the past four years. In addition, a proposed amendment would allow foreign-trained veterinarians with specialty recognition by the AVMA to be exempt from the requirements of ECFVG.

18 VAC 150-20-130. Amendments are proposed to permit veterinary technicians to be able to have preceptorships and to clarify that services provided must be under "on-premises" supervision. (Current regulation requires "immediate and direct on-premises.") An amendment is proposed to conform regulations to a change in the statute which requires written

---

# Proposed Regulations

---

approval from the client if the preceptee is to perform surgery.

18 VAC 150-20-140. Amendments to the section on unprofessional conduct are proposed to clarify current rules or to eliminate unnecessary regulations. Regulations have been repealed because they are duplicative of other regulations or statutes.

18 VAC 150-20-150, 18 VAC 150-20-160 and 18 VAC 150-20-170. Requirements are repealed and incorporated in other sections.

18 VAC 150-20-180. Amendments to the requirements for a registered facility are proposed to reflect the designation of a full-service or a restricted service facility and to allow for exceptions in emergency situations or specialized practices. The required 60-day notice for opening or making a change in a permit is amended to a 45-day notice.

18 VAC 150-20-181. A new section is added for renewal of animal facility permits. The requirements are currently stated in another section of this chapter.

18 VAC 150-20-190. An amendment is proposed to cite the applicable federal laws for drug storage, dispensing, destruction and recordkeeping. Specific requirements for drug destruction are replaced with a requirement for destruction to occur in compliance with the U.S. Drug Enforcement Administration. Temperature requirements, now included in definitions, are specified in this section.

18 VAC 150-20-191. A new section is proposed to include all requirements for recordkeeping in animal facilities. Current requirements specify a daily written record; the proposed regulation deletes the word "written," allowing for records to be maintained in a data system.

18 VAC 150-20-200. Amendments are proposed to simplify and clarify current rules for full-service facilities. Rather than listing all requirements for equipment and services, the proposed amendment lists those requirements of a full-service facility which do not apply to the particular restricted practice.

18 VAC 150-20-201. A new section is proposed to conform regulations to changes in statute which allow for specialty practices in limited settings.

18 VAC 150-20-210. Amendments are clarifying only.

## Issues:

Issue 1: Simplification of requirements for facilities.

Current regulations register facilities as full service or restricted with four designations or categories: large animal, ambulatory practice; small animal, house call practice; small animal, outpatient practice, and special use permit. In addition, a facility may be registered as a combination practice. Regulations list the standards which must be met for each type of practice with a great deal of repetition and micromanagement of necessary conditions and equipment.

The board proposes to simplify the complexity and reduce the number of regulations, requiring the facility and the

veterinarian-in-charge to be responsible for practices and conditions consistent with the medical well-being of the patient. Specifically, the board recommended that all regulations on restricted facilities be streamlined by referencing those requirements of full service facilities which are not applicable and eliminating repetition of regulation.

Advantages or disadvantages to the licensees:

First, some of the specific requirements which micromanage animal facilities have been modified to permit a more common sense approach while preserving those requirements which are essential to protect the patient. Second, the elimination of repetition in regulation will simplify requirements for licensees.

There are no disadvantages to facilities since there are no new requirements imposed by these proposed regulations.

Advantages or disadvantages to the public: The public continues to be protected by minimal requirements for the appropriate types of practice. For example, a large animal ambulatory practice is permitted to perform surgery, but there is no requirement for a surgery suite which would be impractical and unnecessary. Some amendments are proposed specifically in response to comment and in the interest of consumer protection, such as a provision that a radiograph may be transferred to another facility or released to the client. Labeling of radiographs is also amended to require that they reflect anatomic specificity.

Issue 2: Practice of veterinary technicians and unlicensed assistants.

Comments offering concern and caution on the expanding role of veterinary assistants were discussed. The board proposes new language in the section on unprofessional conduct about permitting an unlicensed person to perform any act which might be considered the practice of veterinary medicine or veterinary technology, including any invasive procedures. While the scope of practice for veterinary technicians is set forth in §§ 54.1-3800 and 54.1-3806 of the Code of Virginia, there was also consideration of more specificity in definition or in a section in regulation. The board determined that it was not necessary to further define their practice but did decide to add a definition of "surgery" to clarify one of the acts which may be performed only by a veterinarian.

Advantages or disadvantages to the licensees: The board has received numerous inquiries from licensees about what an unlicensed assistant can do. It considered developing a listing of those acts which may be performed to clarify the situation. However, the Code is specific about the practice of veterinary medicine in § 54.1-3800. It also sets out in § 54.1-3806 those specific acts of veterinary medicine which may not be performed by a licensed technician. Therefore, the board determined that it was clear that an unlicensed person could perform acts not statutorily prohibited. To specify the violation in the section on unprofessional conduct should reinforce the statutory limitation on unlicensed practice and discourage practices which have resulted in disciplinary actions by the board.

Likewise, the definition of "surgery" should clarify for preceptors and other licensees the type of practice which constitutes surgery and is therefore restricted.

Advantages or disadvantages to the public: The public is better protected if veterinarians and veterinary technicians have a clear understanding of their appropriate scopes of practice. They are also well served by a more definitive statement in regulation on the unprofessional utilization of unlicensed assistive personnel in animal facilities. While the board recognizes their value in veterinary practices, it is concerned about a growing number of complaints about unlicensed persons performing acts restricted to veterinarians or veterinary technicians.

### Issue 3: Clarification of renewal and reinstatement.

Current regulations on renewal and reinstatement allow a licensee to renew for up to one year past his renewal date with a vague stipulation that the person has not "intentionally engaged in practice." The board discussed the need for some requirement to ensure that a person who has allowed his license to lapse has maintained competency to practice veterinary medicine. In consideration of alternatives to address the problem in these regulations, the board examined the rules of other boards on renewal and lapsed licenses and has recommended a 30-day grace period after which a licensee must apply for reinstatement. The board also considered what documentation was necessary to ensure current clinical competency. The board recommended a specific regulation to stipulate that practice with a lapsed license may subject the licensee to disciplinary action or to prosecution for unlicensed practice.

Advantages or disadvantages to the licensees: Persons who have allowed their license to lapse will still have the ability to reinstate but will have to indicate by some means that they remain clinically competent. That may be done by continuing to take educational courses or by continued practice in another state, so it should not be overly burdensome to applicants.

Advantages or disadvantages to the public: The public is better protected by specific regulations stating that practice on a lapsed license may subject the licensee to disciplinary action and that there must be some proof on competency prior to reinstatement of a lapsed license.

### Issue 4: Continuing education.

Since the continuing education requirements only became effective in 1996, the board has recommended few alternatives. Required hours are specified in the statute, but several amendments are proposed to clarify the organizations or sources offering continuing education which is approved by the board. An amendment to recognize journals or veterinary information networks will make continuing education more available and more accessible through new technology. The board also determined that courses should be clinically-based and related to the diagnosis and treatment of patients; therefore, courses in facility management would no longer be acceptable under proposed regulations. Such a requirement is consistent with

continuing education for other professions and for veterinary licensees in other states.

Advantages or disadvantages to the licensees: Since all licensees have a statutory requirement for continuing education, the proposed amendments will be less burdensome by stating some of the approved sponsors in more general terms. Continuing education through newer technology will now be available to licensees at a less burdensome cost and setting.

Advantages or disadvantages to the public: The public is better protected by specific regulations on continuing competency for all licensees.

### Issue 5: Changes in the fee structure.

Regulations on fees were amended to substantially reduce some fees for renewal years 1996 and 1997 with most fees returning to 1995 levels thereafter. The board considered several issues related to fees: (i) whether to establish a fee for temporary licenses; (ii) whether to reduce the renewal and initial licensure fee from \$125 to \$100; (iii) whether to eliminate the proration of the initial licensure fees; (iv) whether to eliminate all fees for examinations; and (v) whether to amend fees based on actual costs to the board (may actually necessitate the addition of a fee for a duplicate wall certificate and for a returned check and an increase in some fees such as inspections).

The board did not find it necessary to establish a fee for a temporary license; with the proposed elimination of the state examination, there should not be a gap in time from receipt of a completed application and the act of licensure. Temporary licensure should not be necessary.

The board was unable to propose a reduction in the licensure and renewal fee. Due to drastic reductions for '96 and '97, the surplus in funds was greatly reduced. Therefore, it is projected by the finance office of the department that a reduction in renewal fees would result in a significant deficit for the board. On the other hand, the board does recommend the elimination of proration of the licensure fee, which is confusing to applicants and time-consuming for staff. To alleviate the burden of a recent licensee having to renew his license within a short time, the staff will automatically post a license to the next renewal date if it falls within a few months of renewal.

Costs for inspections, which range from \$135 to \$225 are charged directly to the board; the current fee (\$100) does not cover those costs which must then be borne by veterinarians and veterinary technicians through their fees. The board determined that an increase in the fee for any process which requires an inspection of a facility was necessary. It considered raising the fee to \$200 but concluded that \$150 is more reasonable and would not significantly impact the cost of doing business for owners of animal facilities.

In addition, it is proposed that costs associated with processing a returned check (\$25) and with ordering, verifying a license to another state (\$10), and producing a new wall certificate (\$25) would be charged to the licensee requiring the service and not absorbed by all licensees.

---

# Proposed Regulations

---

Advantages or disadvantages to the licensees: For the great majority of licensees who renew biennially, there will be no change in fees. For those licensees who request verification to another state (approximately 200 per year), there will be an additional \$10 charge for that service. For those who send a check with insufficient fund to pay fees (approximately 10-15 per renewal), there will be a charge of \$25. For those who want to replace their wall certificate (approximately five per year) due to damage or a name change, there will be a charge of \$25. The late fee for renewal of a veterinary technician license is being reduced from \$25 to \$15 and will benefit approximately 5-10 licensees a year.

Owners of animal facilities that require an inspection to open a new hospital or a reinspection after a change of location or deficiencies cited during a routine inspection will pay an additional \$50. Even with the increase in inspection fee, the amount charged to the board for that activity will be greater on average (\$160-\$170). Since the board must generate all revenue from fees charged to its licensees and permit holders, that unreimbursed cost is subsidized by licensure fees for veterinarians and veterinary technicians.

Advantages or disadvantages to the public: There are no advantages or disadvantages to the public of these proposed regulations; increased costs for inspections should have a negligible effect on the cost of veterinary care.

## Estimated Impact:

### Projected number of persons affected and their cost of compliance:

The approximate number of licensees affected by these regulations are as follows:

Veterinarians	2,755
Veterinary Technicians	695
Animal Hospitals	718

Costs for inspections, which range from \$135 to \$225 are charged directly to the board; the current fee (\$100) does not cover those costs which must then be borne by veterinarians and veterinary technicians through their fees. The board determined that an increase in the fee for any process which requires an inspection of a facility was necessary. It considered raising the fee from \$100 to \$200 for certain types of inspections but concluded that \$150 is more reasonable and would not significantly impact the cost of doing business for owners of animal facilities.

In addition, it is proposed that costs associated with processing a returned check (\$25), with verifying a license to another state (\$10), and producing a new wall certificate (\$25) would be charged to the licensee requiring the service and not absorbed by all licensees.

The board also recommends the elimination of proration of the licensure fee, which is confusing to applicants and time consuming for staff. To alleviate the burden of a recent licensee having to renew his license within a short time, the staff will automatically post a license to the next renewal date if it falls within 90 days of the next renewal.

Advantages or disadvantages to the licensees: For the great majority of licensees who renew biennially, there will be no change in fees. For those licensees who request verification to another state (approximately 200 per year), there will be an additional \$10 charge for that service. For those who send a check with insufficient fund to pay fees (approximately 10-15 per renewal), there will be a charge of \$25. For those who want to replace their wall certificate (approximately five per year) due to damage or a name change, there will be a charge of \$25. The late fee for renewal of a veterinary technician license is being reduced from \$25 to \$15 and will benefit approximately 25 licensees a year.

Owners of animal facilities that require an inspection to open a new hospital or a reinspection after a change of location or deficiencies cited during a routine inspection will pay an additional \$50. Even with the increase in inspection fee, the amount charged to the board for that activity will be sufficient to cover all costs. Since the board must generate all revenue from fees charged to its licensees and permit holders, that unreimbursed cost is subsidized by licensure fees for veterinarians and veterinary technicians.

Advantages or disadvantages to the public: There are no disadvantages to the public of reducing these regulations; increased costs for inspections should have a negligible effect on the cost of veterinary care.

Cost to the agency for implementation: The board will incur approximately \$1,500 in cost for printing and mailing Notices of Comment and final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled board meeting. The board does not anticipate any additional costs for investigations or administrative proceedings against licensees for violations of these regulations.

Cost to local governments: There will be no impact of these regulations on local government.

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

Summary of the proposed regulation. Pursuant to § 54.1-3804.1 and the recommendations of the Executive Order 15 (94) report, DHP proposes to amend the current Regulations

Governing the Practice of Veterinary Medicine. The primary amendments proposed by DHP are as follows:

1. Many sections would be edited to clarify existing language and remove unnecessary language;
2. Requirements regarding continuing education (CE) would be changed to specify that approved CE credits must be for clinical courses, update the list of approved CE course sponsors, and clarify CE requirements in cases of license reactivation;
3. Requirements regarding reinstatement of license would be changed to reduce from one year to 30 days the period in which an individual can reinstate their license by simply paying a late fee in addition to the renewal fee;
4. Required fees would be changed to eliminate examination fees (these are paid directly to the examining authority), institute a reinstatement of expired license fee of \$175 for veterinarians and \$50 for veterinarian technicians, reduce the veterinary technician late renewal fee from \$25 to \$15, increase the veterinary technician reinstatement after disciplinary action fee from \$50 to \$75, increase the initial animal facility permit registration fee from \$100 to \$150, increase the animal facility reinspection fee from \$100 to \$150, increase the animal facility change of location fee from \$100 to \$150, reduce the duplicate license fee from \$20 to \$10, institute a duplicate wall certificate fee of \$25, institute a returned check fee of \$25, and institute a licensure verification for another district fee of \$10;
5. Requirements for licensure by examination would be amended to delete overly burdensome requirements, such as submitting a passport photo with the application, and reduce the stringency of other requirements, such as replacing the jurisprudence examination with a signed statement stipulating that the applicant has read and understands the relevant statutes and regulations;
6. Requirements for licensure by endorsement would be amended to reduce the requirement for clinical practice in another state from five years to two of the last four years, and allow foreign trained veterinarians with specialty recognition from the American Veterinary Medical Association (AVMA) to be exempt from the requirements of the Educational Commission of Foreign Veterinary Graduates;
7. Requirements for practical training in preceptorship would be amended to specify that a preceptee may only practice veterinary medicine under the on-premises supervision of a licensed veterinarian, and to incorporate a statutory change requiring preceptees to have written approval from the client before performing surgery;
8. Requirements for registration as an animal facility would be amended to reduce the minimum time for filing permit applications with the board from 60 days prior to opening or changing location to 45 days prior to opening

or changing location, and to delineate between full service and restricted service facilities;

9. Requirements for drug handling would be amended to cite applicable federal laws, to replace current detailed requirements regarding the destruction of Schedule II-V drugs with a requirement that destruction must comply with U.S. Drug Enforcement Administration guidelines, and to include requirements regarding the temperature at which drugs must be stored;
10. Recordkeeping requirements would be modernized to remove the stipulation that records must be "written," thereby allowing computer storage of records;
11. Requirements regarding facility standards would be amended to remove overly prescriptive language regarding temperature, ventilation, and lighting, and to require that the walls of surgery rooms must be constructed on nonporous material from floor to ceiling; and
12. New statutory changes would be added to the regulation that permit specialty practices in certain limited settings such as animal shows and horse races.

**Estimated economic impact.** The proposed regulation is anticipated to have two economic effects: (i) it will alter the regulatory compliance costs faced by veterinary practitioners; and (ii) it will enhance the information available to the consumers of veterinary services.

**Compliance costs:** Many of the proposed amendments will have some effect on the regulatory compliance costs faced by veterinary practitioners. These proposed amendments can be divided into those that are likely to increase regulatory compliance costs and those that are likely to reduce regulatory compliance costs.

Those proposed amendments likely to increase regulatory compliance costs are: (i) changes in the fee structure; and (ii) the requirement that preceptees must have written approval from the client before performing surgery.

The proposal to reduce from one year to 30 days the period in which an individual can reinstate their license by simply paying a late fee in addition to the renewal fee will substantially increase the cost of reinstatement. Currently, a veterinarian or veterinarian technician can reinstate his or her license within one year of expiration by simply paying a late fee of \$25 in addition to the license renewal fee. Under the new provision, licenses expired for more than 30 days would require payment of a \$175 fee for veterinarians and \$50 for veterinarian technicians in addition to the license renewal fee. According to information provided by DHP, assuming no change in renewal rates, these new provisions will increase compliance costs during the fiscal 1999-2000 biennium by approximately \$11,000 statewide. Perhaps more importantly, the proposed amendment would require that licenses that have been expired for more than 30 days can only be reinstated at the discretion of the board. Currently, only licenses that have been expired for more than one year are reinstated at the discretion of the board.

---

# Proposed Regulations

---

Other changes in the fee structure (e.g., creation of the \$10 license verification fee and the increase from \$100 to \$150 for initial animal facility permits fees, animal facility inspection fees, and animal facility change of location fees) will also cause an increase in compliance costs. Overall, these other proposed fee changes are anticipated to increase compliance costs during the fiscal 1999-2000 biennium by approximately \$13,700 statewide.

Finally, the proposed requirement that preceptees must have written approval from the client before performing surgery will significantly increase the costs to veterinarians of employing preceptees in this capacity. As will be more fully discussed later, however, these increased costs must be balanced against the benefits derived by consumers from being fully informed about the training and qualifications of those individuals actually performing surgical procedures on their pets and livestock.

Those proposed amendments likely to decrease regulatory compliance costs are: (i) changes to the requirements for licensure by examination; (ii) changes to the requirements for licensure by endorsement; and (iii) changes to the requirements for animal facility registration. Replacing the jurisprudence examination with a signed statement stipulating that the applicant has read and understands the relevant statutes and regulations, and eliminating the requirement that applicants for licensure submit a passport photo, will substantially reduce the direct (e.g., out-of-pocket costs) and indirect (e.g., time) costs associated with licensure by examination. Similarly, amending the criteria for licensure by endorsement to reduce the requirement for clinical practice in another state from five years to two of the last four years, and allowing foreign-trained veterinarians with specialty recognition from the American Veterinary Medical Association (AVMA) to be exempt from the requirements of the Educational Commission of Foreign Veterinary Graduates, will also tend to reduce the direct and indirect costs associated with licensure by endorsement. Finally, reducing the minimum time for filing applications for registration as an animal facility with the board from 60 days prior to opening or changing location to 45 days increases the flexibility afforded to the regulated community and, thereby, also reduces compliance costs.

On net, it appears that the likely effects of these two groups of proposed amendments, those that increase and those that decrease compliance costs, are roughly comparable and that the overall effect will be negligible.

Information available to consumers: As discussed briefly above, the proposed amendment requiring preceptees to have written approval from a client before performing surgery will ensure that consumers are being fully informed about the training and qualifications of those individuals actually performing surgical procedures on their pets and livestock. One of the more commonly accepted rationales for government regulation is to overcome informational asymmetries between buyers and sellers and insure that consumers have accurate information on which to base their choices. This proposed amendment accomplishes that end by making certain that consumer are aware of, and have

consented to, situations where a preceptee and not the licensed veterinarian will be performing surgery on their pets or livestock.

Businesses and entities particularly affected. The proposed regulation particularly affects the estimated 2,755 veterinarians, 695 veterinary technicians, and 718 animal hospitals currently licensed in Virginia, individuals and businesses seeking licensure in the future, and the consumers of veterinary services.

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

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

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

Summary of analysis. DPB anticipates that the proposed regulation governing the practice of veterinary medicine will have two primary economic effects: (i) a negligible impact on regulatory compliance costs; and (iii) an enhancement of the information available to consumers regarding the training and qualifications of veterinary personnel performing surgical procedures.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The board concurs with the analysis of the Department of Planning and Budget.

## Summary:

*These amendments implement the recommendations of the board in its report pursuant to Executive Order 15 (94), which called on agencies to simplify, clarify, and eliminate redundancy and unnecessary requirements. Specifically, the proposed amendments streamline the requirements for veterinary facilities, clarify the practice of surgery, allow continuing education through journals or information networks, and specify that continuing education must pertain to clinical areas of practice.*

## **18 VAC 150-20-10. Definitions.**

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

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

*"AVMA" means the American Veterinary Medical Association.*

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

"Board" means the Virginia Board of Veterinary Medicine.

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

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

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

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

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

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

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

~~"Restricted service facility" means a stationary or ambulatory facility which does not meet the requirements of a full-service facility.~~

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

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

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

~~"Surgery" means any invasive or manipulative procedure that requires anesthesia, sedation, or other restraint treatment through revision, destruction, incision or other structural alteration of animal tissue.~~

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

~~"Veterinarian in charge" means the licensed a veterinarian at each registered animal facility licensed in Virginia who is responsible for maintaining the a licensed facility within the~~

standards for facilities set by the regulations *this chapter*, for complying with federal and state drug laws, and for notifying the board of the facility's closure.

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

**18 VAC 150-20-30. Register of practitioners, veterinary technicians and animal facilities Posting of licenses; accuracy of address.**

~~A. Register of practitioners and veterinary technicians. The executive director as directed by the board shall record in a book to be kept for such purposes, the names of all practitioners of veterinary medicine and holders of certificates as veterinary technicians to whom licenses or certificates are issued as provided by law. The book shall be styled and recognized as the register of practitioners of veterinary medicine and holders of certificates as veterinary technicians in Virginia and it shall be admissible in evidence as a regularly kept record of the board. Such register shall be available for inspection during business hours in the board office. The board shall insert in the register any alteration in the name of any licensed or certified person as it receives proof satisfactory to the board. A separate record shall be maintained of all addresses.~~

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

~~A. All licenses and permits issued by the board shall be posted in a place conspicuous to the public at the facility where veterinary services are being provided.~~

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

**18 VAC 150-20-40. Filing date. (Repealed.)**

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

**18 VAC 150-20-50. Records. (Repealed.)**

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

---

# Proposed Regulations

---

## 18 VAC 150-20-60. Issuance of licenses. (Repealed.)

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

## 18 VAC 150-20-70. Licensure renewal requirements.

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

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

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

~~3. A veterinarian's or veterinary technician's license may be renewed up to one year after the expiration date, provided a late fee as prescribed in 18 VAC 150-20-100 is paid in addition to the required renewal fee and further provided that the veterinarian or veterinary technician has not intentionally engaged in practice in Virginia after the expiration date of the license.~~

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

B. In accordance with § 54.1-3805.2 of the Code of Virginia, On and after March 1, 1997, veterinarians shall be required to have completed a minimum of 15 hours, and veterinary technicians shall be required to have completed a minimum of six hours, of approved continuing education for each annual renewal of licensure. Continuing education credits or hours may not be transferred or credited to another year.

1. Approved continuing education credit shall only be given for courses or programs related to the treatment and care of patients or the operation of a veterinary hospital and shall be either clinical courses in veterinary medicine or veterinary technology or related nonclinical courses.

2. An approved continuing education course or program shall be sponsored by one of the following:

a. American Veterinary Medical Association (The AVMA) or its constituent and component/branch associations, specialty organizations, and board

certified specialists in good standing within their specialty board;

b. Colleges of veterinary medicine approved by the AVMA Council on Education;

~~c. National or regional conferences of veterinary medicine;~~

~~d. c. Academies or species specific interest groups of veterinary medicine;~~

~~e. National Association of Licensed Veterinary Technicians (NALVT) or its constituent and component/branch~~ d. State associations of veterinary technicians;

f. e. North American Veterinary Technicians Association;

~~g. f. Community colleges with an approved program in veterinary technology;~~

~~h. g. State or federal government agencies;~~

~~i. Veterinary Hospital Managers Association or its constituent and component/branch associations;~~

~~j. h. American Animal Hospital Association (AAHA) or its constituent and component/branch associations;~~

~~k. The Compendium on Continuing Education for the Practice of Veterinary Medicine or the Compendium on Continuing Education for the Practice of Veterinary Technology~~ i. Journals or veterinary information networks recognized by the board as providing education in veterinary medicine or veterinary technology; or

~~l. j. A sponsor approved by the Virginia Board of Veterinary Medicine provided the sponsor has submitted satisfactory documentation on forms provided by the board at least 60 days prior to the program offering.~~

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

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

5. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such an extension shall not relieve the licensee of the continuing education requirement.

6. Licensees are required to attest to compliance with continuing education requirements on their annual license renewal and are required to maintain original documents verifying the date and subject of the program or course, the number of continuing education hours or

credits, and certification from an approved sponsor. Original documents must be maintained at the location where the original license is posted for a period of two years following renewal.

7. *Continuing education hours required by disciplinary order shall not be used to satisfy renewal requirements.*

~~7. In order to reactivate his license, C. A licensee who has requested that his license be placed on inactive status, has allowed his license to lapse, or has had his license suspended or revoked shall submit evidence of completion of continuing education hours equal to the requirements for the number of years in which his license has not been active, but not to exceed two years is not authorized to perform acts which are considered the practice of veterinary medicine or veterinary technology and, therefore, shall not be required to have continuing education for annual renewal. To reactivate a license, the licensee is required to submit evidence of completion of continuing education hours as required by § 54.1-3805.2 of the Code of Virginia equal to the number of years in which the license has not been active for a maximum of two years.~~

~~8. Continuing education hours required by disciplinary order shall not be used to satisfy renewal requirements.~~

~~9. Failure to comply with the requirements of this subsection shall constitute unprofessional conduct.~~

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

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

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

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

**18 VAC 150-20-75. Expired license; reinstatement; practice with an expired or lapsed license not permitted.**

A. A license may be renewed up to 30 days after the expiration date, provided a late fee as prescribed in 18 VAC 150-20-100 is paid in addition to the required renewal fee.

B. Reinstatement of licenses expired for more than 30 days shall be at the discretion of the board. The board may require documentation of clinical competency and professional activities and payment of the reinstatement fee as prescribed in 18 VAC 150-20-100.

**18 VAC 150-20-80. Licenses and registrations to be displayed. (Repealed.)**

~~A. Veterinarians.~~

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

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

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

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

**18 VAC 150-20-90. Reinstatement. (Repealed.)**

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

**18 VAC 150-20-100. Fees.**

Fiscal Year:	1995	1996	1997	Thereafter
Veterinary state board examination fee	\$125	25	25	25
Veterinary initial license or renewal fee (active)	125	25	60	\$125
Initial veterinary license fee for October exam (active)	65	25	25	65
Veterinary license renewal fee (inactive)	50	40	20	\$50
Veterinary reinstatement of expired license				\$175

# Proposed Regulations

Veterinary license renewal late fee	25	25	25	\$25
Veterinarian reinstatement fee after disciplinary action	250	200	200	\$200
Veterinary technician national board examination fee	75	75	75	75
Veterinary technician state board examination fee	25	25	25	25
Veterinary technician initial license or renewal fee	25	5	40	\$25
Veterinary technician license renewal late fee	25	25	25	25 \$15
Veterinary technician reinstatement of expired license				\$50
Veterinary technician reinstatement fee after disciplinary action	50	50	50	50 \$75
Initial animal facility permit registration fee	400	400	400	400 \$150
Animal facility renewal fee	50	25	35	\$50
Animal facility late renewal late fee	25	25	25	\$25
Animal facility reinstatement fee	400	400	400	\$100
Animal facility reinspection fee	400	400	400	400 \$150
Animal facility--change of location fee	400	400	400	400 \$150
Animal facility--change of veterinarian-in-charge fee	20	20	20	\$20
Duplicate certificate fee license	20	20	20	20 \$10
Duplicate wall certificate				\$25
Returned check				\$25
Licensure verification to another jurisdiction				\$10

## PART II.

### LICENSURE FOR VETERINARIANS AND VETERINARY TECHNICIANS.

#### 18 VAC 150-20-110. Requirements for licensure by examination as a veterinarian.

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

1. Have received a degree in veterinary medicine from a college or school of veterinary medicine approved by the board; accredited by the AVMA or have fulfilled the requirements of the Educational Commission of Foreign Veterinary Graduates (ECFVG) of the American Veterinary Medical Association AVMA;

2. File the following documents with the board at least 45 days prior to the announced date of examination:

a. A complete and notarized application on a form obtained from the board;

b. An official copy, indicating veterinary degree, of the applicant's college or school transcript;

c. One passport photograph of reasonable likeness of the applicant taken within six months of the date of the application;

d. Certified check, cashier's check, or money order, payable to the Treasurer of Virginia, as prescribed in 18 VAC 150-20-100 for the examination fee and the applicable licensing fee; and

e. c. Certification of good standing a full and unrestricted license to practice veterinary medicine by each board from which the applicant holds a license to practice veterinary medicine.

3. Pass the following examinations National Board Examination and the Clinical Competency Test approved by the American Association of Veterinary State Boards with a score on each determined acceptable by to the board.

a. The national board examination;

b. The national clinical competency test; and

c. A written examination administered by the board which shall embrace such subjects as the board shall from time to time prescribe.

4. Sign a statement attesting that the applicant has read, understands, and will abide by the statutes and regulations governing veterinary practice in Virginia.

5. Have committed no acts which would constitute a violation of § 54.1-3807 of the Code of Virginia.

#### B. Reexamination.

1. The national board examination, national clinical competency test scores, and the transcripts required pursuant to this chapter shall be acceptable as part of the application for reexamination for a period of two

~~years following the date of the original examination. The board administered written examination scores shall be acceptable for a period of one year.~~

~~2. All requests for reexamination shall be filed with the board at least 45 days prior to the date of examination which the applicant wishes to take. Such requests shall be accompanied by an updated application, one passport photograph of the applicant taken within six months of the date of the application, and a fee in the amount prescribed in 18 VAC 150-20-100.~~

*B. If the application for licensure has not been successfully completed within two years from the date of initial submission, a new application and fee shall be required.*

### **18 VAC 150-20-115. Requirements for licensure by examination as veterinary technician.**

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

- 1. Have received a degree in veterinary technology from a college or school accredited by the AVMA.*
- 2. Have filed with the board the following documents:*
  - a. A complete and notarized application on a form obtained from the board;*
  - b. An official copy, indicating a veterinary technology degree, of the applicant's college or school transcript; and*
  - c. Certification that the applicant is in good standing by each board from which the applicant holds a license, certification or registration to practice veterinary technology.*
- 3. Pass a board-approved, national board examination for veterinary technology with a score acceptable to the board.*
- 4. Sign a statement attesting that the applicant has read, understands, and will abide by the statutes and regulations governing veterinary practice in Virginia.*

*B. The application for licensure shall be valid for a period of two years after the date of initial submission.*

### **18 VAC 150-20-120. Requirements for licensure by endorsement as a veterinarian or veterinary technician.**

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

~~1. The applicant passes the written examination administered by the board;~~

*1. All licenses, certificates or registrations are in good standing;*

*2. The applicant has been regularly engaged in clinical practice for at least two of the past four years; and*

~~2. 3. The applicant has met all of the other applicable requirements of 18 VAC 150-20-110, or 18 VAC 150-20-115, except foreign-trained veterinarians who have attained specialty recognition by a board recognized by the AVMA are exempt from the requirements of ECFVG.~~

*B. Provided however that the applicant has met the requirement of subsection A, the board may, in its discretion, waive the requirement that the applicant pass the national board exam or the clinical competency test, or both, if the applicant has been continuously engaged in clinical practice during the immediately preceding five years.*

### **18 VAC 150-20-130. Requirements for practical training in a preceptorship.**

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

*1. No student shall be qualified to receive practical training by a licensed veterinarian or veterinary technician nor shall a licensed veterinarian or veterinary technician give practical training to any student unless such student shall be duly enrolled and in good standing in a veterinary college or school or veterinary technology program, and shall be engaged in a preceptorship as defined by the board and authorized by his college or school.*

~~2. No student receiving practical training from a licensed veterinarian shall at any time discharge or perform any function or act pertaining to the practice of veterinary medicine, except under the immediate and direct on-premises supervision of a veterinarian licensed by the board. A veterinary preceptee may perform duties that constitute the practice of veterinary medicine under the on-premises supervision of a licensed veterinarian.~~

*3. A veterinary technician preceptee may perform duties that constitute the practice of veterinary technology under the on-premises supervision of a licensed veterinarian or licensed veterinary technician.*

*B. Prior to allowing a preceptee in veterinary medicine to perform surgery on a patient, a licensed veterinarian shall receive written approval from the client.*

### **PART III. UNPROFESSIONAL CONDUCT.**

### **18 VAC 150-20-140. Unprofessional conduct.**

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

1. Representing conflicting interests except by express consent of all concerned given after a full disclosure of the facts. Acceptance of a fee from both the buyer and the seller is prima facie evidence of a conflict of interest.

---

# Proposed Regulations

---

2. Practicing veterinary medicine where an unlicensed person has the authority to control the professional judgment of the licensed veterinarian.

3. Issuing a certificate of health unless he shall know of his own knowledge by actual inspection and appropriate tests of the animals that the animals meet the requirements for the issuance of such certificate on the day issued.

4. ~~Violating the confidential relationship between himself and his clients~~ *Revealing confidences gained in the course of providing veterinary services to a client.*

5. Advertising in a manner which is false, deceptive, or misleading or which makes subjective claims of superiority.

6. ~~Failing to maintain an animal facility as set forth by this chapter.~~

7. ~~Practicing veterinary medicine in an animal facility that is not currently registered. This shall not apply to emergency situations.~~

~~8.~~ 6. Violating any state law, federal law, or board regulation pertaining to the dispensing or recordkeeping requirement, or both, for controlled substances or pertaining to the practice of veterinary medicine.

9. ~~Dispensing or prescribing controlled substances not in the course of professional practice or when a bona fide veterinarian/client/patient relationship has not been established.~~

10. ~~Permitting a person other than a licensed veterinarian, certified veterinary technician, or person otherwise duly certified in x-ray technology to operate diagnostic radiographic equipment.~~

11. ~~Permitting a person other than a licensed veterinarian or a certified veterinary technician to induce anesthesia.~~

12. 7. Practicing veterinary medicine in such a manner as to endanger the health and welfare of his patients or the public; or being unable to practice veterinary medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition.

13. 8. Performing surgery on small animals in an unlicensed facility or a facility not equipped with a surgery suite and adequate recovery area or performing surgery on large animals not in accordance with the facility permit or with accepted standards of practice.

14. ~~Failing to pay any required fees.~~

15. ~~Failing to pay board-imposed fines.~~

16. 9. Refusing the board or its agent the right to inspect a facility at reasonable hours.

17. ~~Prescribing or dispensing, or both, controlled substances, including anabolic steroids for human use.~~

18. ~~Allowing a preceptee to diagnose, prescribe, or perform surgery unless under the direct, on-premises supervision of a licensed veterinarian.~~

19. ~~Practicing veterinary medicine in the Commonwealth while license is on inactive status.~~

10. *Allowing unlicensed persons to perform acts restricted to the practice of veterinary medicine or veterinary technology including any invasive procedure on a patient.*

## PART III.

### LICENSED VETERINARY TECHNICIANS.

#### **18 VAC 150-20-150. Requirements for licensure as veterinary technician. (Repealed.)**

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

1. Have received a degree in veterinary technology from a college or school approved by the American Veterinary Medical Association;

2. File the following documents with the board at least 45 days prior to the announced date of examination:

a. A complete and notarized application on a form obtained from the board;

b. An official copy, indicating a veterinary technology degree, of the applicant's college or school transcript;

c. One passport photograph of reasonable likeness of the applicant taken within six months of the date of the application;

d. Certified check, cashier's check, or money order, payable to the Treasurer of Virginia, as prescribed in 18 VAC 150-20-100, for the examination fee and the applicable licensure fee; and

e. Certification that the applicant is in good standing by each board from which the applicant holds a license/certificate/registration to practice animal technology.

3. Pass the following examinations with a score on each determined acceptable by the board:

a. The national board examination for veterinary technicians; and

b. A written examination administered by the board. The board shall administer this examination at least once annually. The board shall determine the subject matters included on this examination.

B. ~~Reexamination.~~

1. ~~The national board scores and transcript required pursuant to this chapter shall be acceptable as part of the application for reexamination for a period of two years following the date of the original examination. The~~

~~board administered written examination shall be acceptable for a period of one year.~~

~~2. Any veterinary technician applicant failing to pass either part of the examination shall be reexamined at his request, at the next scheduled examination administered by the board on the part of the examination failed. If the applicant fails to pass this reexamination, he will be required to pass a subsequent examination in its entirety.~~

~~3. All requests for reexamination shall be filed with the board at least 45 days prior to the date of examination which the applicant wishes to take. Such requests shall be accompanied by an updated application, one passport photograph of the applicant taken within six months of the date of this application, and a fee in the amount prescribed in 18 VAC 150-20-100.~~

### **18 VAC 150-20-160. Requirements for licensure by endorsement. (Repealed.)**

~~A. The board, at its discretion, may also grant a license by endorsement to a technician licensed, certified or registered in another state, the District of Columbia or possessions or territories of the United States based on a written examination administered by the board to an applicant who has not taken the national board examination, provided that:~~

~~1. The applicant has met all of the other requirements of 18 VAC 150-20-150; and~~

~~2. The applicant has been issued a certificate as a veterinary technician in another state whose requirements are at least equal to those of Virginia.~~

### **18 VAC 150-20-170. Unprofessional conduct. (Repealed.)**

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

~~1. Compromising the confidentiality of the doctor/client relationship.~~

~~2. Practicing veterinary technology in an animal facility that is not currently registered. This shall not apply to emergency situations.~~

~~3. Violating any state law, federal law, or board regulation pertaining to the use of controlled substances or any provisions pertaining to the practice of veterinary medicine.~~

~~4. Diagnosing, performing surgery, or prescribing drugs.~~

### **18 VAC 150-20-180. Requirements to be registered as an animal facility.**

A. Every animal facility ~~must~~ *shall* possess an appropriate permit as a full-service or restricted service facility and shall have a veterinarian-in-charge registered with the board in order to operate.

1. Veterinary medicine may only be practiced out of a registered facility *except in emergency situations or in*

*limited specialized practices as provided in 18 VAC 150-20-205.*

2. Applications for *permits* must be made to the board ~~60~~ 45 days in advance of opening or changing the location or designating a veterinarian-in-charge of the facility or requesting a change in category to a full-service facility.

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

1. It is inspected by the board and is found to meet the standards set forth by 18 VAC 150-20-190 and 18 VAC 150-20-200 where applicable. If, during a new or routine facility inspection, violations or deficiencies are found necessitating a reinspection, the prescribed reinspection fee will be levied. Failure to pay the fee shall be deemed unprofessional conduct and, until paid, the facility shall be deemed to be unregistered.

2. A veterinarian currently licensed by and in good standing with the board is registered with the board in writing as veterinarian-in-charge and has paid the facility registration fee.

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

(1) Maintaining the facility within the standards set forth by 18 VAC 150-20-190 and 18 VAC 150-20-200;

(2) Performing the biennial controlled substance inventory and ensuring compliance at the facility with any federal or state law relating to controlled substances as defined in § 54.1-3404 of the Code of Virginia;

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

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

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

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

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

---

# Proposed Regulations

---

## **18 VAC 150-20-185. Renewal of animal facility permits.**

A. Every animal facility shall be required to renew the registration permit by March 1 of each year and pay to the board a registration fee as prescribed in 18 VAC 150-20-100.

B. Failure to renew the facility permit by March 1 of each year shall cause the permit to expire and become invalid. The permit may be reinstated without reinspection within 30 days of expiration provided the board receives a properly executed renewal application, renewal fee, and a late fee as prescribed in 18 VAC 150-20-100.

C. Reinstatement of an expired permit after 30 days shall be at the discretion of the board and contingent upon a reinspection and payment of the late fee, the reinspection fee, the renewal fee and the facility reinstatement fee.

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

A. All drugs shall be maintained, administered, dispensed, prescribed and destroyed in compliance with state and federal laws, which include applicable parts of the federal Food, Drug, and Cosmetic Control Act (21 USC § 301 et seq.), the Prescription Drug Marketing Act (21 USC § 301 et seq.), and the Controlled Substances Act (21 USC § 801 et seq.), as well as applicable portions of Title 21 of the Code of Federal Regulations.

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

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

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

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

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

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

E. Schedule II, III, IV and V drugs may be destroyed by ~~an investigator of the Virginia Department of Health Professions, the U.S. Drug Enforcement Administration or, if a veterinarian in charge wishes to destroy unwanted Schedule II through V drugs kept for dispensing in lieu of any disposal method provided by regulations promulgated by the U.S. Drug Enforcement Administration, he shall use the following procedures: following the instructions contained in the drug destruction packet available from the board office which provides the latest U.S. Drug Enforcement Administration approved drug destruction guidelines.~~

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

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

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

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

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

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

~~6. Each destruction form shall show the following information:~~

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

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

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

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

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

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

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

F. The drug storage area shall have appropriate provision for temperature control for all drugs and biologics, *including a refrigerator with the interior thermometer maintained between 36°F and 46°F. Drugs stored at room temperature shall be maintained between 59°F and 86°F.* The stock of drugs shall be reviewed frequently and removed from the working stock of drugs at the expiration date.

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

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

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

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

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

## **18 VAC 150-20-195. Recordkeeping.**

A. A daily record of each patient treated shall be maintained by the veterinarian and shall include pertinent medical data such as drugs administered, dispensed or prescribed, and all relevant medical and surgical procedures performed.

B. Individual records shall be maintained on each patient, except that records for economic animals may be maintained on a per client basis. Client records shall be kept for a period of three years following the last office visit or discharge of such animal from a veterinary facility.

C. An animal identification system must be used by the facility.

## **18 VAC 150-20-200. Standards for facilities.**

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

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

~~a. Temperature.—The facility shall be equipped so as to maintain temperatures between 59°F and 86°F consistent with the medical well-being of the patients, ventilation, and lighting must be consistent with the medical well-being of the patients.~~

~~b. Ventilation.—The facility shall be equipped with the capacity to ventilate consistent with the medical well-being of the animals.~~

~~c. Lighting.—The facility shall be equipped with lighting commensurate with the procedures performed.~~

~~d. b.~~ Water and waste. There shall be on-premises:

(1) Hot and cold running water of drinking quality, as defined by the Virginia Department of Health;

~~(2) Sanitary toilet and lavatory for the personnel and for the clients;~~

~~(3) (2)~~ An acceptable method of disposal of deceased animals; and

~~(4) (3)~~ Refrigeration exclusively for carcasses of companion animals that require storage for 24 hours or more.

~~c. Sanitary toilet and lavatory shall be available for personnel and clients;~~

2. Areas within building. The areas within the facility shall include the following:

a. A reception area separate from other designated rooms;

b. Examination ~~room(s)~~ room or rooms;

---

# Proposed Regulations

---

c. *Surgery room.* ~~Surgery shall be performed in~~ *There shall be* a room which is reserved only for surgery and used for no other purpose. ~~Surgery shall not serve as a corridor. The walls of the surgery room must be constructed of nonporous material and extend from the floor to the ceiling.~~ In order that surgery can be performed in a manner compatible with current veterinary medical practice with regard to anesthesia, asepsis, life support, and monitoring procedures, the surgery room shall:

(1) Be of a size adequate to accommodate a surgical table, anesthesia support equipment, surgical supplies, the veterinarian, an assistant, and the patient; and

(2) Be kept so that storage in the surgery room shall be limited to items and equipment normally related to surgery and surgical procedures.

d. *Laboratory.* The animal facility shall have, as a minimum, proof of use of either in-house laboratory service or ~~consultant~~ *outside* laboratory services for performing the following lab tests, consistent with appropriate professional care for the species treated:

(1) Urinalysis, including microscopic examination of sediment;

(2) Complete blood count, including differential;

(3) Flotation test for ova of internal parasites;

(4) Skin scrapings for diagnosing external parasites;

(5) Examinations for circulating blood microfilaria;

(6) Blood chemistries;

(7) Cultures and sensitivities;

(8) Biopsy;

(9) Complete necropses, including histopathology; and

(10) Serology.

e. *Animal housing areas.* These shall be provided with:

(1) Separate compartments constructed in such a way as to prevent residential contamination;

(2) Accommodations allowing for the effective separation of contagious and noncontagious patients; and

(3) Exercise runs which provide and allow effective separation of animals or walking the animals at medically appropriate intervals.

3. *Radiology.* An animal facility shall:

a. Have proof of use of either in-house or ~~consultant~~ *outside* services for obtaining diagnostic-quality radiographs.

b. If radiology is in-house:

(1) Each radiograph shall be permanently imprinted with the identity of the facility or veterinarian, patient and the date of exposure. Each radiograph shall also ~~distinguish left from right, when appropriate be~~ clearly labeled by permanent imprinting to reflect *anatomic specificity*.

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

c. Maintain radiographs ~~with and~~ as a part of the patient's record. If a radiograph is transferred to another facility *or released to the client*, a record of this transfer must be maintained on or with the patient's records.

4. *Equipment; minimum requirements.*

a. *Examination room.* ~~(1) containing a table with nonporous surface;~~

~~(2) Waste receptacle; and~~

~~(3) Sanitizing solution.~~

b. *Surgery suite.*

(1) Surgical table with nonporous surface;

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

(3) All new small animal facilities that perform surgeries and all existing facilities that change their veterinarian-in-charge ~~will~~ *shall* be required to have a ~~aire~~ gas anesthesia machine.

(4) Automatic emergency lighting;

(5) Surgical lighting;

(6) Instrument table, stand, or tray; and

(7) Waste receptacle.

c. *Radiology (if in-house).*

(1) Lead aprons *and gloves*;

~~(2) Lead gloves;~~

~~(3) (2) Radiation exposure badges; and~~

~~(4) (3) X-ray machine.~~

~~d. Drug storage area.~~

~~(1) Refrigerator, with interior thermometer maintained between 36°F and 46°F;~~

~~(2) Locked storage for Schedule II drugs;~~

~~(3) Drugs stored at room temperature shall be maintained between 59°F and 86°F.~~

e. *d.* General equipment.

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

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

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

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

~~c. An animal identification system must be used by the facility.~~

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

B. Restricted facilities. When the scope of practice is less than full service, a specifically restricted facility permit shall be required. Upon *submission of a completed application*, satisfactory inspection and payment of the permit fee, a restricted facility permit ~~will~~ *may* be issued. Such restricted facilities shall have posted in a conspicuous manner the specific limitations on the scope of practice on a form ~~acceptable to provided by~~ the board.

1. Large animal facility, ambulatory practice. A large animal ambulatory facility is a mobile practice in which health care of large animals is performed at the location of the animal. Surgery on large animals may be performed as part of a large animal ambulatory practice *provided the facility has surgical supplies, instruments and equipment commensurate with the kind of surgical services provided.* All large animal ambulatory facilities shall meet the requirements of a full-service facility in subsection A of this section with the exception of those set forth below:

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

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

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

~~(1) Proof of use of either in-house or consultant services for obtaining diagnostic quality radiographs.~~

~~(2) If radiology is in-house.~~

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

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

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

~~c. Equipment; minimum requirements.~~

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

~~(2) Radiology (if in-house):~~

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

---

# Proposed Regulations

---

~~(3) Drug storage area.~~

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

~~(4) General equipment.~~

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

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

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

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

- ~~a. All requirements for buildings and grounds.~~
- ~~b. All requirements for an examination room and surgery suite.~~
- ~~c. Laboratory examinations for circulating blood microfilaria.~~
- ~~d. Equipment for assisted ventilation.~~
- ~~e. Scales.~~

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

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

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

~~(5) Examinations for circulating blood microfilaria;~~

- ~~(6) Blood chemistries;~~
- ~~(7) Cultures and sensitivities;~~
- ~~(8) Biopsy;~~
- ~~(9) Complete necropses, including histopathology; and~~
- ~~(10) Serology.~~

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

- ~~(1) Have proof of services for obtaining diagnostic-quality radiographs.~~
- ~~(2) Maintain radiographs with and as a part of the patient's record. If a radiograph is transferred to another facility, documentation of the transfer must be maintained on or with the patient's record.~~

~~c. Equipment, minimum requirements.~~

~~(1) Drug storage area.~~

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

~~(2) General equipment.~~

- ~~(a) Stethoscope;~~
- ~~(b) Thermometer;~~
- ~~(c) Ophthalmoscope;~~
- ~~(d) Otoscope;~~
- ~~(e) Resuscitation bag and endotracheal tubes;~~
- ~~(f) Storage for records.~~

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

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

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

- ~~a. All requirements for buildings and grounds.~~
- ~~b. All requirements for an examination room or surgery suite.~~
- ~~c. Steam pressure sterilizer.~~
- ~~d. Internal or external sterilization monitor.~~

3. Small animal facility, outpatient practice. A small animal outpatient facility is a stationary facility where health care of small animals is performed. This practice may include surgery, provided the facility is equipped with a surgery suite as required by subdivision A 2 b of this section and an adequate recovery area as required by subdivision A 2 c of this section. Overnight hospitalization shall not be required. *All other requirements of a full-service facility shall be met.*

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

~~(1) Temperature. The facility shall be equipped so as to maintain temperatures between 59°F and 86°F consistent with the medical well-being of the patients.~~

~~(2) Ventilation. The facility shall be equipped with the capacity to ventilate consistent with the medical well-being of the animals.~~

~~(3) Lighting. The facility shall be equipped with lighting commensurate with the procedures performed.~~

~~(4) Water and waste. There shall be on-premises:~~

~~(a) Hot and cold running water of drinking quality, as defined by the Virginia Department of Health;~~

~~(b) Sanitary toilet and lavatory for the personnel and for the clients;~~

~~(c) An acceptable method of disposal of deceased animals; and~~

~~(d) Refrigeration exclusively for carcasses of companion animals that require storage for 24 hours or more.~~

~~b. Areas within building. The areas within the facility shall include the following:~~

~~(1) A reception area separate from other designated rooms;~~

~~(2) Examination room(s).~~

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

~~(1) Urinalysis, including microscopic examination of sediment;~~

~~(2) Complete blood count, including differential;~~

~~(3) Flotation test for ova of internal parasites;~~

~~(4) Skin scrapings for diagnosing external parasites;~~

~~(5) Examinations for circulating blood microfilaria;~~

~~(6) Blood chemistries;~~

~~(7) Cultures and sensitivities;~~

~~(8) Biopsy;~~

~~(9) Complete necropses, including histopathology; and~~

~~(10) Serology.~~

~~d. Radiology. A small animal outpatient facility shall have the following:~~

~~(1) Proof of use of either in-house or consultant services for obtaining diagnostic-quality radiographs.~~

~~(2) If radiology is in-house:~~

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

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

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

~~e. Equipment, minimum requirements.~~

~~(1) Examination room.~~

~~(a) Table with nonporous surface;~~

~~(b) Waste receptacle; and~~

~~(c) Sanitizing solution.~~

~~(2) Radiology (if in-house):~~

~~(a) Lead aprons;~~

~~(b) Lead gloves;~~

~~(c) Radiation exposure badges;~~

~~(d) X-ray machine.~~

~~(3) Drug storage area.~~

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

~~(b) Locked storage for Schedule II drugs; and~~

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

~~(4) General equipment.~~

---

# Proposed Regulations

---

- (a) Steam pressure sterilizer;
- (b) Internal and external sterilization monitors;
- (c) Stethoscope;
- (d) Thermometer;
- (e) Ophthalmoscope;
- (f) Otoscope;
- (g) Resuscitation bag and endotracheal tubes;
- (h) Scales;
- (i) Storage for records.

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

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

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

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

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

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

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

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

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

## **18 VAC 150-20-205. Specialty practice in a limited setting.**

*No regulation of the board shall prohibit any licensed veterinarian from conducting drug testing at animal shows and events or from examining any animal and expressing a*

*professional judgment as to its health at (i) genetic screening clinics where animals are examined for cardiac, ophthalmic and auditory diseases; (ii) agricultural fairs; (iii) 4-H or other youth organization competitions; (iv) livestock auctions; (v) horse races; (vi) fox hunts; (vii) pet adoption events; or (viii) animal shows including but not limited to dog, cat, and horse shows.*

## **18 VAC 150-20-210. Revocation or suspension of registration certificate.**

A. The board may revoke or suspend the registration permit of an animal facility *if it finds the facility to be in violation of any provisions of this chapter* or may declare it as not meeting the standards set forth in ~~18 VAC 150-20-190 and 18 VAC 150-20-200~~ *this chapter* if:

~~1. The board finds the facility to be in violation of 18 VAC 150-20-70;~~

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

~~3. 1. The board or its agents are denied access to the facility to conduct an inspection;~~

~~4. 2. The licensee does not pay any and all prescribed fees;~~

~~5. 3. The facility is performing procedures beyond the scope of a restricted facility permit; or~~

~~6. 4. The facility has no veterinarian-in-charge registered at the facility.~~

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

**NOTICE:** The forms used in administering 18 VAC 150-20-10 et seq., Regulations Governing the Practice of Veterinary Medicine, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

### FORMS

Renewal Notice and Application (*rev. 7/97*).

*Instructions to Applicants for Licensure to Practice Veterinary Medicine (rev. 7/97).*

Application for a License to Practice Veterinary Medicine (*rev. 7/97*).

~~Application for National Board Examination in Veterinary Technology.~~

*Instructions to Applicants for Licensure to Practice Veterinary Technology (rev. 7/97).*

Application for a License to Practice Veterinary Technology (*rev. 7/97*).

Application for an Animal Facility Permit (*rev. 7/97*).

~~Application for National Board Examination and Clinical Competency Test in Veterinary Medicine.~~

Application for Reinstatement of License to Practice  
Veterinary Medicine (*rev. 7/97*).

Application for Reinstatement of *License to Practice*  
Veterinary Technician License *Technology* (*rev. 7/97*).

~~Drug Destruction Form No. 41, Registrants Inventory of  
Drugs Surrendered, No. 1117-0007 (June 1986).~~

~~Continuing Education Requirement Letter.~~

~~Letter Acknowledging Receipt of Request for Approval of  
Continuing Education Courses.~~

~~Application for Approval of a Continuing Education Course.~~



**COMMONWEALTH OF VIRGINIA**  
**Board of Veterinary Medicine**  
 Department of Health Professions  
 6606 West Broad Street, 4th Floor  
 Richmond, Virginia 23230-1717  
 (804) 662-9915

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

**SECURELY ATTACH A PASSPORT-TYPE PHOTOGRAPH IN THIS SPACE**

**PHOTOGRAPH CANNOT BE LARGER THAN THE SPACE PROVIDED**

**IMPORTANT: THIS SECTION MUST BE COMPLETED.**

**CLINICAL COMPETENCY TEST**

Jurisdiction \_\_\_\_\_ NATIONAL BOARD RE-EXAMINATION \_\_\_\_\_  
 Date Taken \_\_\_\_\_ Date Taken \_\_\_\_\_

Please request that the Interstate Reporting Service send your scores directly to the Virginia Board Office.  
\*Must meet requirements of §2.2 of the regulations.

Request Waiver of NBE   
 Request Waiver of CCT

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

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

1. NAME IN FULL (Print or Type)

Last \_\_\_\_\_ First \_\_\_\_\_ Middle/Maiden \_\_\_\_\_

Address (Present) - Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Address (Permanent) - Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Date of Birth \_\_\_\_\_ Social Security Number\* \_\_\_\_\_ Area Code and Telephone Number \_\_\_\_\_

Month: \_\_\_\_ Day: \_\_\_\_ Year: \_\_\_\_

Graduation Date \_\_\_\_\_ Professional Degree \_\_\_\_\_

Month: \_\_\_\_ Day: \_\_\_\_ Year: \_\_\_\_

School/City, State \_\_\_\_\_

\*In accordance with §54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. [In order to obtain a Virginia drivers license control number, it is necessary to appear in person at an office of the Department of Motor Vehicle in Virginia. A fee and disclosure of your Social Security Number will be required.]

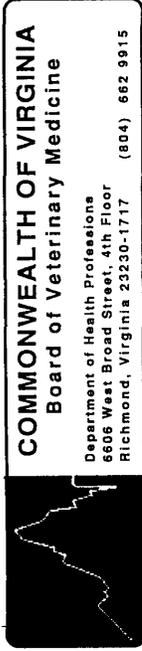
Your Social Security Number or drivers license control number will be used by the Department of Health Professions for identification and will not be disclosed to any other agency. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. If your application is pending, your application will be suspended and fees will not be refunded. No license, certificate or registration will be issued to any individual who has failed to disclose one of these numbers.

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

CLASS \_\_\_\_\_ TESTING NUMBER \_\_\_\_\_ FEE \_\_\_\_\_

NATIONAL BOARDS \_\_\_\_\_ C.C.T. \_\_\_\_\_ STATE BOARD \_\_\_\_\_

REVISED 7/24/97



**COMMONWEALTH OF VIRGINIA**  
**Board of Veterinary Medicine**  
 Department of Health Professions  
 6606 West Broad Street, 4th Floor  
 Richmond, Virginia 23230-1717  
 (804) 662 9915

**Instructions to Applicants**

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

TO: \_\_\_\_\_ State and Name of Board \_\_\_\_\_

FROM: VIRGINIA BOARD OF VETERINARY MEDICINE

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

1. License number \_\_\_\_\_ Date issued: \_\_\_\_\_

2. Basis for Licensure: \_\_\_\_\_  
 National Board Examination \_\_\_\_\_  
 State Board Examination \_\_\_\_\_  
 Clinical Competency Test \_\_\_\_\_  
 Other \_\_\_\_\_

3. Has this license or certificate ever been suspended, revoked, or disciplined in any way? Yes \_\_\_\_\_ No \_\_\_\_\_, if yes, please provide details.

4. Do you have any derogatory information concerning this applicant?  
 Yes \_\_\_\_\_ No \_\_\_\_\_

5. Is this applicant currently licensed by your board?  
 Yes \_\_\_\_\_ No \_\_\_\_\_

6. Would your board recommend this applicant for licensure in Virginia?  
 Yes \_\_\_\_\_ No \_\_\_\_\_

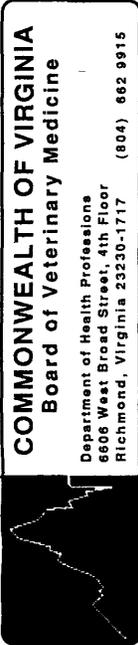
Signature of Authorized Person \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_







**Instructions to Applicants**

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

TO: \_\_\_\_\_  
 State and Name of Board  
 FROM: VIRGINIA BOARD OF VETERINARY MEDICINE  
 \_\_\_\_\_ has applied for licensure or the reinstatement of their Veterinary Technician license in Virginia. We would appreciate it if you would complete the following information regarding this applicant:

1. License or certification number \_\_\_\_\_ Date \_\_\_\_\_
2. Basis for Licensure \_\_\_\_\_ National Board Examination  
 Or Certification: \_\_\_\_\_ State Board Examination  
 \_\_\_\_\_ Other \_\_\_\_\_
3. Has this license or certificate ever been suspended, revoked, or disciplined in any way? Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, please provide details.
4. Do you have any derogatory information concerning this applicant?  
 Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, please provide details.
5. Is this applicant currently licensed or certified by your board?  
 Yes \_\_\_\_\_ No \_\_\_\_\_. If no, when did license expire? Date \_\_\_\_\_
6. Would your board recommend this applicant for licensure in Virginia?  
 Yes \_\_\_\_\_ No \_\_\_\_\_



Signature of Authorized Person \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

REVISED 7/24/97

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

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

Applicant's Signature \_\_\_\_\_

The City/County of \_\_\_\_\_ State of \_\_\_\_\_

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

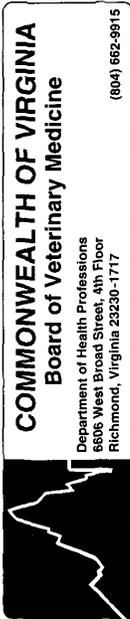
Applicant's Signature - Signed in presence of Notary \_\_\_\_\_

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

My Commission expires: \_\_\_\_\_

Notary \_\_\_\_\_

(SEAL)



Department of Health Professions  
6806 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717

(804) 662-9915

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

**IMPORTANT: THIS SECTION MUST BE COMPLETED.**

NATIONAL BOARD EXAMINATION (if already taken)

Please request that the Interstate Reporting Services send your scores directly to the Virginia Board office.

Jurisdiction \_\_\_\_\_ Date Taken \_\_\_\_\_  
Request Waiver of NBE:  \*Must meet requirements of § 9.2 of the regulations.

**SECURELY ATTACH A PASSPORT-TYPE PHOTOGRAPH IN THIS SPACE**

**PHOTOGRAPH CANNOT BE ANY LARGER THAN THE SPACE PROVIDED**

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

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

1. NAME IN FULL (Print or Type)

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

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

CLASS	TESTING NUMBER	FEE
NATIONAL BOARDS	STATE BOARDS	

REVISED 7/24/97

Have you ever been known by any other name?  Yes  No. If so, state in full every other name by which you have been known, the reason therefore, and inclusive dates so shown. If change was made by court order, enclose a copy of such order.

If a married woman, give maiden name: \_\_\_\_\_

Present telephone number ( ) \_\_\_\_\_ Permanent telephone number ( ) \_\_\_\_\_

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

(Name) \_\_\_\_\_ (Name) \_\_\_\_\_  
(Street) \_\_\_\_\_ (Street) \_\_\_\_\_  
(City, State, Zip) \_\_\_\_\_ (City, State, Zip) \_\_\_\_\_

3. Professional Experience. Please provide information about your veterinary work experience beginning with the most recent.

Inclusive Dates	Place of Employment	Description of Activities
Begin (Month/Year)	Ended (Month/Year)	

4. (Optional) - Membership in societies or associations: (Professional, Scientific or Technical)


**HIGH SCHOOL AND COLLEGE**

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

(Name) \_\_\_\_\_ (City, State) \_\_\_\_\_

(Name) \_\_\_\_\_ (City, State) \_\_\_\_\_

(Name) \_\_\_\_\_ (City, State) \_\_\_\_\_

Received the degree of \_\_\_\_\_ from \_\_\_\_\_ (College or University)  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

# Proposed Regulations

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

6. List all jurisdictions in which you are or have been licensed/certified to practice veterinary technology.

Jurisdictions	How Licensed/Certified	License Number	Date of Issuance	Years of Practice

Please have each of the above jurisdictions send directly to the Virginia Board certification that your license/certificate is/was in good standing.

7. Have you ever been denied the privilege of taking, or ever failed, the veterinary technician examination given by another board?  Yes  No

If yes, give dates, boards, and explanations: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

(a) I have read the Virginia Board of Veterinary Medicine statutes and regulations and am aware that if granted a license to practice veterinary technology in Virginia, I am required to comply with any laws and regulations governing the practice of veterinary technology and the use of controlled substances in Virginia.

(b) I hereby give permission to the Virginia Board of Veterinary Medicine to obtain additional information relating to any statement in this application from any person or any source as the Board may desire.

(c) I shall present any credentials required or requested by the Board.

(d) I have attached a money order or check in the amount of \$ \_\_\_\_\_, made payable to the Treasurer of Virginia.

(e) I hereby certify that in applying to the Virginia Board of Veterinary Medicine for a license to practice veterinary technology in Virginia, I have made no fraudulent or deceitful statements, no omissions, nor have I misrepresented any material fact.

(f) I hereby expressly waive all provisions of law forbidding any physician or other person who has attended or examined me from disclosing any knowledge or information which he thereby acquired, and I hereby consent that he may disclose such knowledge or information to the Virginia Board of Veterinary Medicine.

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

The City/County of \_\_\_\_\_ State of \_\_\_\_\_

Applicant's Signature

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

Applicant's Signature - Signed in presence of Notary

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

My Commission expires: \_\_\_\_\_

Notary

(SEAL)



**COMMONWEALTH of VIRGINIA**

Virginia Board of Veterinary Medicine  
 6606 WEST BROAD STREET  
 4TH FLOOR  
 RICHMOND VA 23230-1717

Date on which facility will be ready for inspection

**APPLICATION FOR AN ANIMAL FACILITY PERMIT**

(Applications must be made to the Board 60 days in advance of opening.)

NAME OF FACILITY (Type or Print)		TELEPHONE NO.	
STREET ADDRESS		CITY	STATE
			ZIP CODE

A FEE MUST BE ENCLOSED WITH THE APPLICATION WHERE INDICATED.  
 APPLICATION IS HEREBY MADE FOR THE FOLLOWING:

- 1)  New, FULL-SERVICE, Animal Facility Permit (Inspection Required) ..... \$100 Fee
- New, RESTRICTED, Animal Facility Permit (Inspection Required) ..... \$100 Fee
- Change to RESTRICTED Animal Facility ..... No Charge
- Change to FULL-SERVICE Animal Facility (Inspection Required) ..... \$100 Fee
- Change of Location of Animal Facility (Inspection Required) ..... \$100 Fee
- Change of Name of Animal Facility ..... No Charge
- Change of Veterinarian-in-Charge ..... \$20 Fee

TYPE MODE SPECIALITY

- 2)  Small Animal Only  Hospital  Bovine
- Large Animal Only  Mobile  Equine
- Mixed  Other  Other
- Other \_\_\_\_\_

3) A veterinarian-in-charge must be named. Please complete the Application for Veterinarian-in-Charge on the back of this sheet.

**STAFF VETERINARIANS**

4) _____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(OVER)

REVISED 7/24/97

Does this facility replace a facility currently licensed by the Board? If yes, what is the name and permit number.

No

Yes

Animal Facility Name \_\_\_\_\_ Permit No. \_\_\_\_\_

**Restricted Facility Applicants:**

(a) What services will not be provided:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) Is this information posted conspicuously in the facility?  Yes  No

**APPLICATION FOR VETERINARIAN-IN-CHARGE AT FACILITY NAMED ON REVERSE SIDE**

Name of Veterinarian-in-Charge (Type or Print) \_\_\_\_\_  
 agree to serve as the veterinarian-in-charge at the \_\_\_\_\_  
 Name of Animal Facility \_\_\_\_\_

located at \_\_\_\_\_  
 City, State, ZIP Code \_\_\_\_\_

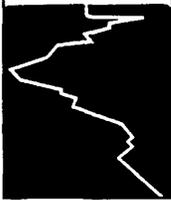
I do assume the duties and responsibilities incumbent to the role as specified in §4-1(F) of the Regulations of the Virginia Board of Veterinary Medicine. By signing my name below, I acknowledge that I have read and understand the responsibilities of the veterinarian-in-charge, and agree to perform those duties at the above named animal facility.

Date \_\_\_\_\_ Signature of Veterinarian-in-Charge \_\_\_\_\_

**DO NOT USE THESE SPACES — FOR OFFICE USE ONLY**

(CLASS)	(FILE NO)	(SUFFIX)	(LICENSE PRINT)	(FEE)
PERMIT NO.	(EXPIRATION DATE)	(INSPECTION DATE)	(DATE ISSUED)	

REVISED 7/24/97



**COMMONWEALTH OF VIRGINIA**  
Board of Veterinary Medicine

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-5915

**APPLICATION FOR REINSTATEMENT OF LICENSE  
TO PRACTICE VETERINARY MEDICINE**

APPLICANT - Please provide the information requested below. (Print or Type) Use full name, not initials.

Name (Last, First, M.I., Suffix, Maiden)		Date	
Street Address			
City	State	Zip Code	
Virginia License Number	Date Virginia Licensed Expired	Area Code & Telephone Number	

- Why did you allow your Virginia license to lapse?  
\_\_\_\_\_
- Why do you seek reinstatement at this time?  
\_\_\_\_\_
- Please attach a detailed summary of your professional activities, affiliations, employment and education since the expiration of your license. Be sure to explain any absences from practice and work. Please account for all time.  
\_\_\_\_\_
- Have you taken the National Board Examination or Clinical Competency Test since you were licensed in Virginia? If yes, please have the score(s) sent to the Virginia Board of Veterinary Medicine. Yes \_\_\_\_\_ No \_\_\_\_\_
- Have you been physically or emotionally dependent upon the use of alcohol/drugs? If yes, please provide an explanation or a letter from the treating professional. Yes \_\_\_\_\_ No \_\_\_\_\_
- Has your D.E.A. or state controlled substances registration of your license to practice veterinary medicine in any state ever been revoked, suspended, denied or any other disciplinary action taken? If yes, please provide details. Yes \_\_\_\_\_ No \_\_\_\_\_
- List all the states in which you are or have been licensed to practice veterinary medicine.  
\_\_\_\_\_

8. Request that each of the above state licensing boards sent directly to the Virginia Board of Veterinary Medicine the following information:

- A. Date you were licensed.
- B. How you were licensed. (examination; reciprocity).
- C. Expiration date of your license; or
- D. Information about any disciplinary action taken against your license.

9. Have you ever been convicted of a crime other than a traffic violation? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please provide details.

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

I have carefully read the current laws and regulations governing the practice of veterinary medicine.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Your application will be reviewed at the next regularly scheduled meeting of the Board of Veterinary Medicine following receipt of all the above materials.

<b>FOR OFFICE USE ONLY</b>	
Reinstatement Granted _____	Reinstatement Fees \$ _____
Date _____	Date _____
Additional Requirements Imposed: _____	
_____	
_____	
_____	
_____	
_____	
_____	

REVISED 7/24/97

**COMMONWEALTH OF VIRGINIA**  
Board of Veterinary Medicine

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

**APPLICATION FOR REINSTATEMENT OF  
VETERINARY TECHNICIAN LICENSE**

APPLICANT - Please provide the information requested below. (Print or Type) Use full name, not initials.

Name (Last, First, M.I., Suffix, Maiden)		Date
Street Address		
City	State	Zip Code
Virginia License Number	Area Code & Telephone Number	

- Why did you allow your Virginia license to lapse?  
\_\_\_\_\_
- Why do you seek reinstatement at this time?  
\_\_\_\_\_  
\_\_\_\_\_
- Please attach a detailed summary of your professional activities, affiliations, employment and education since the expiration of your certification. Be sure to explain any absences from practice or work. Please account for all time.  
\_\_\_\_\_  
\_\_\_\_\_
- Have you taken the Nation Board examination since you were certified in Virginia? Yes \_\_\_\_\_ No \_\_\_\_\_
- Have you been physically or emotionally dependent upon the use of alcohol/drugs? If yes, please provide an explanation or a letter from the treating professional. Yes \_\_\_\_\_ No \_\_\_\_\_
- Has your certification or license to practice veterinary technology ever been revoked, suspended, or denied, or has any other disciplinary action been taken in any other or jurisdiction? If yes, please provide details. Yes \_\_\_\_\_ No \_\_\_\_\_
- List all the states in which you are or have been certified or licensed to practice veterinary technology.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Request that each of the above state licensing boards send directly to the Virginia Board of Veterinary Medicine the following information:

- Date you were certified or licensed;
- How you were certified or licensed, (examination, reciprocity);
- Expiration date of your certification or licensure; and
- Information about any disciplinary action taken against your certification or license.

9. Have you ever been convicted of a crime other than a traffic violation? Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, please provide details.

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

I have carefully read the current laws and regulations governing the practice of veterinary technology.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Your application will be reviewed at the next regularly scheduled meeting of the Board of Veterinary Medicine following receipt of all the above materials.

**FOR OFFICE USE ONLY**

Reinstatement Granted \_\_\_\_\_ Reinstatement Fees \$ \_\_\_\_\_ Reinstatement Denied \_\_\_\_\_  
Date \_\_\_\_\_ Date \_\_\_\_\_

Additional Requirements Imposed:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Proposed Regulations

Department of Health Professions  
COMMONWEALTH OF VIRGINIA

## RENEWAL NOTICE AND APPLICATION

Telephone:

License, certificate or registration number:

TYPE OF RENEWAL	CURRENT EXPIRATION DATE	LICENSE FEE \$	FROM	RENEWAL PERIOD	TO	AMOUNT DUE IF RECEIVED AFTER \$
-----------------	-------------------------	-------------------	------	----------------	----	------------------------------------

C-46214

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"  
RETURN PAYMENT AND THE COMPLETED BOTTOM PORTION ONLY IN THE ENCLOSED ENVELOPE  
KEEP TOP PORTION FOR YOUR RECORDS

<p><b>DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER</b> In accordance with § 54.1-116 of the <i>Code of Virginia</i>, you are required to submit your Social Security Number or your control number issued by the <i>Virginia</i> Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities. If the boxes below are empty, write in your Social Security or Virginia DMV Control Number. If the boxes do contain numbers, please verify that they are correct and make any necessary changes.</p> <p style="border: 1px solid black; padding: 2px;"><b>NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.</b></p> <p style="font-size: small;">*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.</p> <p style="text-align: center;"><b>THIS BOTTOM PORTION MUST BE RETURNED IN ORDER TO RENEW</b></p> <p>Department of Health Professions Type of renewal: License, certificate or registration number:</p>	<p style="text-align: center;"><b>INSTRUCTIONS</b></p> <ol style="list-style-type: none"> <li>1. Verify Social Security or Virginia DMV Control Number at left.</li> <li>2. Complete statements "A" and "B" below, if renewing.</li> <li>3. Complete statement "C" if you desire inactive status or do not wish to renew.</li> <li>4. Make any <u>address</u> changes on this application.</li> <li>5. Make any <u>name</u> change on this application <u>and</u> enclose a copy of your marriage license or court order.</li> <li>6. Note name and certificate number on all enclosures.</li> <li>7. Return the bottom portion of this application in the enclosed envelope.</li> </ol> <p style="text-align: center;"><b>STATEMENTS</b></p> <p>A. I certify that I have met all continuing education requirements to renew this license, <input type="checkbox"/> Yes <input type="checkbox"/> No certificate or registration.</p> <p>B. I swear that I have not made any misrepresentation on this renewal application and understand that furnishing false information constitutes cause for loss of license to practice.</p> <p style="text-align: right;">_____ Signature</p> <p>C. Check the appropriate box and sign below. <input type="checkbox"/> I wish to take inactive status and enclose the inactive fee of:</p> <p style="text-align: center;">\$ _____</p> <p><input type="checkbox"/> I do not wish to renew. _____ Signature</p>
--	--

VA.R. Doc. No. R97-307; Filed July 15, 1998, 11:12 a.m.

---

# FINAL REGULATIONS

---

For information concerning Final Regulations, see Information Page.

---

## Symbol Key

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

---

## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

**Title of Regulation:** 9 VAC 25-590-10 et seq. **Petroleum Underground Storage Tank Financial Responsibility Requirements (amending 9 VAC 25-590-10 through 9 VAC 25-590-230, and Appendices I, II, and V through X; adding 9 VAC 25-590-240, 9 VAC 25-590-250, 9 VAC 25-590-260, and Appendix XI).**

**Statutory Authority:** §§ 62.1-44.34:9 and 62.1-44.34:12 of the Code of Virginia.

**Effective Date:** September 2, 1998.

#### Summary:

*The regulation concerns financial responsibility demonstration requirements for owners/operators of regulated underground storage tanks. The amendments (i) conform the regulation with amendments to the State Water Control Law enacted after November 1993; (ii) add mechanisms for demonstrating financial responsibility which are designed specifically for local government owners/operators; (iii) incorporate federal lender liability regulations; and (iv) correct typographical errors and omissions in the existing regulation.*

*Only one change affecting the substance of the regulation was made as a result of public comments. Specifically, the proposed amendment to include aboveground storage tank and tank vessel financial assurance requirements in the underground storage tank self-insurance tests was eliminated because it was burdensome to the regulated community and not required by statute.*

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

**Agency Contact:** Copies of the regulation may be obtained from Mary-Ellen Kendall, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4298.

#### 9 VAC 25-590-10. Definitions.

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

*"Accidental release"* means any sudden or nonsudden release of petroleum from an underground storage tank that

results in a need for corrective action or compensation, or both, for bodily injury or property damage neither expected nor intended by the tank owner or operator ~~or petroleum storage tank vendor.~~

*"Annual aggregate"* means the maximum financial responsibility requirement that an owner or operator is required to demonstrate annually.

*"Board"* means the State Water Control Board.

*"Bodily injury"* means the death or injury of any person incident to an accidental release from a petroleum underground storage tank; but not including any death, disablement, or injuries covered by ~~worker's~~ *workers'* compensation, disability benefits or unemployment compensation law or other similar law. Bodily injury may include payment of medical, hospital, surgical, and funeral expenses arising out of the death or injury of any person. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

*"Controlling interest"* means direct ownership of at least 50% of the voting stock of another entity.

*"Corrective action"* means all actions necessary to abate, contain and ~~clean up~~ *cleanup* a release from an underground storage tank; to mitigate the public health or environmental threat from such releases and to rehabilitate state waters in accordance with Parts V (9 VAC 25-580-190 et seq.) and VI (9 VAC 25-580-230 et seq.) of ~~9 VAC 25-580-190 through 9 VAC 25-580-220 and 9 VAC 25-580-230 through 9 VAC 25-580-300 ( 9 VAC 25 Chapter 580, Underground Storage Tanks;: Technical Standards and Corrective Action Requirements regulation).~~ The term does not include those actions normally associated with closure or change in service as set out in Part VII (9 VAC 25-580-320 et seq.) of ~~9 VAC 25-580-310 through 9 VAC 25-580-350~~ 9 VAC 25 Chapter 580 or the replacement of an underground storage tank.

~~*"Department of Waste Management"* means the Virginia Department of Waste Management which has jurisdiction over the proper handling and disposal of solid and hazardous wastes in the Commonwealth of Virginia.~~

*"Financial reporting year"* means the latest consecutive 12-month period for which any of the following reports used to support a financial test is prepared: (i) a 10 K report submitted to the U.S. Securities and Exchange Commission (SEC); (ii) an annual report of tangible net worth submitted to Dun and Bradstreet; (iii) annual reports submitted to the Energy Information Administration or the Rural Electrification Administration; or (iv) a year-end financial statement authorized under 9 VAC 25-590-60 B or C of this chapter.

---

# Final Regulations

---

"Financial reporting year" may thus comprise a fiscal or calendar year period.

"Gallons of petroleum pumped" means either the amount pumped into or the amount pumped out of a petroleum underground storage tank.

"Legal defense cost" is any expense that an owner or operator, ~~or petroleum storage tank vendor,~~ or provider of financial assurance incurs in defending against claims or actions brought (i) by the federal government or the board to require corrective action or to recover the costs of corrective action, or to collect civil penalties under federal or state law or to assert any claim on behalf of the Virginia Underground Petroleum Storage Tank Fund; (ii) by or on behalf of a third party for bodily injury or property damage caused by an accidental release; or (iii) by any person to enforce the terms of a financial assurance mechanism.

"Local government entity" means a municipality, county, town, commission, *separately chartered and operated special district*, school boards ~~or board~~, political subdivision of a state, or other special purpose government which provides essential services.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank.

NOTE: This definition is intended to assist in the understanding of this chapter and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Owner" means:

1. In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and
2. In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

The term "owner" shall not include any person, who, without participating in the management of an underground storage tank or being otherwise engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect the holder's security interest in the tank.

"Owner" or "operator," when the owner or operator are separate parties, refers to the ~~party that~~ person who is obtaining or has obtained financial assurances.

"Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision

of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.

"Petroleum" means petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute).

"Petroleum marketing facilities" include all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

"Petroleum marketing firms" means all firms owning petroleum marketing facilities. Firms owning other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.

~~"Petroleum storage tank vendor" means a person who manufactures, sells, installs, or services an underground petroleum storage tank, its connective piping and associated equipment.~~

"Property damage" means the loss or destruction of, or damage to, the property of any third party including any loss, damage or expense incident to an accidental release from a petroleum underground storage tank. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks which are covered by the policy.

"Provider of financial assurance" means ~~an entity~~ a person that provides financial assurance to an owner, ~~or operator or petroleum storage tank vendor~~ of an underground storage tank through one of the mechanisms listed in 9 VAC 25-590-60 through 9 VAC 25-590-120 and 9 VAC 25-590-250, including a guarantor, insurer, group self-insurance pool, surety, or issuer of a letter of credit.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into ground water, surface water, or upon lands, subsurface soils or storm drain systems.

"Responsible person" means any person who is an owner or operator of an underground storage tank at the time the release is reported to the board.

"Substantial business relationship" means the extent of a business relationship necessary under Virginia law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator ~~or petroleum storage tank vendor~~.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all

existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

"Termination" under Appendix III and Appendix IV means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. This term does not include any:

1. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. Tank used for storing heating oil for consumption on the premises where stored, ~~except for tanks having a capacity of more than 5,000 gallons and used for storing heating oil;~~
3. Septic tank;
4. Pipeline facility (including gathering lines) regulated under:
  - a. The Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671, et seq.);,
  - b. The Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001, et seq.);, or
  - c. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in subdivision 4 a or 4 b of this definition;
5. Surface impoundment, pit, pond, or lagoon;
6. Stormwater or wastewater collection system;
7. Flow-through process tank;
8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
9. Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term "underground storage tank" or "UST" does not include any pipes connected to any tank which is described in subdivisions 1 through 9 of this definition.

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"9 VAC 25-580-10 et seq." means the *Underground Storage Tanks: Technical Standards and Corrective Action Requirements regulation promulgated by the board.*

## 9 VAC 25-590-20. Applicability.

A. This chapter applies to owners and operators of all petroleum ~~underground storage tank (UST) systems regulated under 9 VAC 25-580-10 et seq. (Underground storage tanks; Technical standards and Corrective action requirements regulation) and petroleum storage tank vendors~~, except as otherwise provided in this section.

B. Owners and operators of petroleum UST systems ~~and petroleum storage tank vendors~~ are subject to these requirements if they are in operation on or after the date for compliance established in 9 VAC 25-590-30.

C. State and federal government entities whose debts and liabilities are the debts and liabilities of the Commonwealth of Virginia or the United States have the requisite financial strength and stability to fulfill their financial assurance requirements and are relieved of the requirements to further demonstrate an ability to provide financial responsibility under this chapter.

D. The requirements of this chapter do not apply to owners and operators of any UST system described in 9 VAC 25-580-20 B or C.

E. If the owner and operator of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance. ~~Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in 9 VAC 25-590-30.~~

## 9 VAC 25-590-30. Compliance dates.

Owners of petroleum underground storage tanks ~~and petroleum storage tank vendors~~ are required to comply with the requirements of this chapter ~~in accordance with the compliance dates established in federal regulations by the United States Environmental Protection Agency.~~ by the following dates:

1. All petroleum marketing firms owning 1,000 or more USTs and all other UST owners that report a tangible net worth of \$20 million or more to the U.S. Securities and Exchange Commission (SEC), Dun and Bradstreet, the Energy Information Administration, or the Rural Electrification Administration: January 24, 1989; except that compliance for owners and operators using the mechanisms specified in 9 VAC 25-590-70 or 9 VAC 25-590-90 is required by July 24, 1989.
2. All petroleum marketing firms owning 100-999 USTs: October 26, 1989;
3. All petroleum marketing firms owning 13-99 USTs at more than one facility: April 26, 1991;

---

# Final Regulations

---

4. All petroleum UST owners not described in subdivision 1, 2, or 3 of this section, excluding local government entities: December 31, 1993;

5. All local government entities (including Indian tribes) not included in subdivision 6 of this section: February 18, 1994; or

6. Indian tribes that own USTs on Indian lands which meet the applicable technical requirements of 9 VAC 25-580-10 et seq.: December 31, 1998.

## 9 VAC 25-590-40. Amount and scope of required financial responsibility requirement.

A. Owners or operators of petroleum underground storage tanks and petroleum storage tank vendors must shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in the following per-occurrence and annual aggregate amounts:

~~1. Owners and operators with 600,000 gallons or less of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$5,000 per occurrence for taking corrective action and \$15,000 per occurrence for compensating third parties, with an annual aggregate of \$20,000;~~

~~2. Owners and operators with between 600,001 to 1,200,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$10,000 per occurrence for taking corrective action and \$30,000 per occurrence for compensating third parties, with an annual aggregate of \$40,000;~~

~~3. Owners and operators with between 1,200,001 to 1,800,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$20,000 per occurrence for taking corrective action and \$60,000 per occurrence for compensating third parties, with an annual aggregate of \$80,000;~~

~~4. Owners and operators with between 1,800,001 to 2,400,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$30,000 per occurrence for taking corrective action and \$120,000 per occurrence for compensating third parties, with an annual aggregate of \$150,000;~~

~~5. Owners and operators with in excess of 2,400,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$50,000 per occurrence for taking corrective action and \$150,000 per occurrence for compensating third parties, with an annual aggregate of \$200,000;~~

~~6. Petroleum storage tank vendors and other owners and operators, \$50,000 per occurrence for taking corrective action and \$150,000 per occurrence for compensating third parties, with an annual aggregate of \$200,000.~~

1. For owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year; \$1 million.

2. For all other owners or operators of petroleum underground storage tanks; \$500,000.

B. Owners and operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:

1. For owners and operators of 1 to 100 petroleum underground storage tanks, \$1 million; and

2. For owners and operators of 101 or more petroleum underground storage tanks, \$2 million.

C. Owners and operators who demonstrate financial responsibility shall maintain copies of those records on which the determination is based. The following documents may be used for purposes of demonstrating financial responsibility by owners or operators to support a financial responsibility requirement determination:

1. Copies of invoices from petroleum suppliers which indicate the gallons of petroleum pumped into all underground storage tanks on an annual basis.

2. Copies of disposal or recycling receipts which indicate the gallons of petroleum pumped out of all underground storage tanks on an annual basis.

3. Letters from petroleum suppliers or disposal or recycling firms on the supplier's, disposer's or recycler's letterhead, which are signed by the appropriate financial officer and which indicate the gallons of petroleum pumped into or out of all of the owner's or operator's underground storage tanks on an annual basis.

4. Any other form of documentation which the board may deem to be acceptable evidence to support the financial responsibility requirement determination.

B. D. For the purposes of subsections A and E only this section, "a petroleum underground storage tank" means a single containment unit and does not mean combinations of single containment units.

C. Except as provided in subsection D, E. If the owner or operator of petroleum storage tank vendor uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for: ~~4.~~ (i) taking corrective action; ~~2.~~ (ii) compensating third parties for bodily injury and property damage caused by sudden accidental releases; or ~~3.~~ (iii) compensating third parties for bodily injury and property damage caused by nonsudden accidental releases, the amount of assurance provided by each

mechanism or combination of mechanisms ~~must shall~~ be in the full amount specified in subsection A of this section.

~~D. F.~~ If an owner or operator ~~or petroleum storage tank vendor~~ uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate required ~~for each mechanism shall be \$200,000 the amount specified in subsection B.~~

E. G. If assurance is being demonstrated by a combination of mechanisms, the owner or operator ~~or petroleum storage tank vendor~~ shall demonstrate financial responsibility in the appropriate amount ~~specified in 9 VAC 25-590-40 A~~ of annual aggregate assurance ~~specified in subsection B of this section~~, by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

F. H. The amounts of assurance required under this section exclude legal defense costs.

~~G. I.~~ The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator ~~and petroleum storage tank vendor.~~

**9 VAC 25-590-50. Allowable mechanisms and combinations of mechanisms.**

A. Subject to the limitations of subsection B of this section, an owner or operator ~~or petroleum storage tank vendor~~ may use any one or combination of the mechanisms listed in 9 VAC 25-590-60 through 9 VAC 25-590-120 to demonstrate financial responsibility under this chapter for one or more underground storage tanks. *A local government owner or operator may use any one or combination of the mechanisms listed in 9 VAC 25-590-60 through 9 VAC 25-590-110 and 9 VAC 25-590-250 to demonstrate financial responsibility under this chapter for one or more underground storage tanks.*

B. An owner or operator ~~or petroleum storage tank vendor~~ may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this chapter, the financial statements of the owner or operator ~~or petroleum storage tank vendor~~ are not consolidated with the financial statements of the guarantor.

**9 VAC 25-590-60. Financial test of self-insurance.**

A. An owner or operator, ~~petroleum storage tank vendor,~~ and/or guarantor, may satisfy the requirements of 9 VAC 25-590-40 by passing a financial test as specified in this section. To pass the financial test of self-insurance, the owner or operator ~~or petroleum storage tank vendor,~~ and/or guarantor ~~must shall~~ meet the requirements of subsections B or C, and D of this section based on year-end financial statements for the latest completed ~~fiscal~~ financial reporting year.

B. 1. The owner or operator, ~~petroleum storage tank vendor,~~ and/or guarantor ~~must shall~~ have a tangible net

worth at least equal to the total of the applicable aggregate amount required by 9 VAC 25-590-40 A ~~B~~ for which a financial test is used to demonstrate financial responsibility, ~~except as provided in 9 VAC 25-590-210.~~

~~[ 2. In addition to the requirement set forth in subdivision 1 of this subsection, the owner or operator and/or guarantor shall also have a tangible net worth at least equal to 10 times the total applicable aggregate amount required for demonstration of financial responsibility for operators of facilities and vessels in accordance with § 62.1-44.34:16 of the Code of Virginia for which a financial test for self-insurance is used. ]~~

[ 2. ~~3.~~ ] *In addition to the requirements set forth in [ subdivisions subdivision ] 1 [ and 2 ] of this subsection, the owner or operator, petroleum storage tank vendor, and/or guarantor must shall also have a tangible net worth of at least 10 times:*

a. The sum of the corrective action cost estimates, the current closure and postclosure care cost estimates, and amount of liability coverage for which a financial test for self-insurance is used in each state of business operations to demonstrate financial responsibility to the EPA under 40 CFR §§ 264.101(b), 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 (1997), to another state implementing agency under a state program authorized by EPA under 40 CFR Part 271 (1997) or the Department of Waste Management *Virginia Waste Management Board* under 9 VAC 20-60-590 C, 9 VAC 20-60-590 E, 9 VAC 20-60-590 G, 9 VAC 20-60-790 L, 9 VAC 20-60-810 C, 9 VAC 20-60-810 E, 9 VAC 20-60-810 G ~~{ of the Virginia Hazardous Waste Management Regulations}~~; and

b. The sum of current plugging and abandonment cost estimates for which a financial test for self-insurance is used in each state of business operations to demonstrate financial responsibility to EPA under 40 CFR 144.63 (1997) or to a state implementing agency under a state program authorized by EPA under 40 CFR Part 145 (1997).

[ 3. 4. ] *The owner and operator, petroleum storage tank vendor and/or guarantor must shall comply with either subdivision a or b below:*

a. (1) The ~~fiscal~~ financial reporting year-end financial statements of the owner or operator, ~~petroleum storage tank vendor,~~ and/or guarantor ~~must shall~~ be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination; and

(2) The ~~firms~~ financial reporting year-end financial statements of the owner or operator and/or guarantor cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

# Final Regulations

b. (1) (a) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration; or

(b) Report annually the ~~firm's~~ tangible net worth of the owner or operator and/or guarantor to Dun and Bradstreet, and Dun and Bradstreet ~~must~~ shall have assigned the ~~firm~~ a financial strength rating of at least ~~BB (\$200,000 to \$299,999)~~ which at least equals the amount of financial responsibility required by the owner or operator under subdivisions 1 [ ~~7~~ and ] 2 [ ~~1~~ and ~~3~~ ] of this subsection. Relevant Dun and Bradstreet ratings are as follows (current Dun and Bradstreet ratings will be used for demonstration requirements which exceed the annual aggregate amounts listed below):

Annual Aggregate Requirement	Dun and Bradstreet Rating
\$20,000	EE (\$20,000 to \$34,999)
\$40,000	DC (\$50,000 to \$74,999)
\$80,000	CB (\$125,000 to \$199,999)
\$150,000	BB (\$200,000 to \$299,999)
\$200,000	BB (\$200,000 to \$299,999); and

(2) The ~~firm's~~ financial reporting year-end financial statements of the owner or operator and/or guarantor, if, independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

[ 4. ~~5~~. ] The owner or operator ~~or petroleum storage tank vendor~~ and/or guarantor ~~must~~ shall have a letter signed by the chief financial officer worded identically as specified in Appendix I/Alternative I or Appendix XI.

C. 1. The owner or operator ~~or petroleum storage tank vendor~~, and/or guarantor ~~must~~ shall have a tangible net worth at least equal to the total of the applicable aggregate amount required by 9 VAC 25-590-40 A B for which a financial test is used to demonstrate financial responsibility, except as provided in 9 VAC 25-590-210.

[ ~~2. In addition to the requirement set forth in subdivision 1 of this subsection, the owner or operator and/or guarantor shall also have a tangible net worth at least equal to six times the total applicable aggregate amount required for demonstration of financial responsibility for operators of facilities and vessels in accordance with § 62.1-44.34:16 of the Code of Virginia for which a financial test for self-insurance is used. ]~~

[ 2. ~~3~~. ] In addition to the requirements set forth in [ ~~subdivisions~~ subdivision ] 1 [ ~~and 2~~ ] of this subsection, the owner or operator ~~or petroleum storage tank vendor~~, and/or guarantor ~~must~~ shall also have a tangible net worth of at least six times:

a. ~~Meet~~ The financial test requirements for self insurance of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage in each state of business operations to the EPA under 40 CFR §§ 264.101(b), 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 (1997), to another state implementing agency under a state program authorized by EPA under 40 CFR Part 271 (1997) or the ~~Department of Waste Management~~ Virginia Waste Management Board under 9 VAC 20-60-590 C, 9 VAC 20-60-590 E, 9 VAC 20-60-590 G, 9 VAC 20-60-790 L, 9 VAC 20-60-810 C, 9 VAC 20-60-810 E, 9 VAC 20-60-810 G { of the Virginia Hazardous Waste Management Regulations}; and

b. ~~Meet~~ The financial test requirements for self-insurance of current plugging and abandonment cost estimates in each state of business operations to EPA under 40 CFR § 144.63 (1997) or to a state implementing agency under a state program authorized by EPA under 40 CFR Part 145 (1997).

[ 3. ~~4~~. ] The ~~firm's~~ financial reporting year-end financial statements of the owner or operator ~~or petroleum storage tank vendor~~, and/or guarantor, ~~must~~ shall be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

[ 4. ~~5~~. ] The ~~firm's~~ financial reporting year-end financial statements of the owner or operator and/or guarantor cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

[ 5. ~~6~~. ] If the financial statements of the owner or operator ~~or petroleum storage tank vendor~~, and/or guarantor are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration, the owner or operator ~~or petroleum storage tank vendor~~, and/or guarantor, ~~must~~ shall obtain a special report by an independent certified public accountant stating that:

a. ~~He~~ The accountant has compared the data that the letter from the chief financial officer specified as having been derived from the latest financial reporting year-end financial statements of the owner or operator ~~or petroleum storage tank vendor~~, and/or guarantor, with the amounts in such financial statements; and

b. In connection with that comparison, no matters came to ~~his~~ the accountant's attention which caused him to believe that the specified data should be adjusted.

[ 6. ~~7~~. ] The owner or operator ~~or petroleum storage tank vendor~~, and/or guarantor, ~~must~~ shall have a letter signed by the chief financial officer, worded identically as specified in Appendix I/Alternative II.

D. To ~~demonstrate that it meets~~ *meet* the financial *demonstration* test under subsections B or C of this section, the chief financial officer of the owner or operator, ~~petroleum storage tank vendor,~~ and/or guarantor ~~must shall~~ sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded identically as specified in Appendix I with the appropriate alternative ~~I or II~~ or *Appendix XI*, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

E. If an owner or operator ~~or petroleum storage tank vendor~~ using the test to provide financial assurance finds that he no longer meets the requirements of the financial test based on the *financial reporting* year-end financial statements, the owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

F. The board may require reports of financial condition at any time from the owner or operator, ~~petroleum storage tank vendor,~~ and/or guarantor. If the board finds, on the basis of such reports or other information, that the owner or operator, ~~petroleum storage tank vendor,~~ and/or guarantor no longer meets the financial test requirements of subsection B or C and D of this section, the owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ obtain alternate coverage within 30 days after notification of such a finding.

G. If the owner or operator ~~or petroleum storage tank vendor~~ fails to obtain alternate assurance within 150 days of finding that he no longer meets the requirements of the financial test based on the *financial reporting* year-end financial statements, or within 30 days of notification by the board that he or she no longer meets the requirements of the financial test, the owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ notify the board of such failure within 10 days.

**9 VAC 25-590-70. Guarantee.**

A. An owner or operator ~~or petroleum storage tank vendor~~ may satisfy the requirements of 9 VAC 25-590-40 by obtaining a guarantee that conforms to the requirements of this section. The guarantor ~~must shall~~ be:

1. A firm that:
  - a. Possesses a controlling interest in the owner or operator ~~or petroleum storage tank vendor~~;
  - b. Possesses a controlling interest in a firm described under subdivision A 1 a of this section; or
  - c. Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator ~~or petroleum storage tank vendor~~;
2. A firm engaged in a substantial business relationship with the owner or operator ~~or petroleum storage tank~~

~~vendor~~ and issuing the guarantee as an act incident to that business relationship.

B. Within 120 days of the close of each financial reporting year, the guarantor ~~must shall~~ demonstrate that it meets the financial test criteria of 9 VAC 25-590-60 B or C and D based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in Appendix I ~~or Appendix XI~~ and ~~must shall~~ deliver the letter to the owner or operator ~~or petroleum storage tank vendor~~. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator ~~or petroleum storage tank vendor~~. If the board notifies the guarantor that he no longer meets the requirements of the financial test of 9 VAC 25-590-60 B or C and D, the guarantor ~~must shall~~ notify the owner or operator ~~or petroleum storage tank vendor~~ within 10 days of receiving such notification from the board. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator ~~or petroleum storage tank vendor~~ receives the notification, as evidenced by the return receipt. The owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ obtain alternate coverage as specified in 9 VAC 25-590-190 ~~C~~.

C. The guarantee ~~must shall~~ be worded identically as specified in Appendix II, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

D. An owner or operator ~~or petroleum storage tank vendor~~ who uses a guarantee to satisfy the requirements of 9 VAC 25-590-40 ~~must shall~~ establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the board under 9 VAC 25-590-170. This standby trust fund ~~must shall~~ meet the requirements specified in 9 VAC 25-590-120.

**9 VAC 25-590-80. Insurance and group self-insurance pool coverage.**

- A. 1. An owner or operator ~~or petroleum storage tank vendor~~ may satisfy the requirements of 9 VAC 25-590-40 by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or group self-insurance pool.
  2. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.
  3. Group self-insurance pools ~~must shall~~ comply with § 62.1-44.34:12 of the Code of Virginia and the State Corporation Commission Bureau of Insurance Regulation No. 33 (14 VAC 5-380-10 et seq.).

B. Each insurance policy ~~must shall~~ be amended by an endorsement worded in no respect less favorable than the coverage as specified in Appendix III, or evidenced by a

---

# Final Regulations

---

certificate of insurance worded identically as specified in Appendix IV, except that instructions in brackets ~~must shall~~ be replaced with the relevant information and the brackets deleted.

C. Each insurance policy ~~must shall~~ be issued by an insurer or a group self-insurance pool that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or approved surplus lines insurer in the Commonwealth of Virginia.

D. Each insurance policy shall provide first dollar coverage. The insurer or group self-insurance pool shall be liable for the payment of all amounts within any deductible applicable to the policy to the provider of corrective action or damaged third party, as provided in this chapter, with a right of reimbursement by the insured for any such payment made by the insurer or group. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 9 VAC 25-590-60 through 9 VAC 25-590-110 and 9 VAC 25-590-250.

## 9 VAC 25-590-90. Surety bond.

A. An owner or operator ~~or petroleum storage tank vendor~~ may satisfy the requirements of 9 VAC 25-590-40 by obtaining a surety bond that conforms to the requirements of this section. The surety company issuing the bond ~~must shall~~ be licensed to operate as a surety in the Commonwealth of Virginia and be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

B. The surety bond ~~must shall~~ be worded identically as specified in Appendix V, except that instructions in brackets ~~must shall~~ be replaced with the relevant information and the brackets deleted.

C. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator ~~or petroleum storage tank vendor~~ fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

D. The owner or operator ~~or petroleum storage tank vendor~~ who uses a surety bond to satisfy the requirements of 9 VAC 25-590-40 ~~must shall~~ establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the board under 9 VAC 25-590-170. This standby trust fund ~~must shall~~ meet the requirements specified in 9 VAC 25-590-120.

## 9 VAC 25-590-100. Letter of credit.

A. An owner or operator ~~or petroleum storage tank vendor~~ may satisfy the requirements of 9 VAC 25-590-40 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution ~~must shall~~ be an entity that has the authority to issue letters of credit in the Commonwealth of Virginia and

whose letter-of-credit operations are regulated and examined by a federal agency or the State Corporation Commission.

B. The letter of credit ~~must shall~~ be worded identically as specified in Appendix VI, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

C. An owner or operator ~~or petroleum storage tank vendor~~ who uses a letter of credit to satisfy the requirements of 9 VAC 25-590-40 ~~must shall~~ also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the board will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the board under 9 VAC 25-590-170. This standby trust fund ~~must shall~~ meet the requirements specified in 9 VAC 25-590-120.

D. The letter of credit ~~must shall~~ be irrevocable with a term specified by the issuing institution. The letter of credit ~~must shall~~ provide that credit will be automatically renewed for the same term as the original term, unless, at least 120 days before the current expiration date, the issuing institution notifies the owner or operator ~~or petroleum storage tank vendor~~ by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator ~~or petroleum storage tank vendor~~ receives the notice, as evidenced by the return receipt.

## 9 VAC 25-590-110. Trust fund.

A. An owner or operator ~~or petroleum storage tank vendor~~ may satisfy the requirements of 9 VAC 25-590-40 by establishing an irrevocable trust fund that conforms to the requirements of this section. The trustee ~~must shall~~ be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or the State Corporation Commission.

B. The trust fund shall be irrevocable and shall continue until terminated at the written direction of the grantor and the trustee, or by the trustee and the State Water Control Board, if the grantor ceases to exist. Upon termination of the trust, all remaining trust property, less final trust administration expenses, shall be delivered to the owner or operator ~~or petroleum storage tank vendor~~. The wording of the trust agreement ~~must shall~~ be identical to the wording specified in Appendix VII, and ~~must shall~~ be accompanied by a formal certification of acknowledgment as specified in Appendix VIII.

C. The irrevocable trust fund, when established, ~~must shall~~ be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism or mechanisms that provide the remaining required coverage.

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator ~~or petroleum storage tank vendor~~ may submit a written request to the board for release of the excess.

E. If other financial assurance as specified in this chapter is substituted for all or part of the trust fund, the owner or operator ~~or petroleum storage tank vendor~~ may submit a written request to the board for release of the excess.

F. Within 60 days after receiving a request from the owner or operator ~~or petroleum storage tank vendor~~ for release of funds as specified in subsection D or E of this section, the board will instruct the trustee to release to the owner or operator ~~or petroleum storage tank vendor~~ such funds as the board specifies in writing.

### **9 VAC 25-590-120. Standby trust fund.**

A. An owner or operator ~~or petroleum storage tank vendor~~ using any one of the mechanisms authorized by 9 VAC 25-590-70, 9 VAC 25-590-90 and 9 VAC 25-590-100 ~~must shall~~ establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund ~~must shall~~ be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or the State Corporation Commission.

B. The standby trust agreement or trust agreement ~~must shall~~ be worded identically as specified in Appendix VII, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted, and accompanied by a formal certification of acknowledgment as specified in Appendix VIII.

C. The board will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the board determines that no additional corrective action costs or third party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

D. An owner or operator ~~or petroleum storage tank vendor~~ may establish one trust fund as the depository mechanism for all funds assured in compliance with this rule.

### **9 VAC 25-590-130. Substitution of financial assurance mechanisms by owner or operator ~~or petroleum storage tank vendor~~.**

A. An owner or operator ~~or petroleum storage tank vendor~~ may substitute any alternate financial assurance mechanisms as specified in this chapter, provided that at all times he maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of 9 VAC 25-590-40.

B. After obtaining alternate financial assurance as specified in this chapter, an owner or operator ~~or petroleum storage tank vendor~~ may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

### **9 VAC 25-590-140. Cancellation or nonrenewal by a provider of financial assurance.**

A. Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified

mail to the owner or operator ~~or petroleum storage tank vendor~~.

1. Termination of a *local government guarantee*, a guarantee, a surety bond, or a letter of credit may not occur until 120 days after the date on which the owner or operator ~~or petroleum storage tank vendor~~ receives the notice of termination, as evidenced by the return receipt.

2. Termination of insurance or group self-insurance pool coverage, except for nonpayment or misrepresentation by the insured, may not occur until 60 days after the date on which the owner or operator ~~or petroleum storage tank vendor~~ receives the notice of termination, as evidenced by the return receipt. Termination for nonpayment of premium or misrepresentation by the insured may not occur until a minimum of 15 days after the date on which the owner or operator ~~or petroleum storage tank vendor~~ receives the notice of termination, as evidenced by the return receipt.

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in ~~9 VAC 25-590-150~~ 9 VAC 25-590-190, the owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ obtain alternate coverage as specified in this section within 60 days after receipt of the notice of termination. If the owner or operator ~~or petroleum storage tank vendor~~ fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ immediately notify the board of such failure and submit:

1. The name and address of the provider of financial assurance;
2. The effective date of termination; and
3. The evidence of the financial assurance mechanism subject to the termination maintained in accordance with 9 VAC 25-590-160 B.

### **9 VAC 25-590-150. Reporting by owner or operator ~~or petroleum storage tank vendor~~.**

A. An owner or operator ~~must shall~~ submit the appropriate *original* forms listed in 9 VAC 25-590-160 B documenting current evidence of financial responsibility to the board within 30 days after the owner or operator identifies or confirms a release from an underground storage tank required to be reported under 9 VAC 25-580-220 or 9 VAC 25-580-240. *For all subsequent releases within the same period of time for which the documents submitted according to this subsection are still effective, the owner or operator shall submit a letter which identifies the owner's or operator's name and address and the underground storage tanks' location by site name, street address, board incident designation number and a statement that the financial responsibility documentation previously provided to the board is currently in force.*

---

# Final Regulations

---

B. An owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ submit the appropriate forms listed in 9 VAC 25-590-160 B documenting current evidence of financial responsibility to the board if the owner or operator ~~or petroleum storage tank vendor~~ fails to obtain alternate coverage as required by this chapter within 30 days after the owner or operator ~~or petroleum storage tank vendor~~ receives notice of:

1. Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor;
2. Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;
3. Failure of a guarantor to meet the requirements of the financial test; or
4. Other incapacity of a provider of financial assurance.

C. An owner or operator ~~or petroleum storage tank vendor~~ ~~must shall~~ submit the appropriate forms listed in 9 VAC 25-590-160 B documenting current evidence of financial responsibility to the board as required by 9 VAC 25-590-60 G and 9 VAC 25-590-140 B.

D. An owner or operator ~~must shall~~ certify compliance with the financial responsibility requirements of this chapter as specified in the new tank notification form when notifying the board of the installation of a new underground storage tank under 9 VAC 25-580-70.

E. The board may require an owner or operator ~~or petroleum storage tank vendor~~ to submit evidence of financial assurance as described in 9 VAC 25-590-160 B or other information relevant to compliance with this chapter at any time.

## 9 VAC 25-590-160. Recordkeeping.

A. Owners or operators ~~and petroleum storage tank vendors~~ ~~must shall~~ maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this chapter for an underground storage tank until released from the requirements of this chapter under 9 VAC 25-590-180. An owner or operator ~~and petroleum storage tank vendor~~ ~~must shall~~ maintain such evidence at the underground storage tank site or the owner's or operator's ~~and petroleum storage tank vendor's~~ place of ~~business work~~ in this Commonwealth. Records maintained off-site ~~must shall~~ be made available upon request of the board.

B. Owners or operators ~~and petroleum storage tank vendors~~ ~~must shall~~ maintain the following types of evidence of financial responsibility:

1. An owner or operator ~~or petroleum storage tank vendor~~ using an assurance mechanism specified in 9 VAC 25-590-60 through 9 VAC 25-590-110 ~~must and~~ 9 VAC 25-590-250 shall maintain a copy of the instrument worded as specified.

2. An owner or operator ~~or petroleum storage tank vendor~~ using a financial test or guarantee ~~must, or a local government financial test or a local government guarantee supported by the local government financial test, shall~~ maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence ~~must shall~~ be on file no later than 120 days after the close of the financial reporting year.

3. An owner or operator ~~or petroleum storage tank vendor~~ using a guarantee, surety bond, or letter of credit ~~must shall~~ maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

4. A local government owner or operator using a local government guarantee with standby trust under 9 VAC 25-590-250 shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

5. A local government owner or operator using the local government bond rating test under 9 VAC 25-590-250 shall maintain a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's.

6. A local government owner or operator using the local government guarantee under 9 VAC 25-590-250, where the guarantor's demonstration of financial responsibility relies on the bond rating test under 9 VAC 25-590-250 shall maintain a copy of the guarantor's bond rating published within the last 12 months by Moody's or Standard & Poor's.

4. 7. An owner or operator ~~or petroleum storage tank vendor~~ using an insurance policy or group self-insurance pool coverage ~~must shall~~ maintain a copy of the signed insurance policy or group self-insurance pool coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

8. An owner or operator using a local government fund under 9 VAC 25-590-250 shall maintain the following documents:

a. A copy of the state constitutional provision or local government statute, charter, ordinance or order dedicating the fund; and

b. Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under 40 CFR 280.107(a)(3) (1997) (as incorporated by reference in 9 VAC 25-590-250) using incremental funding backed by bonding authority, the financial statements shall show the previous year's balance, the amount of funding during the year, and the closing balance in the fund.

c. If the fund is established under 40 CFR 280.107(a)(3) (1997) (as incorporated by reference in 9 VAC 25-590-250) using incremental funding backed

by bonding authority, the owner or operator shall also maintain documentation of the required bonding authority, including either the results of a voter referendum (under 40 CFR 280.107(a)(3)(i) (1997)) (as incorporated by reference in 9 VAC 25-590-250), or attestation by the Virginia Attorney General as specified under 40 CFR 280.107(a)(3)(ii) (1997) (as incorporated by reference in 9 VAC 25-590-250).

9. A local government owner or operator using the local government guarantee supported by the local government fund shall maintain a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.

5- 10. a. An owner or operator ~~or petroleum storage tank vendor~~ using an assurance mechanism specified in 9 VAC 25-590-60 through 9 VAC 25-590-110 ~~must~~ or 9 VAC 25-590-250 shall maintain an updated copy of a certification of financial responsibility worded identically as specified in Appendix IX, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

b. The owner or operator ~~or petroleum storage tank vendor~~ ~~must~~ shall update this certification whenever the financial assurance mechanism or mechanisms used to demonstrate financial responsibility changes.

## 9 VAC 25-590-170. Drawing on financial assurance mechanism.

A. *Except as specified in subsection D of this section*, the board shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the board, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

1. a. The owner or operator ~~or petroleum storage tank vendor~~ fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit; and

b. The board determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and so notifies the owner or operator, ~~or petroleum storage tank vendor~~, or the owner or operator has notified the board pursuant to Parts V (9 VAC 25-580-190 *et seq.*) and VI, ~~9 VAC 25-580-190 through 9 VAC 25-580-220 and 9 VAC 25-580-230 through 9 VAC 580-300 (9 VAC 25-580-230 *et seq.*) of 9 VAC 25 Chapter 580~~ of a release from an underground storage tank covered by the mechanism; or

2. The conditions of ~~subdivision B 1 or B 2 a or B 2 b~~ *subdivision B* of this section are satisfied.

B. The board may draw on a standby trust fund when:

1. The board makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or

operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required under Part VI, (9 VAC 25-580-230 ~~through 9 VAC 25-580-300 *et seq.*~~); or

2. The board has received either:

a. Certification from the owner or operator ~~or petroleum storage tank vendor~~ and the third party liability claimant or claimants and from attorneys representing the owner or operator and the third party liability claimant or claimants that a third party liability claim should be paid. The certification ~~must~~ shall be worded identically as specified in Appendix X, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted; or

b. A valid final court order establishing a judgment against the owner or operator ~~or petroleum storage tank vendor~~ for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this chapter and the board determines that the owner or operator ~~or petroleum storage tank vendor~~ has not satisfied the judgment.

C. If the board determines that the amount of corrective action costs and third party liability claims eligible for payment under subsection B of this section may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The board shall direct payment from the standby trust fund for third party liability claims in the order in which the board receives certifications under subdivision B 2 a of this section and valid court orders under subdivision B 2 b of this section.

D. *A local government acting as guarantor under 40 CFR 280.106(e) (1997) (as incorporated by reference in 9 VAC 25-590-250), the local government guarantee without standby trust, shall make payments as directed by the director under the circumstances described in subsection A, B or C of this section.*

## 9 VAC 25-590-180. Release from the requirements.

An owner or operator is no longer required to maintain financial responsibility under this chapter for an underground storage tank after the tank has been properly closed or a change-in-service properly completed or, if corrective action is required, after corrective action has been completed and the tank has been properly closed as required by Part VII, ~~9 VAC 25-580-310 through 9 VAC 25-580-350 (9 VAC 25-580-320 *et seq.*) of 9 VAC 25 Chapter 580.~~

## 9 VAC 25-590-190. Bankruptcy or other incapacity of owner, operator, ~~petroleum storage tank vendor~~ or provider of financial assurance.

A. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator ~~or petroleum storage tank vendor~~ as debtor, the owner or operator ~~or petroleum~~

---

# Final Regulations

---

~~storage tank vendor must~~ shall notify the board by certified mail of such commencement and submit the appropriate forms listed in 9 VAC 25-590-160 B documenting current financial responsibility.

B. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor ~~must~~ shall notify the owner or operator ~~or petroleum storage tank vendor~~ by certified mail of such commencement as required under the terms of the guarantee specified in 9 VAC 25-590-70.

C. *Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator shall notify the director by certified mail of such commencement and submit the appropriate forms listed in 9 VAC 25-590-160 B documenting current financial responsibility.*

D. *Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor shall notify the local government owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in 40 CFR 280.106 (1997) (as incorporated by reference in 9 VAC 25-590-250).*

~~C. E.~~ E. An owner or operator ~~or petroleum storage tank vendor~~ who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, group self-insurance pool coverage policy, surety bond, or letter of credit. The owner or operator ~~or petroleum storage tank vendor must~~ shall obtain alternate financial assurance as specified in this regulation within 30 days after receiving notice of such an event. If the owner or operator ~~or petroleum storage tank vendor~~ does not obtain alternate coverage within 30 days after such notification, he ~~must~~ shall immediately notify the board in writing.

~~D. F.~~ F. Within 30 days after receipt of written notification that the Virginia Underground Petroleum Storage Tank Fund has become incapable of covering [ ~~costs in excess of those specified in 9 VAC 25-590-40 up to \$1 million, for paying for~~ ] assured corrective action or third party compensation costs, the owner or operator ~~or petroleum storage tank vendor must~~ shall obtain alternate financial assurance in accordance with [ ~~Subpart H of 40 CFR Part 280 (1997) 9 VAC 25-590-40~~ ].

## **9 VAC 25-590-200. Replenishment of guarantees, letters of credit or surety bonds.**

A. If at any time after a standby trust is funded upon the instruction of the board with funds drawn from a guarantee, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage

required, the owner or operator ~~or petroleum storage tank vendor~~ shall by the anniversary date of the financial mechanism from which the funds were drawn:

1. Replenish the value of financial assurance to equal the full amount of coverage required; or
2. Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

B. For purposes of this section, the full amount of coverage required is the amount of coverage to be provided by 9 VAC 25-590-40. If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

## **9 VAC 25-590-210. Virginia Underground Petroleum Storage Tank Fund (Fund).**

A. The *Virginia Petroleum Storage Tank Fund* will be used for costs in excess of the financial responsibility requirements specified under ~~9 VAC 25-590-40~~ *A subsection B of this section* up to \$1 million per occurrence for both taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases from petroleum underground storage tanks in accordance with the following:

1. Corrective action disbursements for accidental releases with no associated third party disbursements from the fund shall not exceed:
  - a. \$995,000 for the \$5,000 corrective action requirement;
  - b. \$990,000 for the \$10,000 corrective action requirement;
  - c. \$980,000 for the \$20,000 corrective action requirement;
  - d. \$970,000 for the \$30,000 corrective action requirement;
  - e. \$950,000 for the \$50,000 corrective action requirement.

Third party disbursements for accidental releases with no corrective action disbursements from the fund shall not exceed:

- a. \$985,000 for the \$15,000 third party requirement;
- b. \$970,000 for the \$30,000 third party requirement;
- c. \$940,000 for the \$60,000 third party requirement;
- d. \$880,000 for the \$120,000 third party requirement;
- e. \$850,000 for the \$150,000 third party requirement.

Combined corrective action and third party disbursements from the fund shall not exceed:

- a. \$980,000 for the \$20,000 combined requirement;
- b. \$960,000 for the \$40,000 combined requirement;

- c. \$920,000 for the \$80,000 combined requirement;
- d. \$850,000 for the \$150,000 combined requirement;
- e. \$800,000 for the \$200,000 combined requirement.

The first priority for disbursements from the fund shall be for corrective action costs necessary to protect human health and the environment.

*2. Compensation for bodily injury and property damage shall be paid to third-party liability claims against the Fund shall parties only be paid (i) in accordance with final court orders in cases which have been tried to final judgment no longer subject to appeal, (ii) in accordance with final arbitration awards not subject to appeal, or (iii) where the board has been represented or in cases of an agreed settlement between the third party and the board approved the settlement of claim between the owner or operator and the third party prior to execution by the parties.*

*The Commonwealth has not waived its sovereign immunity and does not believe that it is a necessary party to a private action against an owner or operator for third party bodily injury and property damage.*

~~2- 3. Owner or operator managed cleanups. An owner or operator responding to a release and conducting a board approved corrective action plan in accordance with Parts V and VI, (9 VAC 25-580-190 through 9 VAC 25-580-300 9 VAC 25-580-310) may proceed to pay for all costs incurred for such activities. An accounting submitted to the board of all costs incurred will be reviewed and those costs in excess of the financial responsibility requirements up to \$1 million which are reasonable and have been approved by the board will be reimbursed from the fund.~~

~~3. Joint owner or operator and board managed cleanups. An owner or operator responding to a release and conducting a board approved corrective action plan in accordance with Parts V and VI, 9 VAC 25-580-190 through 9 VAC 25-580-300 may proceed to pay for these costs up to the amount of required financial responsibility specified in 9 VAC 25-590-40 A. An accounting of all costs incurred shall be submitted to the board and those costs which are reasonable and approved by the board will be applied to the owner or operator financial responsibility requirement. After the owner or operator meets the financial responsibility requirement the site will become a state managed cleanup. In order to have an orderly transition from the owner or operator managed cleanup to a board managed cleanup, the owner or operator shall only initiate activities associated with Part VI, 9 VAC 25-580-260 through 9 VAC 25-580-300 which can be completed within the owner or operator financial responsibility requirement.~~

~~Owners or operators who cannot complete a corrective action activity within the financial responsibility requirement, shall make available upon demand by the board the unexpended financial requirement moneys for~~

~~the board's use in continuing a state managed cleanup at the site. The foregoing does not relieve owners or operators of their responsibility to conduct activities associated with Part VI, 9 VAC 25-580-230 through 9 VAC 25-580-250.~~

*4. Owners or operators shall pay the financial responsibility requirement specified in this section for each occurrence.*

~~4. 5. No person shall receive reimbursement from the fund for any costs or damages incurred:~~

a. Where the person, his employee or agent, or anyone within the privity or knowledge of that person, has violated substantive environmental regulations under 9 VAC 25-580-10 et seq. or this chapter; ~~or~~

b. Where the release occurrence is caused, in whole or in part, by the willful misconduct or negligence of the person, his employee or agent, or anyone within the privity or knowledge of that person; ~~or~~

c. Where the person, his employee or agent, or anyone within the privity or knowledge of that person, has (i) failed to carry out the instructions of the board, committed willful misconduct or been negligent in carrying out or conducting actions under Part V or VI (9 VAC 25-580-190 through 9 VAC 25-580-300 9 VAC 25-580-310) or (ii) has violated applicable federal or state safety, construction or operating laws or regulations in carrying out or conducting actions under Parts V or VI (9 VAC 25-580-190 through 9 VAC 25-580-300 9 VAC 25-580-310); ~~or~~

d. Where the claim has been reimbursed or is reimbursable, by an insurance policy, self-insurance program or other financial mechanism; ~~or~~

e. *Where the costs or damages were incurred pursuant to Article 4.1 (§ 10.1-1429.1 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia and the regulations promulgated thereunder;*

f. *For corrective action taken prior to December 22, 1989, by an owner or operator of an underground storage tank, or an owner of an underground storage tank exempted in subdivisions 1 and 2 of the definition of an underground storage tank in 9 VAC 25-590-10, or an owner of an aboveground storage tank with a capacity of 5,000 gallons or less used for storing heating oil for consumption on the premises where stored; or*

g. *Prior to January 1, 1992, by an operator of a facility for containment and cleanup of a release from a facility of a product subject to § 62.1-44.34:13 of the Code of Virginia.*

~~5- 6. No person shall receive reimbursement from the fund for third party bodily injury or property damage claims:~~

a. Where the release, occurrence, injury or property damage is caused, in whole or in part, by the willful

---

# Final Regulations

---

misconduct or negligence of the ~~claimant~~ owner or operator, his employee or agent, or anyone within his privity or knowledge; or

b. Where the claim cost has been reimbursed or is reimbursable, by an insurance policy, ~~self-insurance program or other financial mechanism~~;

c. Where the costs or damages were incurred pursuant to Article 4.1 (§ 10.1-1429.1 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia and the regulations promulgated thereunder;

d. Where the release was reported before December 22, 1989; or

e. Where the owner or operator does not demonstrate the reasonableness and necessity of the claim costs.

B. 1. The fund will be used to demonstrate financial responsibility requirements for owners or operators in excess of the amounts specified ~~under 9 VAC 25-590-40 A in this subdivision up to the \$1 million or \$2 million annual aggregate, as applicable, required by 40 CFR 280, Subpart H per occurrence and annual aggregate requirements specified in 9 VAC 25-590-40~~ for both taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases from petroleum underground storage tanks.

a. Owners and operators with 600,000 gallons or less of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$5,000 per occurrence for taking corrective action and \$15,000 per occurrence for compensating third parties, with an annual aggregate of \$20,000.

b. Owners and operators with between 600,001 to 1,200,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$10,000 per occurrence for taking corrective action and \$30,000 per occurrence for compensating third parties, with an annual aggregate of \$40,000.

c. Owners and operators with between 1,200,001 to 1,800,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$20,000 per occurrence for taking corrective action and \$60,000 per occurrence for compensating third parties, with an annual aggregate of \$80,000.

d. Owners and operators with between 1,800,001 to 2,400,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$30,000 per occurrence for taking corrective action and \$120,000 per occurrence for compensating third parties, with an annual aggregate of \$150,000.

e. Owners and operators with in excess of 2,400,000 gallons of petroleum pumped on an annual basis into all underground storage tanks owned or operated, \$50,000 per occurrence for taking corrective action

and \$150,000 per occurrence for compensating third parties, with an annual aggregate of \$200,000.

2. The fund may be used to satisfy only the portion of an owner or operator's financial responsibility requirement specified in subdivision 1 of this subsection and, therefore, shall be used in combination with one or more of the mechanisms specified in 9 VAC 25-590-60 through 9 VAC 25-590-110 and 9 VAC 25-590-250.

3. The requirements of 9 VAC 25-590-40 B apply solely to financial responsibility demonstration requirements under this section, and shall not affect reimbursements paid under this section.

C. This fund may also be used for the following:

1. Costs incurred by the board for taking immediate corrective action to contain or mitigate the effects of any release of petroleum into the environment from an underground storage tank if such action is necessary, in the judgment of the board to protect human health and the environment.

2. Costs incurred by the board for taking both corrective action and ~~compensating third party liability claims~~ up to \$1 million for any release of petroleum into the environment from an underground storage tank:

a. Whose owner or operator cannot be determined by the board within 90 days; or

b. Whose owner or operator is incapable, in the judgment of the board, of carrying out such corrective action properly and paying for third party liability claims.

3. Costs incurred by the board for taking corrective action for any release of petroleum into the environment from tanks which are otherwise specifically listed in ~~9 VAC 25-580-10~~ 9 VAC 25-590-10 as exemptions in the definition of an underground storage tank.

4. All other uses authorized by § 62.1-44.34:11 of the Code of Virginia.

D. The board shall seek recovery of fund moneys expended for corrective action in accordance with § 62.1-44.34:11 of the Code of Virginia where the owner or operator has violated substantive environmental regulations under 9 VAC 25-580-10 et seq. or this chapter.

E. The board shall have the right of subrogation for moneys expended from the fund as compensation for bodily injury, death, or property damage against any person who is liable for such injury, death or damage.

F. No funds shall be paid for reimbursement of ~~moneys expended~~ costs incurred by an owner or operator for corrective action and for compensating third parties for bodily injury and property damage prior to December 22, 1989.

G. No disbursements shall be made from the fund for owners or operators who are federal government entities or

whose debts and liabilities are the debts and liabilities of the United States.

*H. The fund will be managed to provide for cleanup of each occurrence to an acceptable level of risk.*

**9 VAC 25-590-220. Notices to the State Water Control Board.**

All requirements of this regulation for notification to the State Water Control Board shall be addressed as follows:

Director  
Department of Environmental Quality  
629 E. Main Street  
P.O. Box 10009  
Richmond, Virginia 23240-0009

**9 VAC 25-590-230. Delegation of authority.**

The Director of the Department of Environmental Quality, or in his absence a designee acting for him, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

**9 VAC 25-590-240. Lender liability.**

*The U.S. Environmental Protection Agency regulations on lender liability contained in the Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST) (40 CFR 280.200 through 280.230 (1997)) are incorporated by reference into this chapter as amended by the word or phrase substitutions given in 9 VAC 25-590-260.*

**9 VAC 25-590-250. Local government financial responsibility demonstration.**

*The U.S. Environmental Protection Agency regulations on local government financial responsibility demonstration contained in the Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST) (40 CFR 280.104 through 280.107 (1997)) are incorporated by reference into this chapter as amended by the word or phrase substitutions given in 9 VAC 25-590-260.*

**9 VAC 25-590-260. Word or phrase substitutions.**

*In 9 VAC 25-590-240 and 9 VAC 25-590-250, the following substitutions apply:*

1. All terms which are defined in 9 VAC 25-590-10 shall be given the definition contained in 9 VAC 25-590-10;
2. a. Director of the Department of Environmental Quality for director of the implementing agency;
- b. Department of Environmental Quality for the implementing agency;
- c. UST preventative and operating requirements under 9 VAC 25-580-10 et seq. for UST technical standards;
- d. 9 VAC 25-580-10 et seq. and 9 VAC 25-590-10 et seq. for 40 CFR Part 280 (1997);

e. 9 VAC 25-580-230 through 9 VAC 25-580-300 for 40 CFR Part 280, Subpart F (1997);

f. 9 VAC 25-590-10 et seq. for 40 CFR Part 280, Subpart H (1997);

g. 9 VAC 25-580-50 for 40 CFR 280.20;

h. 9 VAC 25-580-60 for 40 CFR 280.21;

i. 9 VAC 25-580-70 for 40 CFR 280.22 (1997);

j. 9 VAC 25-580-90 for 40 CFR 280.31;

k. 9 VAC 25-580-200 through 9 VAC 25-580-300 for 40 CFR 280.51 through 280.67;

l. 9 VAC 25-580-310 for 40 CFR 280.70;

m. 9 VAC 25-580-320 through 9 VAC 25-580-350 for 40 CFR 280.71 through 280.74;

n. 9 VAC 25-580-330 for 40 CFR 280.72;

o. 9 VAC 25-590-20 through 9 VAC 25-590-160 for 40 CFR 280.90 through 280.111;

p. 9 VAC 25-590-40 for 40 CFR 280.93;

q. 9 VAC 25-590-170 for 40 CFR 280.112 (1997); and

r. 9 VAC 25-590-190 for 40 CFR 280.114.

APPENDIX I.  
LETTER FROM CHIEF FINANCIAL OFFICER.

NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.

I am the chief financial officer of [insert name and address of the owner or operator<=> or guarantor]. This letter is in support of the use of [insert "the financial test of self-insurance," and/or "Guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert "owner or operator," and/or "guarantor"]: [List for each facility the name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 9 VAC 25-580-70 (Underground Storage Tanks; Technical Standards and Corrective Action Requirements)].

A [insert "financial test," and/or "guarantee"] is also used by this [insert "owner or operator" or "guarantor"] to demonstrate evidence of financial responsibility in the

# Final Regulations

following amounts under other EPA regulations or state programs authorized by EPA under 40 CFR Parts 271 and 145 (1997):

EPA Regulation for each state of business operations (specify state):

	Amount
Closure (Sections 264.143 and 265.143)	\$ _____
Post-Closure Care (Sections 264.145 and 265.145)	\$ _____
Liability Coverage (Sections 264.147 and 265.147)	\$ _____
Corrective Action (Sections Section 264.101(b))	\$ _____
Plugging and Abandonment (Section 144.63)	\$ _____
<i>Other State Programs (specify state):</i>	
<i>Closure</i>	\$ _____
<i>Post-Closure Care</i>	\$ _____
<i>Liability Coverage</i>	\$ _____
<i>Corrective Action</i>	\$ _____
<i>Plugging and Abandonment</i>	\$ _____
Virginia Hazardous Waste Management Regulations:	
Closure (9 VAC 20-60-810 C and 9 VAC 20-60-590 C)	\$ _____
Post-Closure Care (9 VAC 20-60-810 E and 9 VAC 20-60-590 E)	\$ _____
Liability Coverage (9 VAC 20-60-810 G and 9 VAC 20-60-590 G)	\$ _____
Corrective Action (9 VAC 20-60-790 L 2)	\$ _____
Plugging and Abandonment (40 CFR Section 144.63) (1997)	\$ _____

~~[ A *financial test* and/or *guarantee* ] is also used by this [insert: "owner or operator" or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts for the operation of facilities and/or tank vessels in accordance with § 62.1-44.34:16 of the Code of Virginia.~~

<del>The amount of annual aggregate coverage for facility(ies)</del>	<del>\$ _____</del>
<del>The amount of annual aggregate coverage for tank vessels</del>	<del>\$ _____</del> ]
TOTAL	\$ _____

This [insert "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of § 6 9 VAC 25-590-60 B are being used to demonstrate compliance with the financial test requirements. Fill in the

information for Alternative II if the criteria of § 6 9 VAC 25-590-60 C are being used to demonstrate compliance with the financial test requirements.]

## ALTERNATIVE I

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee.....\$ \_\_\_\_\_
2. Amount of corrective action, closure and post-closure care costs, liability coverage, [ and ] plugging and abandonment costs [ ~~and annual aggregate coverage for facilities and/or tank vessels~~ ] covered by a financial test, and/or guarantee.....\$ \_\_\_\_\_
3. Sum of lines 1 and 2.....\$ \_\_\_\_\_
4. Total tangible assets.....\$ \_\_\_\_\_
5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line or add that amount to line 6].....\$ \_\_\_\_\_
6. Tangible net worth [subtract line 5 from line 4].....\$ \_\_\_\_\_
7. Is line 6 at least equal to line 1 above? Yes.... No.....
8. Is line 6 at least equal to the sum of line 1 plus 10 times line 2? Yes.... No....
9. Have financial statements for the latest ~~fiscal~~ *financial reporting* year been filed with the Securities and Exchange Commission? Yes.... No....
10. Have financial statements for the latest ~~fiscal~~ *financial reporting* year been filed with the Energy Information Administration? Yes.... No....
11. Have financial statements for the latest ~~fiscal~~ *financial reporting* year been filed with the Rural Electrification Administration? Yes.... No....
12. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of at least [ ~~BB~~ ] (~~\$200,000 to 299,999~~) equal to the amount of annual UST aggregate coverage being assured according to the table below?

Annual Aggregate Requirement	Dun and Bradstreet Rating
\$20,000	EE (\$20,000 to \$34,999)
\$40,000	DC (\$50,000 to \$74,999)
\$80,000	CB (\$125,000 to \$199,999)
\$150,000	BB (\$200,000 to \$299,999)
\$200,000	BB (\$200,000 to \$299,999)

[Answer "Yes" only if both criteria have been met.]  
Yes.... No....

13. If you did not answer yes to one of lines 9 through 12, please attach a report from a certified public accountant certifying that there are no material

differences between the data reported in ~~line~~ lines 4 through 8 above and the financial statements for the latest ~~filed~~ financial reporting year.

ALTERNATIVE II

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee
  2. Amount of corrective action closure and post-closure care costs, liability coverage, [ and ] plugging and abandonment costs [ ~~and annual aggregate coverage for facilities and/or tank vessels~~ ] covered by a financial test, and/or guarantee.....\$\_\_\_
  3. Sum of lines 1 and 2.....\$\_\_\_
  4. Total tangible assets.....\$\_\_\_
  5. Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line or add that amount to line 6].....\$\_\_\_
  6. Tangible net worth [subtract line 5 from line 4].....\$\_\_\_
  7. Total assets in the U.S. [required only if less than 90% of assets are located in the U.S.].....\$\_\_\_
  8. Is line 6 at least equal to line 1 above? Yes\_\_\_ No\_\_\_
  9. Is line 6 at least equal to the sum of line 1 plus 6 times the sum of line 2? Yes\_\_\_ No\_\_\_
  10. Are at least 90% of assets located in the U.S.? [If "No," complete line 11.] Yes\_\_\_ No\_\_\_
  11. Is line 7 at least equal to the sum of line 1 plus 6 times the sum of line 2? Yes\_\_\_ No\_\_\_
- [Fill in either lines 12-15 or lines 16-18:]
12. Current assets.....\$\_\_\_
  13. Current liabilities.....\$\_\_\_
  14. Net working capital subtract line 13 from line 12.....\$\_\_\_
  15. Is line 14 at least equal to the sum of line 1 plus 6 times the sum of line 2? Yes\_\_\_ No\_\_\_
  16. Current bond rating of most recent bond issue? Yes\_\_\_ No\_\_\_ -----
  17. Name of rating service Yes\_\_\_ No\_\_\_ -----  
\_\_\_\_\_
  18. Date of maturity of bond Yes\_\_\_ No\_\_\_ -----  
\_\_\_\_\_
  19. Have financial statements for the latest ~~filed~~ financial reporting year been filed with the SEC, the Energy Information Administration, or the Rural Electrification Administration? Yes\_\_\_ No\_\_\_

[If "no," please attach a report from an independent certified public accountant certifying that there are no material differences between the data reported in lines 4-18 above and the financial statements for the latest ~~filed~~ financial reporting year.]

[For Alternatives I and II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in Appendix I of this chapter as such regulations were constituted on the date shown immediately below.

[Signature]  
[Name]  
[Title]  
[Date]

~~\*NOTE: Where this document is to be utilized by a petroleum storage tank vendor, then the words "petroleum storage tank vendor" shall be substituted for "owner or operator" where appropriate.~~

APPENDIX II.  
GUARANTEE.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the state of [insert name of state], herein referred to as guarantor, to the State Water Control Board of the Commonwealth of Virginia and to any and all third parties, and obligees, on behalf of [owner or operator~~s~~] of [business address].

~~\* NOTE: Where this document is to be utilized by a petroleum storage tank vendor, then the words "petroleum storage tank vendor" shall be substituted for "owner or operator" where appropriate.~~

Recitals.

(1) Guarantor meets or exceeds the financial test criteria of 9 VAC 25-590-60 B or C and D of the Virginia Petroleum Underground Storage Tank Financial Responsibility Requirements Regulation, 9 VAC 25-590-10 et seq., and agrees to comply with the requirements for guarantors as specified in 9 VAC 25-590-70 B.

(2) [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9 VAC 25-580-70 [ - ] (Underground Storage Tanks [ ÷ : ] Technical Standards and Corrective Action Requirements), and the name and address of the

---

# Final Regulations

---

facility]. This guarantee satisfies this chapter's requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location[!] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(3) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to the State Water Control Board and to any and all third parties that:

In the event that [owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the State Water Control Board has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the State Water Control Board, shall fund a standby trust fund in accordance with the provisions of 9 VAC 25-590-170, in an amount not to exceed the coverage limits specified above.

In the event that the State Water Control Board determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 9 VAC 25-580-230 through 9 VAC 25-580-300 (Underground Storage Tanks [ ÷ : ] Technical Standards and Corrective Action Requirements), the guarantor upon written instructions from the State Water Control Board shall fund a standby trust in accordance with the provisions of 9 VAC 25-590-170, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the State Water Control Board, shall fund a standby trust in accordance with the provisions of 9 VAC 25-590-170 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of 9 VAC 25-590-60 B or C and D, guarantor shall send within 120 days of

such failure, by certified mail, notice to [owner or operator]. The guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 9 VAC 25-580-10 et seq. and 9 VAC 25-590-10 et seq.

(7) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] ~~must~~ *shall* comply with the applicable financial responsibility requirements of 9 VAC 25-590-10 et seq. for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank; ~~or~~

(e) Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9 VAC 25-590-40.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the State Water Control Board, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in Appendix II of 9 VAC 25-590-10 et seq. as such regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX V.  
PERFORMANCE BOND.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Date bond executed:

Period of coverage:

Principal: [legal name and business address of owner or operator.]↔

Type of organization: [insert "individual" "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable):

Surety(ies): [name(s) and business address(es)]

Scope of coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9 VAC 25-580-70 (Underground Storage Tanks [ ; : ] Technical Standards and Corrective Action Requirements), and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"].

Penal sums of bond:

Corrective Action (per occurrence) \$.....

Third Party Liability (per occurrence) \$.....

Annual aggregate \$.....

Surety's bond number:

Know all Persons by These Presents, that we, the principal and Surety(ies), hereto are firmly bound to the State Water Control Board of the Commonwealth of Virginia, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of

liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under §§ 62.1-44.34:8 through § 62.1-44.34:12 of the Code of Virginia, Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, and under the Virginia Petroleum Underground Storage Tank Financial Requirements Regulation (9 VAC 25-590-10 et seq.), to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with Part VI of 9 VAC 25-580-230 through 25-580-300. (Underground Storage Tanks [ ; : ] Technical Standards and Corrective Action Requirements) and the State Water Control Board's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden" or "nonsudden" or "sudden and nonsudden"] accidental releases arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in 9 VAC 25-590-10 et seq., within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

- (a) Any obligation of [insert owner or operator<sup>2</sup>] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- (e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or

---

# Final Regulations

---

agreement other than a contract or agreement entered into to meet the requirements of 9 VAC 25-590-40.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the State Water Control Board that the Principal has failed to ["take corrective action, in accordance with Part VI of 9 VAC 25-580-230 through 25-580-300 and the State Water Control Board's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in, accordance with 9 VAC 25-580-10 et seq. and the board's instructions," and/or "third party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the State Water Control Board under 9 VAC 25-590-170.

Upon notification by the State Water Control Board that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the State Water Control Board has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the State Water Control Board under 9 VAC 25-590-170.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the principal, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Appendix V of 9 VAC 25-590-10 et

seq. as such regulations were constituted on the date this bond was executed.

## PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

## CORPORATE SURETY(IES)

[Name and address]

State of Incorporation:

Liability limit.....\$ . . .

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for surety above.]

Bond premium:.....\$ . . .

~~\*Note: Where this document is to be utilized by a petroleum storage tank vendor, then the words "petroleum storage tank vendor" shall be substituted for "owner or operator" where appropriate.~~

## APPENDIX VI.

### IRREVOCABLE STANDBY LETTER OF CREDIT.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

[Name and address of issuing institution]

[Name and address of the Executive Director of the State Water Control Board of the Commonwealth of Virginia and Director(s) of other state implementing agency(ies)]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No . . . . in your favor, at the request and for the account of [owner or operator<\*> name] of [address] up to the aggregate amount of [in words] U.S. dollars (\$[insert dollar amount]), available upon presentation [insert, if more than one director of a state implementing agency is a beneficiary, "by any one of you"] of

(1) your sight draft, bearing reference to this letter of credit, No. . . . and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of §§ 62.1-44.34:8 through 62.1-44.34:12 of the Code of Virginia and Subtitle I of the Resource Conservation and Recovery Act of 1976, as amended."

This letter of credit may be drawn on to cover [insert: "taking corrective action" and/or "compensating third parties

for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$ [insert dollar amount] per occurrence and [in words] \$ [insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 9 VAC 25-580-70 (Underground Storage Tanks [ ÷ : ] Technical Standards and Corrective Action Requirements), and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

- (a) Any obligation, of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- (e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9 VAC 25-590-40 (Virginia Petroleum Underground Storage Tank Financial Responsibility Requirements Regulation).

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Appendix VI of 9 VAC 25-590-10 et seq. as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published *and copyrighted* by the International Chamber of Commerce," or "the Uniform Commercial Code"].

~~\*Note: Where this document is to be utilized by a petroleum storage tank vendor, then the words "petroleum storage tank vendor" shall be substituted for "owner or operator" where appropriate.~~

## APPENDIX VII. TRUST AGREEMENT.

[NOTE: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

Trust agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator<\*>], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of . . . " or "a national bank"], the "Trustee."

Whereas, the State Water Control Board of the Commonwealth of Virginia has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located that are covered by the standby trust agreement.

Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.);

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

---

# Final Regulations

---

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) "9 VAC 25-590-10 et seq." is the Petroleum Underground Storage Tank Financial Requirements Regulation promulgated by the State Water Control Board for the Commonwealth of Virginia.

## Section 2. Identification of the Financial Assurance Mechanism.

This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement.)].

## Section 3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the State Water Control Board of the Commonwealth of Virginia. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. [The Fund is established initially as a standby to receive payments and shall not consist of any property.] Payments made by the provider of financial assurance pursuant to the State Water Control Board's instruction are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the State Water Control Board.

## Section 4. Payment for ["Corrective Action" and/or "Third Party Liability Claims"].

The Trustee shall make payments from the Fund as the State Water Control Board shall direct, in writing, to provide for the payment of the costs of [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 9 VAC 25-590-40.

The Trustee shall reimburse the Grantor, or other persons as specified by the State Water Control Board, from the Fund for corrective action expenditures and/or third party liability claims in such amounts as the State Water Control Board shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the State Water Control Board specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined here.

## Section 5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

## Section 6. Trustee Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims, except that:

(a *i*) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 USC § 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b *ii*) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c *iii*) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

## Section 7. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is

eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 USC § 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

## Section 8. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

## Section 9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including

fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

## Section 10. Advice of Counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

## Section 11. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

## Section 12. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

## Section 13. Instructions to the Trustee.

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests and instructions by the State Water Control Board to the Trustee shall be in writing, signed by the Executive Director of the State Water Control Board, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the State Water Control Board hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the State Water Control Board, except as provided for herein.

---

# Final Regulations

---

## Section 14. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the State Water Control Board if the Grantor ceases to exist.

## Section 15. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the State Water Control Board, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

## Section 16. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the State Water Control Board issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

## Section 17. Choice of Law.

This Agreement shall be administered, construed, and enforced according to the laws of the Commonwealth of Virginia, or the Comptroller of the Currency in the case of National Association banks.

## Section 18. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Appendix VII of 9 VAC 25-590-10 et seq. as such regulations were constituted on the date written above.

[Signature of Grantor]

[Name of the Grantor]

[Title]

Attest:

[Signature of Trustee]

[Name of the Trustee]

[Title]

[Seal]

[Signature of Witness]

[Name of Witness]

[Title]

[Seal]

~~\*Note: Where this document is to be utilized by a petroleum storage tank vendor, then the words "petroleum storage tank vendor" shall be substituted for "owner or operator" where appropriate.~~

## APPENDIX VIII. CERTIFICATION OF ACKNOWLEDGMENT.

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

State of . . . .

County of . . . .

On this [date], before me personally came [owner or operator<=>] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Name of Notary Public]

My Commission expires:

~~\*Note: Where this document is to be utilized by a petroleum storage tank vendor, then the words "petroleum storage tank vendor" shall be substituted for "owner or operator" where appropriate.~~

## APPENDIX IX. CERTIFICATION OF FINANCIAL RESPONSIBILITY.

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

[Owner or operator ~~or petroleum storage tank vendor~~] hereby certifies that it is in compliance with the requirements of 9 VAC 25-590-10 et seq. (Petroleum Underground Storage Tank Financial Requirements Regulation).

The financial assurance mechanism[s] used to demonstrate financial responsibility under 9 VAC 25-590-10 et seq. is [are] as follows:

~~[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property~~

damage caused by" either "sudden accidental releases" or "non-sudden accidental releases" or "accidental releases."

Indicate type of Mechanism (Note: the Fund may not be used as the sole mechanism):

- Virginia Petroleum Storage Tank Fund ("the Fund")
Letter from Chief Financial Officer
Guarantee
Insurance Endorsement or Certificate
Letter of Credit
Surety Bond
Trust Fund

Name of Issuer (for mechanism other than the Fund):

Mechanism Number (if applicable):

Amount of coverage for mechanism other than the Fund:

- corrective action per occurrence
third party liability per occurrence
annual aggregate

Amount of coverage under Virginia Petroleum Storage Tank Fund:

per occurrence and annual aggregate

Effective period of coverage: to

Do(es) mechanism(s) cover(s): taking corrective action and/or compensating third parties for bodily injury and property damage caused by either sudden accidental releases or nonsudden accidental releases or accidental releases? Yes No

If "No," specify in the following space the items the mechanism covers:

[Signature of owner or operator or petroleum storage tank vendor]

[Name of owner or operator or petroleum storage tank vendor] [Title] [Date]

[Signature of notary]

[Name of notary] [Date] My Commission expires:

APPENDIX X. CERTIFICATION OF VALID CLAIM.

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

The undersigned, as principals and as legal representatives of [insert owner or operator] and [insert name and address of third party claimant], hereby certify that

the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of \$[. . .].

[Signatures] [Signature(s)]

Owner or Operator Claimant(s)

Attorney for Attorney(s) for

Owner or Operator Claimant(s)

(Notary) Date (Notary) Date

Note: Where this document is to be utilized by a petroleum storage tank vendor, then the words "petroleum storage tank vendor" shall be substituted for "owner or operator" where appropriate.

APPENDIX XI. LETTER FROM CHIEF FINANCIAL OFFICER (SHORT FORM).

[Note: This Appendix may only be used by owners [ or ] operators [ or petroleum storage tank vendors ] who do not own or operate hazardous waste facilities, [ or ] underground injection control wells [ , aboveground storage tank facilities or tank vessels ].

[Note: The instructions in brackets are to be replaced by the relevant information and the brackets deleted.]

I am the chief financial officer of [insert: name and address of the owner or operator or guarantor]. This letter is in support of the use of [insert "the financial test of self-insurance," and/or "Guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert "owner or operator," and/or "guarantor"]: [List for each facility the name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 9 VAC 25-580-70 (Underground Storage Tanks [ : ] Technical Standards and Corrective Action Requirements)].

I am not required to demonstrate evidence of financial responsibility for any other EPA regulation or state programs authorized by EPA [ or for operation of facilities and/or tank vessels in accordance with § 62.1-44.34:16 of the Code of Virginia ].

# Final Regulations

This [insert "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on the financial statements for the latest completed financial reporting year.

[Fill in the information below to demonstrate compliance with the financial test requirements.]

1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee..... \$---
2. Total tangible assets.....\$---
3. Total liabilities [if any of the amount reported on line 1 is included in total liabilities, you may deduct that amount from this line or add that amount to line 4].....\$---
4. Tangible net worth [subtract line 3 from line 2].....\$---
5. Is line 4 at least equal to line 1 above? Yes... No...
6. Have financial statements for the latest financial reporting year been filed with the Securities and Exchange Commission? Yes... No...
7. Have financial statements for the latest financial reporting year been filed with the Energy Information Administration? Yes... No...
8. Have financial statements for the latest financial reporting year been filed with the Rural Electrification Administration? Yes... No...
9. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating at least equal to the [ ~~amount~~ amount ] of annual UST aggregate coverage being assured according to the table below?

Annual Aggregate Requirement	Dun and Bradstreet Rating
\$20,000	EE (\$20,000 to \$34,999)
\$40,000	DC (\$50,000 to \$74,999)
\$80,000	CB (\$125,000 to \$199,999)
\$150,000	BB (\$200,000 to \$299,999)
\$200,000	BB (\$200,000 to \$299,999)

[Answer "Yes" only if BOTH criteria have been met.]  
Yes... No...

10. If you did not answer yes to one of lines 6 through 9, please attach a report from a certified public accountant certifying that there are no material differences between the data reported in lines 2 through 5 above and the financial statements for the latest financial reporting year.

I hereby certify that the wording of this letter is identical to the wording specified in Appendix XI of this chapter as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

**NOTICE:** The forms used in administering 9 VAC 25-590-10 et seq., Petroleum Underground Storage Tank Financial Responsibility Requirements, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

## FORMS

Virginia Department of Environmental Quality [ ~~Water Division~~ ] Corporate Ability [ to ] Pay [ ~~Claim Application~~ (7/98) ].

Individual Ability to Pay Claim [ (7/98) ].

[ ~~Partnership Ability to Pay Application~~ (7/98).

~~Insurance Certification~~ (7/98).

~~Ability to Pay Application Instructions~~ (5/98).

~~Ability to Pay Bankruptcy Affidavit~~ (7/98). ]

[ ~~Appendix I-Letter from Chief Financial Officer.~~

~~Appendix II-Guarantee.~~

~~Appendix III-Endorsement.~~

~~Appendix IV-Certificate of Insurance.~~

~~Appendix V-Performance Bond.~~

~~Appendix VI-Irrevocable Standby Letter of Credit.~~

~~Appendix VII-Trust Agreement.~~

~~Appendix VIII-Certification of Acknowledgment.~~

~~Appendix IX-Certification of Financial Responsibility.~~

~~Appendix X-Certification of Valid Claim.~~

~~Appendix XI-Letter from Chief Financial Officer (Short Form).~~ ]

Notice of Intent to Seek Reconsideration [ (1/1/98) ].

[ ~~Form 1-Virginia Underground Petroleum Storage Tank Fund Cost Justification and Application for Reimbursement of Corrective Action Costs, VWCB USTRF-10, (eff. 7/91).~~

~~Form 2-VUPSTF Summary of All Costs, Cost Detail Worksheets A-E, USTRF-20, (eff. 7/91).~~

~~Form 3-CPA Affidavit, USTRF-30, (eff. 7/91).~~

~~Form 4-Corrective Action Activity Regional Office Review, USTRF-40, (eff. 7/91).~~

~~Form 5-Owner Identification and Assignment Certification, USTRF-50, (eff. 7/91).~~

~~Form 6 Agent Assignment Certification, USTRF-60, (eff. 7/94).~~

~~Form 7 Assignment of VUPSTF Proceeds to Financial Institutions, USTRF-70, (eff. 7/94).~~

*Reconsideration Claim Form (1/1/98).*

*Form 1 - Virginia Petroleum Storage Tank Fund Reimbursement Application (1/1/98).*

*Form 2 - Virginia Petroleum Storage Tank Fund Payment Assignment Form (1/1/98).*

*Form 3 - Virginia Petroleum Storage Tank Fund Multiple Owners Payment Assignment Form (1/1/98).*

*AAF Cost Worksheet (1/1/98).*

*Bid Cost Worksheet (1/1/97).*

*Activity Authorization Form for 198 UCRs (1/1/98).*

*Activity Authorization Form for 395 UCRs (1/1/98).*

*Activity Authorization Form for 1289 UCRs (1/1/98).*

*Bid Summary Form (1/1/98).*

*Bid Comparison Form (1/1/98).*

*Bid Work Progress Form (1/1/98).*

*Site Information Form (7/98). ]*

Certification of AST Facility Storage Capacity for Access to the Virginia Petroleum Storage Tank Fund [ (7/98) ].

Certification of Annual Gallonage [ (7/98) ].

Estate Ability to Pay Application [ Instructions (7/98) ].

VA.R. Doc. No. R98-209; Filed July 15, 1998, 11:26 a.m.

**TITLE 24. TRANSPORTATION AND MOTOR VEHICLES**

**COMMONWEALTH TRANSPORTATION BOARD**

**REGISTRAR'S NOTICE:** The following regulatory action filed by the Commonwealth Transportation Board is exempt from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Commonwealth Transportation Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 24 VAC 30-71-10 et seq. **Minimum Standards of Entrances to State Highways (amending 24 VAC 30-71-10, 24 VAC 30-71-80 and 24 VAC 30-71-130).**

**Statutory Authority:** §§ 33.1-12, 33.1-197, and 33.1-198 of the Code of Virginia.

**Effective Date:** September 3, 1998.

**Summary:**

The amendments are metric measurement changes to speed and distance in 24 VAC 30-71-10 and 24 VAC 30-71-80 and the elimination of the metric unit from Table 1 in 24 VAC 30-71-130. The amendments are technical changes which do not affect the substance of the regulation.

**Agency Contact:** Copies of the regulation may be obtained from S. D. Edwards, Traffic Engineering Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-0121.

**24 VAC 30-71-10. Definitions.**

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

“Accessible route” means a continuous unobstructed, stable, firm and slip-resistant path connecting all accessible elements of a facility (may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps and lifts) that can be approached, entered and used by persons with mobility impairments. An accessible route shall, to the maximum extent feasible, coincide with the route for the general public and shall be a minimum of three feet (0.94 0.9 meter) wide.

“Board” means the Commonwealth Transportation Board, Commonwealth of Virginia.

“Central office” means the office in downtown Richmond that contains the administrative functions, including preconstruction activities, and executes command responsibility and control over all Virginia Department of Transportation activities.

“Clear zone” means the unobstructed, relatively flat area provided beyond the edge of the traveled way for the recovery of errant vehicles. The width of the clear zone is influenced by the type of facility, traffic volume, speed, horizontal alignment and embankment and is detailed in the department's Road Design Manual, English (revised October 1996) or metric (revised September 1996) measurement versions.

“Commercial entrance” means an entrance serving all entities other than an individual private residence. (See private entrance.)

“Commissioner” means the Commonwealth Transportation Commissioner, who is also Vice-Chairman of the Commonwealth Transportation Board.

“Commonwealth” means the Commonwealth of Virginia.

“Department” means the Virginia Department of Transportation (VDOT).

“Design speed” means the maximum safe speed that can be maintained over a specified section of highway when conditions are so favorable that the design features of the

---

# Final Regulations

---

highway govern, as defined in the American Association of State Highway Transportation Officials' 1994 edition of A Policy on Geometric Design of Highways and Streets.

“*District office*” means the office in each of the nine construction districts located throughout the state that implements the construction and maintenance operations of the Virginia Department of Transportation.

“*Engineer*” means the engineer representing the Virginia Department of Transportation.

“*Operating speed*” means the highest overall speed at which a driver can travel on a given highway under favorable weather conditions and under prevailing traffic conditions without at any time exceeding the safe speed as determined by the design speed on a section-by-section basis, as defined in the American Association of State Highway Transportation Officials' 1994 edition of A Policy on Geometric Design of Highways and Streets.

“*Private entrance*” means an entrance serving an individual private residence and used for the exclusive benefit of the occupant.

“*Private subdivision road or street*” means a road or street that serves more than one individual property, is privately owned and maintained, and requires a commercial entrance permit.

“*Right-of-way*” means that property within the entire area of every way or place of whatever nature within the system of state highways under the ownership, control or jurisdiction of the board, which is open or which is to be open within the future for the use of the public for purposes of travel in the Commonwealth. The area set out above includes not only the traveled portion but the entire area inside and outside the traveled portion, from boundary line to boundary line, and also parking and recreation areas which are under the ownership, control or jurisdiction of the board.

“*Sight distance*” means, for crossovers and commercial entrances, the distance measured between the height of the driver's eye ( 3.5 feet) (1.07 meter) and the height of a 4.25-foot (1.30 meter) object without horizontal or vertical obstruction to the line of sight.

“*System of state highways*” means all highways and roads under the ownership, control, or jurisdiction of the board including, but not limited to, the primary, secondary, and interstate systems.

## **24 VAC 30-71-80. Construction.**

The type and depth of pavement shall be clearly indicated on the permit application. The pavement of entrances, turn lanes, and tapers shall be of stable material which is at least comparable to the pavement of the adjacent roadway.

On-site parking shall be designed so as not to interfere with sight distance and to prevent vehicular overhang on state right-of-way. Interior curbing should be set a minimum of two feet (0.61 meter) outside or beyond the right-of-way line and should extend the entire length of the parking area. When parking areas abut curbing sections with sidewalk,

parked vehicles shall be kept a sufficient distance from the curbing by the use of parking bumpers, or other means, to prevent vehicle overhang over the sidewalk. The engineer shall determine the need for additional curbing along the right-of-way to the adjacent property line.

Mountable curb (standard CG-3 or CG-7 in the English (revised April 1995) or metric (revised September 1997) measurement versions of the Road and Bridge Standards, Volumes I and II) is required when constructed within the clear zone of a road posted for a speed limit greater than 40 miles per hour (~~64~~ 60 kilometers per hour) in rural areas and 45 miles per hour (~~72~~ 70 kilometers per hour) in urban and suburban areas. However, mountable curb is not recommended adjacent to sidewalks.

All curbing and entrance gutters used to construct commercial entrances shall be installed in accordance with the Virginia Department of Transportation's Road and Bridge Standards, English (revised April 1995) or metric (revised September 1997) measurement versions, and all material shall meet the department's certification.

The property owner or developer of commercial or industrial entrances or subdivision road entrances shall be responsible for the entire construction of the entrance in accordance with the provisions of the required permit.

## **24 VAC 30-71-130. Sight distances.**

The following shall be utilized to evaluate sight distance. Vertical sight distance shall be determined from a target mounted 4.25 feet (1.30 meters) above the grade of the vehicle path simulating a vehicle entering or exiting the entrance. The sight distance shall be measured from an eye height of 3.5 feet (1.07 meters) to the target. Horizontal sight distance shall be determined from an eye height of 3.5 feet (1.07 meters) with the object being 4.25 feet (1.30 meters). For more information on sight distance, see the 1994 edition of A Policy on Geometric Design of Highways and Streets published by the American Association of State Highway Transportation Officials.

On a typical two lane road with a horizontal curve, numerous objects restrict sight distance. These include, but are not limited to, cut slopes, buildings, vegetation, and vehicles. Landscaping in these areas shall conform to the VDOT Environmental Division's Planting Guidelines Manual, effective 1990. It is possible to have sight distance in the winter and not in the spring or summer due to the growth of vegetation. These obstructions should be considered when reviewing a commercial entrance permit. A divided highway may have similar problems. It is important to obtain the desirable commercial entrance sight distance from the entrance as well as the left turn position into the entrance. Any waiver of the required sight distance may only be granted by the chief engineer or the assistant commissioner for operations after a traffic engineering investigation has been conducted.

Table 1 shows specific information about sight distances and speeds along major roads:

Table 1  
Sight Distances Along Major Roads at Intersections with Minor Road and Crossovers and Commercial Entrances

Height of Eye (3.5 ft.) (1.07 m.)	Height of Object (4.25 ft.) (1.30 m.)						
Speed Limit*							
Miles per hour (mph) Kilometers per hour (kph)	25 mph 40 kph	30 mph 48 kph	35 mph 56 kph	40 mph 64 kph	45 mph 72 kph	50 mph 80 kph	55 mph 89 kph
Two and Three Lane Road or Four Lane Divided Highways not at Crossovers	250 ft. <del>76 m.</del>	300 ft. <del>91 m.</del>	350 ft. <del>107 m.</del>	400 ft. <del>122 m.</del>	450 ft. <del>137 m.</del>	500 ft. <del>152 m.</del>	550 ft. <del>168 m.</del>
Four Lane** Undivided and Four Lane Divided Highways at Crossovers	300 ft. <del>91 m.</del>	350 ft. <del>107 m.</del>	425 ft. <del>130 m.</del>	475 ft. <del>145 m.</del>	525 ft. <del>160 m.</del>	600 ft. <del>183 m.</del>	650 ft. <del>198 m.</del>

\* Where the operating speed on the respective segment of highway is determined to be lower than the legal speed limit, and, in the judgment of the engineers, the operating speed shall not create hazards for either a driver at a connection or on the major roadway and the legal speed limit cannot and, in all probability, shall not be obtained in the foreseeable future as a result of improvement or reconstruction, the sight distance requirements for the operating speed may then be applied. The operating speed shall be determined by a traffic engineering study at the location in question. In all cases when the operating speed is used in lieu of the speed limit, full documentation of its determination shall be attached to the permit assembly.

\*\* For median widths greater than 60 feet (18 meters), each roadway can be considered as a separate two, three, or four lane roadway. (See the 1994 edition of A Policy on Geometric Design of Highways and Streets.)

VA.R. Doc. No. R98-296; Filed July 9, 1998, 2:53 p.m.

\* \* \* \* \*

**REGISTRAR'S NOTICE:** The following regulation was filed by description with the Registrar of Regulations in accordance with § 2.3 of the Virginia Code Commission Regulations implementing the Virginia Register Act. Section 2.3 of the Virginia Code Commission Regulations allows the Registrar to authorize the filing of a regulatory document by description in lieu of filing the entire text pursuant to criteria identified in that section.

**Title of Regulation:** 24 VAC 30-350-10. Administrative Manual/Procurement and Surplus Property Manual.

**Statutory Authority:** § 33.1-12 of the Code of Virginia.

**Effective Date:** July 14, 1998.

**Exemptions Claimed:**

*This regulation is exempt from the Administrative Process Act pursuant to § 9-6.14:4.1 B 2 of the Code of Virginia, which exempts agency action involving the award or denial of state contracts, as well as decisions regarding compliance therewith. Subdivision 2 f of § 2.3 of the Virginia Code Commission Regulations allows regulations concerning public contracts to be filed by*

*description subject to the authorization of the Registrar of Regulations.*

**Summary:**

*The Agency Procurement and Surplus Property Manual sets forth policies and procedures to be followed by state agencies in fulfilling procurement responsibilities within their delegated limits. In addition, the Division of Purchases and Supply of the Department of General Services may from time to time issue directives or memoranda which are effective until included in a revision to the manual or rescinded. This edition of the manual applies to procurements initiated after September 1, 1995. The revisions to the 1995 edition concern increased general authority to procure goods and printing services delegated by the Department of General Services.*

*The Administrative Services Division Manual generally outlines the procedures and policies for procuring nonprofessional services and for purchasing, storing and issuing material, equipment and supplies. It also includes policies and procedures relative to administration of the following general services by the Administrative Services Division: Capital Outlay Expenditures; Central Filing and*

---

# Final Regulations

---

*Record Retention Services; Distribution and Collection of Mail; Maintenance of Central Office Buildings; Information Desk; Insurance and Claims Services; and Fixed Asset Accounting and Control System.*

The documents are available to businesses and citizens for public review and are available for inspection at the following location:

Virginia Department of Transportation  
Administrative Services Division  
Memorial Hospital Building, 1st Floor  
1201 E. Broad Street  
Richmond, VA 23219

VA.R. Doc. No. R98-300; Filed July 14, 1998, 10:51 a.m.



# FORMS

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**EDITOR'S NOTICE:** The following form has been amended by the Department of Mines, Minerals and Energy. The form is available for public inspection at the Department of Mines, Minerals and Energy, Ninth Street Office Building, 202 North 9th Street, Richmond, VA 23219, or at the department's Charlottesville office. Copies of the forms may be obtained from Cheryl Cashman, Department of Mines, Minerals and Energy, Ninth Street Office Building, 202 North 9th Street, Richmond, VA 23219, telephone (804) 692-3213.

**Title of Regulation:** 4 VAC 25-30-10 et seq. Minerals Other Than Coal Surface Mining Regulations.

**Title of Regulation:** 4 VAC 25-40-10 et seq. Safety and Health Regulations for Mineral Mining.

Surety Bond, DMM-107 (Rev. 8/87 4/98).

Bond Policy No.:



COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF MINES, MINERALS AND ENERGY  
DIVISION OF MINERAL MINING  
P. O. BOX 3727, CHARLOTTESVILLE, VA 22903  
TELEPHONE: (804) 961-5000

### SURETY BOND

**KNOW ALL MEN BY THESE PRESENTS:** That we, \_\_\_\_\_ (hereafter **Principal**) whose principal place of business is located at \_\_\_\_\_ and \_\_\_\_\_ (hereafter **Surety**), are held and firmly bound unto the **COMMONWEALTH of VIRGINIA**, Director, Division of Mineral Mining (hereafter **Obligee**), in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars for the payment thereof the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly, by these presents.

WHEREAS, the Principal proposes to commence mineral mining, to be known as \_\_\_\_\_ in \_\_\_\_\_ County(ies), of Virginia.

Now, therefore, the condition of this obligation is such that if the Principal shall promptly and faithfully comply with the operations plan, including the drainage and reclamation plans as filed with Obligee under Permit Number \_\_\_\_\_ and furnish such information and reports thereon as may be required, in compliance with all the rules and regulations of Obligee and with the laws of the COMMONWEALTH of VIRGINIA relating thereto, then this obligation shall be null and void; otherwise, it shall remain in full force and effect until it is released in writing by the Obligee in accordance with Chapter 16 of Title 45.1 of the Code of Virginia, 1950, as amended. In the event that this performance bond is declared forfeited, in whole or in part, according to law, the Surety will cause the principal sum or appropriate part hereof to be delivered to the Obligee immediately upon the written demand of the latter.

The Surety represents to the Principal and to the Obligee that it is legally authorized to do business in the Commonwealth of Virginia.

WHEREAS, the Surety will notify the Obligee and the Principal of any notice received or action filed alleging the insolvency or bankruptcy of the Surety company, or alleging any violations or regulatory requirements which could result in suspension or revocation of the Surety's license to do business or render the Surety incapable of fulfilling its obligations under the bond for any reason. This notification will also apply to increase or decrease riders/stipulations affecting the original amount of this bond.

1

DMM-107  
Rev. 04/98

Bond Policy No.:

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Contractor/Principal) (SEAL)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Witness

By: \_\_\_\_\_ (Surety) (SEAL)

Typed Name: \_\_\_\_\_  
Attorney-in-Fact

My Power of Attorney is recorded in the Clerks Office of the Circuit Court of \_\_\_\_\_  
Virginia in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, and has not been revoked.

\_\_\_\_\_  
Attorney-in-Fact

**AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT**

COMMONWEALTH OF VIRGINIA

(or, alternatively, Commonwealth or State of \_\_\_\_\_)

CITY/COUNTY OF \_\_\_\_\_ to wit:

I, the undersigned notary public, do certify that \_\_\_\_\_ personally appeared before  
me in the jurisdiction aforesaid and made oath that he is the attorney-in-fact of \_\_\_\_\_  
\_\_\_\_\_, the Surety, that he is duly authorized to execute on its behalf the  
foregoing Bond pursuant to the Power of Attorney noted above, and on behalf of said Surety, acknowledged  
the aforesaid Bond(s) as its act and deed.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public (SEAL)

My Commission expires: \_\_\_\_\_

**ACCEPTED:**

Division of Mineral Mining \_\_\_\_\_ Date

---

# GOVERNOR

---

## **EXECUTIVE ORDER NUMBER ELEVEN (98)**

### **GOVERNOR'S ADVISORY BOARD OF ECONOMISTS**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 and § 2.1-393 of the *Code of Virginia*, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Governor's Advisory Board of Economists.

The general responsibility of the Board shall be to review and evaluate revenue estimates to be used in the formulation of the Governor's Budget and amendments thereto. The Board shall review and make recommendations regarding:

1. Economic assumptions and technical econometric methodology used to prepare the Governor's annual six-year estimates of anticipated general and nongeneral fund revenues;
2. Assumptions and methodologies used to project general fund and nongeneral fund revenues for the current and future biennia;
3. Current and projected economic outlook for the Commonwealth and the nation; and
4. Other related issues, at the request of the Governor.

The Board shall be comprised of members appointed by the Governor and shall serve at his pleasure. The Secretary of Finance shall serve as chairman of the Board. Other members of the Board shall be economists selected from both the public and private sectors.

This Executive Order rescinds Executive Order Number Twenty-Two (94), Governor's Advisory Board of Economists, issued by Governor George Allen on June 30, 1994.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-280; Filed July 8, 1998, 8:20 a.m.

## **EXECUTIVE ORDER NUMBER TWELVE (98)**

### **ASSIGNING RESPONSIBILITY FOR PARTICIPATION IN FEDERAL "SUPERFUND" PROGRAM**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to § 2.1-39.1 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby assign responsibilities for the administration and

coordination of state response actions under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("Superfund" Program), as amended, to the following executive branch agencies and officials:

1. The Secretary of Public Safety or the Secretary's designee shall be responsible for entering into cooperative agreements with the United States Environmental Protection Agency (EPA) regarding the immediate response to the release of, or substantial threat of a release of, hazardous substances that threaten the public health, welfare, and environment.
2. The State Coordinator of the Department of Emergency Services, under the direction of the Secretary of Public Safety, shall be responsible for developing the Virginia Oil and Hazardous Materials Emergency Response Plan and other requisite documents.
3. The Director of the Department of Environmental Quality, under the direction of the Secretary of Natural Resources, shall be responsible for entering into cooperative agreements and other agreements and contracts with EPA, the United States Department of Defense (DOD), and other federal agencies for the Superfund Site Assessment, Removal and Remedial Programs. Such agreements and contracts shall provide for the investigation and assessment of releases of hazardous substances into the environment, and for remedial actions providing permanent resolution of the release of hazardous substances into the environment, except removals that involve immediate response to the release of hazardous substances that threaten the public health, welfare, and environment. Before signing any cooperative agreement, the Director of the Department of Environmental Quality shall assure the adherence to any applicable requirements of the General Provisions of the current Appropriation Act.
4. The Director of the Department of Environmental Quality is authorized to sign, on behalf of the Commonwealth, the hazardous waste capacity assurance plan mandated by the Superfund Amendments and Reauthorization Act and any amendments thereto.
5. The Secretary of Natural Resources shall act on behalf of the public as trustee for natural resources. The Secretary of Natural Resources shall assess damage to natural resources in the case of injury to, destruction of, or loss of natural resources. Funds recovered by the Secretary of Natural Resources as trustee shall be available only to restore, rehabilitate, or acquire the equivalent of such natural resources.
6. The Secretary of Natural Resources and the Secretary of Public Safety are authorized to develop memoranda of understanding which set forth the working relationships between and among state

---

# Governor

---

agencies with responsibilities under the Executive Order and applicable statutes.

This Executive Order rescinds Executive Order Number Twenty-Five (94), Assigning Responsibility to State Officials and State Agencies for Participation in the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 ("Superfund" Program), issued by Governor George Allen on June 30, 1994.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-281; Filed July 8, 1998, 8:20 a.m.

## **EXECUTIVE ORDER NUMBER THIRTEEN (98)**

### **STATE EMPLOYEE FRAUD, WASTE, AND ABUSE HOTLINE**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the Department of the State Internal Auditor to continue the statewide toll-free telephone "hotline" to encourage state employees to report situations where fraud, waste, and abuse may occur in Virginia state agencies and institutions.

There continues to exist within Virginia's government, as in every other state in the nation, an ongoing and continuing possibility of fraud, waste, and abuse in the conduct of government business. Despite the Commonwealth's historic reputation for honesty and integrity in the management of its affairs, we cannot be complacent. We must be diligent in ensuring that Virginia's state government is ethical and fiscally responsible.

State employees should continue to have the opportunity to report possible instances of fraud, waste, or abuse anonymously by using the toll-free telephone hotline. The Department of the State Internal Auditor (DSIA) shall remain responsible for administering the hotline. This arrangement coincides with the responsibilities that executive branch agency heads have for maintaining appropriate internal controls to protect against fraud, waste, and abuse.

DSIA, through its network of internal auditing programs, shall ensure that investigation and resolution activities are undertaken in response to reports received on the hotline. DSIA shall determine the authenticity of allegations and ensure that appropriate corrective actions are taken to rectify any fraud, waste, and abuse.

DSIA shall undertake its investigation and resolution activities in the most cost-effective manner available. Accordingly, DSIA should assign responsibility for investigation and resolution to other investigative staffs where such responsibility is prescribed by law and where appropriate to avoid duplicating or replacing existing investigation and resolution functions.

State employees shall continue to be reminded of the hotline through such measures as the *Commonwealth Currents*, payroll stubs, and Virginia's statewide government telephone directory.

All executive branch agencies of the Commonwealth shall cooperate with, and provide assistance to, DSIA to the fullest extent allowed by law.

This Executive Order rescinds Executive Order Number Twenty-One (94), Hotline for State Employees to Report Fraud, Waste or Abuse, issued by Governor George Allen on June 30, 1994.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-282; Filed July 8, 1998, 8:20 a.m.

## **EXECUTIVE ORDER NUMBER FOURTEEN (98)**

### **DESIGNATION OF HOUSING CREDIT AGENCY UNDER FEDERAL TAX REFORM ACT OF 1986**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 of the *Code of Virginia*, and under 26 CFR 1.42-1T(c)(1), and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct that all of the State Housing Credit Ceiling for the Commonwealth, as determined in accordance with the Tax Reform Act of 1986, shall be allocated for the period of July 1, 1998, through June 30, 2002, to the Virginia Housing Development Authority (VHDA), as the Housing Credit Agency for the Commonwealth.

The Tax Reform Act of 1986 ("the Act"), adopted by the United States Congress and signed by the President, authorizes tax credits that may be claimed by owners of residential rental projects that provide housing for low-income residents. The Act imposes a ceiling, called the "State Housing Credit Ceiling," on the aggregate amount of tax credits that may be allocated during each calendar year to qualified housing projects within each state. The Act also provides for an allocation of the State Housing Credit Ceiling to the "Housing Credit Agency" of each state, but permits

each state's governor to establish a different formula for allocating the State Housing Credit Ceiling.

As the Commonwealth's Housing Credit Agency for the low-income housing tax credits program authorized by the Act, VHDA is hereby directed to consult with the Department of Housing and Community Development, housing development industry and nonprofit providers, municipal and county government officials, housing authorities, and other interested parties, and to hold at least one public hearing to obtain public comments on the proposed rules for the program.

This Executive Order rescinds Executive Order Number Forty-Three (95): Designation of Housing Credit Agency Under Federal Tax Reform Act of 1986, issued by Governor George Allen on March 9, 1995.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-283; Filed July 8, 1998, 8:20 a.m.

## **EXECUTIVE ORDER NUMBER FIFTEEN (98)**

### **CREATING THE NEW PARTNERSHIP COMMISSION**

Drug use, gang-related activities and violence in our schools present a clear and growing danger to our children, our families, and our communities. In recent years the Commonwealth has had tremendous success in reducing levels of violent crime. However, school violence as well as drug use, particularly among children and young adults, have continued to climb. The threat of drugs, gangs and violence remains a reality in far too many of our schools. In order to succeed in the fight against drugs, gangs, and school violence, we must rely, not only on a strong response from law enforcement, but must include core institutions of society - our families, schools, churches, and neighborhoods. We can accomplish these objectives through a new partnership between state and local government, community and business leaders, educators and law enforcement. Together, we can get drug peddlers and gangs off the streets, keep drugs and violence out of our schools, and give our children greater hope and opportunity to fulfill their dreams.

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia, and including but not limited to § 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's New Partnership Commission.

The Commission is classified as a gubernatorial advisory commission in accordance with §§ 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to advise the Governor as to how to make Virginia's schools and neighborhoods safer places to live, work and raise families. The specific duties of the Commission shall include the following:

- The Commission shall advise the Governor on the role of drugs and gangs in communities and the ways in which the Commonwealth can rid Virginia's neighborhoods and communities of drugs and gangs. Such advice shall include consideration of programs designed to educate children about the harmful consequences of drugs and gangs.
- The Commission shall advise the Governor as to ways in which the Commonwealth can implement new laws and initiatives to promote community safety, particularly youth and family safety. Such advice shall include consideration of programs designed to address school violence.
- The Commission shall advise the Governor as to how technology can best be used to promote community safety.
- The Commission shall explore the role of the corporate community in public safety issues.

The Commission shall be comprised of no more than 35 members appointed by the Governor and serving at his pleasure. The Governor shall designate two Co-Chairs of the Commission.

Members of the Commission shall serve without compensation but shall receive reimbursement for expenses incurred in the discharge of their official duties only upon the approval of the Secretary of Public Safety.

Such staff support as is necessary for the conduct of the Commission's work during the term of its existence shall be furnished by the Office of the Governor, the Offices of the Governor's Secretaries, and such other executive branch agencies as the Governor may designate. Staff support over the term of the Commission is expected to total 2,400 hours.

Funding necessary to support the Commission's work shall be provided from sources, including both private contributions and state funds appropriated for purposes related to the work of the Commission, as authorized by § 2.1-51.37(2) of the Code of Virginia. Direct expenditures for the Commission's work are estimated to be \$75,000, exclusive of costs related to personnel.

The Commission shall complete its work and report to the Governor no later than June 16, 1999, unless otherwise directed by the Governor, subject to the issuance of an appropriate continuation order pursuant to § 2.1-51.37 of the Code of Virginia. It may issue interim reports and make recommendations at any time it deems necessary or upon the Governor's request.

---

# Governor

---

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 16, 1999, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 17th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-284; Filed July 8, 1998, 8:20 a.m.

## **EXECUTIVE ORDER NUMBER SIXTEEN (98)**

### **CONTINUING CERTAIN EMERGENCY DECLARATIONS DUE TO NATURAL DISASTERS IN THE COMMONWEALTH**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to § 44-146.17 of the *Code of Virginia*, and subject always to my continuing and ultimate authority and responsibility to act in such matters, and to reserve powers, I hereby continue the states of emergency declared in the following executive orders:

Executive Order Number Six (94), Declaration of a State of Emergency Arising From a Severe Winter Storm Which Impacted the Commonwealth during the period of February 10 through 12, 1994; as continued by Executive Orders Eighteen (94), Fifty-one (95), Sixty-eight (96), and Seventy-seven (97);

Executive Order Number Seven (94), Declaration of a State of Emergency Arising From Heavy Snowfall, Torrential Rains, and Icy Conditions Throughout the Commonwealth during the period March 1 through 3, 1994; as continued by Executive Orders Eighteen (94); Fifty-one (95), Sixty-eight (96) and Seventy-seven (97);

Executive Order Number Fifty-four (95), Declaration of a State of Emergency Arising From Heavy Rains, Flash Floods and Mud Slides in Portions of the Commonwealth of Virginia, during the period of June 23 through 26, 1995, as continued by Executive Orders Sixty-eight (96) and Seventy-seven (97);

Executive Order Number Sixty (96), Declaration of a State of Emergency Throughout the Commonwealth of Virginia Arising From Massive Snow Storm With Blizzard Conditions, during the period of January 6 through 10, 1996, which resulted in melting snow, associated run-off, and severe flooding in portions of the Commonwealth during the period of January 18 through 19, 1996, as continued by Executive Orders Sixty-eight (96) and Seventy-seven (97);

Executive Order Number Sixty-six (96), Declaration of a State of Emergency Throughout the Commonwealth of Virginia Arising From Hurricane Fran which resulted in widespread devastation and property losses due to heavy rains, flooding, and high winds during the period of September 5 through 7, 1996, as continued by Executive Order Number Seventy-seven (97); and

Executive Order Number Four (98), Declaration of a State of Emergency Throughout the Commonwealth of Virginia Arising From Severe Weather With Heavy Snowfall in the Western Portion of the State and Inland and Coastal Flooding during the period of January 28 through February 6, 1998.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 1999, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-285; Filed July 8, 1998, 8:21 a.m.

## **EXECUTIVE ORDER NUMBER SEVENTEEN (98)**

### **PURCHASE, ASSIGNMENT, AND USE OF STATE- OWNED VEHICLES**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to §§ 2.1-47, 2.1-48 and Chapter 12 of Title 33.1 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for the purchase, assignment, and use of state-owned motor vehicles.

#### **Preamble**

The people of Virginia have a right to expect use of state-owned vehicles to be strictly limited to the necessary performance of official business. Motor vehicles are not to be purchased by agencies or permanently assigned to agencies from the "centralized fleet" (as defined in Chapter 12 of Title 33.1 of the *Code of Virginia*) for reasons of convenience or perquisite. The purchase, assignment, and use of such vehicles is to be determined solely according to whether it will promote efficiency and economy in state government.

To eliminate unnecessary expense associated with excessive use of state-owned motor vehicles and to set an example of frugality, I am hereby establishing policies and procedures to govern the purchase, assignment, and use of state-owned passenger-type motor vehicles in the future.

#### **Specific Directives**

1. The head of each agency or institution of the Commonwealth shall limit authorization of commuting in state-owned vehicles to those employees whose job travel requirements make commuting the only cost-effective or practical alternative. The Commissioner of Transportation shall ensure that regulations applicable to commuting are uniformly applied and meet the criteria stated herein. For the purpose of this Executive Order and as used in § 33.1-406 of the *Code of Virginia*,

"commuting" shall mean driving between home and office where such driving is not connected to a departure for, or return from, a trip on official state business.

2. Notwithstanding the foregoing paragraph, no appointee serving at the pleasure of the Governor shall use a state-owned vehicle for the purpose of commuting. Such appointees may use a state-owned vehicle for driving between home and office only when connected to a departure for, or return from, a trip on official state business. The limitation of this paragraph shall not apply to the Secretary of Public Safety, the Superintendent of State Police, nor to those appointees who, in the judgment of the Secretary of Public Safety, need access to state-owned vehicles for the purpose of responding to job-related emergency situations from their homes.

3. The head of each agency or institution of the Commonwealth shall be directly responsible for ensuring compliance with this Executive Order and all applicable statutes and regulations governing the use of state-owned vehicles, including the requirement that such vehicles be used strictly for official business only. Each agency head shall ensure that due consideration is given to the economy of reimbursing employees for mileage in their personal vehicles in lieu of use of state-owned vehicles, and shall assist the Commissioner of Transportation in eliminating the use of state-owned vehicles where such use does not advance the goals of efficient and economical operation of state government.

4. The criteria governing the assignment of centralized fleet vehicles (see Rules and Regulations Governing the Use, Operation and Maintenance of State-Owned Fleet Vehicles, published by the Department of Transportation) shall apply to all passenger-type vehicles owned by the Commonwealth, subject to such exceptions as the Commissioner of Transportation shall make. The authority of the Commissioner of Transportation under § 33.1-407 to promulgate regulations governing the centralized fleet shall extend to all passenger-type vehicles owned by the Commonwealth.

5. The Commissioner of Motor Vehicles shall assess the use of blind tags on state-owned vehicles, and shall restrict such use to law enforcement vehicles and to such other vehicles as he determines are regularly used in the course of official business, the effective performance of which makes blind tags essential.

This Executive Order rescinds Executive Order Number Seventeen (94), issued by Governor George Allen on June 27, 1994.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-286; Filed July 8, 1998, 8:21 a.m.

## **EXECUTIVE ORDER NUMBER EIGHTEEN (98)**

### **DESIGNATION OF EXECUTIVE BRANCH OFFICERS AND EMPLOYEES REQUIRED TO FILE FINANCIAL DISCLOSURE STATEMENTS**

The State and Local Government Conflict of Interest Act reflects the Commonwealth's continuing commitment that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts between the personal economic interests and the official duties of Virginia's public servants.

In furtherance of the purposes of the State and Local Government Conflict of Interests Act, § 2.1-639.1 *et seq.* of the *Code of Virginia* (hereinafter, "the Act"), and by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to §§ 2.1-41.2, 2.1-42, and 2.1-639.13 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the following policies and procedures to implement the Act in executive branch agencies, institutions, boards, and commissions:

1. In order that all appropriate executive branch officers and employees may be designated to file the annual statement of economic interests set out in the Act, each of the Governor's Secretaries shall submit to me by October 1, 1998, a report identifying:

(a) Each position within the Secretary's jurisdiction, whether classified or non-classified, which involves substantive responsibility for inspection, investigation, licensure, or other regulation of the activities of private firms, organizations, or professions; and

(b) Each position within the Secretary's jurisdiction, whether classified or non-classified, which involves substantive responsibility for procurement, audit, investment, or other activities that could be subject to abuse or improper influence as a result of the personal economic interests of the officeholder or employee.

2. In order that members of appropriate boards and commissions within the executive branch may be designated to file the annual statement of personal interests required by the Act, the Secretary of the Commonwealth shall submit to me by October 1, 1998, a report identifying those boards and commissions bearing substantial responsibility for inspection, investigation, licensure, or other regulation of the activities of private firms, organizations, and professions. The report also shall identify those boards and commissions bearing substantial responsibility for procurement, audit, investigation, or other activities that

could be subject to abuse or improper influence as a result of the personal economic interests of members.

3. Subject to my approval, the Secretary of the Commonwealth shall prepare from the reports submitted pursuant to paragraphs 1 and 2 above, a comprehensive list of officers, employees, and members of boards and commissions within the executive branch who shall be required to file the statement of economic interests set out in the Act. The Secretary of the Commonwealth, with the assistance and cooperation of the Governor's Secretaries, shall maintain this list, shall review and revise it annually to reflect the creation and abolition of offices and positions, and shall annually inform each officer, employee, or board or commission member listed of his or her obligation to file the statement of economic interests in accordance with § 2.1-639.13 of the *Code of Virginia*.

4. The head of each agency, institution, board and commission within the executive branch shall assist the Governor's Secretaries and the Secretary of the Commonwealth in compiling the information required by this Executive Order, in ensuring that appropriate additions to and deletions from the list of those designated to file the statement of economic interests are recommended in a timely fashion, and in ensuring that designated officers and employees file their statements of economic interests in accordance with § 2.1-639.13 of the *Code of Virginia*.

5. The head of each agency, institution, board and commission within the executive branch shall communicate to the officers, employees, and members within his or her jurisdiction the importance and necessity of maintaining the highest standards of conduct, and avoiding even the appearance of impropriety arising out of personal economic interests and the conduct of the business of the Commonwealth.

This Executive Order rescinds Executive Order Number Twenty (94), issued by Governor George Allen on June 30, 1994.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-287; Filed July 8, 1998, 8:21 a.m.

## **EXECUTIVE ORDER NUMBER NINETEEN (98)**

### **ESTABLISHING THE GOVERNOR'S COMMISSION ON PHYSICAL FITNESS AND SPORTS**

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the

Commonwealth, including but not limited to Sections 2.1-41.1, 2.1-51.36, and 2.1-387 of the Code of Virginia, and subject always to my continuing and ultimate authority to act in such matters, I hereby create the Governor's Commission on Physical Fitness and Sports.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to advise the Governor on all matters related to sports, health, and physical fitness in the Commonwealth. The Commission's work may include, without limitation, the following activities:

1. To advise the Governor on all matters relating to sports, competition, health and nutrition education, exercise, and physical fitness;
2. To advise the Governor concerning ways to increase appreciation for and public knowledge of the importance of physical fitness for all of Virginia's families;
3. To advise the Governor concerning enhancement of the Commonwealth's efforts to educate our youth, adults, and senior citizens about physical fitness as it relates to health, a productive life style, and a better standard of living;
4. At the Governor's request, to represent the Governor and his commitment to the importance of good physical fitness at functions relating to better health and fitness for Virginians;
5. To advise the Governor concerning coordination and facilitation of the Commonwealth's participation in programs currently existing through the President's Council on Physical Fitness and Sports and to develop similar projects, where appropriate, for Virginia;
6. To advise on projects and events to benefit employees of state agencies for the promotion of physical fitness, health and nutrition education, sports, and competition.

This Commission shall further be authorized to become a member of the National Association of Governor's Councils on Physical Fitness and Sports.

The Commission shall be comprised of not more than 30 members to be appointed by the Governor and serving at his pleasure. The Governor shall designate a Chairman and Vice Chairman to serve at his pleasure.

Members of the Commission shall serve without compensation but may receive reimbursement for expenses incurred in the discharge of their official duties upon approval of the Secretary of Administration.

The Commission will meet as necessary and may appoint an executive committee to meet on a more timely basis.

Such staff support as is necessary for the Commission's work during the term of its existence shall be furnished by the Virginia Department of Health, Department for the Aging, Department of Education, Virginia Tourism Corporation, and

other such agencies with closely and definitely related purposes as the Governor may designate. An estimated 3,000 hours of staff support may be required to support the Commission. Funding necessary to support the Commission's work shall be provided by the agencies listed in this paragraph, from funds authorized for such use by Section 2.1-51.37 of the Code of Virginia. Direct expenditures for the Commission's work are estimated at \$10,000.

The Commission shall issue a report to the Governor on its accomplishments no later than December 1, 1998. The Commission shall issue other reports and recommendations at such times as it deems appropriate, or upon request of the Governor.

This executive order shall be retroactively effective to May 28, 1998, upon its signing, and shall remain in full force and effect until May 29, 1999, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 29th day of June 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-288; Filed July 8, 1998, 8:21 a.m.

**EXECUTIVE ORDER NUMBER TWENTY (98)**

**EXEMPTING CERTAIN STAFF POSITIONS FROM THE PERSONNEL ACT**

By the authority vested in me as Governor under the Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 and Section 2.1-113 of the Code of Virginia, all positions in the Governor's Office and the offices of the several Secretaries (including the Secretary of the Commonwealth, Secretary of Technology and the Virginia Liaison Office) are hereby exempt from the provisions of the Virginia Personnel Act (§ 2.1-110 et seq.).

This Executive Order rescinds Executive Order Number Nineteen (94), Exempting Certain Staff Positions from the Personnel Act, issued by Governor George Allen on June 30, 1994.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-289; Filed July 8, 1998, 8:21 a.m.

**EXECUTIVE ORDER NUMBER TWENTY-ONE (98)**

**CONTINUING THE GOVERNOR'S INITIATIVE AGAINST NARCOTICS TRAFFICKING (GIANT)**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and Chapter 5 of Title 2.1 of the Code of Virginia, and subject to my continuing authority and responsibility to act in such matters, I hereby continue the Governor's Initiative Against Narcotics Trafficking (GIANT).

There exists within the Commonwealth of Virginia, as in every other state, a continuing traffic in illicit drugs. While valiant efforts have been made, and continue to be made, by federal, state, and local law enforcement agencies to overcome this pernicious trade and usage, the effort has not been fully coordinated, and breakdowns in communications and duplication of efforts can hamper progress. By continuing GIANT, I take action to prevent these problems and to continue a leadership team that will make the Commonwealth's efforts against illicit drugs second to none.

The following agencies and individuals shall comprise the steering committee for this effort:

<u>Agency</u>	<u>Individual</u>
Department of State Police	Superintendent (Chair of GIANT)
Department of Military Affairs	Plans, Operations, and Military Support Officer
Department of Alcoholic Beverage Control	Director, Bureau of Law Enforcement Operations
Department of Aviation Marine Resources Commission	Director Commissioner
Virginia Port Authority	Chief
Department of Forestry	State Forester
Department of Game and Inland Fisheries	Director

In order to carry out the mission of GIANT, the Department of State Police shall participate on a full-time basis, and shall assign personnel and equipment as determined by the Superintendent. All other listed agencies shall participate on a part-time basis, making personnel and equipment available as needed.

The steering committee of GIANT shall establish procedures to facilitate and assure coordination and cooperation among the various agencies. Such procedures shall be directed toward:

1. The development of intelligence pertaining to domestically grown marijuana, both indoor and outdoor, with the eradication of this marijuana and successful prosecution of the growers as a primary goal of GIANT;
2. The development of intelligence concerning air smuggling into Virginia by the use of contacts to monitor suspicious activities at all known airports in the Commonwealth, and by locating clandestine airstrips and identifying users;

---

# Governor

---

3. Reduction of the supply of illegal drugs entering and being transported within the Commonwealth by interdicting drug shipments via land, air, and waterway;
4. Development of procedures that eliminate duplication of activities and breakdowns in communication among the various state agencies and law-enforcement authorities; and
5. Utilization of the resources of county and city law-enforcement agencies to the maximum extent possible.

The GIANT steering committee shall meet at the call of the Chair. Regular meetings may be established for the purpose of ensuring that any operational difficulties may be remedied on an ongoing basis.

All other agencies of the Commonwealth not specifically named herein shall cooperate with and provide assistance to GIANT to the fullest extent allowed by law and consistent with their various missions.

This Executive Order rescinds Executive Order Number Fifty-five (95), issued by Governor George Allen on August 31, 1995.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 2001, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 29th day of June 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-290; Filed July 8, 1998, 8:21 a.m.

## **EXECUTIVE ORDER NUMBER TWENTY-TWO (98)**

### **DELEGATION OF AUTHORITY CONFERRED BY CHAPTERS 781, 789, 849, 892, 894, AND 896, 1992 ACTS OF ASSEMBLY; CHAPTER 5, 1994 ACTS OF ASSEMBLY, SPECIAL SESSION 1; AND CHAPTER 464, 1998 ACTS OF ASSEMBLY, AS AMENDED BY CHAPTER 1, 1998 ACTS OF ASSEMBLY, SPECIAL SESSION 1**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.1-39.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers, I hereby delegate the several powers and duties conferred upon me by Chapters 781, 789, 849, 892, 894, and 896, 1992 Acts of Assembly (General Obligation Bond Acts); Chapter 5 of the 1994 Acts of Assembly, Special Session (Taxation of Retirement Income); and Chapter 464, 1998 Acts of Assembly, as amended by Chapter 1, 1998 Acts of Assembly, Special Session 1 (1998 Appropriation Act), as provided below.

The authority conferred upon me by Chapters 781, 789, 849, 892, 894 and 896, 1992 Acts of Assembly, and Chapter 5, 1994 Acts of Assembly, is hereby delegated in accordance

with the terms of Executive Order Number Seventy-two (97), which is incorporated by this reference for the purposes stated.

Such authority as was conferred upon the Governor by Chapter 912, 1996 Acts of Assembly, and thereafter delegated by Executive Order Number Seventy-two (97), shall, to the extent the corresponding authority is conferred by Chapter 464, 1998 Acts of Assembly, continue to be delegated according to Executive Order Number Seventy-two. Any noncorresponding authority shall be retained by me.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until October 31, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-291; Filed July 8, 1998, 8:21 a.m.

## **EXECUTIVE ORDER NUMBER TWENTY-THREE (98)**

### **CONTINUATION OF VIRGINIA COASTAL RESOURCES MANAGEMENT PROGRAM**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-39.1 and 2.1-41.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Virginia Coastal Resources Management Program and direct all state agencies to carry out their legally established duties consistent with this Program and in a manner that promotes coordination among agencies in achieving the Program's goals and objectives.

#### **I. POLICY GOALS AND OBJECTIVES**

State agencies having responsibility for the Commonwealth's coastal resources shall promote the Coastal Resources Management Program (the Program) consistent with the following goals and objectives:

#### **Prevention of Environmental Pollution and Protection of Public Health**

1. To maintain, protect, and improve the quality of coastal waters suitable for the propagation of aquatic life and recreation involving body contact;
2. To reduce nonpoint pollution, caused by inappropriate land uses and inadequate land management practices, in tidal streams, estuaries, embayments, and coastal waters;
3. To reduce the potential for damage to coastal resources from toxic and other hazardous materials

through effective point source water pollution management, site selection and planning, and improved containment and cleanup programs;

4. To prevent significant deterioration of air quality;
5. To protect the public health from contaminated seafood.

**Prevention of Damage to Natural Resource Base**

6. To protect ecologically significant tidal marshes from despoliation or destruction;
7. To minimize damage to the productivity and diversity of the marine environment resulting from alteration of subaqueous lands and aquatic vegetation;
8. To minimize damage to the productivity and diversity of the marine environment resulting from the disruption of finfish and shellfish population balances;
9. To reduce the adverse effects of sedimentation on productive marine systems;
10. To preserve and maintain wildlife and wildlife habitat areas and to facilitate preservation and restoration of endangered and threatened flora and fauna.

**Protection of Public and Private Investment**

11. To conserve coastal sand dune systems;
12. To reduce or prevent losses of property, tax base, and public facilities caused by shorefront erosion;
13. To minimize dangers to life and property caused by coastal flooding and storms.

**Promotion of Resources Development**

14. To promote the wise use of coastal resources for the economic benefit and employment of the citizens of the Commonwealth;
15. To protect and maintain existing uses of estuarine waters for shellfish propagation and marketing;
16. To encourage provision of commercial and industrial access to coastal waters where essential to desired economic activities;
17. To coordinate the Commonwealth's planning processes for major projects to facilitate consideration of alternative locations for such facilities within the context of long-term development patterns and their implications;
18. To maintain or improve productive fisheries;
19. To encourage exploration and production of outer continental shelf energy reserves;
20. To provide for the extraction of mineral resources in a manner consistent with proper environmental practices.

**Promotion of Public Recreation Opportunities**

21. To provide and increase public recreational access to coastal waters and shorefront lands.

**Promotion of Efficient Government Operation**

22. To provide a shoreline permitting procedure, administered at the local level wherever possible, which assures adequate review and mitigation of probable impacts as well as timely response to applicants.

**Provision of Technical Assistance and Information**

23. To provide state and local governing officials and private citizens with technical advice necessary to make wise decisions regarding uses of and impacts on coastal resources;
24. To conduct continuing educational programs in coastal resources management for local and state officials;
25. To maintain and improve data bases, maps and photoimagery to support decision-makers' needs.

**II. ENFORCEMENT**

The following agencies shall have primary responsibility for implementing the eight core enforceable policies of Virginia's Coastal Program which were approved by the National Oceanic and Atmospheric Administration in 1986:

**Responsible Agency and Enforceable Policies**

Department of Environmental Quality

1. Point source water pollution management and nontidal wetlands management
2. Air pollution

Department of Conservation and Recreation  
Nonpoint source pollution management

Marine Resources Commission

1. Primary sand dunes management
2. Tidal wetlands management
3. Subaqueous lands management
4. Fisheries management (shared with DGIF)

Department of Game and Inland Fisheries  
Fisheries management (shared with VMRC)

Department of Health  
Shoreline sanitation

The following other agencies also have responsibility for assisting with implementation of the Program:

- Chesapeake Bay Local Assistance Department
- Department of Historic Resources
- Department of Forestry
- Department of Agriculture and Consumer Services
- Virginia Institute of Marine Science

In addition, other agencies that conduct activities which may affect coastal resources shall conduct such activities in a manner consistent with and supportive of Virginia's Coastal Resources Management Program. For purposes of

this Program, the coastal area shall mean Tidewater Virginia as defined in Section 28.2-100 of the Code of Virginia.

The Director of the Department of Environmental Quality (DEQ) shall monitor all state actions that affect coastal resources. When, in the judgment of the DEQ Director, a state agency, regulatory board, or commission is ready to act in a manner that appears to be inconsistent with the Program or has established a pattern of actions that appears to be inconsistent with the Program, the Director shall discuss the situation with the head of such agency, board or commission to determine if a consistency problem in fact exists.

If after discussion, the head of such agency, board or commission and the Director of DEQ are in disagreement about the existence of a consistency problem, the Director will inform the Secretary of Natural Resources of the disagreement. The Secretary shall then determine if a state consistency problem exists.

If the head of such agency, board, or commission and the Director of DEQ agree that a consistency problem exists, they shall attempt to resolve the problem. If they cannot resolve the problem, the Director shall advise the Secretary that an unresolved state consistency problem exists.

Upon notification of the existence of an unresolved consistency problem, the Secretary shall review the problem, determine how it should best be resolved, and effect such resolution within the Secretariat of Natural Resources or consult with other Cabinet Secretaries to resolve a consistency problem with agencies, boards or commissions not within the Secretariat of Natural Resources. If unable to resolve the problem, the Secretary shall report to the Governor and recommend appropriate action.

Any person having authority to resolve consistency problems under the terms of this Executive Order shall resolve those problems in a manner that furthers the goals and objectives of the Program as set forth above and in accordance with existing state law, regulations, and administrative procedures.

This Executive Order rescinds Executive Order Number Twenty-four (94), Continuation of Virginia Coastal Resources Management Program, issued by Governor George Allen on June 30, 1994.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 29th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-292; Filed July 8, 1998, 8:22 a.m.

## **EXECUTIVE ORDER NUMBER TWENTY-FOUR (98)**

### **REVIEW OF EMERGENCY REGULATIONS PROPOSED BY STATE AGENCIES**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 9-6.14:9.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for review of all emergency regulations proposed by agencies of the Commonwealth.

#### **1. Preparation of Regulatory Review Package**

In accordance with Section 9-6.1.14:4.1 C 5 of the Administrative Process Act (APA) and this Executive Order, an agency desiring to propose an emergency regulation shall prepare a regulatory review package that shall consist of:

- a. A copy of the proposed emergency regulation;
- b. A statement identifying the source(s) of the state and/or federal legal authority to promulgate the contemplated regulation, including a description of the scope of the authority provided and the extent to which the authorized rulemaking provisions are mandatory or discretionary, together with an attached copy of all cited legal provisions;
- c. A statement from the Attorney General that the agency has the statutory authority to promulgate the proposed emergency regulation, and that the proposed emergency regulation comports with the applicable state and/or federal law;
- d. A statement that the emergency regulation is necessary because of (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act, and the regulation is not exempt under the provisions of subdivision C 4 of Section 9-6.14:4.1. This statement shall set forth in detail the nature of the emergency and the necessity for such action;
- e. A statement detailing any changes, other than strictly editorial changes, that the proposed regulation will implement, along with citations to the appropriate sections of the regulation, including cross-referenced citations when the proposed regulation is intended to replace an existing regulation;
- f. A statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function; and
- g. A statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose

of the regulation, the alternatives considered, and the reasoning by which the agency has rejected any of the alternatives considered, along with a description of any additional alternatives which the agency wishes to consider for the development of a permanent replacement regulation.

## 2. Preliminary Approval by the Secretary and DPB

The agency shall submit the regulatory review package simultaneously to the Secretary and to the Department of Planning and Budget (DPB). With advice from the Attorney General, the Secretary shall make a determination as to whether the proposed regulation is legally authorized and necessary based upon the criteria outlined in Section 1 above. DPB shall also make a determination of necessity and communicate its determination to the Secretary and the Governor.

If the Secretary approves the proposed regulation, the Secretary shall communicate that approval to the Governor by forwarding the regulatory review package with a cover memorandum setting forth the approval and the reasons therefor. If DPB's recommendation conflicts with the Secretary's, that shall be noted in the cover memorandum.

## 3. Approval by the Governor

The Governor, or the Governor's Policy Office acting as his designee, shall review the regulatory review package and the memoranda from the Secretary and DPB and determine whether the proposed regulation should be approved. The Governor's decision shall be promptly communicated to the agency, which shall act accordingly.

## 4. Publication of the Notice of Intended Regulatory Action (NOIRA) for the Replacement Regulation

Should the agency desire to promulgate a permanent regulation to replace an emergency regulation, this intent shall be noted in the regulatory review package for the emergency regulation. Upon approval of the emergency regulation, the agency may also be authorized to submit the NOIRA to the Registrar for publication. When approval is given for publication of the NOIRA, the agency shall submit the required information for publication on the Commonwealth Regulatory Web Site as specified in Executive Order Number Twenty-five (98).

To ensure the replacement of emergency regulations within an appropriate period of time, the agency shall submit the regulatory review package replacing an emergency regulation to the secretary and DPB no later than 60 days following the close of the NOIRA comment period.

Any failure to comply with the requirements set forth herein shall in no way affect the validity of a regulation, or create any cause of action or provide standing for any person under Section 9-6.14:15 et seq. of the Code of Virginia or otherwise to challenge the actions of a government entity responsible for adopting or reviewing regulations.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30,

2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 30th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-293; Filed July 8, 1998, 8:22 a.m.

## **EXECUTIVE ORDER NUMBER TWENTY-FIVE (98)**

### **DEVELOPMENT AND REVIEW OF REGULATIONS PROPOSED BY STATE AGENCIES**

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including but not limited to Sections 9-6.14:9.1 and 9-6.14:25 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for review of all new, revised and existing regulations proposed by agencies of the Commonwealth. Nothing in this Executive Order shall be construed to limit my authority under Section 9-6.14:9.1 to require an additional 30-day final adoption period, or to exercise any other rights and prerogatives existing under Virginia law.

### **General Policy**

The Executive Branch agencies of the Commonwealth must consider, review and promulgate scores of regulations each year. While regulations are intended to protect the health, safety, and welfare of Virginians or to further the efficient and economical performance of important government functions, the hundreds of regulations enforced by state government can sometimes pose significant burdens for citizens. Therefore, all significant effects, burdens and consequences of regulations should be carefully considered by the agency of the Commonwealth promulgating the regulation before a regulation becomes effective. There must always be a presumption in favor of the very least burdensome and intrusive regulation.

All state employees who draft or provide policy analysis or review for proposed regulations shall carefully consider all of the significant effects of the proposed regulations during the regulatory review process outlined and required by this Executive Order. Even in those cases when government regulation is warranted and required, this process is designed to ensure that all aspects of the proposed regulation are carefully analyzed so that unintended consequences and unnecessary burdens on citizens are avoided. Before the rule making process commences, a specific need for governmental intervention must be clearly identified and precisely defined. Moreover, even when government intervention is warranted, the regulation promulgated must represent the least burdensome and intrusive solution for the identified need.

When regulations are used judiciously and designed carefully they can generate important public benefits, such

---

# Governor

---

as reducing risks to public safety, making it easier for consumers to obtain the information they need to make informed choices, and controlling the negative consequences that certain actions may have on public resources such as the environment. However, like direct taxation, regulations can impose substantial costs on businesses and individuals. These costs often take the form of mandated expenditures, delays, forgone opportunities, and disincentives to innovation. As a result, like the allocation of citizen resources in the Commonwealth's fiscal budget, expenditures required by state regulations should be given the utmost review and consideration.

The following principles shall guide agencies in carrying out this Executive Order as they follow the regulatory review process contained herein. To ensure that the people of Virginia are not burdened by unnecessary and excessive regulation, it shall be the policy of the Commonwealth that:

- A. Regulatory activities of agencies are to be undertaken with the least possible interference in private sector enterprise and in the lives of Virginia's citizens. Unless otherwise mandated by statute, only regulations that are essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important governmental function will be promulgated.
- B. No regulation will be promulgated if there are less burdensome or less intrusive alternatives available that will satisfy any applicable state or federal legal requirements and achieve the essential purpose for which the regulatory action is undertaken.
- C. Since circumstances, conditions and technologies change, regulations should not be considered perpetual and will be subjected to periodic re-evaluation through the inclusion of a future review date in the regulatory review package. At such date, each regulation will be reviewed to determine if it should be continued in its existing form, amended or terminated. Each regulatory review package will set forth a list of the specific and measurable goals that the regulation is intended to achieve. Progress toward those goals will be evaluated during the review process.
- D. Regulations will be clearly written and easily understandable by the individuals and entities affected.
- E. All legal requirements related to public participation and all public participation guidelines will be strictly followed to ensure that citizens have reasonable access and opportunity to present their comments and concerns. As regulations are being promulgated, citizens must have the opportunity to participate fully in the regulatory process. In order to assure this opportunity, agencies must establish procedures that provide for a timely written response to all comments and the inclusion of changes suggested by reasonable, cogent, and persuasive comments.
- F. While regulations must be carefully designed using the best available information in accordance with the

principles set out in this Executive Order, citizens participating in the regulatory process can reasonably expect that the development process will take place over an appropriately circumscribed timeframe. Therefore, agencies as well as reviewing entities should endeavor to perform their tasks in the regulatory process as expeditiously as the regulatory subject matter will allow.

G. Each agency head will be held directly accountable for ensuring that the principles and objectives specified in this Executive Order are put into effect.

## Applicability

This Executive Order applies to rulemaking initiated by agencies and departments of the Commonwealth of Virginia in accordance with Article 2 of the Administrative Process Act (APA) on or after the effective date of this Executive Order. In addition, the requirements governing the periodic review of existing regulations shall be applicable to all regulations promulgated by Executive Branch agencies.

A Cabinet Secretary may request in writing that an agency comply with all or part of the requirements of this Executive Order for regulations exempt from Article 2 of the APA. Copies of any such request shall be forwarded to the Governor and the Department of Planning and Budget (DPB).

These procedures shall apply in addition to those already specified in the APA, the agencies' public participation guidelines, and the agencies' basic authorizing statutes.

## Notice of Intended Regulatory Action

1. Preparation of the Preliminary Determination Package (Pre-NOIRA)

Prior to providing the Registrar of Regulations a proposed Notice of Intended Regulatory Action (NOIRA) pursuant to Section 9-6.14:7.1 of the APA, the agency head must submit to the appropriate Governor's Secretary and to the Department of Planning and Budget (DPB) a proposal outlining the reasons the agency wishes to promulgate a new or revised regulation. This submission shall include the following:

- a. A statement identifying and describing the source(s) of the state and/or federal legal authority to promulgate the contemplated regulation, the scope of the authority provided, and the extent to which the authorized rulemaking is mandatory or discretionary, together with an attached copy of all cited legal provisions;
- b. A statement delineating the potential issues to be addressed in the proposed regulation, with any preliminary regulatory language that has been developed attached;
- c. A statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function,

including a discussion of the problems the regulation's provisions are intended to solve; and

d. A statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential purpose (identified in 1 c above), the alternatives considered or to be considered (to the extent known), and the reasoning by which the agency has rejected any of the alternatives considered.

## 2. Review of the Pre-NOIRA Package by DPB and the Secretary

DPB shall review the submission to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. Within 14 days of receiving a complete pre-NOIRA review package from the agency, the Director of DPB shall advise the Secretary and the Governor of its determination.

The Secretary shall then make a determination whether to authorize the agency to provide the NOIRA to the Registrar pursuant to Virginia Code Section 9-6.14:7.1 B, as follows:

a. If the Secretary determines that the agency has the legal authority to promulgate the contemplated regulation and that the contemplated regulation comports with the policy of the Commonwealth as set forth herein, the Secretary shall authorize the agency to provide the NOIRA to the Registrar.

b. If the Secretary determines that the contemplated regulation does not comport with the policy of the Commonwealth as set forth herein but that the contemplated regulation is necessary to rectify the minimum requirements of state or federal law, the Secretary shall authorize the agency to provide the NOIRA to the Registrar.

c. If the Secretary determines that the agency's submission is inadequate to satisfy the requirements of this Executive Order, the Secretary shall inform the agency of the nature of the inadequacy. The Secretary shall not authorize the agency to provide the NOIRA to the Registrar until the agency has fully complied with the requirements of this Executive Order.

d. If the Secretary determines that the contemplated regulation is not mandated by state or federal law and that it does not comport with the policy of the Commonwealth as set forth herein, the Secretary shall apprise the agency of the determination and shall not authorize the agency to provide the NOIRA to the Registrar.

e. At least seven days before communicating the determination to the agency, the Secretary shall advise the Governor of this determination by

forwarding the pre-NOIRA submission from the agency with a cover memorandum outlining the Secretary's determination and reasons therefor. If, however, the Secretary's determination is contrary to the determination by DPB, the Secretary shall so notify the Governor and shall not communicate the determination to the agency without the approval of the Governor.

## 3. Publication of the NOIRA

Upon receiving approval from the Cabinet Secretary, the agency shall submit the NOIRA to the Virginia Register for publication as soon as practical, but in no case should the package be submitted later than 14 days after receiving approval from the Cabinet Secretary.

In order to provide additional information to interested citizens and to enhance public participation during the NOIRA comment period, the agency shall electronically submit to the Commonwealth Regulatory Web Site the following information: (a) the four statements required in the Pre-NOIRA review package; (b) the beginning and ending dates for the NOIRA comment period; (c) the location and time of any scheduled public meetings where the regulation will be addressed; and (d) the name, address, phone number, and e-mail address of the agency contact for the regulation.

## Regulatory Review Package

### 1. Preparation of the Regulatory Review Package

Following the initial public comment period required by Va. Code Section 9-6.14:7.1 B, and taking into account the comments received, the agency head shall prepare a regulatory review package.

Agencies should complete the proposed regulation after the close of the NOIRA comment period as expeditiously as the subject matter will allow. However, the agency must submit the package to the Secretary and DPB within 180 days from the close of the NOIRA comment period. This requirement will apply to all regulatory review packages six months from the effective date of this Executive Order.

The package shall include the following components:

a. A copy of the proposed new regulation or revision to existing regulation;

b. A copy of the proposed regulation submission package required by Virginia Code Section 9-6.14:7.1 H;

c. A statement identifying the source(s) of the state and/or federal legal authority to promulgate the contemplated regulation, including a description of the scope of the authority provided and the extent to which the authorized rulemaking provisions are mandatory or discretionary, together with an attached copy of all cited legal provisions;

d. A statement from the Attorney General indicating that the agency possesses statutory authority to

promulgate the proposed regulation, and that the proposed regulation comports with the applicable state and/or federal law;

e. A summary of public comment received, along with any agency discussion;

f. A statement detailing any changes, other than strictly editorial changes, that the proposed regulation will implement, along with citations to the appropriate sections of the regulation, including cross-referenced citations when the proposed regulation is intended to replace an existing regulation;

g. A specific rather than conclusory statement setting forth the reasoning by which the agency has determined that the proposed regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function, including a discussion of the problems the regulation's provisions are intended to solve;

h. A specific rather than conclusory statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered, and the reasoning by which the agency has rejected such alternatives;

i. A statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected;

j. A schedule setting forth when, no later than three years after the proposed regulation is effective, the agency will initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated, and the specific and measurable goals the proposed regulation is intended to achieve; and

k. A statement identifying anticipated regulatory impacts that includes (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source/fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus ongoing expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; and (d) the agency's best estimate of the number of such entities that will be affected.

A proposed regulation shall not address new issues that were not disclosed to the public in the statement of issues during the NOIRA comment period. Exceptions to this policy will be rare and will only be provided where there is sufficient justification included in the regulatory review package.

## 2. Review of the Regulatory Review Package by DPB and Secretary

After the regulatory review package is forwarded to the Secretary and DPB, DPB shall review the package to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the proposed regulation comports with the policy of the Commonwealth as set forth herein. DPB shall complete its review and the Economic Impact Analysis required under Section 9-6.14:7.1 of the Code of Virginia within 45 days of receiving a complete regulatory review package from the agency. To prepare a useful Economic Impact Analysis, DPB may need information and data collected by the promulgating agency. To ensure an efficient process, the promulgating agency shall work with DPB and endeavor to provide DPB with the information and data requested in as timely a manner as practicable. The Director of DPB shall advise the Secretary and the Governor of its determination.

The Secretary shall then make a determination whether to authorize the agency to deliver the proposed regulation submission package to the Registrar of Regulations, as follows:

a. If the Secretary determines that the agency has the legal authority to promulgate the proposed regulation and that the proposed regulation comports with the policy of the Commonwealth as set forth herein, the Secretary shall authorize the agency to deliver the proposed regulation submission package to the Registrar.

b. If the Secretary determines that the proposed regulation does not comport with the policy of the Commonwealth as set forth herein but that the proposed regulation is necessary to satisfy the minimum requirements of state or federal law, the Secretary shall authorize the agency to deliver the proposed regulation submission package to the Registrar.

c. If the Secretary determines that the agency's regulatory review package is inadequate to satisfy the requirements of the APA or this Executive Order, the Secretary shall inform the agency of the nature of the inadequacy. The Secretary shall not authorize the agency to deliver the regulation submission package to the Registrar until the agency has fully complied with the requirements of the APA and this Executive Order.

d. If the Secretary determines that the proposed regulation does not comport with the policy of the Commonwealth as set forth herein and that the proposed regulation is not mandated by, or exceeds the mandate of, state and federal law, the Secretary shall inform the agency of the deficiencies found in the proposed regulation and the changes necessary to bring the proposed regulation into compliance with the policy set forth in this Executive Order.

At least seven days before communicating this determination to the agency, the Secretary shall advise the Governor of this determination by forwarding the regulatory review package from the agency with a cover memorandum outlining the Secretary's determination and reasons therefor. If, however, the Secretary's determination is contrary to the determination by DPB, the Secretary shall so notify the Governor and shall not communicate the determination to the agency without the approval of the Governor.

A central aspect of the Secretary's determination will be the consideration of less burdensome and less intrusive alternatives for satisfying any applicable state and federal mandates and for achieving the essential purpose for which the regulatory action has been initiated. When the Secretary discerns the availability of such alternatives, he or she shall provide specific guidance concerning such alternatives to the agency and shall forward a copy of such information to the Governor.

### 3. Publication of the Proposed Regulation

Upon receiving approval from the Cabinet Secretary, the agency shall submit the proposed regulation to the Virginia Register for publication as soon as practical, but in no case should the package be submitted later than 14 days after receiving approval from the Cabinet Secretary.

In order to provide additional information to interested citizens and to enhance public participation during the proposed regulation comment period, the agency shall electronically submit to the Commonwealth Regulatory Web Site the following information: (a) the items required in the regulatory review package excluding the Attorney General's memorandum; (b) the agency's response to the economic impact statement required by the APA; (c) the beginning and ending dates for the proposed regulation comment period; (d) the location and time of any scheduled public meetings where the regulation will be addressed; and (e) the name, address, phone number, and e-mail address of the agency contact for the regulation.

## Final Regulation Package

### 1. Preparation of the Final Proposed Regulation

After the agency has reviewed the comments received during the public comment period following publication of the proposed regulation and has revised the proposed regulation as the agency deems necessary and proper, the agency will prepare the proposed final regulation. This package must include:

- a. A copy of the proposed final regulation;
- b. A summary of public comments received, along with any agency comments; and
- c. A statement detailing any changes, other than strictly editorial changes, made since the publication

of the proposed regulation, along with citations to the appropriate sections of the regulation.

### 2. Submission of the Final Proposed Regulation

The agency shall submit the final regulatory review package to the Secretary, DPB, and the Governor at the same time that it submits a copy of the proposed final regulation to the Registrar pursuant to Va. Code Section 9-6.14:9.1 B.

Agencies shall complete the final regulation after the close of the proposed regulation comment period as expeditiously as the subject matter will allow. However, in no case should the submission of the final regulation for publication take place more than 120 days from the close of the public comment period. This requirement will apply to all final regulations four months from the effective date of this Executive Order.

The information provided in the final regulatory package shall be submitted to the Commonwealth Regulatory Web Site prior to the commencement of the final adoption period.

## Periodic Review of Existing Regulations

### 1. Assignment of Review Dates and Measurable Goals

Each existing regulation in the state is to be reviewed at least once every three years. To achieve this end, agencies shall specify a review date for each regulation, and a list of specific and measurable goals by which the performance of the regulation is to be judged. Agencies shall assign goals that seek to capture the specific public health, safety, and welfare goals that a particular regulation is intended to achieve. In addition, each regulation shall have as a goal the protection of the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

By November 1, 1998, agencies shall have electronically submitted to the Commonwealth Regulatory Web Site for each of their regulations: (a) the VAC number of the regulation; (b) the title of the regulation; (c) citations for the federal/state authority for the regulation; (d) the review date; (e) a list of specific and measurable goals; (f) the contact person along with mailing address, telephone, and e-mail address. Agencies shall be responsible for maintaining the accuracy of this information.

When a regulation has undergone a comprehensive review as part of an amendment process and when the agency has solicited public comments on all the essential issues contained in a regulation, the agency may establish a new periodic review date for any date within three years of the effective date of the amended regulation.

### 2. Process for the Periodic Review

Prior to the commencement date of the periodic review for a regulation, an agency shall have published in the

Virginia Register a notice of the periodic review. The agency shall provide for a minimum of 20 days of public comment commencing on the published date for the review.

At any time prior to the scheduled review, the agency may, but is not required to, submit a list of critical issues to the Commonwealth Regulatory Web Site for purposes of soliciting comment on particular areas of concern in a regulation. An agency may establish at any time an informal advisory group for purposes of assisting in the periodic review.

The review shall be conducted consistent with the principles specified in this Executive Order.

### 3. Periodic Review Report

No later than 90 days after the commencement of the review, the agency shall complete a periodic review report containing the following information:

- a. A statement detailing the federal and/or state authority for the regulation including, whether the authority is mandatory or permissive, the scope of the mandate, and, as applicable, the extent to which the regulation exceeds the minimum requirements of the state or federal mandate;
- b. A summary of public comment received along with any agency comments;
- c. A statement of the effectiveness of the regulation in achieving its specific and measurable goals;
- d. A specific rather than conclusory statement setting forth the reasoning by which the agency has determined that the proposed regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function;
- e. A specific rather than conclusory statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered, and the reasoning by which the agency has rejected such alternatives;
- f. A statement indicating whether the regulation is clearly written and easily understandable by the individuals and entities affected; and
- g. A statement summarizing the agency's recommendation to retain, amend, or terminate the regulation and the reasons therefor, and, for regulations being amended, a statement delineating the specific areas to be amended.

The agency shall forward this report to the Secretary and DPB within the specified timeframe. The Secretary and DPB shall be responsible for ensuring that periodic review reports meet the requirements of this Executive Order. DPB shall be responsible for coordinating this review. Completed periodic review reports shall be

made available on the Commonwealth Regulatory Web Site.

For regulations subject to Article 2 of the APA that are being recommended for amendment or termination, the report shall be reviewed under the procedures specified for pre-NOIRA submissions, so that needed changes can be implemented as soon as practical. When approval is given for publication of the NOIRA, the agency shall submit the information required for publication on the Commonwealth Regulatory Web Site.

### Petitions for Rulemaking

Within 180 days of receiving a Petition for Rulemaking pursuant to Section 9-6.14:7.1 A of the Code of Virginia, the agency shall submit such Petition along with the agency response for inclusion on the Commonwealth Regulatory Web Site.

### Responsibilities of Heads of Agencies

The head of each agency shall have the following responsibilities:

1. The head of each agency shall be responsible for ensuring that all requirements applicable to agencies outlined in this Executive Order and the APA are met.
2. The head of each agency shall provide to DPB any information deemed necessary for completion of the economic impact statement required under Va. Code Section 9-6.14:7.1 G of the APA.

### Responsibilities of the Governor's Secretaries

The Governor's Secretaries shall have the following responsibilities:

1. The Secretaries shall ensure that no Notice of Intended Regulatory Action (NOIRA) is forwarded to the Registrar of Regulations unless all requirements of this Executive Order pertaining thereto have been met and unless the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein;
2. The Secretaries shall ensure that the regulatory review package contains all of the components required under this Executive Order and by law, and that it comports with the policy of the Commonwealth as set forth herein or in applicable law. In particular, the Secretaries shall review proposed regulations closely to determine whether they represent the least burdensome or intrusive alternative available.
3. The Secretaries shall notify the Governor of the foregoing determinations in the manner described above. Where DPB reaches a contrary determination, the Secretary shall advise the Governor and shall take no further action without the approval of the Governor.
4. If a proposed regulation represents a major programmatic or substantive change from existing policy or a potential conflict with stated objectives of

the Governor, the Secretaries shall notify the Governor before taking any action.

5. The Secretaries shall make recommendations to the Governor as to comments the Governor should submit on proposed regulations.

6. The Secretaries shall review all final proposed regulations upon adoption by the agencies and shall notify the Governor if substantial revisions have been made to the proposed regulation since it was published initially. The Secretary shall also review the public comments received and notify the Governor whether the agency appears to have responded in a reasonable manner to the public comment.

7. The Secretaries shall review all periodic regulatory review reports to ensure that they comply with the requirements of this Executive Order.

**Responsibilities of the Department of Planning and Budget (DPB)**

DPB shall have the following responsibilities:

1. DPB shall prepare the economic impact statement in coordination with the agencies as required by Va. Code Section 9-6.14:7.1 G of the APA.

2. DPB shall review pre-NOIRA and proposed regulatory packages and make recommendations to the Secretaries and the Governor in accordance with the principles and procedures outlined in this Executive Order.

3. DPB shall make recommendations to the Governor as to comments the Governor should submit on proposed regulations.

4. DPB shall review the final regulation upon adoption by the agency and shall notify the Governor if substantial revisions have been made to the regulation since it was initially published and the effect, if any, that the proposed changes will have on the economic and fiscal impact of the proposed regulation.

5. DPB shall review all periodic regulatory review reports to ensure that they comply with the requirements of this Executive Order.

6. DPB shall coordinate the implementation of the Commonwealth Regulatory Web Site, including the establishment of an appropriate schedule for implementing the provisions of this Executive Order pertaining to the Commonwealth Regulatory Web Site.

**Responsibilities of the Counselor to the Governor**

The Counselor to the Governor shall have the following responsibilities:

1. The Counselor shall review the pre-NOIRA submission and Secretary's preliminary determination and evaluate them according to the criteria detailed

above in "Procedures for Review of Regulations." The Counselor shall report his finding, together with any appropriate recommendations, to the Governor.

2. The Counselor shall review the regulatory review package to determine whether the proposed regulation is clearly written, easily understandable, necessary to protect the public's health, safety or welfare, essential for the efficient and economical performance of an important governmental function, minimally burdensome and intrusive for citizens, and grounded in proper legal authority. The Counselor shall report his finding, together with any appropriate recommendations, to the Governor.

3. The Counselor shall review final proposed regulations to determine whether substantial revisions have been made to the proposed regulation published initially. The Counselor shall also review the public comments received by the agency and determine whether the final proposed regulation adopted by the agency reflects a fair consideration of reasonable public comments. The Counselor shall review the final proposed regulation to determine whether the agency has responded appropriately to comments and recommendations delivered to the agency from the Governor. The Counselor shall report his finding, together with any appropriate recommendations, to the Governor.

4. The Counselor shall have the authority to extend the time frame limitations for regulatory promulgation set forth herein, if such an extension is absolutely necessary under the particular circumstances to achieve an essential regulatory objective.

Any failure to comply with the requirements set forth herein shall in no way affect the validity of a regulation, or create any cause of action or provide standing for any person under Section 9-6.14:15 et seq. of the Code of Virginia or otherwise to challenge the actions of a government entity responsible for adopting or reviewing regulations.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 2002, unless amended or rescinded by further executive order. This Executive Order rescinds Executive Order Number Thirteen (94) and Executive Order Number Fifteen (94).

Given under my hand and under the Seal of the Commonwealth of Virginia on this 30th day of June 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-294; Filed July 8, 1998, 8:22 a.m.

## **EXECUTIVE ORDER NUMBER TWENTY-SIX (98)**

### **MAINTAINING A LEAN, EFFICIENT AND EFFECTIVE GOVERNMENT WORK FORCE**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-41.1, 2.1-51.8:1, 2.1-51.14, 2.1-51.17, 2.1-51.20, 2.1-51.26, 2.1-51.33, 2.1-51.39, 2.1-51.42, 2.1-113, 2.1-114.2, and 2.1-114.7 of the Code of Virginia, Section 4-7.01 c of Chapter 1 of the Special Session I of the 1998 Virginia Acts of Assembly, Executive Order Number Nine (98), and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct all Secretaries and agency heads of the Commonwealth of Virginia with helping me maintain the best possible government work force for our citizens.

Our state employees are among Virginia's most valuable assets. The need to unleash the potential of a productive people and productivity requires an atmosphere of high morale. At the same time, all who serve the public share a responsibility to ensure that government services are provided at the lowest cost by a work force that is lean, courteous and efficient.

The Governor, in Section 4-7.01 c 1, Chapter 1, Special Session I of the 1998 Virginia Acts of Assembly, is provided with the authority to implement policies and procedures to ensure that the human resources of the Executive Department, excluding institutions of higher education and the State Council of Higher Education, are properly deployed to fill current and projected needs; to give effect to the Governor's policies and priorities; to ensure efficient distribution of workload between senior and more junior employees; and to ensure employment levels are neither greater nor less than the number required for the efficient operation of those programs approved by the General Assembly. In order to ensure that the necessary human and fiscal resources, as approved by the General Assembly, are available to maintain the services necessary for the citizens of the Commonwealth in the most efficient and effective manner, I hereby establish the following procedures for all Secretaries and agency heads in the Executive Department, excluding institutions of higher education and the State Council of Higher Education:

1. Prior to agencies advertising vacant positions or using the Department of Personnel and Training system of recruitment, each agency head shall provide a summary report to the respective Secretary listing the following information that is currently available for each type of position:

For permanent, temporary, or seasonal positions:

- a. the position job classification plan number, if available, and title;
- b. the number of funded positions for the agency in the classification or title;
- c. the number of such positions filled in the agency;

- d. the number of positions to be advertised; and
- e. why the position(s) need to be filled.

For positions that qualify for continuous recruitment, the agency shall submit a one-time report with similar information as requested for other positions.

2. Each Secretary shall review the agency summary report, and may, within five working days sign the report and provide the respective agency head with a copy.

If the Secretary disagrees with the number of positions to be filled, the Secretary shall recommend changes in the summary report and provide the respective agency head with a signed copy.

3. Upon receipt of the summary report, or the passage of five business days, the agency head may advertise the vacant positions.

I hereby direct the Department of Planning and Budget to prepare a sample summary report for the use of the agencies and Secretaries.

Nothing in this executive order shall be construed to be in conflict with Chapter 1, Special Session I, 1998 Virginia Acts of Assembly, Section 4-6.05, Selection of Applicants for Classified Positions, and Section 4-7.01, Manpower Control Program, or Title 2.1, Chapter 10, Code of Virginia (the Personnel Act). The information in the required reports does not address specific job applicants or a previous administratively imposed hiring freeze and is intended to solely ensure that human and fiscal resources are available to maintain the most efficient and effective government work force and to provide the services necessary for the citizens of the Commonwealth within such resources.

This Executive Order rescinds Executive Orders Number Thirty-eight (94), Workforce Reduction, issued on December 1, 1994, and Number Forty-five (95), Workforce Reduction, issued on March 15, 1995.

This Executive Order shall be effective upon its signing, and shall remain in full force and effect until June 30, 2002, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 30th day of June, 1998.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-295; Filed July 8, 1998, 8:22 a.m.

---

# SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

---

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

## DEPARTMENT OF SOCIAL SERVICES

Pursuant to Executive Order Number Twenty-five (98), the Department of Social Services is currently reviewing the below listed regulations to determine if they should be terminated, amended, or retained in their current form. The review will be guided by the principles listed in Executive Order Number Twenty-five (98) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulations' interference in private enterprise and life, essential need of the regulations, less burdensome and intrusive alternatives to the regulations, specific and measurable goals that the regulations are intended to achieve, and whether the regulations are clearly written and easily understandable.

The regulations are:

22 VAC 40-370-10 et seq., Job Training Partnership Act (JTPA) Income Disregards in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-430-10 et seq., Treatment of Casual and Inconsequential Income in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-460-10 et seq., Deeming of Stepparent Income in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-590-10 et seq., Aid to Families with Dependent Children - Earned Income Tax Credit (EITC) Disregard.

22 VAC 40-380-10 et seq., Disregard of Certain Income Received by Indian Tribes in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-360-10 et seq., Definition of a Home in the Aid to Families with Dependent Children (AFDC) and General Relief (GR) Programs.

22 VAC 40-490-10 et seq., Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to the Incapacity of a Parent.

22 VAC 40-530-10 et seq., Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to Continued Absence.

22 VAC 40-310-10 et seq., Maximum Resource Limit in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-300-10 et seq., Lump Sum Ineligibility Period in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-450-10 et seq., Lump Sum Payments in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-350-10 et seq., Real Property Disposition Period in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-330-10 et seq., Collection of Overpayments in the Aid to Families with Dependent Children (AFDC) and Refugee Other Assistance Programs.

22 VAC 40-340-10 et seq., Protective Payments in the Aid to Families with Dependent Children (AFDC) and Refugee Other Assistance Programs.

22 VAC 40-390-10 et seq., Persons and Income Required to be Considered When Evaluating Eligibility for Assistance in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-032-10 et seq., Aid to Families with Dependent Children (AFDC) Program - Determining AFDC Eligibility When Only Dependent Child Receives Foster Care Benefits.

22 VAC 40-500-10 et seq., Work Related Child Care Expense Disregard in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-290-10 et seq., Earned Income Disregards/Student Earnings in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-470-10 et seq., Exemptions Applicable to Public Assistance Programs.

22 VAC 40-760-10 et seq., Employment Services Program Policy.

22 VAC 40-580-10 et seq., Aid to Families with Dependent Children (AFDC) Program - Elimination of Monthly Reporting.

22 VAC 40-440-10 et seq., Aid to Families with Dependent Children (AFDC) Program - Allocation of Income.

Written comments may be submitted until September 2, 1998, in care of Mark L. Golden, Human Services Program Consultant, Division of Temporary Assistance, 730 East Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1735 or by facsimile to (804) 692-1704.

---

# GENERAL NOTICES/ERRATA

---

\*\*\*\*\*

## STATE CORPORATION COMMISSION

June 30, 1998

Administrative Letter 1998 - 5

### Bureau of Insurance

July 1, 1998

Administrative Letter 1998-3

**TO: All Insurers Licensed to Write Life Insurance and Accident and Sickness Insurance, Health Maintenance Organizations and Health Service Plans Operating in Virginia.**

**RE: 14 VAC 5-180-10 (formerly Regulation Number 34) Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS)**

14 VAC 5-180-50 C 6 (formerly section 6 C 6 of Regulation Number 34) of the cited regulation provides the minimum test protocol that must be followed before an adverse underwriting decision may be made on the basis of positive HIV-related test results. This test protocol consists of: (i) two positive enzyme-linked immunosorbent assay (ELISA) tests, followed by (ii) one Western Blot. In Administrative Letter 1996-11, the Bureau added the oral fluid test as an acceptable test to comply with 14 VAC 5-180-50 C 6.

The Bureau of Insurance has recently become aware that the Food and Drug Administration has approved Urine Antibody Testing for professional use in confirming the presence of HIV antibodies. The test protocol for the recently approved test is the same as that provided in 14 VAC 5-180-50 C 6.

The purpose of this letter is to inform you that the urine test may be used to comply with 14 VAC 5-180-50 C 6 so long as the test protocol set forth in the regulation is followed. Blood and oral fluid tests that follow the test protocol may continue to be used.

Questions concerning any of the above should be directed to:

Mr. Robert L. Wright, III, Principal Insurance Analyst  
State Corporation Commission  
Commonwealth of Virginia  
Bureau of Insurance  
Post Office Box 1157  
Richmond, VA 23218  
804-371-9074

/s/ Alfred W. Gross  
Commissioner of Insurance

VA.R. Doc. No. C98-1655; Filed July 2, 1998, 7:11 a.m.

**TO: All Insurers, Health Services Plans, Health Maintenance Organizations (HMOs) and Other Interested Parties**

**RE: Legislation Enacted by the 1998 Virginia General Assembly**

We have attached for your reference Bureau staff summaries of certain statutes enacted or amended and re-enacted during the 1998 Session of the Virginia General Assembly. **The effective date of these statutes is July 1, 1998, except as otherwise indicated in this letter.** Each organization to which this letter is being sent should review the attachments carefully and see that notice of these laws is directed to the proper persons, **including appointed representatives**, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Please note that this document is a **summary** of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments made to insurance-related laws during the 1998 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

/s/ Alfred W. Gross  
Commissioner of Insurance

**NOTE: EXCEPT WHERE OTHERWISE INDICATED,  
ALL BILLS ARE EFFECTIVE 7/1/98**

### COMPANY TAXATION BILLS

#### Chapter 15 (Senate Bill 40)

This bill amends § 38.2-407 in Chapter 4 (Assessment for Administration of Insurance Laws) of Title 38.2 so that any insurer subject to paying the maintenance assessment of the Bureau of Insurance pursuant to § 38.2-400 shall file a quarterly declaration of estimated assessment report for the assessable year as provided in Chapter 4 of Title 38.2 if the assessment imposed by § 38.2-400 can reasonably be expected to exceed \$3,000.

#### Chapter 60 (Senate Bill 247)

This bill amends § 38.2-1026 in Chapter 10 (Organization, Admission and Licensing of Insurers) of Title 38.2 relating to retaliatory tax payments and reports. This bill adds language to specify the penalties for failure to pay retaliatory taxes in a timely manner. Any foreign or alien insurer subject to § 38.2-1026 shall annually, on or before March 1, file a report with the State Corporation Commission which compares the regulatory costs imposed on such insurer by this Commonwealth during the preceding calendar year to the regulatory costs that would have been imposed on a similar insurer domiciled in this Commonwealth by the insurer's state of domicile during the preceding calendar

year. This report shall be filed on a form and in such detail as prescribed by the Commission. Amounts owed due to the equalization of the regulatory costs imposed on the insurer by this Commonwealth and the regulatory costs of the insurer's state of domicile shall be remitted to the Commission on or before March 1 of each year. Failure of the insurer to pay the amounts required under this section before March 1 shall result in a penalty of 10% of the amount due, and interest shall be charged at a rate established pursuant to § 58.1-15 for the period between the due date the date of full payment.

## Chapter 365 (House Bill 80)

This bill amends § 58.1-2500 and adds § 58.1-2510 in Title 58.1 (Taxation) relating to tax credits for retaliatory costs paid by certain insurance companies. For license years beginning on or after July 1, 1998, every qualified company shall be allowed a credit against the tax imposed by § 58.1-2501 in an amount equal to the retaliatory costs incurred during the corresponding taxable year as a result of the difference between other states' lower premium tax rates and other costs and the tax rates and costs imposed by the Commonwealth.

"Qualified company" is defined as a domestic insurance company that (i) has made a qualified investment in this Commonwealth and (ii) for license years beginning on or after July 1, 1998, maintained the employment level required for a qualified investment, such level to be measured as of December 31 of the corresponding taxable year. A "qualified investment" is an investment in this Commonwealth by a domestic insurance company or any one or more members of an "affiliated insurance group" that results in (i) an increase as of December 31, 1997, of at least 325 qualified full-time employees above the company's or group's total combined employment level in this Commonwealth on December 31, 1996, or (ii) during any taxable year beginning on or after January 1, 2001, such company or group having more than 100 qualified full-time employees in this Commonwealth during that entire taxable year.

The bill outlines in subsections C and D of § 58.1-2510 how a qualified company may apply for a credit, and how and under what circumstances unused credits will be refunded to the qualified company. Subsection E of § 58.1-2510 specifies that if two or more domestic insurance companies paying retaliatory costs in any year are members of an affiliated insurance group, the total of the retaliatory costs paid may be combined and apportioned among the members of the affiliated insurance group as the members may agree.

## COMPANY LICENSING BILLS

### Chapter 16 (Senate Bill 41)

This bill amends the current provisions of Chapter 3.1 (Automobile Clubs) of Title 13.1 and Chapter 18 (Insurance Agents) of Title 38.2 dealing with automobile clubs to apply the same licensing and renewal processes to automobile clubs and agents that are applicable to all other entities licensed by the Bureau of Insurance. As a result of this legislation:

1. Applicants for automobile club agent licenses will pay a one-time \$15 license fee and will be issued a perpetual restricted license as is the case for all other restricted licenses.
2. The automobile clubs will pay a \$12 annual appointment fee per agent instead of the current \$2.00 annual renewal fee.
3. The automobile clubs will pay a \$200 certificate of authority renewal fee instead of the current \$100 renewal fee.
4. The State Corporation Commission will be given express authority to suspend, non-renew or revoke the license of a noncomplying automobile club or automobile club agent.
5. Agents holding a property & casualty agent license (Type 30) need not obtain a separate automobile club agent license.

NOTE: The State Corporation Commission has always had the authority to suspend, non-renew or revoke the license of a licensed property & casualty agent who was also an automobile club agent. But, before Senate Bill 41, if the automobile club agent was not also licensed as a property & casualty agent, the Commission had no authority to discipline the automobile club agent simply on the basis of his automobile club license.

## INSURANCE AGENTS AND CONTINUING EDUCATION BILLS

### Chapter 12 (House Bill 675)

This bill amends § 38.2-512 in Chapter 5 (Unfair Trade Practices) of Title 38.2 by modifying subsection A and enacting new subsections B and C to place additional consumer protections in Title 38.2 of the Code of Virginia so that insurance agents and others are prohibited from engaging in certain activities. The bill:

1. Extends the prohibition against misrepresentation on an insurance application to ANY insurance-related document so that no person can make false or fraudulent statements or representations with respect to any document relating to the business of insurance;
2. Prohibits agents and others from forging the signatures of proposed insureds, applicants, etc.; and
3. Prohibits agents and others from obtaining the signature of the proposed insured, applicant, etc., and then using that signature to accomplish insurance-related changes to documents when such changes were not authorized by the individual who provided the signature.

Examples of some of the practices that have been engaged in by insurance agents in the past, without the knowledge of or consent by the applicant/insured, and which will be prohibited under this bill are:

---

## General Notices/Errata

---

1. Signing a policy delivery receipt without actually delivering the policy;
2. Applying for and signing a policy loan form in the client's name;
3. Signing and depositing a policy loan check;
4. Signing and depositing a claim check;
5. Changing the mode of payment to draft a client's account;
6. Signing a replacement notice in the client's name;
7. Falsifying a client's financial disclosure statement; and
8. Falsifying an Internal Revenue Service 1035 exchange form.

### Chapter 46 (Senate Bill 422)

#### Effective March 11, 1998

This bill makes both major and technical revisions to §§ 38.2-1866, 38.2-1868.1, 38.2-1869 and 38.2-1872 in the Continuing Education article of the Insurance Agents chapter, as follows:

1. The bill clarifies that the term "agent" includes those holding insurance consultant licenses.
2. The bill clarifies that the prohibition against using courses given by insurance companies or insurance agencies to account for more than 75% of the total credit hours required for an agent in any one biennium is not limited only to the company(ies) or agency with which the agent is affiliated. The Virginia Insurance Continuing Education Board (Board) may require course providers to disclose whether or not their offerings fall within the 75% limitation.
3. The bill reiterates that requirements must be completed during the 24 months of the biennium, and that no extensions of time can or will be granted.
4. The time provided for agents to submit proof of compliance is being extended to a full two months, in order to provide agents with more time to complete the submission process.
5. In addition, agents are being given a third month to file proof of compliance, subject to payment of a \$250 late filing fee.
6. Section 38.2-1869 is amended to place a 60-day limitation on an individual's right to appeal a license termination where termination is based upon noncompliance with continuing education requirements.
7. The bill allows agents to begin completing the study course and examination requirements immediately after the end of a biennium, instead of being required to wait until after license termination, if

they know they will lose their license because of noncompliance. This will afford agents a "head start" on meeting the re-licensing requirement.

8. An alternative to the current 90-day waiting period subsequent to license termination and before which the agent may not apply for relicensing has been added. Under this new provision, the agent may avoid waiting 90 days and may in lieu thereof pay an administrative penalty of \$1,000. Whether under the 90-day waiting period or the \$1,000 penalty, the agent must satisfactorily complete any prelicensing study course requirement and pass the prelicensing examination before re-applying for licensure.

The bill contained an emergency enactment, and it therefore took effect on the date signed by the Governor, March 11, 1998. All changes will apply to the current (1997-1998) biennium.

### Chapter 47 (Senate Bill 423)

This bill amends Chapter 18 (Insurance Agents) of Title 38.2 and adds a new section numbered § 38.2-514.2. The bill establishes a new type of limited license under §§ 38.2-1814 and 38.2-1815 for "motor vehicle rental contract insurance agents," and it amends § 38.2-1824 by adding the term "motor vehicle rental contract insurance" to the kinds of agents' licenses and appointments the State Corporation Commission may issue. The bill defines "motor vehicle rental contract insurance agent" in § 38.2-1800 and requires that a written disclosure be given by the agent to the prospective renter which summarizes the coverage being offered, advises the renter that he may be purchasing duplicate coverage, and states that the coverage is not required to be purchased in order to rent the vehicle.

NOTE: Because "motor vehicle rental contract insurance" may include both life and health and property and casualty lines, those agents holding appropriate general authority (life and health agent and/or property and casualty agent) need not obtain a separate motor vehicle rental contract insurance agent license.

### Chapter 129 (Senate Bill 224)

This bill repeals Chapter 53 of Title 38.2, thereby removing responsibility for certification of private review agents from the Bureau of Insurance and enacts provisions in Title 32.1 which instead place that responsibility with the Department of Health. The Department of Health is to consult with the appropriate health regulatory board in the Department of Health Professions if there is a question concerning compliance with standards of practice governing a health care profession.

A third enactment clause provides that regulations previously promulgated by the Commission regarding private review agents shall continue in effect and be deemed regulations of the Department of Health until either (i) the effective date of Department of Health regulations or (ii) January 1, 2000.

Records necessary for administering this bill must be transferred by the Commission to the Department of Health on or before the effective date of the bill.

## Chapter 164 (House Bill 1281)

This bill amends §§ 38.2-1800, 38.2-1814, and 38.2-1824 in the Insurance Agents chapter by establishing a new limited license type for agents selling “pet accident, sickness, and hospitalization insurance.” These agents will be able to sell pet accident, sickness, and hospitalization insurance without being licensed as full property and casualty agents, and they will not have to take the preclicensing study course, written exam, or comply with the continuing education requirements.

NOTE: Agents holding a full property and casualty agent license need not obtain a separate pet accident, sickness, and hospitalization Insurance license.

### LIFE AND HEALTH BILLS

NOTE: More than one of the following bills creates a new § 38.2-3418.3. The Virginia Code Commission will assign actual section numbers to each after it meets. Therefore, the sections cited in these bills may differ when the actual Code updates are printed.

## Chapter 11 (House Bill 567)

This bill amends §§ 38.2-5701 and 38.2-5702 in the Viatical Settlements Act to add language to § 38.2-5701 A (1) and (2) and § 38.2-5702 A (1) and (2) setting forth how the application and renewal fees received from viatical settlement providers and brokers will be handled.

Section 38.2-5701 F is revised to require that nonresident viatical settlement providers appoint a resident of the Commonwealth as agent for service of process, and that in the event the viatical settlement provider fails to appoint or maintain a resident agent, or that such agent can not be located, then the Clerk of the Commission shall act as agent for service of process.

Section 38.2-5702 D (iii) and (iv), setting forth the reasons that the Commission may deny, suspend or revoke a viatical settlement broker license, is amended to replace language relating to viatical settlement providers found in § 38.2-5701 G (iii) and (iv). Section 38.2-5702 D (iii) and (iv) are amended to read:

(iii) been subject to a final administrative action or has otherwise been shown to be untrustworthy or incompetent to act as a viatical settlement broker; (iv) placed or attempted to place a viatical settlement with a viatical settlement provider not licensed in this Commonwealth;

## Chapter 17 (Senate Bill 58)

This bill amends § 38.2-316 in the Provisions Relating to Insurance Policies and Contracts chapter pertaining to policy forms filed with the State Corporation Commission. The amendment adds the term “enrollment form” to § 38.2-316 B thereby providing that no individual certificate or “enrollment form” may be used in connection with any group life insurance policy, group accident and sickness insurance

policy, group annuity contract, or group variable annuity contract unless such form has been filed with the Commission.

The term “enrollment form” is also added to § 38.2-316 C 1 thereby requiring that enrollment forms used in connection with policies, contracts, and certificates must be approved by the Commission prior to being delivered or issued for delivery in this Commonwealth.

In § 38.2-316 D, “enrollment form” is added to a list of documents that the Commission may disapprove or withdraw approval of for the reasons stated in this subsection.

## Chapter 24 (House Bill 781)

This bill contains technical corrections to the legislation passed last year to implement the requirements imposed by the federal Health Insurance Portability and Accountability Act. The bill amends §§ 38.2-3430.2, 38.2-3430.4, 38.2-3430.6 38.2-3431, 38.2-3432.1, 38.2-3432.2, 38.2-3432.3, and 38.2-3435 in the Provisions Relating to Accident and Sickness Insurance chapter, and §§ 38.2-3514.2 and 38.2-3531 in the Accident and Sickness Insurance Policies chapter.

The bill clarifies that for purposes of determining the aggregate periods of creditable coverage under § 38.2-3430.2 B 1 (i), a period of creditable coverage is not counted if there was a 63-day period during all of which the individual was not covered under any creditable coverage or was not serving a waiting period under a group health plan or group health coverage or in an affiliation period.

Section 38.2-3430.4 1 is amended to clarify that the limit applies to eligible individuals who live, reside or work in the service area.

A citation in § 38.2-3430.6 is corrected from § 38.2-3427 to § 38.2-3430.3.

Amendments are made in § 38.2-3431 to correct a reference to the Social Security Act, reference “federal” regulations for a public health plan, delete the definition of “established geographic services area,” delete unnecessary language in the definition of “medical care,” add a definition of “service area” and add clarifying language to the definition of “waiting period.”

Section 38.2-3431 C is amended to clarify that the essential and standard health benefit plans must be offered subject to the provisions of § 38.2-3432.2.

Section 38.2-3432.1 A 11 is amended to change a cross reference to subdivision 10.

Section 38.2-3432.2 is revised to clarify that if coverage is offered in the small employer market, it must be offered to all eligible employees of every small employer that applies and their dependents, including late enrollees. No eligible employees or their dependents can be excluded or charged additional premiums because of their health status. The language clarifies that all products approved for sale in the small group market that a health issuer is actively marketing

---

## General Notices/Errata

---

must be offered to all small employers, and every employer that applies must be accepted.

Section 38.2-3432.2 J is revised to delete the phrase “as a late enrollee for coverage.”

Section 38.2-3432.2 K and L are revised to correct cross references.

Subsection N is added to § 38.2-3432.3 to include provisions for late enrollees. The language clarifies that a late enrollee may be excluded for up to 18 months or may have a pre-existing limitation for 12 months, but in no case can a late enrollee be restricted from some or all coverage for more than 18 months. Individuals are not to be considered late enrollees if they meet certain conditions listed in the subsection. Individuals may be considered late enrollees for benefit riders or enhanced coverage levels not covered under their previous plan.

Section 38.2-3435 is revised to delete the exclusion of the article to nonfederal governmental plans.

Section 38.2-3514.2 is revised to add individual health coverage to the list of policies to which the renewability section does not apply.

Section 38.2-3531, that includes additional exclusions and limitations, is revised to clarify that the section does not apply to group accident and sickness policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis to employees and dependents.

Chapter 25 (House Bill 782)

### Effective March 9, 1998

This bill addresses a “loophole” that was created during the implementation of HIPAA last year. It amends the HIPAA implementation article by adding § 38.2-3430.3:1, applicable to individuals that qualified to meet the definition of “eligible individual” in § 38.2-3430.2 between April 29, 1997, and January 1, 1998. The bill provides that such individuals, if not currently eligible for or enrolled in a group health plan that would provide coverage for pre-existing conditions or Part A or Part B of Title XVIII of the Social Security Act, must be offered a choice of all individual health coverages being offered by health insurance issuers. The coverage selected must be issued regardless of whether individual coverage was obtained during the above time period if the existing coverage is replaced with new coverage.

The coverage required by this bill must not impose any pre-existing condition exclusion. Health insurance issuers are also prohibited from limiting or excluding coverage for named conditions.

This bill included an emergency clause, and thus took effect immediately upon enactment on March 9, 1998. The bill also included a “sunset” provision pursuant to which its provisions will expire on January 1, 1999.

Chapter 26 (House Bill 854)

This bill amends §§ 38.2-3431 and 38.2-3433 in the Provisions Relating to the Accident and Sickness chapter to

delete the definition of “primary small employer” and the use of the term. The bill provides that the rating provisions in § 38.2-3433 that formerly applied only to primary small employers will now apply to all employer groups with up to 50 employees. The rating provisions apply to the essential and standard plans.

Chapter 49 (Senate Bill 553)

This bill amends § 38.2-3407.3 in the Provisions Relating to Accident and Sickness Insurance chapter relating to the calculation of cost-sharing by adding a provision addressing out-of-state services.

The amendment to § 38.2-3407.3 A provides that when an insured, subscriber or enrollee receives covered services outside of the insurer's, health services plan's or health maintenance organization's (health plan) provider network through another health plan's provider network located outside of this Commonwealth, then the health plan may calculate the cost-sharing of such insured, subscriber or enrollee by using the cost of covered services as reported by the out-of-state health plan.

Chapter 56 (Senate Bill 679)

This bill adds § 38.2-3418.3 in the Provisions Relating to Accident and Sickness Insurance chapter and amends § 38.2-4319 in the Health Maintenance Organization chapter. The bill requires health carriers to provide coverage for reconstructive breast surgery. The requirement applies to all insurers proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services. The bill applies to any insurance policies, contracts or plans delivered, issued for delivery, or renewed on or after July 1, 1998.

The bill defines “reconstructive breast surgery” as surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. “Mastectomy” is defined as the surgical removal of all or part of the breast on or after July 1, 1998, as a result of breast cancer. The reimbursement for reconstructive breast surgery shall be determined according to the same formula by which charges are developed for other medical and surgical procedures. The coverage shall have durational limits, dollar limits, deductibles and coinsurance factors that are no less favorable than for physical illness generally.

The provisions of this section do not apply to short-term travel, accident only, limited or specified disease policies (except policies issued for cancer); policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare; any other similar coverage under state or federal governmental plans; or short-term nonrenewable policies of not more than six months' duration.

## Chapter 120 (House Bill 673/Senate Bill 251)

This bill amends the Mandated Benefits article of Chapter 34 (Provisions Relating to Accident and Sickness Insurance) and amends § 38.2-4319 in the Health Maintenance Organization chapter to require coverage for hemophilia and congenital bleeding disorders. The bill adds § 38.2-3418.3 to require that each insurer issuing individual or group accident and sickness policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group subscription contracts; and each health maintenance organization providing a health care plan to provide coverage for hemophilia and congenital bleeding disorders. The requirement applies to policies, contracts or plans delivered, issued for delivery or renewed on and after July 1, 1998.

The bill defines the terms “blood infusion equipment,” “blood product,” “hemophilia,” “home treatment program,” and “state-approved hemophilia treatment center.”

The bill also requires that benefits be provided for expenses incurred in connection with the treatment of routine bleeding episodes associated with hemophilia and other congenital bleeding disorders. The benefits are to include coverage for the purchase of blood products and blood infusion equipment required for home treatment of routine bleeding episodes associated with hemophilia and other congenital bleeding disorders when the home treatment program is under the supervision of the state-approved hemophilia treatment center.

The bill does not apply to short-term travel, accident only, limited or specified disease policies or to short-term nonrenewable policies of not more than six months' duration. The amended bill does not apply to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or to any other similar coverage under state or federal governmental plans.

## Chapter 146 (House Bill 1234)

This bill amends § 38.2-3408 in the Provisions Relating to Accident and Sickness Insurance chapter and § 38.2-4221 in the Health Services Plan chapter by adding “licensed acupuncturist” to the list of providers that are mandated to receive direct reimbursement.

## Chapter 148 (Senate Bill 462)

This bill amends § 38.2-3407.4:1 in the Provisions Relating to Accident and Sickness Insurance chapter to require the State Corporation Commission to adopt a uniform referral form for use by any health care entity defined as a “utilization management organization” by the Health Care Financing Administration (HCFA) for its Electronic Data Interchange (EDI). In developing the uniform referral form, the Commission is required to incorporate only the data elements adopted by HCFA for its EDI standards. Because of the reliance upon adoption of standards by HCFA, the Commission is not expected to take any action on this bill until after HCFA standards are made final.

Once adopted by the Commission, all such entities that require their insureds or enrollees to obtain a written referral must use the uniform referral form as the only instrument for referrals and are prohibited from imposing, as a condition of coverage, any requirement to modify the uniform referral form or submit additional referral forms.

## Chapter 154 (House Bill 855)

This bill revises §§ 38.2-3323, 38.2-3324, 38.2-3331, 38.2-3525, 38.2-3526, 38.2-3533, 38.2-3543.1, 38.2-4214 and 38.2-4319; adds §§ 38.2-3318.1 through 38.2-3322.2, §§ 38.2-3521.1 through 38.2-3523.4, and § 38.2-3543.2; and repeals §§ 38.2-3318 through 38.2-3322 and §§ 38.2-3521 through 38.2-3524, relating to group life and group accident and sickness insurance policies and delivery requirements.

This bill adds § 38.2-3318.1 which sets forth the requirements for delivery of certain group life insurance policies in Virginia. The following is a list of the groups identified:

§ 38.2-3318.1 A - employee groups

§ 38.2-3318.1 B - credit groups

§ 38.2-3318.1 C - labor unions

§ 38.2-3318.1 D - multiple employer welfare arrangements and trusts

§ 38.2-3318.1 E - associations

§ 38.2-3318.1 F - credit unions

§ 38.2-3318.1 G - incorporated associations (burial societies) with a primary purpose of financial planning for funerals and burials

This bill adds § 38.2-3319.1 which sets forth the limits of offering group life insurance to a resident of Virginia for groups that do not fall under § 38.2-3318.1. Section 38.2-3319.1 A requires that group life insurance policies delivered in Virginia must not be contrary to Virginia's public policy; that such policies result in economies of acquisition or administration; and that the benefits provided by these policies are reasonable in relation to the premiums charged. Section 38.2-3319.1 B requires that the group life insurance policy be approved by the Commission or a state having substantially similar requirements, and that the insurer offering the group coverage provide certification and documentation stating that such coverage is in compliance with § 38.2-3318.1. Premium must be paid from policyholder funds or funds from covered persons or both. Insurer may exclude person if not insurable.

This bill adds § 38.2-3319.2 to authorize the Commission to review the records of any insurer issuing group life insurance policies to determine that the policies issued are in compliance.

This bill adds § 38.2-3320.1 which provides that group life insurance policies issued outside of Virginia which provide coverage to residents of Virginia that do not qualify under § 38.2-3318.1 or do not comply with § 38.2-3319.1 shall be

---

## General Notices/Errata

---

subject to the statutory requirements of Title 38.2 and insurer is subject to penalties under Title 38.2.

This bill adds § 38.2-3321.1 which sets forth the requirement that individuals marketing group life insurance policies that do not qualify under § 38.2-3318.1 must hold a valid life and health insurance agent license as required by Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2.

This bill adds § 38.2-3322.1 which provides the Commission with the authority to issue regulations.

This bill also adds § 38.2-3322.2 which requires that group life insurance policies shall cover at least two people.

This bill amends § 38.2-3323 relating to group life insurance coverages for spouses, minor dependent children and dependent handicapped children. The term "group credit life insurance" is replaced with § 38.2-3318.1 B as an exception to group policies that may be extended to insure spouses or children.

This bill amends § 38.2-3324 relating to exceptions to the standard provisions prescribed. The term "group credit life insurance" is replaced with § 38.2-3318.1 B as an exception to group policies that fall under §§ 38.2-3330 A, 38.2-3331, and 38.2-3332 through 38.2-3334.

This bill amends § 38.2-3331 relating to individual certificates. The term "group credit life insurance" is replaced with § 38.2-3318.1 B, which requires that when a debtor pays any part of a credit insurance premium, the insurer shall provide the policyholder with a form to be delivered to the debtor stating that any death benefit paid under the policy will go toward paying the debt.

This bill adds § 38.2-3521.1 which sets forth the requirements for delivery of certain group accident and sickness insurance policies in Virginia. The following is a list of the groups identified:

- § 38.2-3521.1 A - employee groups
- § 38.2-3521.1 B - credit groups
- § 38.2-3521.1 C - labor unions
- § 38.2-3521.1 D - multiple employer welfare arrangements and trusts
- § 38.2-3521.1 E - associations
- § 38.2-3521.1 F - credit unions
- § 38.2-3521.1 G - health maintenance organizations

This bill adds § 38.2-3522.1 which sets forth the limits of offering group accident and sickness insurance to a resident of Virginia for groups that do not fall under § 38.2-3521.1. Section 38.2-3522.1 A requires that group accident and sickness insurance policies delivered in Virginia must not be contrary to Virginia's public policy, would result in economies of acquisition or administration, and that the benefits are reasonable in relation to the premiums charged. Section 38.2-3522.1 B requires that the group accident and sickness insurance policy must be approved by the Commission or a state having substantially similar requirements, and that

certification from the insurer offering the group coverage state that such coverage is in compliance with § 38.2-3521.1. Attached to the certification must be documentation from such state evidencing the determination that such requirements have been met. Insurers offering group accident and sickness insurance that are unable to meet the requirements of § 38.2-3522.1 B shall be required to file policy forms with the Commission for approval pursuant to § 38.2-316. Premiums must be paid by policyholder's funds or covered person's funds or both. An insurer may exclude or limit coverage for those considered not insurable.

This bill adds § 38.2-3523.1 authorizes the Commission to review the records of any insurer issuing group accident and sickness insurance policies to determine that the policies issued are in compliance. Insurers not complying with §§ 38.2-3521.1 and 38.2-3522.1 will be deemed to have committed a knowing and willing violation subject to § 38.2-218.

This bill adds § 38.2-3523.2 which provides that group accident and sickness insurance policies issued outside of Virginia which provide coverage to residents of Virginia that do not qualify under § 38.2-3521.1 or § 38.2-3522.1 shall be subject to the statutory requirements of Title 38.2, and the insurer is subject to penalties under Title 38.2.

This bill adds § 38.2-3523.3 which sets forth the requirement that individuals marketing group accident and sickness insurance policies that do not qualify under § 38.2-3521.1 or § 38.2-3522.1 must hold a valid life and health insurance agent or health agent license as required by Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2.

This bill adds § 38.2-3523.4 which requires that at least two people be covered under group accident and sickness insurance policies.

This bill amends § 38.2-3525 relating to group accident and sickness insurance coverages of spouses and dependent children. The term "group credit accident and sickness insurance policy" is replaced with § 38.2-3521.1 B as an exception to group policies that may be extended to insure spouses or children.

This bill amends § 38.2-3526 relating to exceptions to the standard provisions required. The term "group credit accident and sickness insurance" is replaced with § 38.2-3522 B as an exception to group policies that fall under §§ 38.2-3531 A, 38.2-3533 and 38.2-3538.

This bill amends § 38.2-3533 relating to individual certificates. The term "credit accident and sickness" is replaced with § 38.2-3522.1 B, which requires that when a debtor pays any part of a credit insurance premium, the insurer shall provide the policyholder with a form to be delivered to the debtor stating that any benefit paid under the policy will go toward paying the debt.

This bill revises § 38.2-3543.1, which provides the Commission with the authority to establish rules and regulations for coordination of benefits, adds language allowing the Commission to establish standards to be met in

connection with the marketing and contracting for group accident and sickness insurance.

This bill also adds § 38.2-3543.2 which provides that in the event of any conflict between the provisions of this article and other provisions of Title 38.2, the provisions of this article shall be controlling.

This bill amends § 38.2-4214, which provides that no provision of Title 38.2 except for Chapter 42 and certain sections listed shall apply to the operation of a plan, to include §§ 38.2-3522.1 through 38.2-3523.4 and 38.2-3543.2.

Section 38.2-4319, which provides that no provision of Title 38.2 except for Chapter 43 and certain sections listed shall apply to any health maintenance organization granted a license under this chapter, is amended to include §§ 38.2-3522.1 through 38.2-3523.4 and 38.2-3543.2.

### Chapter 356 (Senate Bill 372)

This bill repeals the “sunset clause” from the genetic information privacy provisions in § 38.2-508.4 of the Unfair Trade Practices chapter. This means that the genetic information privacy provisions will continue indefinitely instead of expiring on July 1.

### Chapter 625 (House Bill 1413)

This bill amends the Mandated Benefits article of Chapter 34 (Provisions Relating to Accident and Sickness Insurance) and amends § 38.2-4319 in the Health Maintenance Organizations chapter to require health carriers to provide coverage for early intervention services. The bill adds § 38.2-3418.3 and requires each insurer issuing individual or group accident and sickness policies providing hospital, medical and surgical or major medical coverage on an expense-incurred basis; each corporation providing individual or group subscription contracts; and each health maintenance organization providing a health care plan to provide coverage for medically necessary early intervention services. The requirement applies to policies, contracts or plans delivered, issued for delivery or renewed on and after July 1, 1998.

The amended bill limits benefits to \$5,000 per insured or member per policy or calendar year and, except as set forth in subsection C, shall be subject to such dollar limits, deductibles and coinsurance factors as are no less favorable than for physical illness generally.

The bill defines “early intervention services,” “financial costs” and “medically necessary early intervention services for the population certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services.” The bill also prohibits the cost of early intervention services from being applied to any contractual provision limiting the total amount of coverage paid by the insurer, corporation or health maintenance organization to or on behalf of the insured or member during the insured's or member's lifetime.

The bill does not apply to short-term travel, accident only, limited or specified disease policies, or to short-term nonrenewable policies of not more than six months' duration;

nor does it apply to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or governmental plans.

### Chapter 631 (House Bill 542)

This bill adds § 38.2-3418.3 to the Provisions Relating to Accident and Sickness chapter and amends § 38.2-4319 in the Health Maintenance Organization chapter, § 2.1-20.1 in the Commonwealth Employee Health Plan chapter and § 32.1-325 in the Medicaid chapter. The bill requires coverage for a minimum hospital stay following mastectomy surgery. It affects the state employee health insurance plan, Medicaid, and all insurers proposing to issue individual and group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services. The bill applies to any insurance policies, contracts or plans delivered, issued for delivery, reissued, or renewed on or after July 1, 1998.

### Chapter 709 (House Bill 915/Senate Bill 705)

This bill adds § 38.2-3418.3 to the Provisions Relating to Accident and Sickness Insurance chapter. The bill also amends § 38.2-4319 in the Health Maintenance Organization chapter, § 2.1-20.1 in the Commonwealth Employee Health Plan chapter and § 32.1-325 in the Medicaid chapter. The bill requires the state employee health insurance plan, Medicaid, and all insurers proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services to provide coverage for one prostate-specific antigen (PSA) test in a 12-month period and digital rectal examinations in accordance with the ACS's guidelines to: (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer according to the most recent published guidelines of the American Cancer Society (ACS). The bill applies to any insurance policies, contracts or plans delivered, issued for delivery, reissued, or renewed on or after July 1, 1998.

The bill defines “PSA testing” as the analysis of a blood sample to determine the level of prostate-specific antigen.

The provisions of this section do not apply to (i) short-term travel, accident only, limited or specified disease policies other than cancer policies; (ii) short-term nonrenewable policies of not more than six months' duration; or (iii) policies or contracts for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

---

## General Notices/Errata

---

### Chapter 891 (Senate Bill 712)

This bill revises §§ 38.2-511, 38.2-4214, 38.2-4301, 38.2-4302, 38.2-4307, 38.2-4312, 38.2-4316, 38.2-4319 and 38.2-4509. It repeals §§ 38.2-4308 and 38.2-4311. It also repeals Chapter 54 (§§ 38.2-5400 through 38.2-5409) of Title 38.2 and reconstitutes similar utilization review provisions in Chapter 5 of Title 32.1 in a new Article 1.2 (§ 32.1-137.7 et seq.). In addition, the bill adds a new Chapter 58 (§ 38.2-5800 et seq.) in Title 38.2 and a new Article 1.1 (§ 32.1-137.1 et seq.) in Chapter 5 of Title 32.1 to address “managed care health insurance plans” (MCHIPs). The bill also revises § 32.1-5 and amends subsection B of § 2.1-342 of Virginia’s Freedom of Information Act (§ 2.1-340 et seq.).

Amendments in Title 32.1 are the regulatory responsibility of the Virginia Department of Health and the State Health Commissioner. Amendments in Title 38.2 are the regulatory responsibility of the State Corporation Commission when acting through the Bureau of Insurance in the regulation of health insurers, health services and hospital services plans, health maintenance organizations, and dental and optometric services plans. The following describe primarily the amendments in Title 38.2.

Amendments to § 38.2-511 revise the record retention requirements of Virginia’s Unfair Trade Practices Act for Insurers to ensure that a health carrier’s records of complaints are retained for no less than five years. This time-frame acknowledges that examinations under § 38.2-1317 shall be conducted at least once every five years.

Amendments to § 38.2-4214 sweep in Chapter 58 (MCHIPs) thereby applying managed care provisions to the operations of any health services or hospital services plan that meets the definition of a managed care health insurance plan.

In § 38.2-4301, the requirements that licensing applications include descriptions of service areas, complaint systems and procedures assuring availability and accessibility and assessing quality of health care services have been removed. Other provisions in the bill replicate these requirements in Title 32.1 as required filings when applying for quality assurance certification. Related provisions in the new § 32.1-137.2 describe more fully the expectations for complaint resolution and access, adequacy and continuity, including considerations for networks, service areas and geographical areas. The provision requiring HMOs to file a material change notice within 30 days after there is a change in information disclosed in a licensing application has been deleted also; however, a similar requirement has been added in § 38.2-5802.

New language in § 38.2-4302 adds specific reference to the new Chapter 58 thereby acknowledging that provisions pertinent to the operation of managed care health insurance plans are conditions of licensure.

Technical revisions to § 38.2-4307 delete direct reference to the State Health Commissioner and add specific reference to the new Chapter 58.

Amendments to § 38.2-4312 strike provisions appearing in subsections C and G and replicate them in Chapter 58 for application to all MCHIPs pursuant to § 38.2-5806.

Amendments to § 38.2-4316 delete provisions that are replicated in the new § 38.2-5809 authorizing suspension or revocation of an HMO’s license if it is determined that the HMO or other responsible health carrier is unable to furnish quality assurance or has failed to implement the complaint system required of MCHIPs.

Amendments to § 38.2-4319 sweep out Chapter 54 (utilization review) and sweep in Chapter 58 (MCHIPs).

Amendments to § 38.2-4509 sweep in Chapter 58 to recognize that the dental and optometric services plans regulated under Chapter 45 will be subject also to provisions in Chapter 58 if the plans fit the definition of managed care health insurance plan. A new provision notes that the utilization review provisions in Title 32.1 shall not apply to dental and optometric services plans.

A new § 38.2-5800 defines the key terms used in Chapter 58, including “MCHIP” or “managed care health insurance plan,” “health carrier,” and “covered person.”

The new § 38.2-5801 contains general provisions which prohibit the operation of an MCHIP in this Commonwealth unless a health carrier that directly or indirectly manages, owns, contracts with, or employs the providers for the plan is licensed in accordance with Virginia’s insurance statutes (Title 38.2 of the Code of Virginia) and subject to regulation as a health carrier responsible for compliance with provisions in the new Chapter 58. The provisions require the health carrier for an MCHIP to request a certificate of quality assurance from the Department of Health in accordance with provisions in § 32.1-137.2.

Section 38.2-5802 sets forth provisions for the establishment of a managed care health insurance plan (MCHIP). Effective July 1, 1998, health carriers will be required to file, with their license applications and requests for renewal, information describing the nature of their MCHIP operations. Lists of providers and forms of contracts with providers may be required also; however, individual contracts and contracts with persons outside Virginia shall not be filed unless specifically requested and needed. The new provisions anticipate interaction with the Department of Health and require the health carrier to give notice to the State Health Commissioner each time an MCHIP filing is made with the State Corporation Commission under this section.

Section 38.2-5803 requires that covered persons be advised concerning the complaint systems, the service areas, the names and locations of providers, and the regulatory oversight that is provided by the State Corporation Commission Bureau of Insurance and the Virginia Department of Health. Additional disclosure requirements are set forth for MCHIPs that require a covered person to select a primary care physician with respect to the offer of basic health care services.

Provisions in § 38.2-5804 require health carriers for all MCHIPs to establish complaint systems which have been

approved by the State Health Commissioner and the State Corporation Commission Bureau of Insurance.

Section 38.2-5805 replicates, with technical modifications, provisions being deleted from § 38.2-4311. These provisions require MCHIPs to maintain lists of providers and written contracts which in some instances shall contain statutory “hold-harmless” provisions.

Section 38.2-5806 prohibits cancellations and refusals to renew due to the health status of an enrollee and, additionally, puts the health carriers for MCHIPs on notice as to arbitration agreements and procedures which may be required pursuant to provisions in Title 32.1 or regulations promulgated thereunder. Such provisions would prohibit restraints against, or imposition of, arbitration except on claims less than \$250 while preserving the covered person’s right to agree to arbitration.

Section 38.2-5807 identifies “access to care” as a quality assurance issue to be assessed by the Department of Health in accordance with provisions in Title 32.1.

Section 38.2-5808 concerns the examination of MCHIP operations. It authorizes examination coordination and acknowledges the quality assurance and complaint system responsibilities of the State Health Commissioner.

Section 38.2-5809 sets forth provisions which require the State Corporation Commission to suspend or revoke the license of a health carrier upon notice that a certificate of quality assurance has been revoked.

Section 38.2-5810 addresses statutory construction and relationship to other laws.

Section 38.2-5811 states that the Commission shall have no jurisdiction to adjudicate controversies between an MCHIP and its covered persons.

NOTE: These provisions in Title 38.2 should be read in conjunction with the new provisions in Articles 1.1 (§ 32.1-137.1 et seq.) and 1.2 (§ 32.1-137.7 et seq.) of Chapter 5 of Title 32.1.

## Chapter 908 (House Bill 1075)

This bill amends §§ 38.2-4214 and 38.2-4319 and adds § 38.2-3407.12 to require that every health care plan offered by an HMO shall provide or include, or the HMO shall arrange for or contract with another carrier to provide or include, a point-of-service (POS) benefit as an additional benefit for the enrollee (i.e., the employee) at the enrollee’s option. The HMO must make the POS benefit available to a group contract holder unless the HMO determines in good faith that another health carrier is already offering the group contract holder’s enrollees a plan that provides a POS benefit.

The new statute defines significant terms; describes required disclosures; prescribes certain aspects of rating, underwriting, coinsurance and premium determination; and requires also that any premium differential and any group specific administrative costs charged to enrollees must be

actuarially sound and supported by sworn certificates of an officer.

The new provisions apply to all group health benefit plans issued or renewed by carriers on or after July 1, 1998. Plans which are self-funded or self-insured are not affected by the statute.

## PROPERTY AND CASUALTY BILLS

### Chapter 69 (Senate Bill 554)

This bill amends Chapter 1.3 of Title 6.1 known as the Consumer Real Estate Settlement Protection Act (CRESPA). Section 6.1-2.19 is amended to state that a real estate agent or such agent’s employees or independent contractors may perform settlement services without complying with CRESPA as long as that person is not listed as the settlement agent on the settlement statement and is not otherwise prohibited from performing such services. The definition of settlement agent in § 6.1-2.20 is amended to say that a settlement agent is the person listed on the settlement statement. The term “settlement statement” is also defined. In § 6.1-2.21, the requirement that an annual audit be performed has been changed to require that an audit be conducted at least once each consecutive 12-month period and reported to the licensing authority no later than 60 days after the audit is completed. Also, in § 6.1-2.21 E 2 the word “audit” has been changed to “analysis,” and the language now states that a title insurance company’s analysis of its title insurance agents’ escrow accounts must be done in accordance with the regulations promulgated by the State Corporation Commission or the guidelines issued by the Bureau of Insurance. Section 6.1-2.23 has been amended to require that all settlement statements identify the name and address of the settlement agent.

### Chapter 141 (House Bill 883)

This bill amends § 38.2-2212 in the Liability Insurance Policies chapter by making two clarifications. The first change deletes reference to the obsolete term “medical payments coverage” in subdivision C 1 o since medical payments coverage is no longer available. It was combined with medical expense coverage under House Bill No. 727 in 1991. The second change deletes reference to the policy’s *anniversary* date in subdivision D 1 in order to make it clear that the 90-day underwriting period precedes the last effective date of the policy, not the policy’s anniversary date. The current language in the Code of Virginia contemplates policies written for 12 months while most policies today are written for six months.

### Chapter 142 (House Bill 884)

This bill amends §§ 38.2-231 (commercial auto and commercial liability termination provisions), 38.2-2114 (homeowners termination provisions), and 38.2-2212 (private passenger auto termination provisions) by clarifying that the insured does not need to make a termination request in writing if the insurer does not require it to be in writing. With the amended language, the Code of Virginia will reflect the fact that the company has the option of either requiring or not requiring the insured’s request to be given in writing.

---

## General Notices/Errata

---

Companies that allow insureds to make termination requests orally, rather than in writing, must have the appropriate forms on file with the Bureau.

Chapter 162 and Chapter 736 (House Bill 1265 and Senate Bill 281)

These bills amend § 6.1-2.19 of the Consumer Real Estate Settlement Protection Act (CRESPA) by stating that a real estate agent or such agent's employees or independent contractors may perform settlement services without complying with CRESPA as long as that person is not listed as the settlement agent on the settlement statement and is not otherwise prohibited from performing such services.

Chapter 404 (House Bill 327)

This bill amends §§ 46.2-706 and 46.2-708 of the Motor Vehicles title by increasing the uninsured motorist fee. The fee will go from \$400 to \$500.

Chapter 590 (Senate Bill 421)

### **Effective January 1, 1999, and Expires January 1, 2003**

This bill amends Titles 38.2 and 58.1 and adds a new chapter to Title 52 to create a fraud unit within the Department of State Police. The Insurance Fraud Investigation Unit will initiate independent inquiries and conduct independent investigations into fraudulent acts involving property and casualty insurance transactions. The definition of insurance fraud is limited to property and casualty lines of insurance. The fraud unit will be funded by premium assessments on all property and casualty insurance companies writing policies in Virginia. The bill also requires all insurance applications and all claim forms to contain a statement, permanently affixed to, or included as a part of the application or claim form, that states in substance the following: *"It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."* **Any applications for insurance that attach to and form a part of the policy must be submitted to the Bureau of Insurance for approval. An application that is not a part of the policy should not be submitted for approval.**

Chapter 598 (Senate Bill 684)

This bill amends § 6.1-2.20 of the Consumer Real Estate Settlement Protection Act (CRESPA) by expanding the definition of "party to the real estate transaction" to include any entity which is a subsidiary of or under common ownership with a corporate purchaser in a real estate transaction. A party to the real estate transaction is exempt under CRESPA from being licensed as a settlement agent.

Chapter 726 (House Bill 1353)

This bill adds a new section numbered § 38.2-2232 in the Liability Insurance Policies chapter which requires insurers issuing new or renewal policies covering the liability of private pleasure watercraft to offer uninsured private pleasure watercraft coverage. The insurer must offer, in

writing, to the named insured the option of purchasing coverage undertaking to pay all sums the insured is legally entitled to recover as damages from the owner or operator of an uninsured private pleasure watercraft arising out of the ownership, maintenance, or use of such uninsured watercraft. Insurers issuing excess or umbrella policies are not required to offer this coverage. In addition, insurers issuing policies which provide liability coverage incidental to a policy and not related to a specifically insured private pleasure watercraft (i.e., homeowner's policies) are not required to offer this coverage. Also, the bill defines an uninsured private pleasure watercraft as one for which there is no liability insurance.

### FINANCIAL REGULATION BILLS

Chapter 42 (Senate Bill 248)

This bill amends various sections of the Code of Virginia dealing with the financial regulation of certain insurers. Section 38.2-203 is amended to extend to health maintenance organizations, legal services plans, dental and optometric services plans and premium finance companies the requirement that the management and exclusive agency contracts be filed with and receive prior approval from the State Corporation Commission. Related amendments conform sweep in provisions in §§ 38.2-4319 and 38.2-4509.

Amendments to § 38.2-1322 define "insurer" for purposes of applying the insurance holding company statutes to both insurance companies and health maintenance organizations. This amendment means that health maintenance organizations will now be subject to the holding company statutes contained in Chapter 13 and the related rules appearing in the Commission's Rules Governing Insurance Holding Companies, 14 VAC 5-260-10 et seq.

Section 38.2-4309 is amended to broaden the investment authority of health maintenance organizations and to make the investments of entities licensed under Chapter 43 (Health Maintenance Organizations) of Title 38.2 subject to regulation pursuant to Chapter 14 (Investments) of Title 38.2.

Section 38.2-1401 is amended to include Chapter 43's health maintenance organizations in the definitions of "insurer" and "minimum capital and surplus" contained in Chapter 14.

Section 38.2-4302 is amended by adding a new subdivision A 3 f specifying net worth requirements and a new subsection B applying minimum net worth requirements to all health maintenance organizations. A health maintenance organization seeking to be licensed under Chapter 43 shall have and maintain a minimum net worth in an amount at least equal to the sum of uncovered expenses, but not less than \$600,000, up to a maximum of \$4 million; uncovered expenses shall be amounts determined for the most recently ended calendar quarter pursuant to regulations promulgated by the Commission.

If the Commission finds an impairment of the minimum net worth of a domestic health maintenance organization, the Commission shall issue an order requiring the health maintenance organization to eliminate the impairment within

a 90-day period. If the Commission finds an impairment of the minimum net worth of a foreign health maintenance organization, the Commission may order the health maintenance organization to eliminate the impairment and restore the minimum net worth to the amount required by this section. If the health maintenance organization fails to comply with the Commission's order, the Commission may suspend or revoke the license of the health maintenance organization as provided in § 38.2-4316.

Prior to December 31, 1999, a health maintenance organization with less than the minimum net worth which is licensed on and after June 30, 1998, may continue to operate as a licensed health maintenance organization with a finding of impairment if the licensee has net worth:

1. On June 30, 1998, and up to December 31, 1998, in an amount at least equal to the sum of uncovered expenses, but not less than \$300,000, up to a maximum of \$2 million;
2. On December 31, 1998, and up to June 30, 1999, in an amount at least equal to the sum of uncovered expenses, but not less than \$400,000, up to a maximum of \$2.5 million; and
3. On June 30, 1999, and up to December 31, 1999, in an amount at least equal to the sum of uncovered expenses, but not less than \$500,000, up to a maximum of \$3 million.

#### Chapter 48 (Senate Bill 447)

This bill amends § 6.1-58.2 of the Banking and Finance title relating to controlled subsidiaries and the transaction of insurance business. In addition to the types of businesses authorized in § 6.1-58.2, a controlled subsidiary corporation may be formed to underwrite reinsurance of mortgage guaranty insurance on loans secured by real estate made or purchased by such controlled reinsurance subsidiary's affiliates or by a bank or banks owning such controlled subsidiary, provided that such controlled subsidiary corporations transact only the insurance business specifically permitted by this section. Such controlled subsidiary shall be subject to the further provisions of Title 38.2 otherwise applicable to insurance companies transacting a comparable business.

For purposes of this section, a controlled subsidiary corporation may be a domestic or foreign corporation, and the majority of its voting stock may be owned directly or indirectly by (i) a bank or banks organized under the laws of the United States; (ii) a bank or banks organized under the laws of this Commonwealth; (iii) a bank or banks organized under the laws of one of the other states of the United States; or (iv) a "bank holding company" owning a bank or banks in this Commonwealth or in another state.

#### Chapter 230 (Senate Bill 64)

This bill amends various sections of Chapter 16 (Virginia Property and Casualty Insurance Guaranty Association) of Title 38.2 for the purpose of enabling the Virginia Property and Casualty Insurance Guaranty Association (Guaranty

Association) to respond more effectively in the event of a natural catastrophe.

The bill amends § 38.2-1601 9 to clarify that guaranty fund coverage does not extend to insurance written by risk retention groups. This amendment is conforming with the federal Risk Retention Act and § 38.2-5106.

The bill amends § 38.2-1603 to clarify the definition of "account" so that the use of "account" in Article 1 of Chapter 16 is distinguished from the use of "account" in Article 2. The definition of "member insurer" is also amended to clarify that the term "member insurer" does not include persons listed in § 38.2-1601 9. Conforming amendments appear in §§ 38.2-1604 and 38.2-1606.

The bill amends § 38.2-1606 B to authorize the Guaranty Association to obtain commitments or lines of credit and, in the event of a natural disaster, to secure the indebtedness with a pledge of future assessments. The new provisions define natural catastrophe, condition the borrowing and pledge on approval of the Commission, tie use of funds to provisions in § 38.2-1622, and place limits on the amount of moneys to be borrowed.

The bill amends § 38.2-1618 to recognize that Article 2 addresses the secured borrowings described in the new provisions in § 38.2-1606 in addition to funds already recognized by the Code of Virginia.

#### Chapter 318 (Senate Bill 626)

This bill amends § 32.1-330.3 and adds § 38.2-226.2 relating to the oversight of certain long-term care prepaid health plans established in accordance with federal statutes authorizing special funding for certain programs for all-inclusive care for the elderly commonly known as PACE and pre-PACE plans. It amends provisions in Title 32.1 that authorize oversight by the Department of Medical Assistance Services and adds conforming provisions in Title 38.2 that exempt the covered plans from regulation pursuant to Title 38.2. This bill provides for consistent oversight by the Department of Medical Assistance Services, with common requirements for both pre-PACE and PACE plans. It also re-establishes for pre-PACE plans the exemption from regulation by the Bureau of Insurance pursuant to Title 38.2, that expired on July 1, 1997, and extends the exemption to PACE plans.

#### Chapter 388 (Senate Bill 16)

#### Effective April 12, 1998

This bill amends § 65.2-1201 of the Virginia Workers' Compensation Act to increase the maximum amount of Uninsured Employer's Fund tax that may be assessed against an uninsured or self-insured employer for the purpose of paying workers' compensation benefits from 1/4 of 1% to 1/2 of 1% of gross workers' compensation premiums. **This bill was effective from passage on April 12, 1998, but the fourth enactment clause to this bill states that the provisions of this act expire on July 1, 1999.**

---

## General Notices/Errata

---

The bill also requires the Virginia Workers' Compensation Commission to prepare a report by December 1, 1998, addressing various issues involving the Uninsured Employer's Fund (Fund), including revenue needs of the Fund, administration of claims against the Fund and oversight of self-insured employers. The Bureau of Insurance, major workers' compensation insurance carriers, self-insured employers, third party administrators of workers' compensation insurance and other interested parties are to provide evaluation and comments on the various issues, including the methodology for determining both the aggregate sum and the projected cash flow needs of the Fund.

### Chapter 414 (House Bill 565)

This bill amends and reenacts provisions of Chapter 14 in Title 38.2 concerning the investments of insurance companies. In each instance the amendments recognize additional investment authority for insurers.

The bill amends § 38.2-1403 to increase the size of the insurer's Category 2 "basket," thereby increasing the dollar amount of essentially unrestricted investments. Currently most insurers may invest up to 50% of their surplus to policyholders, less the statutorily required minimum policyholder surplus of \$4 million, without regard to statutory provisions which are aimed at encouraging diversity and liquidity in an insurer's investment portfolio. The amendments enlarge the basket by raising the percentage from 50% to 75%.

The bill amends § 38.2-1413 A 6 to recognize additional Category 1 investment authority for investments in obligations of certain United States agencies and instrumentalities, including securities issued or guaranteed by Fanny Mae (FNMA) and Freddie Mac (FHLMC). The amendment doubles authority by raising the per issuer/per obligor limitation from 5% to 10% of the insurer's admitted assets.

The bill amends § 38.2-1415 D to increase Category 1 authority for investing in the direct, general obligations of the various states. Authority for investment in obligations of any one political subdivision is increased from 2% to 5% of admitted assets; and overall authority is increased from 20% to 30% of admitted assets.

The bill amends §§ 38.2-1421 and 38.2-1414 A 6 to create authority for investing up to 2% of admitted assets as Category 1 investments in business entity obligations which have received a lower grade rating of "four." In all cases the rating is to be based on valuation by the Securities Valuation Office of the National Association of Insurance Commissioners or another national rating agency recognized by the State Corporation Commission.

The bill amends § 38.2-1423 to simplify the quality tests for preferred stocks, thereby making it easier for insurers to make Category 1 investments in preferred stocks.

The bill amends §§ 38.2-1433 and 38.2-1414 A 13 to recognize new authority for making Category 1 investments in the securities of or issued in a foreign country. Such

investments are recognized as Category 1 investments in amounts up to 10% of admitted assets, subject to a per jurisdiction limitation of 3% and provisions that the investment be rated medium grade or higher grade. A conforming amendment appears in § 38.2-1413.

VA.R. Doc. No. C98-1656; Filed July 8, 1998, 10:41 a.m.

\* \* \* \* \*

June 30, 1998

Administrative Letter 1998-6

**TO: All Domestic Companies Subject to the Investment Provisions in Chapter 14 of Title 38.2 of the Code of Virginia**

**RE: Analysis of Excess Capital and Surplus Investments**

Chapter 14 (§ 38.2-1400 et seq.) of Title 38.2 of the Code of Virginia contains provisions regulating the manner in which domestic insurers and others invest their admitted assets. Several of these provisions were amended during the 1998 Session of the Virginia General Assembly. The amendments become effective July 1, 1998.

In an attempt to assist companies in complying with the amended investment provisions of the Code, the Bureau of Insurance has revised its Form SCCBOI-4, the Analysis of Excess Capital and Surplus Investments report (the investments report). A copy of the revised form is attached.

All domestic insurers and health maintenance organizations (HMOs) shall be required to file the revised investments report annually commencing with the annual statement filing due March 1, 1999, for the period ended December 31, 1998.

Additionally, in the absence of specific requests or direction by the Commission, any insurer or HMO filing quarterly statements also shall prepare and file an investments report at the end of each quarter. For those companies already filing quarterly statements with the Commission, the initial filing of the revised investments report shall be due November 15, 1998, for the period ended September 30, 1998.

It should be noted that HMOs will now be subject to the investment limitations imposed by Chapter 14 of Title 38.2 as a result of amendments to § 38.2-1401 and in Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 of the Code of Virginia. The Bureau believes its staff and regulatory materials, such as the attached investments report, can help HMOs understand and comply with the provisions of Chapter 14.

Questions concerning this Administrative Letter or the attached form may be directed to:

Edward J. Buyalos, Jr.,  
Domestic Financial Analysis Supervisor  
Financial Regulation Division, Bureau of Insurance  
State Corporation Commission  
P.O. Box 1157

Richmond, VA 23218  
(804) 371-9637

/s/ Alfred W. Gross  
Commissioner of Insurance

# General Notices/Errata

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION, BUREAU OF INSURANCE  
**ANALYSIS OF EXCESS CAPITAL AND SURPLUS INVESTMENTS**  
(Investments Report, Category 2 Investments)

of \_\_\_\_\_ (“insurer”) \_\_\_\_\_ (NAIC no.)  
as of \_\_\_\_\_  
(end of current reporting period)

**PART I**

*Schedule of Assets not conforming to Category 1 Investments for reasons other than failure to meet limitations in Parts II or IV.  
Companies having substantial Category 2 investments should show totals under each caption on this page and itemize in attachments.  
Other insurers may itemize under each caption if reportable assets are minimal.*

(1) Descriptions, including Company's Investment Number	(2) Book Value	(3) Due and Accrued Items	(4) Market Over Book Value	(5) Total Cols. (2), (3) and (4)	(6) Amounts Not Admitted	(7) Net Asset Value	(8) Caption Totals
(A) Real Estate	\$	\$	\$	\$	\$	\$	XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX
Total Real Estate	\$	\$	\$	\$	\$	\$	\$
(B) Mortgage Loans	\$	\$	\$	\$	\$	\$	XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX
Total Mortgage Loans	\$	\$	\$	\$	\$	\$	\$
(C) Collateral Loans	\$	\$	\$	\$	\$	\$	XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX
Total Collateral Loans	\$	\$	\$	\$	\$	\$	\$
(D) Bonds	\$	\$	\$	\$	\$	\$	XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX
Total Bonds	\$	\$	\$	\$	\$	\$	\$
(E) Stocks	\$	\$	\$	\$	\$	\$	XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX
Total Stocks	\$	\$	\$	\$	\$	\$	\$
(F) Other Investments							XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX XXXXXXXXXX
Total Other Investments	\$	\$	\$	\$	\$	\$	\$
Total Asset Values							

SCCBOI-4(06/29/98)

Page 2  
NAIC # \_\_\_\_\_

**PART II**

Schedule of investments authorized under Article 2 of Chapter 14 in excess of prescribed limits for Category 1 investments.

A. Admitted Assets and Surplus to Policyholder calculations. Use Admitted Assets and Surplus to Policyholder values reported in the most current quarterly or annual financial statement. Health Maintenance Organizations (HMOs) should use Admitted Assets and Net Worth values.

Total Admitted Assets per current financial statement: \$ \_\_\_\_\_

Percentage amounts used in subparts B and C:

0.5%	\$ _____	15%	\$ _____
1%	\$ _____	20%	\$ _____
2%	\$ _____	25%	\$ _____
3%	\$ _____	30%	\$ _____
4%	\$ _____	40%	\$ _____
5%	\$ _____	60%	\$ _____
10%	\$ _____	90%	\$ _____

Total Surplus to Policyholders or HMO Net Worth per current financial statement: \$ \_\_\_\_\_

Percentage amount used in subparts B and C: 20% \$ \_\_\_\_\_

B. Investment limitations for any one obligor, issuer, loan, issue, pool, security or credit risk. Include collateral supporting loans under 38.2-1430 and insurer's share of joint ventures. Do not include in the calculation of subpart B any assets listed in Part I. For each item in which excess is reported attach a schedule itemizing the investments responsible for such excess.

1. Total investments exceeding the lesser of 5% of admitted assets or 20% of surplus to policyholders or HMO net worth with any one obligor or issuer. Do not include exceptions provided for under 38.2-1413 A 1-6 or investments reportable under items 17 or 18 of this subpart B. (38.2-1413 A) \$ \_\_\_\_\_
2. Total investments exceeding 10% of admitted assets in obligations of one obligor or issuer where the obligations are those of an agency or instrumentality of the United States (38.2-1413 A 6) \$ \_\_\_\_\_
3. Total investments exceeding 1% of admitted assets in individual issues of certain stocks (38.2-1413 B) \$ \_\_\_\_\_
4. Total investments exceeding 0.5% of admitted assets in certain individual construction loans (38.2-1413 C) \$ \_\_\_\_\_
5. Total investments exceeding 1% of admitted assets in individual wrap-around mortgages (38.2-1413 D) \$ \_\_\_\_\_
6. Total investments exceeding 5% of admitted assets in obligations of a single international agency (38.2-1414 A 2) \$ \_\_\_\_\_
7. Total investments exceeding 5% of admitted assets in obligations issued or guaranteed by any one state (38.2-1415 C 3) \$ \_\_\_\_\_

sccboi-4(06/29/98)

---

# General Notices/Errata

---

Page 3  
NAIC # \_\_\_\_\_

8. Total investments exceeding 5% of admitted assets in obligations issued or guaranteed by any one political subdivision (38.2-1415 D 4) \$ \_\_\_\_\_
9. Total investments exceeding 2% of admitted assets in anticipation obligations of any one political subdivision (38.2-1415 E 4) \$ \_\_\_\_\_
10. Total investments exceeding 2% of admitted assets in state or municipal revenue obligations issued in connection with any one facility (38.2-1415 F 4) \$ \_\_\_\_\_
11. Total investments exceeding 2% of admitted assets in state or municipal revenue obligations payable from revenue or earnings sources which are the contractual responsibility of any one single credit risk (38.2-1415 F 5) \$ \_\_\_\_\_
12. Total investments exceeding 2% of admitted assets in other revenue obligations of state and local governments issued in connection with any one facility (38.2-1415 G 2) \$ \_\_\_\_\_
13. Total investments exceeding 2% of admitted assets in other revenue obligations payable from sources which are the contractual responsibility of any one single credit risk (38.2-1415 G 4) \$ \_\_\_\_\_
14. Total investments exceeding 5% of admitted assets in obligations of any one single Canadian province (38.2-1416 C 3) \$ \_\_\_\_\_
15. Total investments exceeding 2% of admitted assets in obligations of any one Canadian local government (38.2-1416 D 4) \$ \_\_\_\_\_
16. Total investments exceeding 2% of admitted assets in lease obligations of any one entity and/or obligations secured by certain leases to any one business entity (38.2-1422 B) \$ \_\_\_\_\_
17. Does insurer own more than 10% of the common stock of any one bank?(38.2-1425 B)  
Yes \_\_\_\_\_ No \_\_\_\_\_ If YES, aggregate value of such holdings: \$ \_\_\_\_\_
18. Does insurer own more than 10% of the common stock of any one corporation or issuer? (38.2-1427 C)  
Yes \_\_\_\_\_ No \_\_\_\_\_ If YES, aggregate value of such holdings: \$ \_\_\_\_\_
19. Total investments exceeding 1% of admitted assets in foreign securities which are rated medium grade (38.2-1433 B i) \$ \_\_\_\_\_
20. Total investments exceeding 3% of admitted assets in foreign securities in a single foreign jurisdiction (38.2-1433 B ii) \$ \_\_\_\_\_
21. Total investments exceeding 2% of admitted assets in mortgages covering any one secured location (38.2-1437 F) \$ \_\_\_\_\_
22. Total investments exceeding 4% of admitted assets in mortgages with any one obligor (38.2-1437 F) \$ \_\_\_\_\_
23. Total investments exceeding 2% of admitted assets in a single pool of mortgage pass-through securities (38.2-1437.1 3) \$ \_\_\_\_\_
24. Total investments exceeding 4% of admitted assets in a single property or group of contiguous properties (38.2-1441 B 4) \$ \_\_\_\_\_

sccboi-4(06/29/98)

Page 4  
NAIC # \_\_\_\_\_

C. General investment limitations. Include collateral supporting loans under 38.2-1430 and insurer's share of joint ventures. Do not include in the calculation of subpart C any assets listed in Part I or any excess accounted for in subpart B of this Part II.

1. Investments in Canadian government and corporate obligations under 38.2-1416 and 38.2-1417 exceeding 10% of admitted assets (38.2-1414 A 1) \$ \_\_\_\_\_
2. Investments in obligations of certain international agencies under 38.2-1418 exceeding 10% of admitted assets (38.2-1414 A 2) \$ \_\_\_\_\_
3. Investments in railroad related securities under 38.2-1419 exceeding 10% of admitted assets (38.2-1414 A 3) \$ \_\_\_\_\_
4. Investments in transportation equipment trust certificates under 38.2-1420 exceeding 10% of admitted assets (38.2-1414 A 4) \$ \_\_\_\_\_
5. Investments in business entity obligations and certain leases under 38.2-1421 and 38.2-1422 exceeding 90% of admitted assets for a life insurer and 40% for all other insurers (38.2-1414 A 5) \$ \_\_\_\_\_
6. Investments in business entity obligations, typed as medium grade under 38.2-1421 B at date of investment, exceeding 10% of admitted assets (38.2-1414 A 6) \$ \_\_\_\_\_
7. Investments in business entity obligations, typed as lower grade and rated 4 under 38.2-1421 C at date of investment, exceeding 2% of admitted assets (38.2-1414 A 6) \$ \_\_\_\_\_
8. Investments in lease-secured obligations under 38.2-1422 exceeding 20% of admitted assets (38.2-1414 A 7) \$ \_\_\_\_\_
9. Investments in preferred stocks under 38.2-1423 exceeding 10% of admitted assets (38.2-1414 A 8) \$ \_\_\_\_\_
10. Investments in guaranteed stocks under 38.2-1424 exceeding 5% of admitted assets (38.2-1414 A 9) \$ \_\_\_\_\_
11. Investments in bank stocks or obligations under 38.2-1425 exceeding 5% of admitted assets (38.2-1414 A 10) \$ \_\_\_\_\_
12. Investments in limited partnerships under 38.2-1427.1 exceeding 5% of admitted assets (38.2-1414 A 11) \$ \_\_\_\_\_
13. Investments in common stock, limited partnerships and mutual funds under 38.2-1427, 38.2-1427.1 and 38.2-1427.2 exceeding the lesser of 15% of admitted assets or the amount by which surplus to policyholders or HMO net worth exceeds minimum capital and surplus or the HMO's minimum net worth requirement less excess limited partnership investments in item 12 above (38.2-1414 A 11) \$ \_\_\_\_\_
14. Aggregate investments in subsidiaries under 38.2-1427.3 exceeding the lesser of 10% of admitted assets or 50% of surplus to policyholders or HMO net worth in excess of minimum capital and surplus or the HMO's minimum net worth requirement (38.2-1414 A 12) \$ \_\_\_\_\_

sccboi-4(06/29/98)

---

# General Notices/Errata

---

Page 5  
NAIC # \_\_\_\_\_

- 15. Investments in foreign securities under 38.2-1433 B exceeding 10% of admitted assets, excluding amounts reported in Subpart B, lines 19 or 20, and foreign securities under 38.2-1433 A that support the company's deposit and reserve obligations incurred in a foreign country (38.2-1414 A 13) \$ \_\_\_\_\_
- 16. Investments in construction loans under 38.2-1434 3 exceeding 2% of admitted assets (38.2-1414 A 14) \$ \_\_\_\_\_
- 17. Investments in second/wrap around mortgages under 38.2-1435 exceeding 2% of admitted assets (38.2-1414 A 15) \$ \_\_\_\_\_
- 18. Investments in mortgage participations under 38.2-1436 exceeding 10% of admitted assets (38.2-1414 A 16) \$ \_\_\_\_\_
- 19. Investments in mortgages and mortgage related securities under 38.2-1437.1, 38.2-1434, 38.2-1435, 38.2-1436 and 38.2-1439 exceeding 60% of admitted assets for life insurers and 30% for all other insurers (38.2-1414 A 17) \$ \_\_\_\_\_
- 20. Investments in personal property under 38.2-1440 exceeding 2% of admitted assets (38.2-1414 A 18) \$ \_\_\_\_\_
- 21. Investments in hotel real estate under 38.2-1441 exceeding 5% of admitted assets (38.2-1414 A 19) \$ \_\_\_\_\_
- 22. Investments in real estate under 38.2-1441 less excess hotel investments in item 19 above, exceeding 25% of admitted assets (38.2-1414 A 19) \$ \_\_\_\_\_
- 23. Investments in state government obligations under 38.2-1415 C exceeding 30% of admitted assets (38.2-1415 C 4) \$ \_\_\_\_\_
- 24. Investments in local government obligations under 38.2-1415 D exceeding 30% of admitted assets (38.2-1415 D 5) \$ \_\_\_\_\_
- 25. Investments in anticipation obligations under 38.2-1415 E exceeding 10% of admitted assets (38.2-1415 E 5) \$ \_\_\_\_\_
- 26. Investments in state or municipal obligations under 38.2-1415 F exceeding 25% of admitted assets (38.2-1415 F 6) \$ \_\_\_\_\_
- 27. Investments in other revenue obligations of state and local government under 38.2-1415 G in excess of 25% of admitted assets (38.2-1415 G 5) \$ \_\_\_\_\_
- 28. Has the insurer invested more than 10% of its admitted assets in 38.2-1441 C accommodation real estate? Yes \_\_\_\_\_ No \_\_\_\_\_
  - a. Aggregate amount of accommodation real estate \$ \_\_\_\_\_
  - b. Amount recognized by the Commission as Category 1 ( \_\_\_\_\_ )\*
  - c. Balance: line a - line b \$ \_\_\_\_\_

\*Note: Approval letter must be attached to this filing if 10% limitation is exceeded due to investments made on or after 7/1/92.

Total Part II (B and C) \$ \_\_\_\_\_  
=====

sccboi-4(06/29/98)

Page 6  
NAIC # \_\_\_\_\_

**PART III - SUMMARY**

1. Capital and surplus or HMO net worth	\$ _____	
2. Minimum capital and surplus or the HMO's minimum net worth requirement (38.2-1401 generally, HMOs see particularly 38.2-4302)	\$ _____	
3. Balance available for Category 2 investments [(Line 1 - Line 2) X 75%]		\$ _____
4. Total Part I	\$ _____	
5. Total Part II	\$ _____	
6. Total Parts I and II		\$ _____
7. Excess of Line 3 over Line 6. (If negative show in parenthesis)		\$ _____ =====

**PART IV**

Schedule of prohibited investments and related investment considerations. With regard to subparts A and B, positive responses indicate that future acquisitions of any medium or lower grade obligations may be prohibited. Further, acquisitions occurring on or after July 1, 1992 in contravention of limits described in subparts A and B may have resulted in the acquisition of prohibited investments.

A. Category limits affecting acquisitions of medium and lower grade obligations.

1. Investments in medium and lower grade obligations in excess of 20% of admitted assets (38.2-1411.2 A)	\$ _____
2. Investments in lower grade obligations in excess of 10% of admitted assets (38.2-1411.2 A 1)	\$ _____
3. Investments in lower grade obligations rated 5 or 6 in excess of 3% of admitted assets (38.2-1411.2 A 2)	\$ _____
4. Investments in lower grade obligations rated 6 in excess of 1% of admitted assets (38.2-1411.2 A 3)	\$ _____

If any positive amounts are reported on lines 1-4, attach a listing of the transactions (purchases, sales, exchanges or payments in kind, etc.) that impacted the limitation in question during the reporting period.

B. Issuer, guarantor, insurer limits for identifying prohibited acquisitions.

1. Are more than 1% of insurer's admitted assets invested in medium grade obligations issued, guaranteed or insured by any one institution or business entity? (38.2-1411.2 B)	Yes _____ No _____
--	--------------------

sccboi-4(06/29/98)

---

# General Notices/Errata

---

Page 7

NAIC # \_\_\_\_\_

2. Are more than one-half of 1% of insurer's admitted assets invested in lower grade obligations, or in a combination of medium and lower grade obligations, issued, guaranteed or insured by any one business entity? (38.2-1411.2 B) Yes \_\_\_\_\_ No \_\_\_\_\_
3. Has the insurer acquired any obligations of a business entity under the conditions described in subsection D of 38.2-1411.2 in excess of 1/2 of 1% of admitted assets? Yes \_\_\_\_\_ No \_\_\_\_\_

For any of the questions in subpart B answered affirmatively attach a listing of the obligations that caused such response. Include a description of each investment, the date of investment, valuation method, and values currently and at date of investment.

C. Interrogatories.

1. Are any of insurer's funds invested in securities or other investments prohibited by 38.2-1407? Yes \_\_\_\_\_ No \_\_\_\_\_  
If YES, explain in detail.
2. Section 38.2-1406 requires the sale or other disposal of certain investments. Are any such investments now held by the company? Yes \_\_\_\_\_ No \_\_\_\_\_  
If YES, has an extension of time for such disposal been requested of and granted by the Commission? No \_\_\_\_\_ Yes \_\_\_\_\_
3. Are more than 2% of the insurer's admitted assets invested in medium grade and/or lower grade obligations of any one business entity? Yes \_\_\_\_\_ No \_\_\_\_\_

If YES, attach a copy of the investments plan required by 38.2-1411.2 G.

### AFFIDAVIT

\_\_\_\_\_  
(signature of senior officer)

\_\_\_\_\_  
(title)

State of \_\_\_\_\_

County (or City) of \_\_\_\_\_ To-Wit:

This day \_\_\_\_\_ of \_\_\_\_\_ has  
(name of officer) ("insurer")

personally appeared before me in the County (or City) aforesaid, and made oath that the foregoing report is correct.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

[SEAL]

\_\_\_\_\_  
notary public

My commission expires \_\_\_\_\_.

sccboi-4(06/29/98)

VA.R. Doc. No. C98-1657; Filed July 2, 1998, 7:11 a.m.

\*\*\*\*\*

**REGISTRAR'S NOTICE:** The attachments, Article 5 (§ 38.2-1322 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia, Insurance Holding Companies, and 14 VAC 5-260-10 et seq., Rules Governing Insurance Holding Companies, which are referenced in the following administrative letter are not being published because they are documents generally available to the public.

June 30, 1998

Administrative Letter 1998-7

**TO: All Health Maintenance Organizations Licensed Pursuant to Chapter 43 of Title 38.2 of the Code of Virginia**

**RE: Holding Company Registration - Form B Filings Due July 15, 1998**

During its 1998 Session, the General Assembly of Virginia enacted Senate Bill No. 248, which amended multiple sections of the Code of Virginia, including §§ 38.2-1322 and 38.2-4319 in Title 38.2. These amendments expand the definition of "insurer" for purposes of applying the holding company statutes that comprise Article 5 of Chapter 13 of Title 38.2 (the Act) and sweep the Act into the specific listing of statutes which shall be applicable to any health maintenance organization (HMO) granted a license under Chapter 43 of Title 38.2. The amendments become effective July 1, 1998.

On and after July 1, 1998, HMOs which are members of an "insurance holding company" shall be subject to the Act and the Commission's rules concerning insurance holding companies at 14 VAC 5-260-10 et seq. (the rules). Generally, compliance requires timely disclosure or prior approval of transactions between the HMO and an affiliate. Specifically, the Act requires, among other things, that HMOs, which are licensed to do business in Virginia and are members of an insurance holding company system, register with the Commission within 15 days after becoming subject to registration. In accordance with this provision at § 38.2-1329, currently licensed HMOs which are members of holding company systems will be expected to register with the Commission in the form and manner prescribed by regulation on or before July 15, 1998.

The purpose of this administrative letter is to provide guidance to those HMOs that will be required to file their initial registration statement with the Commission on or before July 15, 1998.

Attached is a copy of the Act, as amended. Attached also are the rules, including the instructions and filing forms for Forms A through F, which instructions and forms are a part of and published with the rules immediately following 14 VAC 5-260-100. For purposes of this letter, attention is directed particularly to § 38.2-1329 of the Act, the rules at 14 VAC 5-210-60 and 14 VAC 5-210-70 concerning

registration, and the instructions and forms specific to the Form B registration statement.

**Section 38.2-1329 A reads:**

Each insurer licensed to do business in this Commonwealth that is a member of an insurance holding company system shall register with the Commission. Any insurer subject to registration under this section shall register within fifteen days after it becomes subject to registration, unless the Commission extends the time for registration for good cause shown.

**14 VAC 5-260-60 reads in part:**

An insurer required to file a registration statement pursuant to § 38.2-1329 of the Act shall furnish the required information in the format designated on Form B of this regulation.

**Pertinent definitions are:**

"*Insurer*" means, as used in the Act, an insurance company as defined in § 38.2-100 and means also a health maintenance organization licensed under Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2.

"*Insurance holding company system*" means two or more affiliated persons, one or more of which is a person licensed pursuant to Title 38.2.

"*Affiliate*" of a specific person or a person "affiliated" with a specific person means a person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person specified.

"*Control*," including the terms "controlling," "controlled by" and "under common control with," means direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, through (i) the ownership of voting securities, (ii) by contract other than a commercial contract for goods or nonmanagement services, or (iii) otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing collectively ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection l of § 38.2-1329 that control does not exist. After giving all interested persons notice and opportunity to be heard and making specific findings to support its determination, the Commission may determine that control exists, notwithstanding the absence of a presumption to that effect.

**Significant provisions.** HMOs filing their initial registration statements are asked to pay particular attention to the following:

1. An HMO shall file a Form B with the Commission on or before July 15, 1998, if on and after July 1, 1998, the HMO is licensed in this Commonwealth and a member of an insurance holding company. Instructions published

---

## General Notices/Errata

---

with the holding company regulations prescribe the place and manner of filing.

2. Required information shall be reported for year ended December 31, 1997. Subsequently occurring transactions which are "material" as defined by the Act or the rules and accompanying instructions shall be reported also.
3. Pursuant to § 38.2-1329, the Commission may extend the time for registration for good cause shown. The Commission does not anticipate that it will extend the initial filing date for registration statements due on July 15, 1998, because information regarding transactions as of December 31, 1997, should be readily available to the company. Similarly, a company should know whether such information may have materially changed.
4. The Form B instructions published with the rules provide that information and documents required by any item of the registration statement may be incorporated by reference. Material incorporated by reference shall be clearly identified in the reference. Documents incorporated by reference must be currently on file with the Commission and need not be resubmitted if they were filed within three years of the Form B filing unless the Commission specifically requests otherwise. The incorporation of documents by reference may enable many HMOs to reduce the size of their initial registration filings. Relevant documents may have already been filed with the Commission pursuant to the requirements of §§ 38.2-4301, 38.2-4302 or § 38.2-4307.
5. Pursuant to 14 VAC 5-260-60 D, an insurer which is authorized to do business in this Commonwealth may file a registration statement on behalf of any affiliated company which is required to register under § 38.2-1329 of the Act. HMOs which are affiliated with one or more licensed insurers may be able to use or incorporate by reference materials gathered by an affiliates in connection with an earlier holding company filing. An HMO, which files as its registration statement the Form B filed by an affiliate, may need to file a Form C summary of registration also.
6. Pursuant to the Act and 14 VAC 5-260-60 D 6, a foreign company subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in § 38.2-1329 of the Act shall be exempted and excepted from registration in this Commonwealth; however, if requested by the Commission, such company shall furnish to the Commission a copy of the registration statement or other information filed in its state of domicile. An HMO which is a member of an insurance holding company system and licensed in Virginia but domiciled elsewhere shall be required to file with the Commission notice of its membership in an insurance holding company. For HMOs licensed on July 1, 1998, such notice shall be due on or before July 15, 1998. Notice shall be accompanied by (i) an organizational chart showing affiliates and the ultimate controlling party and (ii) a

statement describing the nature of holding company regulation in the state of domicile or, alternatively, copy of the registration statement filed with the domiciliary regulator; exhibits and source documents for such registration statements do not have to be submitted.

7. All domestic insurers are subject to § 38.2-1323 concerning the acquisition of control of insurers. Pursuant to 14 VAC 5-260-40, applications for approval of acquisition or other change of control shall be filed in the format of Form A. A Form E filing may be appropriate also.
8. All domestic insurers subject to registration under § 38.2-1329 shall be subject also to provisions in the Act and holding company rules pertaining to the filing of Forms D and F concerning material transactions and dividends.

Questions concerning this administrative letter and the holding company requirements as they apply to HMOs should be directed to:

Andy R. Delbridge, CFE, CIE, FLMI  
Supervisor  
Company Licensing and Regulatory Compliance  
Financial Regulation Division  
SCC Bureau of Insurance  
P. O. Box 1157  
Richmond, VA 23218  
(804) 371-9637

/s/ Alfred W. Gross  
Commissioner

VA.R. Doc. No. C98-1659; Filed July 14, 1998, 11:28 a.m.

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### One Year Delay of Clean Fuel Fleet Program Requirements

The Department of Environmental Quality (DEQ) is hereby announcing a one-year delay of implementation of the Clean Fuel Fleet Program required by § 241 of the federal Clean Air Act and by regulation of the State Air Pollution Control Board, 9 VAC 5 Chapter 120, pursuant to authority provided by Article 3 of Chapter 6 of Title 46.2 of the Code of Virginia. The implementation delay is from the 1999 vehicle model year to the 2000 vehicle model year.

The regulation requires fleets of 10 or more vehicles that are centrally fueled, or capable of being centrally fueled, to include in their fleet vehicle purchases a certain percentage of vehicles meeting specific cleaner exhaust emissions standards. The program was scheduled to begin in September 1997 with the introduction of the 1998 model year vehicles. The program is now scheduled to begin in September 1999 with the introduction of the 2000 model year vehicles unless an equivalent substitute program is adopted in Virginia and approved by the Environmental Protection Agency (EPA).

The regulation states, at 9 VAC 5-120-140 B and 9 VAC 5-120-150 C, that, "If vehicles meeting the emission standards set forth ... are not offered for sale in the State of California and sold or otherwise available commercially in the Commonwealth of Virginia as of model year 1998, then the beginning of the purchase requirements set forth ... shall be delayed until the first model year in which such vehicles are offered for sale in the State of California and sold or otherwise available commercially in the Commonwealth of Virginia."

The offer for sale of vehicles meeting these emission standards is solely at the discretion of motor vehicle manufacturers. Further, the vehicles must be certified by the manufacturer to operate, and be operated exclusively, on a specific motor fuel. The Environmental Protection Agency (EPA) made a determination last year that such vehicles would not be certified by manufacturers in 1998 in numbers sufficient to ensure a smooth, cost-effective implementation of the program and has therefore authorized the delay in a May 22, 1997, memorandum from Margo T. Oge, Director, EPA Office of Mobile Sources. The Department of Environmental Quality has studied the availability of qualified vehicles this year and finds availability to be very poor. Manufacturers have expressed concern about the cost of building and certifying vehicles to meet cleaner exhaust emission standards for the small number of geographic areas intending to implement the program. Thus far, only a limited number of vehicles available outside California operating exclusively on compressed natural gas (CNG) or on electricity have been certified by manufacturers to meet the standards. The cost of these vehicles is not competitive with vehicles operating on gasoline fuels due, in part, to the small number of certified vehicles.

In the 1998 General Assembly Session, the statutory authority for the Clean Fuel Fleet program was amended to delete any geographic area not designated by EPA as a serious nonattainment area or areas that were formerly in that status. This amendment effectively eliminated the Richmond and Hampton Roads areas from the program regardless of vehicle availability. The amendment also allows Virginia to substitute another equivalent program for the CFF program if the State Air Pollution Control Board (SAPCB) adopts one and EPA approves such a program.

Fleets having made or planned purchases in order to conform to the regulation requirements will accrue credits toward program requirements according to guidelines to be developed later this year by DEQ if the substitution plan is not successful. If that is the case, further announcements regarding program implementation and credit guidelines will appear in the Virginia Register at a later date.

Questions and comments regarding the program and the delay may be directed to David J. Kinsey, Environmental Program Manager, Department of Environmental Quality, Division of Environmental Science, 629 East Main Street, Richmond, Virginia, 23219; telephone (804) 698-4432, facsimile (804)698-4510, or by e-mail to [djkinsey@deq.state.va.us](mailto:djkinsey@deq.state.va.us).

## VIRGINIA INFORMATION PROVIDERS NETWORK

### Commonwealth Calendar Available on the Internet

Anyone with Internet access may now search for and view public meeting notices posted by Virginia state government entities on a new Internet service called the Commonwealth Calendar. The Virginia Information Providers Network (VIPNet) furnishes the Commonwealth Calendar service through its Web site at [www.vipnet.org](http://www.vipnet.org). The General Assembly created VIPNet in order to make it easier for Commonwealth citizens and businesses to access government information and services through the Internet.

Authorized representatives of state government entities may post public meeting announcements on the Commonwealth Calendar, as well as make changes and deletions to those announcements. To protect the integrity of information placed on the calendar, only those individuals that the state entity authorizes are able to post meeting notices for that organization. State entities may request calendar entry authorization by preparing a letter on the organization's letterhead that lists the individual(s) approved to post meeting announcements on behalf of the organization and submitting that letter to VIPNet via facsimile at (804) 786-6227 or to the following address:

Virginia Information Providers Network  
1111 East Main Street  
Suite 601  
Richmond, VA 23219

VIPNet is working with the office of the Virginia Register of Regulations to coordinate the announcement of public meetings on the Commonwealth Calendar and publication of those meetings in the Virginia Register as required by the Virginia Administrative Process Act. In order to avoid "double data entry," users posting public meetings on the Commonwealth Calendar may request that the network automatically submit the required copies of the Notice of Meeting, Form RR06, to the Virginia Register via facsimile. That automatic submittal feature includes the option to request that the Virginia Register return a receipted copy of the Notice of Meeting to the user, and prohibits the user from filing with the Virginia Register a notice that would be received too late for publication.

If you have any questions regarding the Commonwealth Calendar or any other VIPNet service or feature, please call (804) 786-4718 or e-mail VIPNet's Webmaster at [webmaster@vipnet.org](mailto:webmaster@vipnet.org).

## VIRGINIA CODE COMMISSION

### Notice to Subscribers

Beginning with Volume 14, Issue 18 of the Virginia Register (14:18 VA.R. May 25, 1998), a new section was added to the Register. The new section entitled, "Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or

---

# General Notices/Errata

---

Repealed” lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 1998 VAC Supplement includes final regulations published through *Virginia Register* Volume 14, Issue 10 dated February 2, 1998). Emergency regulations, if any, are listed, followed by the designation “emer,” and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

## Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

## Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in *The Virginia Register of Regulations*. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**Internet:** Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page:  
<http://legis.state.va.us/codecomm/register/regindex.htm>

### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

## ERRATA

### STATE WATER CONTROL BOARD

**Title of Regulation:** 9 VAC 25-91-10 et seq. Facility and Aboveground Storage Tank (AST) Regulation.

**Publication:** 14:18 VA.R. 2517-2546 May 25, 1998.

#### Corrections to Final Regulation:

Page 2520, column 1, 9 VAC 25-91-20 B 3, line 1, delete “et seq.”

Page 2520, column 1, 9 VAC 25-91-20 B 4, beginning on line 2, change the name of Part V to “Groundwater characterization study (GCS) and GCS well monitoring requirements”

Page 2525, in column 1, 9 VAC 25-91-120 C 3, line 1, after “An assessment of the AST site” add “shall be”

Page 2527, column 1, 9 VAC 25-91-130 A 5 b, line 8, after “the” add “maximum”

Page 2529, column 1, 9 VAC 25-91-130 A 8 a (3), line 1, delete “Initial”

Page 2530, column 2, 9 VAC 25-91-130 B 3 b, line 7, after “40 CFR Part 112” add “(1997)”

Page 2532, column 1, 9 VAC 25-91-130 B 6 a (2), line 2, after “facility personnel” add “as applicable”

Page 2532, column 2, 9 VAC 25-91-130 B 6 a (4), line 1, change “retrain” to “train”

Page 2532, column 2, 9 VAC 25-91-130 B 7, line 3, after “groundwater” add “(i.e., a method of leak detection)”

Page 2537, column 1, 9 VAC 25-91-170 A 18, beginning on line 7, delete “by the operator”

Page 2538, column 2, 9 VAC 25-91-180 A, line 14, after “Contingency Plan” add “(ODCP)”

Page 2540, column 2, 9 VAC 25-91-220 A 4, line 2, change “0285-1995 (1995)” to “0285-95 (1995)”

**Title of Regulation:** 9 VAC 25-101-10 et seq. Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation.

**Publication:** 14:18 VA.R. 2547-2563 May 25, 1998.

#### Corrections to Final Regulation:

Page 2550, column 2, 9 VAC 25-101-40 J, line 6, after “33 CFR Part 155” add “(1997)”

Page 2550, column 2, 9 VAC 25-101-40 K 2, line 3, and page 2553 9 VAC 25-101-50 L 2, line 3, delete “, Commonwealth”

Page 2552, column 2, 9 VAC 25-101-50 G 1, beginning on line 8, delete “from the department”

---

# CALENDAR OF EVENTS

---

## Symbol Key

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

♿ Location accessible to handicapped

☎ Teletype (TTY)/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) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

## EXECUTIVE

### VIRGINIA AGRICULTURAL COUNCIL

† August 24, 1998 - 1 p.m. -- Open Meeting

† August 25, 1998 - 8 a.m. -- Open Meeting

Omni Hotel, 235 West Main Street, Charlottesville, Virginia.♿ (Interpreter for the deaf provided upon request)

The annual meeting of the council to include an annual review of finances, progress reports on approved projects, and general business matters. The council will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs special accommodations in order to participate at the meeting should contact Thomas R. Yates at least five days before the meeting so that suitable arrangements can be made.

**Contact:** Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, Washington Bldg., 1100 Bank St., Room 509, Richmond, VA 23219, telephone (804) 786-6060 or toll-free 1-800-828-1120/TTY☎

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Aquaculture Advisory Board

August 11, 1998 - 10:30 a.m. -- Open Meeting

Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿

A regular meeting to discuss issues related to Virginia aquaculture. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate in the meeting should contact the secretary to the board at least five

days before the meeting date so that suitable arrangements can be made for appropriate accommodation.

**Contact:** T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 371-6094 or FAX (804) 371-7679.

#### Virginia Egg Board

† August 12, 1998 - 11 a.m. -- Open Meeting

Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to review the financial statements and approve funding for the proposed projects for FY 1998-1999. Minutes of the past meetings will be approved. The board will review the FY 1997-98 promotional and educational program. The Egg Council will present an overview of the approved and adopted Quality Assurance Program. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Cecilia Glembocki at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Cecilia Glembocki, Secretary, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102-1317, telephone (703) 790-1984, toll-free 1-800-779-7759, FAX (703) 821-6748, or e-mail [virginiaeggcouncil@erols.com](mailto:virginiaeggcouncil@erols.com).

#### Virginia Soybean Board

August 6, 1998 - 2:30 p.m. -- Open Meeting

Colonial Acres Farm, 7031 South Laburnum Avenue, Richmond, Virginia.♿

---

# Calendar of Events

---

A meeting to discuss checkoff revenues and the financial status of the board following the end of the fiscal year ending June 30, 1998. The Virginia 1998 Corn and Soybean Conference financial report will be discussed along with the Ag-Expo plans for the upcoming event, as well as reports from the Chairman of the United Soybean Board representatives, and from other committees. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Phil Hickman at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Philip T. Hickman, Program Director, Virginia Soybean Board, Washington Bldg., 1100 Bank St., Suite 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

## Virginia Winegrowers Advisory Board

† **August 19, 1998 - 10 a.m.** -- Open Meeting  
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. 

A meeting to elect new officers including a new chairman for the upcoming year and to conduct regular business including committee reports. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least 10 days before the meeting date so that suitable arrangements can be made.

**Contact:** Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 371-7685 or FAX (804) 786-3122.

## STATE AIR POLLUTION CONTROL BOARD

**August 10, 1998 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

A meeting to discuss the proposed establishment of requirements to govern the use of mediation and alternative dispute resolution in regulation development and permit issuance.

**Contact:** Dr. Kathleen Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413.

\* \* \* \* \*

**September 10, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street, Training Room, 1st Floor, Richmond, Virginia.

**September 28, 1998** -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution Control (Rev. ZZ); 9 VAC 5-20-10 et seq. General Provisions; 9 VAC 5-40-10 et seq. Existing Stationary Sources; 9 VAC 5-50-10 et seq. New and Modified Stationary Sources.** The regulation amendments concern provisions covering municipal solid waste (MSW) landfills and are summarized below.

Facilities to which the rule applies are MSW landfills which commenced construction, reconstruction, or modification before May 30, 1991. In the Northern Virginia VOC Control Area, the design capacity applicability criteria is 1.0 million megagrams (Mg) or more; the emission rate applicability criteria is emissions of nonmethane organic compounds (NMOCs) greater than or equal to 23 Mg per year. In the remainder of the Commonwealth, the design capacity applicability criteria and the emissions rate applicability criteria are 2.5 million Mg in capacity and 50 Mg per year or more in emissions, respectively.

Landfills with a design capacity equal to or greater than the design capacity applicability criteria must determine their NMOC emissions. If the NMOC emission rate is less than the emission rate applicability criteria, the landfill must submit an emission report, and recalculate the NMOC emission rate until it is equal to or greater than the emission rate applicability criteria or the landfill is closed. If the calculated NMOC emission rate is equal to or greater than the emission rate applicability criteria, a collection and control system design plan must be submitted, followed by the installation of a collection and control system.

Active collection systems must be designed to handle the maximum expected gas flow rate at a sufficient extraction rate and be designed to minimize off-site gas migration. Passive collection systems must be installed with liners, then either destroy the collected gas or treat it for sale or use. Operational standards direct how landfills must operate collection systems in order to minimize emissions and operate safely. Test methods and procedures are provided in order for sources to calculate the NMOC emission rate. Once the NMOC emission rate is established, the landfill is classified as Tier 1, 2, or 3 depending on whether the NMOC emission rate is less than or greater than the emission rate applicability criteria; if the NMOC concentration is determined using a specific sampling procedure; or if the NMOC mass emission rate is determined using specific equations.

Compliance is determined through specific methods. Monitoring of operations is achieved through the installation of various sampling ports and devices. Reporting and recordkeeping requirements are delineated. Finally, installation of emission collection and control equipment capable of meeting the standards must be accomplished by 30 months after the rule's effective date.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: Facilities located in the Northern Virginia VOC Control Area (Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, City of Alexandria, City of Fairfax, City of Falls Church, City of Manassas, City of Manassas Park) must meet more restrictive design capacity applicability criteria and emission rate applicability criteria. These special criteria are required in order to meet emission reduction requirements for serious nonattainment areas (as required by Part D of the federal Clean Air Act), rather than to meet requirements for designated pollutants (§ 111(d) of the federal Clean Air Act) and have been in place since 1996.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches), and any other supporting documents may be examined by the public at the Department's Office of Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road

Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., September 28, 1998, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-30-10 et seq. and 9 VAC 5-70-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. A97).** The regulation amendments concern provisions covering total suspended particulate (TSP) ambient air quality standards. The proposed action is to remove references to TSP from 9 VAC 5 Chapter 30, Ambient Air Quality Standards, and from 9 VAC 5 Chapter 70, Air Pollution Episodes.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the

---

# Calendar of Events

---

proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Environmental Program Planner, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. B97) (repealing Article 38, 9 VAC 5-40-5350 through 9 VAC 5-40-5480. Emission Standards for Dry Cleaning Systems (Rule 4-38))**. The amendments concern provisions covering perchloroethylene dry cleaning source emissions. The proposed action is to repeal the existing regulation.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of

each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\*\*\*\*\*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. E97)**. The regulation amendments concern provisions covering fuel burning equipment. The regulation has been revised in order to clarify the fact that internal combustion engines (stationary combustion turbines) are considered to be fuel burning equipment, and that stationary internal combustion engines have been specifically exempted from this rule.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

---

# Calendar of Events

---

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Environmental Program Planner, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. L97).** The amendments concern provisions covering pulp and paper mills. The regulation has been revised to clarify the rule's applicability.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the

proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

### Architect Section

**August 5, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct general business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, or (804) 367-9753/TTY ☎

### Land Surveyor Section

**August 26, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct general business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, or (804) 367-9753/TTY ☎

## Professional Engineer Section

**August 20, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct general business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, or (804) 367-9753/TTY ☎

## VIRGINIA BOARD FOR ASBESTOS AND LEAD

**August 25, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 5 West,  
Richmond, Virginia. ♿

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ☎, or e-mail [asbestos@dpor.state.va.us](mailto:asbestos@dpor.state.va.us).

## VIRGINIA COUNCIL ON ASSISTIVE TECHNOLOGY

**September 2, 1998 - 9 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** VCAT Staff, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-9990, toll-free 1-800-552-5019 or 1-800-464-9950/TTY ☎

---

# Calendar of Events

---

## COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND THEIR FAMILIES

### State Management Team

† **August 6 1998 - 9:30 a.m.** -- Open Meeting  
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A meeting to discuss recommendations for policies and procedures regarding the Comprehensive Services Act.

**Contact:** Elisabeth Hutton, Secretary, Comprehensive Services for At-Risk Youth and Their Families, Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 371-4099.

## COAL SURFACE MINING RECLAMATION FUND ADVISORY BOARD

† **August 20, 1998 - 10 a.m.** -- Open Meeting  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review and discuss the current status and administration of the Reclamation Fund.

**Contact:** Danny R. Brown, Division Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152 or FAX (540) 523-8163.

## COMPENSATION BOARD

† **August 27, 1998 - 11 a.m.** -- Open Meeting  
Ninth Street Office Building, 202 North Ninth Street, 10th Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly board meeting.

**Contact:** Cindy Waddell, Administrative Assistant, Compensation Board, 202 N. 9th St., 10th Floor, Richmond, VA 23219, telephone (804) 786-0786 or FAX (804) 371-0235.

## DEPARTMENT OF CONSERVATION AND RECREATION

**August 20, 1998 - 9:30 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia.

A meeting for development of model ordinance and educational materials regarding wetlands, riparian buffers and environment erosion control structures. Public comments will be received at the end of the meeting.

**Contact:** Leon E. App, Agency Regulatory Coordinator, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or FAX (804) 786-6141.

## Board on Conservation and Development of Public Beaches

† **August 4, 1998 - 10 a.m.** -- Open Meeting  
Hampton City Hall, Hampton City Council Chambers, Hampton, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to (i) discuss proposed projects by localities requesting matching grant funds, (ii) review the budget for the 98-00 biennium, and (iii) receive public comments about public beaches or the activities of the board.

**Contact:** Carlton Lee Hill, Staff Advisor, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998 or FAX (804) 786-1798.

## BOARD FOR CONTRACTORS

† **August 4, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Disciplinary Board to receive board member reports and summaries from informal fact-finding conferences held pursuant to the Administrative Process Act, and to review consent order offers in lieu of further disciplinary proceedings. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Gerald W. Morgan, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785, FAX (804) 367-2474 or (804) 367-9753/TTY ☎

\*\*\*\*\*

† **August 18, 1998 - 7 p.m.** -- Public Hearing  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4W, Richmond, Virginia.

† **August 20, 1998 - 7 p.m.** -- Public Hearing  
Roanoke County Board of Supervisors, 5204 Bernard Drive, Supervisor's Meeting Room, Roanoke, Virginia.

**October 2, 1998** - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to amend regulations entitled: **18 VAC 50-30-10**

**et seq. Board for Contractors Tradesman Rules and Regulations.** The proposed amendments add backflow prevention device workers to the trades regulated by the Tradesman Program. The voluntary, statewide certification program for backflow prevention device workers mandated by the General Assembly will enable such workers to practice in different areas of the Commonwealth without having to apply for certification in each jurisdiction separately. Except for fees for the new program, there are no changes in the current fee structure of the Tradesman Program. Some editorial changes are also made.

Statutory Authority: §§ 54.1-201, 54.1-1102 and Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 2, 1998, to George O. Bridewell, Administrator, Board for Contractors, 3600 West Broad Street, Richmond, Virginia 23230.

**Contact:** Geralde W. Morgan, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166 or FAX (804) 367-2474.

## BOARD OF CORRECTIONS

**August 11, 1998 - 9:30 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. 

A meeting of the Correctional Services Committee to discuss correctional services matters which may be presented to the board.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

**August 12, 1998 - 8:30 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters which may be presented to the full board.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

**August 12, 1998 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. 

A meeting of the full board to discuss matters which may be presented.

**Contact:** Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

## BOARD FOR COSMETOLOGY

**† September 14, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

An open meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation. Time of the meeting is subject to change. Call the board office at least 24 hours in advance. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Nancy Taylor Feldman. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least 10 days in advance.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TTY 

## CRIMINAL JUSTICE SERVICES BOARD AND COMMITTEE ON TRAINING

**† September 23, 1998 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of both groups to conduct general business. The Criminal Justice Services Board will also consider various grant applications.

**Contact:** George B. Gotchalk, Regulatory Review Coordinator, Committee on Training, and Christine Y. Wiedemer, Administrative Staff Assistant, Criminal Justice Services Board, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001.

## DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

**August 5, 1998 - 10 a.m.** -- Open Meeting  
Department for the Deaf and Hard-of-Hearing, Koger Center, 1602 Rolling Hills Drive, Suite 203, Richmond, Virginia. 

A quarterly meeting of the Advisory Board for the Department for the Deaf and Hard-of-Hearing. Public comment will be received with advance notice.

**Contact:** Beverly Chamberlain, Executive Secretary, Department for the Deaf and Hard-of-Hearing, Ratcliffe Bldg., 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23229, telephone (804) 662-9705/Voice/TTY , FAX 1-800-552-7917 or toll-free 1-800-552-7917/Voice/TTY 

---

# Calendar of Events

---

## BOARD OF DENTISTRY

† **August 14, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

The Continuing Education Committee will discuss action  
on licensees who have not fulfilled the continuing  
education requirement for license renewal. Public  
comment will be received at the beginning of the  
meeting.

**Contact:** Marcia J. Miller, Executive Director, Board of  
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9906, FAX (804) 662-9943  
or (804) 662-7197/TTY

† **August 14, 1998 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

The Exam Committee will review a draft Request for  
Proposal to outsource the jurisprudence exam for  
dentists and dental hygienists and the radiology safety  
exam for unlicensed persons such as dental  
assistants/chairside personnel. Public comment will be  
received at the beginning of the meeting.

**Contact:** Marcia J. Miller, Executive Director, Board of  
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9906, FAX (804) 662-9943  
or (804) 662-7197/TTY

† **August 14, 1998 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

The Special Conference Committee will hear disciplinary  
cases. This is a public meeting; however, no public  
comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of  
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9906, FAX (804) 662-9943  
or (804) 662-7197/TTY

\*\*\*\*\*

† **September 18, 1998 - 1 p.m.** -- Public Hearing  
The Williamsburg Lodge, 310 South England Street,  
Williamsburg, Virginia.

**October 2, 1998** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Dentistry  
intends to amend regulations entitled: **18 VAC 60-20-10  
et seq. Virginia Board of Dentistry Regulations.**  
Amendments are proposed pursuant to Executive Order  
15 (94), which called for clarification, simplification, and

where possible, a reduction in the regulatory burden.  
The proposed amendments allow dentists to delegate  
acts which are not specifically reserved for  
dentists/dental hygienists and which are consistent with  
the training and experience of the assistant.

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

**Contact:** Marcia J. Miller, Executive Director, Board of  
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9906 or FAX (804) 662-  
9943.

\*\*\*\*\*

† **September 18, 1998 - 1 p.m.** -- Public Hearing  
The Williamsburg Lodge, 310 South England Street,  
Williamsburg, Virginia.

**October 2, 1998** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Dentistry  
intends to amend regulations entitled: **18 VAC 60-20-10  
et seq. Virginia Board of Dentistry Regulations.**  
Amendments are proposed to increase fees for  
licensees of the Board of Dentistry in order to comply  
with a statutory mandate for the agency to raise  
revenues sufficient to meet expenses.

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

**Contact:** Marcia J. Miller, Executive Director, Board of  
Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9906 or FAX (804) 662-  
9943.

## VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† **August 4, 1998 - 10 a.m.** -- Open Meeting  
Virginia Economic Development Partnership, 901 East Byrd  
Street, Riverfront Plaza, Green Conference Room,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

A meeting of the Motion Picture Development  
Committee of the Virginia Tourism Corporation Board to  
discuss a production incentive plan in Virginia. Public  
comment will be taken at the beginning of the meeting.  
Agenda available.

**Contact:** Judy Bulls, Assistant to the President and CEO,  
Virginia Tourism Corporation, Riverfront Plaza, 901 E. Byrd  
St., Richmond, VA 23219, telephone (804) 371-8174 or  
(804) 786-1919.

**August 4, 1998 - 11 a.m.** -- Open Meeting  
Virginia Economic Development Partnership, 901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Board Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Personnel Committee to review personnel policies and compensation for the Virginia Economic Development Partnership.

**Contact:** Pandy Brazeau, Administrative Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218-0798, telephone (804) 371-8106 or FAX (804) 371-8112.

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

**September 3, 1998 - 5:30 p.m.** -- Open Meeting  
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

**Contact:** Lynda G. Furr, Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**August 11, 1998 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

A meeting to discuss and exchange ideas and information concerning the proposed regulation, 9 VAC 20-170-10 et seq., Transportation of Solid and Medical Wastes on State Waters, including the costs and benefits of the proposed action.

**Contact:** Lily Choi, Environmental Engineer Senior, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4054 or FAX (804) 698-4032.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**August 12, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting of the Regulatory and Bylaws Committee to discuss crematory regulations. Public comments will be received for 15 minutes at the beginning of the meeting.

**Contact:** Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9523.

\*\*\*\*\*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-20-10 et seq. Board of Funeral Directors and Embalmers Regulations and 18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service.** Amendments are proposed to increase fees for licensees of the Board of Funeral Directors and Embalmers in order to comply with a statutory mandate for the agency to raise revenues sufficient to meet expenses.

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

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

\*\*\*\*\*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-20-10 et seq. Regulations of the Board of Funeral Directors and Embalmers.** Amendments are proposed pursuant to Executive Order 15 (94), which called for clarification, simplification and, where possible, a reduction in the regulatory burden. Regulations which are duplicative of provisions of the Code of Virginia or the Funeral Industry Rule of the Federal Trade Commission are eliminated.

Statutory Authority: §§ 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia.

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

\*\*\*\*\*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

---

# Calendar of Events

---

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-30-10 et seq. Regulations for Preneed Funeral Planning.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. The proposed amendments will eliminate the requirement for prior approval by the board of any preneed contract and disclosure statements.

Statutory Authority: §§ 54.1-2400, 54.1-2803 and 54.1-2820 of the Code of Virginia.

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

\*\*\*\*\*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. Amendments will eliminate duplicative regulations and requirements such as a certain number of funerals and embalmings in one calendar year in one funeral establishment.

Statutory Authority: §§ 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq. ) of Title 54.1 of the Code of Virginia.

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

## BOARD OF GAME AND INLAND FISHERIES

**August 20, 1998 - 9 a.m.** -- Open Meeting

**August 21, 1998 - 9 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The board will meet and adopt 1998-1999 hunting seasons and bag limits for migratory waterfowl (ducks and coots, geese and brant, swan, gallinules and moorhens) and falconry, based on frameworks provided

by the U.S. Fish and Wildlife Service. The board may also review possible proposals for legislation for the 1999 Session of the General Assembly, will select meeting dates for 1999 board meetings, and may discuss other general and administrative issues. The board may hold an executive session before the public session begins on August 20. If the board completes its entire agenda on August 20, it may not convene on August 21.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2311.

## DEPARTMENT OF GAME AND INLAND FISHERIES

† **August 10, 1998 - 7 p.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The department will hold an open meeting for the purpose of receiving public comments regarding season lengths and bag limits for the 1998-1999 hunting seasons for waterfowl (ducks, geese, and swan). DGIF Wildlife Division staff will present season frameworks provided by the U.S. Fish and Wildlife Service for these species, and the public's comments will be solicited in the public hearing portion of the meeting. A summary of the comments received on August 10 will be presented to the DGIF Board of Directors at its scheduled August 20-21, 1998, meeting. At the August 20-21 meeting, the board will hold an additional public hearing after which it intends to adopt 1998-1999 hunting seasons and bag limits for waterfowl.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2311.

**September 14, 1998 - 7 p.m.** -- Public Hearing  
Jefferson Forest High School, Perrowville Road, Forest, Virginia.  (Interpreter for the deaf provided upon request)

**September 15, 1998 - 7 p.m.** -- Public Hearing  
Fort Defiance High School, State Route 616, Fort Defiance, Virginia.  (Interpreter for the deaf provided upon request)

**September 16, 1998 - 7 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street, Wytheville, Virginia.  (Interpreter for the deaf provided upon request)

**September 17, 1998 - 7 p.m.** -- Public Hearing  
James City-Williamsburg Community Center, 5301 Longhill Road, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

**September 17, 1998 - 7 p.m.** -- Public Hearing  
Lee Hill Community Center, 1 Hugh Cosner Drive, Fredericksburg, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Department of Game and Inland Fisheries (DGIF) is hosting five public meetings in September to receive suggestions from hunters, trappers, and all other interested parties for changes to the state hunting and trapping regulations. Interested individuals are invited to join the DGIF staff to discuss these regulations and department programs. The suggestions received will be considered by department staff as they develop recommendations for presentation to the Board of Game and Inland Fisheries in the spring of 1999.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2311.

## DEPARTMENT OF GENERAL SERVICES

### Design-Build/Construction Management Review Board

**August 17, 1998 - 11 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities for the use of the design-build or construction management type of contract. Public comments will be taken. The chairman may cancel the meeting if there is not business for the board's consideration. Please contact the Division of Engineering and Buildings to confirm meeting date and time.

**Contact:** Sandra H. Williams, Board Clerk, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TTY 

## STATE BOARD OF HEALTH

**August 6, 1998 - 10 a.m.** -- Open Meeting  
Eastern Virginia Medical School, 825 Fairfax Avenue, Hofheimer Hall, 7th Floor, President's Board Room, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

A work session of the board.

**Contact:** Paul W. Matthias, State Board of Health, P.O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 371-2909 or FAX (804) 786-4616.

**August 7, 1998 - 9 a.m.** -- Open Meeting  
Eastern Virginia Medical School, 825 Fairfax Avenue, Hofheimer Hall, 7th Floor, President's Board Room, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Paul W. Matthias, State Board of Health, P.O. Box 2448, Suite 214, Richmond, VA 23218, telephone (804) 371-2909 or FAX (804) 786-4616.

\*\*\*\*\*

**September 21, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-90-10 et seq. Regulations for Disease Reporting and Control.** The proposed amendments include additions to and deletions from the reportable disease list, changes to the list of conditions and laboratory tests reportable by directors of laboratories, and other changes to enhance disease surveillance and control in the Commonwealth.

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

**Contact:** Diane Woolard, Ph.D., M.P.H., Director, Surveillance and Investigation, Department of Health, Office of Epidemiology, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261, FAX (804) 371-4050 or toll-free 1-800-828-1120/TTY 

## DEPARTMENT OF HEALTH PROFESSIONS

**August 14, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Health Practitioners' Intervention Program Committee to meet with the committee's contractor and representatives to review reports, policies and procedures for the Health Practitioners' Intervention Program. The committee will meet in open session for general discussion of the program. The committee may meet in executive session for the purpose of consideration of specific requests from applicants or participants in the program.

**Contact:** John W. Hasty, Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9424, FAX (804) 662-9114 or (804) 662-7197/TTY 

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **August 17, 1997 - 8:30 a.m.** -- Open Meeting  
State Council of Higher Education for Virginia, James Monroe Building, 101 North 14th Street, Council Conference Room, Richmond, Virginia. 

A general business meeting to elect officers. The meeting may be telecommunicated at the council's office and McGuire, Woods, Battle and Boothe in Norfolk and Richmond.

**Contact:** Pamela H. Landrum, Administrative Staff Assistant, State Council of Higher Education, James Monroe

---

# Calendar of Events

---

Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2600 or FAX (804) 371-7911.

## VIRGINIA HISTORIC PRESERVATION FOUNDATION

† **August 11, 1998 - 10 a.m.** -- Open Meeting  
Virginia Historical Society, 2801 Kensington Avenue, 2nd Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the trustees of the foundation to consider proposals to preserve significant threatened historic properties through acquisition and resale with appropriate protective covenants.

**Contact:** Robert A. Carter, Director, Community Services, Department of Historic Resources, 10 Courthouse Ave., Petersburg, VA 23803, telephone (804) 863-1626, FAX (804) 863-1627 or (804) 367-2386/TTY 

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**August 4, 1998 - 9 a.m.** -- Open Meeting  
**September 1, 1998 - 9 a.m.** -- Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia.  (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### State Building Code Technical Review Board

† **August 21, 1998 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, 1st Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The board will hear administrative appeals concerning building and fire codes and other regulations of the department. The board issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

**Contact:** Vernon W. Hodge, Building Code Supervisor, State Building Code Office, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TTY 

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **August 18, 1998 - 11 a.m.** -- Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. 

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

## COUNCIL ON INFORMATION MANAGEMENT

**August 11, 1998 - 10 a.m.** -- Open Meeting  
University of Virginia, Charlottesville, Virginia. 

A regularly scheduled meeting of the Land Records Management Task Force.

**Contact:** Bill Shinar, Virginia Geographic Information Network Coordinator, Washington Bldg., 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622, FAX (804) 371-7952 or toll-free 1-800-828-1120/TTY 

**August 14, 1998 - 10 a.m.** -- Open Meeting  
Council on Information Management, Washington Building, 1100 Bank Street, 9th Floor, Richmond, Virginia. 

A regular meeting of Virginia Geographic Information Network Advisory Board.

**Contact:** Bill Shinar, Virginia Geographic Information Network Coordinator, Washington Bldg., 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622, FAX (804) 371-7952 or toll-free 1-800-828-1120/TTY 

## VIRGINIA INTERAGENCY COORDINATING COUNCIL

† **September 9, 1998 - 9:30 a.m.** -- Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The council meets quarterly to advise and assist the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part H (of IDEA), early intervention for infants and toddlers with disabilities and their families.

Discussion will focus on issues related to Virginia's implementation of the Part H program.

**Contact:** Nicole Corey, Part H Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Early Intervention, 10th Floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710 or FAX (804) 371-7959.

## DEPARTMENT OF LABOR AND INDUSTRY

† **August 31, 1998 - 7 p.m.** -- Public Hearing  
City Hall, 9027 Center Street, Council Chambers, Manassas, Virginia.

† **September 1, 1998 - 7 p.m.** -- Public Hearing  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

† **September 2, 1998 - 7 p.m.** -- Public Hearing  
Roanoke County Administration Center, 6204 Bernard Drive, Board of Supervisors' Meeting Room, Roanoke, Virginia.

† **September 3, 1998 - 7 p.m.** -- Public Hearing  
City Hall, 810 Union Street, City Council Chambers, Norfolk, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **16 VAC 25-50-10 et seq. Boiler and Pressure Vessel Rules and Regulations.** The proposed amendments incorporate the transfer of authority for setting various fee amounts from statute to regulation, and adopt several changes recommended individually or jointly by the regulated community, the National Board of Boiler and Pressure Vessel Inspectors, or the Chief Boiler and Pressure Vessel Inspector of the Commonwealth.

The proposed amendments also direct commonwealth inspectors to inspect uninsured boilers and pressure vessels in those geographic areas or limited time periods within which commercial services would not be available, set out the chief inspector's criteria for determining unavailability, and establish rates for certification inspections conducted by commonwealth inspectors. These changes eliminate a criticism of the current privatized inspection system and are directed by Chapter 212, 1997 Acts of Assembly.

Also included in these proposed amendments are changes suggested by the department's regulatory review and a request by the department to require the national board "R" and "VR" stamp certification for organizations performing repairs and alterations to boilers and pressure vessels, and the repair and resetting of safety valves. Current regulation requires that all boilers and pressure vessels be designed, constructed and installed in accordance with the ASME

Boiler and Pressure Vessel Code. However, the ASME code does not establish standards for repair or alteration of these objects once they have been code stamped and installed.

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Public comments may be submitted until October 2, 1998, to Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia 23219.

**Contact:** Fred P. Barton, Boiler Chief Inspector, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-3262, FAX (804) 371-6524 or (804) 786-2376/TTY ☎

## Apprenticeship Council

**August 5, 1998 - 9:30 a.m.** -- Open Meeting  
Department of Labor and Industry, Powers-Taylor Building, 13th South 13th Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the subcommittee of the Apprenticeship Council.

**Contact:** Bev Donati, Assistant Program Director, Apprenticeship Program, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, or (804) 786-2376/TTY ☎

**September 17, 1998 - 10 a.m.** -- Open Meeting  
Centreville Adult and Community Education Center, 5757 Spindle Court, Centreville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the Apprenticeship Council.

**Contact:** Bev Donati, Assistant Program Director, Apprenticeship Program, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, or (804) 786-2376/TTY ☎

## STATE LAND EVALUATION ADVISORY COUNCIL

**August 11, 1998 - 10 a.m.** -- Open Meeting

**September 22, 1998 - 10 a.m.** -- Open Meeting  
Virginia Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ♿

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

**Contact:** H. Keith Mawyer, Property Tax Manager, Department of Taxation, Office of Customer Services, Property Tax Unit, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020.

---

# Calendar of Events

---

## COMMISSION ON LOCAL GOVERNMENT

**August 28, 1998 - 10:30 a.m.** -- Open Meeting  
Franklin area; site to be determined.

A regular meeting to receive oral presentations regarding the City of Franklin-Southampton County Voluntary Settlement Agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, Eighth Street Office Bldg., 805 E. Broad St., Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TTY ☎

**August 28, 1998 - 7 p.m.** -- Public Hearing  
Franklin area; site to be determined.

A public hearing regarding the City of Franklin-Southampton County Voluntary Settlement Agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, Eighth Street Office Bldg., 805 E. Broad St., Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TTY ☎

## MARINE RESOURCES COMMISSION

**August 25, 1998 - 9 a.m.** -- Open Meeting

**September 22, 1998 - 9 a.m.** -- Open Meeting

Marine Resources Commission, 2600 Washington Avenue, Room 403, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters at 9 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 the following fishery management items at approximately noon: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport

News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TTY ☎

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**September 4, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services; 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care; and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates--Other Types of Care.** The purpose of the proposed amendments is to allow clinical nurse specialists-psychiatric to be directly enrolled and reimbursed for Medicaid services rendered.

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

Public comments may be submitted until September 4, 1998, to Sally Rice, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

\* \* \* \* \*

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services.** The proposed regulations clarify DMAS' coverage of breast reconstructive procedures and prostheses and establish parameters for the coverage of outpatient observation beds.

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

Public comments may be submitted until September 18, 1998, to Bonnie Winn, R.N., Manager, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

\*\*\*\*\*

† **October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **Home Infusion Therapy/Bundling Services and Supplies: 12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care and Service and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this proposal is to simplify the billing procedures of durable medical equipment providers and pharmacy providers when they are providing home infusion therapy services/bundling services and supplies (intravenous therapy, respiratory therapy and service agreements on equipment). This simplification will make providers' initial billing process easier and quicker but will also make it easier for DMAS to conduct postpayment reviews of providers' records.

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

Public comments may be submitted until the close of business on October 2, 1998, to Lynda Hamm, R.N., Division of Provider Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-3146.

## Pharmacy Liaison Committee

**August 3, 1998 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia.

A regular meeting.

**Contact:** Marianne Rollings, Pharmacy Services, Client Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268.

## BOARD OF MEDICINE

**August 7, 1998 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Executive Committee will meet in open and closed session to (i) review disciplinary files requiring administrative action, (ii) adopt amendments for approval of promulgation of regulations as presented, (iii) interview applicants, and (iv) act on other issues that come before the board. The chairman will entertain

public comments on agenda items for 15 minutes following adoption of the agenda.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY

**August 8, 1998 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Credentials Committee will meet in open and closed session to (i) conduct general business, (ii) interview and review medical credentials of applicants applying for licensure in Virginia, and (iii) act on other issues that come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY

\*\*\*\*\*

**September 9, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists.** Amendments are proposed pursuant to Executive Order 15 (94) which called for agencies to simplify, clarify and reduce the burden of regulations. Proposed amendments would reduce the application fee from \$200 to \$150, eliminate the undergraduate education requirements, eliminate the requirement for an applicant from another state to have an approved tutorial, and specify that an applicant whose acupuncture education was in English is not required to take the Test of English as a Foreign Language. Another amendment changes the required time for examination by the referring doctor from six months to three months prior to referral.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

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

---

## Calendar of Events

---

† **September 9, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Advisory Committee on Acupuncturists will meet to discuss regulatory review of 18 VAC 85-110-10 et seq., Licensed Acupuncturists, and such other issues which may be presented. The committee will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY 

† **September 9, 1998 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Advisory Committee on Radiologic Technologists will meet to review public comments and make recommendations to the board regarding 18 VAC 85-101-10 et seq., Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited, and such other issues which may be presented. The advisory committee will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY 

† **September 10, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Advisory Board on Occupational Therapy will meet to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-80-10 et seq., Regulations for Certification of Occupational Therapists, and such other issues which may be presented. The advisory board will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY 

† **September 10, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A panel of the board will convene, pursuant to §§ 54.1-2400 and 9-6.14:12 of the Code of Virginia to inquire

into allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TTY 

† **September 10, 1998 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Advisory Board on Respiratory Therapy will meet to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-40-10 et seq., Regulations Governing the Practice of Respiratory Therapy Practitioners, and such other issues which may be presented. The advisory board will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY 

† **September 11, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Advisory Board on Physical Therapy will meet to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-31-10 et seq., Regulations Governing the Practice of Physical Therapy, and such other issues which may be presented. The advisory board will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY 

† **September 11, 1998 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Advisory Committee on Physician Assistants will meet to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-50-10 et seq., Regulations Governing the Practice of Physician Assistants, and such other issues which may be presented. The committee will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

## Informal Conference Committee

**August 6, 1998 - 10:30 a.m.** -- Open Meeting  
Patrick Henry Hotel, 617 South Jefferson Street, Roanoke, Virginia.

**August 19, 1998 - 9:30 a.m.** -- Open Meeting  
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

† **August 21, 1998 - 9:30 a.m.** -- Open Meeting  
Fort Magruder Inn Conference Center, Route 60, Williamsburg, Virginia.

**September 3, 1998 - 10:30 a.m.** -- Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, Roanoke, Virginia.

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**August 25, 1998 - 10 a.m.** -- Public Hearing  
James Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Virginia Substance Abuse Prevention and Treatment and Community Mental Health Services Block Grant Applications for Federal Fiscal Year 1999. Copies of these applications are available for review at the Office of Mental Health and Substance Abuse Services, on the 12th Floor of the James Madison Building, and at each community services board office. Comments may be made at the hearing or in writing no later than August 25, 1998, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing may call Sterling Deal. Copies of oral presentations should be filed at the time of the hearing.

**Contact:** Sterling G. Deal, Ph.D., Resource Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2148, FAX (804) 371-0091 or (804) 371-8977/TTY ☎

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-140-10 et seq. Mandatory Standards for Community Mental Health Program.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community mental health programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

\*\*\*\*\*

† **October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-150-10 et seq. Mandatory Standards for Community Mental Retardation Programs.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community mental retardation programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse

---

# Calendar of Events

---

Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

\*\*\*\*\*

† **October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-160-10 et seq. Mandatory Standards for Community Substance Abuse Programs.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community substance abuse programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

## VIRGINIA MILITARY INSTITUTE

**August 29, 1998 - 8:30 a.m.** -- Open Meeting  
Virginia Military Institute, Preston Library, Turman Room, Lexington, Virginia. 

A meeting of the Board of Visitors to elect a president, vice presidents and secretary, and to hear committee reports. The board will provide an opportunity for public comment immediately after the superintendent's comments, beginning at approximately 9 a.m.

**Contact:** Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Superintendent's Office, Lexington, VA 24450, telephone (540) 464-7206 or (540) 464-7660/TTY 

## STATE MILK COMMISSION

† **September 23, 1998 - 10:30 a.m.** -- Open Meeting  
Department of Forestry, Natural Resources Drive, 2nd Floor Board Room, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, and fiscal matters and to review reports from the staff of the Milk Commission. The commission may consider other matters pertaining

to its responsibilities. Any persons who require accommodations in order to participate in the meeting should contact Edward C. Wilson, Jr., at least five days prior to the meeting date so that suitable arrangements can be made.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 915, Richmond, VA 23219-3414, telephone (804) 786-2013 or (804) 786-2013/TTY 

## VIRGINIA MUSEUM OF NATURAL HISTORY

**August 8, 1998 - 9 a.m.** -- Open Meeting  
Sheraton Four Points Hotel, 900 Prices Fork Road, Blacksburg, Virginia. 

A meeting of the Board of Trustees to include reports from the development, executive, finance, legislative, marketing, nominating, outreach, personnel, planning and facilities, and research and collections committees. Public comment will be received following approval of the minutes of the April meeting.

**Contact:** Rhonda J. Knighton, Executive Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8600 or (540) 666-0360, or (540) 666-8638/TTY 

## BOARD OF NURSING

† **August 10, 1998 - 9 a.m.** -- Open Meeting  
† **August 11, 1998 - 9 a.m.** -- Open Meeting  
† **August 13, 1998 - 9 a.m.** -- Open Meeting  
† **August 17, 1998 - 9 a.m.** -- Open Meeting  
† **August 18, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A Special Conference Committee, comprised of two or three members of the Board of Nursing, will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TTY 

\*\*\*\*\*

**August 12, 1998 - 10 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-20-10 et seq.**

**Regulations of the Board of Nursing.** Amendments are proposed pursuant to Executive Order 15 (94), which called for agencies to simplify and clarify regulations and eliminate unnecessary requirements. Amendments also include: (i) requirements for nurses to wear identification indicating their name and type of licensure; (ii) establishment of a standard protocol for persons with prescriptive authority to operate adult vaccine clinics; and (iii) an increase in the renewal fee for certified nurse aides in order to operate the investigative and disciplinary functions related to that program.

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

## BOARDS OF NURSING AND MEDICINE

**September 9, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to amend regulations entitled: **18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.** The proposed amendments are the board's response to the review of regulations pursuant to Executive Order 15 (94). The proposed amendments clarify several definitions, add a requirement for guidelines on "availability" in the protocol between the nurse practitioner and supervising physician, and eliminate the process for board approval of a nurse practitioner education program.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

## BOARD OF NURSING HOME ADMINISTRATORS

**August 5, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing Home

Administrators intends to amend regulations entitled: **18 VAC 95-20-10 et seq. Regulations of the Board of Nursing Home Administrators.** Pursuant to Executive Order 15 (94) to clarify, simplify and reduce the number of regulations, less restrictive requirements are proposed for the definition of "full-time employment," for notification of a change of address, and for continuing education. Amendments also clarify application, licensure, and preceptorship requirements.

Statutory Authority: § 54.1-2400 and Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Elizabeth Young Tisdale, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111 or FAX (804) 662-9943.

## BOARD FOR OPTICIANS

**August 14, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

An open meeting to discuss regulatory review, disciplinary cases and other matters requiring board action. All meetings are subject to cancellation or change. Call the board office 24 hours in advance of the meeting to confirm date and time. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TTY ☎

## BOARD OF OPTOMETRY

**September 16, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **18 VAC 105-20-10 et seq. Regulations of the Virginia Board of Optometry.** Amendments are proposed pursuant to Executive Order 15 (94), which called agencies to simplify and clarify regulations and eliminate unnecessary requirements. Proposed amendments provide for a listing of approved providers of continuing

---

# Calendar of Events

---

education courses and eliminate the burden and expense of submitting for board approval all of the materials for each course offered.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

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

## BOARD OF PHARMACY

† **August 18, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20-10 et seq. Virginia Board of Pharmacy Regulations.** Amendments are proposed pursuant to Executive Order 15 (94) to clarify and simplify the regulations and to conform them to current pharmacy practice.

Statutory Authority: §§ 54.1-2400, 54.1-3307 and 54.1-3312 of the Code of Virginia.

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

## DEPARTMENT OF STATE POLICE

**August 21, 1998** -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to amend regulations entitled: **19 VAC 30-70-1 et seq. Motor Vehicle Safety Inspection Rules and Regulations.** The purpose of the proposed action is to amend existing administrative regulations governing vehicle inspections to comply with mandates of the amended sections of the Code of Federal Regulations and the Code of Virginia.

Statutory Authority: § 46.2-1165 of the Code of Virginia.

**Contact:** Captain W. Steven Flaherty, Safety Officer, Department of State Police, P.O. Box 27472, Richmond, VA 23261, telephone (804) 378-3479, FAX (804) 378-3487 or toll-free 1-800-553-3144.

## BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**August 3, 1998 - 9:30 a.m.** -- Public Hearing  
Fairfax County Government Center, 12000 Government Center Parkway, Conference Rooms 4 and 5, Fairfax, Virginia. 

A public hearing in connection with the board's study of the need to regulate electrologists. The study is the result of House Joint Resolution 204 and Senate Joint Resolution 128 of the 1998 Session of the Virginia General Assembly. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Debra L. Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TTY 

**August 3, 1998 - 1:30 p.m.** -- Public Hearing  
Fairfax County Government Center, 12000 Government Center Parkway, Conference Rooms 4 and 5, Fairfax, Virginia. 

A public hearing in connection with the board's study of the need to regulate cemeteries. The study is the result of House Bill 1077 and Senate Bill 700 of the 1998 Session of the Virginia General Assembly. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

**Contact:** Debra L. Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TTY 

**September 14, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting.

**Contact:** Debra S. Vought, Agency Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TTY 

## BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

† **August 3, 1998 - 10 a.m.** -- Open Meeting  
James City County Library, 7770 Croaker Road, Meeting  
Room 1, Williamsburg, Virginia. 

A meeting to adopt final regulations to replace the current emergency regulations governing the certification of rehabilitation providers. Text being adopted is identical to the existing emergency regulations.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TTY 

**August 14, 1998 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting to (i) conduct general board business, (ii) consider committee reports, (iii) discuss correspondence and any other matters under the jurisdiction of the board, including regulatory review.

**Contact:** Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

## VIRGINIA RACING COMMISSION

**August 19, 1998 - 9:30 a.m.** -- Open Meeting  
Administrative Building, 12007 Courthouse Circle, New Kent,  
Virginia. 

A monthly meeting to include a report from Colonial Downs concerning the forthcoming thoroughbred race meeting.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Dr., New Kent, VA 23124, telephone (804) 966-4200 or FAX (804) 966-8906.

## REAL ESTATE BOARD

**August 13, 1998 - 8 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general business meeting of the Real Estate Education Committee. Persons desiring to participate in the meeting and requiring special accommodations or

interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TTY 

**August 13, 1998 - 8 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general business meeting of the Fair Housing Committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TTY 

**August 13, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TTY 

## Common Interest Community Management Information Fund Advisory Committee

† **August 14, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A meeting to develop recommendations for the Real Estate Board on uses of moneys collected pursuant to the Common Interest Community Management Information Fund for the benefit of common interest communities and their members.

**Contact:** Emily O. Wingfield, Property Registration Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8510 or (804) 367-9753/TTY 

---

# Calendar of Events

---

## RECYCLING MARKETS DEVELOPMENT COUNCIL

**August 11, 1998 - 10 a.m.** -- Open Meeting  
Central Virginia Waste Management Authority, 2104 West Laburnum Avenue, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A brainstorming session. Call Paddy Katzen for details.

**Contact:** Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488, FAX (804) 698-4453 or e-mail pmkatzen@deq.state.va.us

## STATE REHABILITATION ADVISORY COUNCIL

**August 10, 1998 - 11 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Kay Magill, SRAC Liaison, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7527, FAX (804) 662-7696, toll-free 1-800-552-5019/TTY and Voice, or (804) 464-9950/TTY

## VIRGINIA RESOURCES AUTHORITY

**August 11, 1998 - 9 a.m.** -- Open Meeting  
The Martha Washington Inn, 150 West Main Street, Abingdon, Virginia.

A meeting to approve minutes of the prior meeting, to review the authority's operations for the prior month, and to consider other matters and take other actions as the authority may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

## VIRGINIA RETIREMENT SYSTEM

**August 20, 1998 - 9 a.m.** -- Open Meeting  
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia.

A regular meeting. No public comment will be received.

**Contact:** Darla Kestner, Administrative Staff Assistant, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218-2500, telephone (804) 649-8059, FAX (804) 371-0613, toll-free 1-888-827-3847, or (804) 649-5089/TTY

**September 10, 1998 - Noon** -- Open Meeting  
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia.

A regular meeting of the Investment Advisory Committee. There may be in attendance at any time during the meeting three or more members of the Board of Trustees, or any of their subcommittees. No public comment will be received.

**Contact:** Darla Kestner, Administrative Staff Assistant, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218-2500, telephone (804) 649-8059, FAX (804) 371-0613, toll-free 1-888-827-3847, or (804) 649-5089/TTY

## SEWAGE COLLECTION AND TREATMENT REGULATIONS ADVISORY COMMITTEE

† **August 18, 1998 - 10 a.m.** -- Open Meeting  
Henrico County Government Complex, 8600 Dixon Powers Drive, Human Services Building, Board Room, Richmond, Virginia.

A meeting to discuss possible modifications to proposed SCAT regulations including technical evaluation and permitting of nonpoint source sewage treatment systems and subsurface disposal systems.

**Contact:** Asif K. Malik, Chief of Technical Services, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1752 or FAX (804) 786-5567.

## SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

† **August 19, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A meeting to hear appeals of health department denials of septic tank permits.

**Contact:** Gary L. Hagy, Acting Secretary, Sewage Handling and Disposal Appeal Review Board, Department of Health, P.O. Box 2448, Room 115, Richmond, VA 23218, telephone (804) 225-4022 or FAX (804) 225-4003.

## STATE BOARD OF SOCIAL SERVICES

**August 7, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-35-5 et seq. Virginia Independence Program**. The purpose of the proposed amendment is to amend the Virginia Independence Program by adding the Targeted Jobs Grant Program. This program provides employers

with grants of up to \$1,000 per employee when they hire and retain individuals who have been receiving Temporary Assistance to Needy Families.

Statutory Authority: §§ 63.1-25 and 63.1-25.3 of the Code of Virginia

**Contact:** David E. Olds, Employment Services Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2251 or FAX (804) 692-1709.

## BOARD OF SOCIAL WORK

† **September 11, 1998 - 10 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Work intends to amend regulations entitled: **18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work.** The purpose of the proposed amendment is to clarify and reformat the regulations and include an endorsement provision to expedite licensure of applicants with lengthy experience licensed in other jurisdictions and to comply with a statutory mandate enacted by the 1994 General Assembly by endorsing regulations promulgated by the Board of Psychology for voluntary certification of licensees as sex offender treatment providers.

Statutory Authority: § 54.1-2400 and Chapter 37 (§ 54.1-3700 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

## COMMONWEALTH TRANSPORTATION BOARD

**August 19, 1998 - 2 p.m.** -- Open Meeting  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

**Contact:** Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

**August 20, 1998 - 10 a.m.** -- Open Meeting  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

**Contact:** Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

## TRANSPORTATION SAFETY BOARD

**September 9, 1998 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review highway safety issues and federal funding.

**Contact:** Angelisa C. Jennings, Senior Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2026 or FAX (804) 367-6031.

## TREASURY BOARD

NOTE: CHANGE IN MEETING DATE

**August 26, 1998 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ♿

A regular business meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

## BOARD OF VETERINARY MEDICINE

† **August 11, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to consider ratification of consent orders, consider requests for reinstatements and waivers of the

---

# Calendar of Events

---

national board examination and clinical competency test, discuss correspondence received and general board business, and conduct formal hearings. Brief public comments will be received at the beginning of the meeting.

**Contact:** Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TTY ☎

† **August 12, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. Public comment will not be received.

**Contact:** Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TTY

\*\*\*\*\*

† **September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. The proposed amendments will streamline requirements for veterinary facilities, clarify the practice of surgery, allow continuing education through journals or information networks, and specify that continuing education must pertain to clinical areas of practice.

Statutory Authority: §§ 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

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

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Vocational Rehabilitation Advisory Council

† **September 26, 1998 - 10 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A quarterly meeting of the council to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, toll-free 1-800-622-2155, or (804) 371-3140/TTY ☎

### VIRGINIA VOLUNTARY FORMULARY BOARD

† **September 11, 1998 - 10 a.m.** -- Public Hearing  
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add drugs and drug products to the formulary that became effective January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the formulary are available for inspection at the Department of Health, Bureau of Pharmacy Services, Monroe Building, 101 North 14th Street, Room S-45, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on September 11, 1998, will be made a part of the hearing record.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326 or FAX (804) 371-0236.

### VIRGINIA WASTE MANAGEMENT BOARD

**August 10, 1998 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting to discuss the proposed establishment of requirements to govern the use of mediation and alternative dispute resolution in regulation development and permit issuance.

**Contact:** Dr. Kathleen Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413.

## BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† **August 25, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 5 East,  
Richmond, Virginia. ☎

† **August 26, 1998 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 4 East,  
Richmond, Virginia. ☎

The board and invited subject matter experts will meet to conduct an exam workshop. A public comment period will be held at the beginning of the workshop. After the public comment period, the workshop will be conducted in closed executive session under authority of § 2.1-344 A 11 of the Code of Virginia due to the confidential nature of the examination.

**Contact:** Sharon M. Sweet, Examination Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572, FAX (804) 367-2474 or (804) 367-9753/TTY ☎

## STATE WATER CONTROL BOARD

**August 5, 1998 - 1 p.m.** -- Public Hearing  
Town Hall, 510 7th Street, Council Chambers, Altavista, Virginia.

**September 4, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-430-10 et seq. Roanoke River Basin Water Quality Management Plan.** The purpose of the proposed action is to amend the plan to change the wasteload allocations for selected VPDES permitted discharges.

The Department of Environmental Quality invites comments on this intended amendment to the Roanoke River Basin Water Quality Management Plan, including any alternatives. Copies of the draft proposed regulation may be obtained by contacting the Department of Environmental Quality. To obtain a copy and for further information, please contact Jon van Soestbergen at the address and telephone number below.

The Department of Environmental Quality invites comments on costs and benefits of this intended amendment to the Roanoke River Basin Water Quality Management Plan. Comments may be submitted to Jon van Soestbergen at the address below.

The proposed regulatory amendments will affect the following communities: Town of Clarksville, Town of Boydton, Mecklenburg County.

The Department of Environmental Quality analyzed different alternatives in preparing this proposed regulatory amendment. Additional information regarding these analyses is available from Jon van Soestbergen at the address below.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.15 (13) of the Code of Virginia.

**Contact:** Jon van Soestbergen, P.E., Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6296, telephone (804) 527-5043.

\* \* \* \* \*

**August 5, 1998 - 1 p.m.** -- Public Hearing  
Town Hall, 510 7th Street, Council Chambers, Altavista, Virginia.

**September 4, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-440-10 et seq. Upper Roanoke River Subarea Water Quality Management Plan.** The purpose of the proposed action is to change the wasteload allocation for two segments of the Roanoke River.

The Department of Environmental Quality invites comments on this intended amendment to the Upper Roanoke River Subarea Water Quality Management Plan, including any alternatives. Copies of the draft proposed regulation may be obtained by contacting Dr. Michael J. Scanlan at the address and telephone number below.

The Department of Environmental Quality invites comments on costs and benefits of this intended amendment to the Upper Roanoke River Subarea Water Quality Management Plan. Comments may be submitted to Dr. Michael J. Scanlan at the address below.

The proposed regulatory amendments will affect the communities of Altavista, in Campbell County and communities served by the Roanoke Regional Water Pollution Control Plan in Roanoke, Virginia (Botetourt County, Roanoke County, Town of Vinton and the cities of Roanoke and Salem).

The Department of Environmental Quality analyzed different alternatives in preparing this proposed regulatory amendment. Additional information regarding these analyses is available from Dr. Michael J. Scanlan at the address below.

Statutory Authority: §§ 62.1-44.15 (10) and 62.1-44.15 (13) of the Code of Virginia.

**Contact:** Dr. Michael J. Scanlan, Department of Environmental Quality, West Central Regional Office, 3019

---

# Calendar of Events

---

Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6723.

**August 10, 1998 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

A meeting to discuss the proposed establishment of requirements to govern the use of mediation and alternative dispute resolution in regulation development and permit issuance.

**Contact:** Dr. Kathleen Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413.

**September 9, 1998 - 7 p.m.** -- Open Meeting  
**September 10, 1998 - 2 p.m.** -- Open Meeting  
Virginia War Memorial, 621 South Belvidere Street, Auditorium, Richmond, Virginia.

A meeting to receive comments from the public on whether the board should propose amendments regarding the numerical criteria for metals, mixing zones to provide specific protection to endangered and threatened species, the listing of endangered species and application of the antidegradation policy to all state activities.

**Contact:** Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111.

## LEGISLATIVE

### ADMINISTRATIVE LAW ADVISORY COMMITTEE

† **August 5, 1997 - Noon** -- Open Meeting  
State Capitol, Capitol Square, House Room 2, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review ongoing work to develop a reference manual for hearing officers and administrative law judges.

**Contact:** Lyn Hammond Coughlin, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

† **August 13, 1997 - Noon** -- Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Value Workgroup of the Regulatory Process Subcommittee to review work and to discuss an upcoming public hearing.

**Contact:** Lyn Hammond Coughlin, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

### JOINT SUBCOMMITTEE STUDYING A MANDATORY BOATING SAFETY EDUCATION COURSE IN VIRGINIA (HJR 174, 1998)

† **August 13, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 4th Floor West Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Martin Farber, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Kathleen Myers, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1547 or (804) 786-2369/TTY 

### COMMISSION ON THE CONDITION AND FUTURE OF VIRGINIA'S CITIES (HJR 432, 1998)

† **September 16, 1998 - 1 p.m.** -- Open Meeting  
Sheraton Norfolk Waterside Hotel, 777 Waterside Drive, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

† **October 6, 1998 - 10 a.m.** -- Open Meeting  
Roanoke Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia.

† **October 13, 1998 - 10 a.m.** -- Open Meeting  
Omni Hotel, Charlottesville, Virginia.

A regular meeting. Questions regarding the meeting should be addressed to Jeff Sharp or Nikki Beyer, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

### VIRGINIA CODE COMMISSION

**September 16, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Street, Speaker's Conference Room, 6th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to continue with the recodification of Titles 2.1 and 9 of the Code of Virginia.

**Contact:** Jane Chaffin, Registrar of Regulations, General Assembly Bldg., 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

## **COMMISSION ON COORDINATION OF SERVICES TO FACILITATE SELF-SUFFICIENCY AND SUPPORT OF PERSONS WITH PHYSICAL AND SENSORY DISABILITIES (HJR 274)**

**September 15, 1998 - 9 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House  
Room D, Richmond, Virginia.  (Interpreter for the deaf  
provided upon request)

A regular meeting. Questions regarding the meeting  
should be addressed to Brian Parsons or Barbara Etnner  
at the Virginia Board for People with Disabilities, (804)  
786-0016. Individuals requiring interpreter services or  
other special assistance should contact the Committee  
Operations Office at least 10 working days prior to the  
meeting.

**Contact:** Barbara Regen, House Committee Operations,  
P.O. Box 406, Richmond, VA 23218, telephone (804) 698-  
1540 or (804) 786-2369/TTY 

## **HOUSE COMMITTEE ON EDUCATION AND SENATE COMMITTEE ON EDUCATION AND HEALTH**

**August 24, 1998 - 9:30 a.m.** -- Open Meeting  
**August 25, 1998 - 9:30 a.m.** -- Open Meeting  
Graves Mountain Lodge, Syria, Virginia.

The House Committee on Education, the Senate  
Committee on Education and Health, and the State  
Board of Education will meet jointly in a retreat setting.  
The agenda will center around dialogue between the  
participating groups and presentations of the latest  
developments in education-related computer software by  
technology providers. Questions regarding the meeting  
should be addressed to Kathy Harris or Brenda  
Edwards, Division of Legislative Services, (804) 786-  
3591. Individuals requiring interpreter services or other  
special assistance should contact Committee  
Operations at least 10 working days prior to the  
meeting.

**Contact:** Barbara Regen, House Committee Operations,  
P.O. Box 406, Richmond, VA 23218, telephone (804) 698-  
1540 or (804) 786-2369/TTY 

## **EDUCATION AND HEALTH SUBCOMMITTEE STUDING ALTERNATIVE CONTINUING CONTRACTS FOR TEACHERS AND ADMINISTRATORS (SB 122, 1998)**

† **September 15, 1998 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate  
Room B, Richmond, Virginia.  (Interpreter for the deaf  
provided upon request)

A regular meeting. Questions regarding the meeting  
should be addressed to Norma Szakal, Division of  
Legislative Services, (804) 786-3591. Individuals

requiring interpreter services or other accommodations  
should call or write Senate Committee Operations at  
least 10 working days prior to the meeting.

**Contact:** Patricia J. Lung, Senate Committee Operations,  
P.O. Box 396, Richmond, VA 23218, telephone (804) 698-  
7450 or (804) 698-7419/TTY 

## **JOINT SUBCOMMITTEE EXAMINING ELECTRIC UTILITY RESTRUCTURING IN THE COMMONWEALTH (SJR 91, 1998)**

† **August 12, 1998 - 9 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room 4, Richmond,  
Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Task Force on Structure and  
Transition.

**Contact:** Thomas C. Gilman, Senate Committee  
Operations, P.O. Box 396, Richmond, VA 23218, telephone  
(804) 698-7450 or (804) 698-7419/TTY 

**August 18, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate  
Room B, Richmond, Virginia.  (Interpreter for the deaf  
provided upon request)

A regular meeting. Questions regarding the meeting  
should be addressed to Arlen K. Bolstad or Rob  
Omberg, Division of Legislative Services, (804) 786-  
3591. Individuals requiring interpreter services or other  
accommodations should call or write Thomas C. Gilman  
seven working days before the meeting.

**Contact:** Thomas C. Gilman, Senate Committee  
Operations, P.O. Box 396, Richmond, VA 23218, telephone  
(804) 698-7450 or (804) 698-7419/TTY 

† **August 18, 1998 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate  
Room B, Richmond, Virginia.  (Interpreter for the deaf  
provided upon request)

A meeting of the Task Force on Consumer Environment  
and Education Issues. Questions regarding the meeting  
should be addressed to Arlen K. Bolstad or Rob  
Omberg, Division of Legislative Services, (804) 786-  
3591. Individuals requiring interpreter services or other  
accommodations should call or write Thomas C. Gilman  
seven working days before the meeting.

**Contact:** Thomas C. Gilman, Senate Committee  
Operations, P.O. Box 396, Richmond, VA 23218, telephone  
(804) 698-7450 or (804) 698-7419/TTY 

## **HOUSE COMMITTEE ON FINANCE - SPECIAL SUBCOMMITTEE ON SALES TAX EXEMPTIONS**

† **August 6, 1998 - 2:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 4th Floor  
West Conference Room, Richmond, Virginia.  (Interpreter for  
the deaf provided upon request)

---

# Calendar of Events

---

A regular meeting. Please call Joan Putney or Stephanie L. Hamlett, Division of Legislative Services, (804) 786-3591, with any questions regarding the agenda. Individuals requiring interpreter services or special assistance should contact Lois Johnson at least 10 working days before the meeting.

**Contact:** Lois V. Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

## HOUSE COMMITTEE ON FINANCE - SPECIAL SUBCOMMITTEE EXAMINING THE SALES TAX ON FOOD

† **August 6, 1998 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 4th Floor West Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Please call Stephanie L. Hamlett or Joan Putney Division of Legislative Services, (804) 786-3591, with any questions regarding the agenda. Individuals requiring interpreter services or special assistance should contact Lois Johnson at least 10 working days before the meeting.

**Contact:** Lois V. Johnson, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

## COMMISSION ON ACCESS AND DIVERSITY IN HIGHER EDUCATION IN VIRGINIA (HJR 226, 1998)

**August 28, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting. Please call Brenda Edwards, Division of Legislative Services, (804) 786-3591, with any questions regarding the agenda. Individuals requiring interpreter services or special assistance should contact Dawn Smith.

**Contact:** Dawn B. Smith, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

## INTERSTATE ROUTE 73 COMMUNICATIONS COMMITTEE (HJR 153, 1998)

**October 8, 1998 - 10 a.m.** -- Open Meeting  
Henry County Administration Building, Kings Mountain Road, Board Room, Martinsville, Virginia.

A regular meeting. Questions regarding the meeting should be addressed to Alan Wambold, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance

should contact the Committee Operations at least 10 working days prior to the meeting.

**Contact:** Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

# CHRONOLOGICAL LIST

## OPEN MEETINGS

### August 3

- † Medical Assistance Services, Department of  
- Pharmacy Liaison Committee
- † Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, Board of Licensed

### August 4

- † Conservation and Recreation, Department of  
- Board on Conservation and Development of Public Beaches
- † Contractors, Board for  
- Disciplinary Board
- † Economic Development Partnership, Virginia  
- Motion Picture Development Committee  
- Personnel Committee
- Hopewell Industrial Safety Council

### August 5

- † Administrative Law Advisory Committee
- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for  
- Architect Section
- Deaf and Hard-of-Hearing, Virginia Department for the Labor and Industry, Department of  
- Apprenticeship Council

### August 6

- Agriculture and Consumer Services, Department of  
- Virginia Soybean Board
- † At-Risk Youth and Their Families, Comprehensive Services for  
- State Management Team
- Health, State Board of  
Medicine, Board of  
- Informal Conference Committee
- † Sales Tax Exemptions, House Committee on Finance  
Special Subcommittee on
- † Sales Tax on Food, House Committee on Finance  
Special Subcommittee Examining the

### August 7

- Health, State Board of  
Medicine, Board of  
- Executive Committee

### August 8

- Medicine, Board of  
- Credentials Committee

Museum of Natural History, Virginia  
- Board of Trustees

## August 10

Air Pollution Control Board, State  
† Game and Inland Fisheries, Department of  
† Nursing, Board of  
Rehabilitation Advisory Council, State  
Waste Management Board, Virginia  
Water Control Board, State

## August 11

Agriculture and Consumer Services, Department of  
- Virginia Aquaculture Advisory Board  
Corrections, Board of  
- Correctional Services Committee  
Environmental Quality, Department of  
† Historic Preservation Foundation, Virginia  
Information Management, Council on  
- Land Records Management Task Force  
Land Evaluation Advisory Council, State  
† Nursing, Board of  
Recycling Markets Development Council  
Resources Authority, Virginia  
† Veterinary Medicine, Board of

## August 12

† Agriculture and Consumer Services, Department of  
- Virginia Egg Board  
Corrections, Board of  
- Administration Committee  
† Electric Utility Restructuring in the Commonwealth,  
Joint Subcommittee Examining  
Funeral Directors and Embalmers, Board of  
† Veterinary Medicine, Board of

## August 13

† Administrative Law Advisory Committee  
† Boating Safety Education Course in Virginia, Joint  
Subcommittee Studying a Mandatory  
† Nursing, Board of  
Real Estate Board  
- Fair Housing Committee  
- Real Estate Education Committee

## August 14

† Dentistry, Board of  
Health Professions, Department of  
- Health Practitioners' Intervention Program  
Committee  
Information Management, Council on  
- Geographic Information Network Advisory Board,  
Virginia  
Opticians, Board for  
Professional Counselors, Marriage and Family  
Therapists and Substance Abuse Treatment  
Professionals, Board of Licensed  
† Real Estate Board  
- Common Interest Community Management  
Information Fund Advisory Committee

## August 17

General Services, Department of

- Design-Build/Construction Management Review  
Board

† Higher Education in Virginia, State Council of  
† Nursing, Board of

## August 18

Electric Utility Industry Restructuring Within Virginia,  
Joint Subcommittee Examining the Potential for  
† Housing Development Authority, Virginia  
† Nursing, Board of  
† Sewage Collection and Treatment Regulations  
Advisory Committee

## August 19

† Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board  
Medicine, Board of  
- Informal Conference Committee  
Racing Commission, Virginia  
† Sewage Handling and Disposal Appeal Review Board  
Transportation Board, Commonwealth

## August 20

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
- Professional Engineer Section  
† Coal Surface Mining Reclamation Fund Advisory  
Board  
Conservation and Recreation, Department of  
† Contractors, Board for  
- Tradesman Program  
Game and Inland Fisheries, Board of  
Retirement System, Virginia  
Transportation Board, Commonwealth

## August 21

Game and Inland Fisheries, Board of  
† Housing and Community Development, Department of  
- State Building Code Technical Review Board  
† Medicine, Board of  
- Informal Conference Committee

## August 24

† Agricultural Council, Virginia  
Education, House Committee on

## August 25

† Agricultural Council, Virginia  
Asbestos and Lead, Virginia Board for  
Education, House Committee on  
Marine Resources Commission  
† Waste Management Facility Operators, Board for

## August 26

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers and Landscape Architects,  
Board for  
- Land Surveyor Section  
Treasury Board  
† Waste Management Facility Operators, Board for

## August 27

† Compensation Board

---

# Calendar of Events

---

**August 28**

Higher Education in Virginia, Commission on Access and Diversity in  
Local Government, Commission on

**August 29**

Military Institute, Virginia  
- Board of Visitors

**September 1**

Hopewell Industrial Safety Council

**September 2**

Assistive Technology, Virginia Council on

**September 3**

Emergency Planning Committee, Local - Chesterfield County  
Medicine, Board of  
- Informal Conference Committee

**September 9**

† Interagency Coordinating Council, Virginia  
† Medicine, Board of  
- Advisory Committee on Acupuncturists  
- Advisory Committee on Radiologic Technologists  
Transportation Safety Board  
Water Control Board, State

**September 10**

† Medicine, Board of  
- Advisory Board on Occupational Therapy  
- Advisory Board on Respiratory Therapy  
Retirement System, Virginia  
- Investment Advisory Committee  
Water Control Board, State

**September 11**

† Medicine, Board of  
- Advisory Board on Physical Therapy  
- Advisory Committee on Physician Assistants

**September 14**

† Cosmetology, Board for  
Professional and Occupational Regulation, Board for

**September 15**

Disabilities, Commission on Coordination of Services to Facilitate Self-Sufficiency and Support of Persons with Physical and Sensory  
† Education and Health Subcommittee Studying Alternative Continuing Contracts for Teachers and Administrators

**September 16**

† Cities, Commission on the Condition and Future of Virginia's  
Code Commission, Virginia

**September 17**

Labor and Industry, Department of  
- Apprenticeship Council

**September 22**

Land Evaluation Advisory Council, State

Marine Resources Commission

**September 23**

† Criminal Justice Services Board and Committee on Training  
† Milk Commission, State

**September 26**

† Visually Handicapped, Department for the  
- Vocational Rehabilitation Advisory Council

**October 6**

† Cities, Commission on the Condition and Future of Virginia's

**October 8**

Interstate Route 73 Communications Committee

**October 13**

† Cities, Commission on the Condition and Future of Virginia's

## PUBLIC HEARINGS

**August 3**

Professional and Occupational Regulation, Board for

**August 5**

Nursing Home Administrators, Board of  
Water Control Board, State

**August 12**

Nursing, Board of

**August 18**

† Contractors, Board for  
† Pharmacy, Board of

**August 20**

† Contractors, Board for

**August 25**

Mental Health, Mental Retardation and Substance Abuse Services, Department of

**August 28**

Local Government, Commission on

**August 31**

† Labor and Industry, Department of

**September 1**

† Labor and Industry, Department of

**September 2**

† Labor and Industry, Department of

**September 3**

† Labor and Industry, Department of

**September 9**

Medicine, Board of  
Nursing and Medicine, Boards of

**September 10**

Air Pollution Control Board, State

**September 11**

- † Social Work, Board of
- † Voluntary Formulary Board, Virginia

**September 14**

Game and Inland Fisheries, Department of

**September 15**

Game and Inland Fisheries, Department of

**September 16**

Game and Inland Fisheries, Department of  
Optometry, Board of

**September 17**

- † Air Pollution Control Board, State
- † Funeral Directors and Embalmers, Board of
- Game and Inland Fisheries, Department of
- † Veterinary Medicine, Board of

**September 18**

- † Dentistry, Board of

---

---