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# THE VIRGINIA REGISTER INFORMATION PAGE

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Ma**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.

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# PUBLICATION SCHEDULE AND DEADLINES

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

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## February 1999 through December 1999

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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
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15:17	April 21, 1999	May 10, 1999
15:18	May 5, 1999	May 24, 1999
15:19	May 19, 1999	June 7, 1999
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16:5	November 3, 1999	November 22, 1999
16:6	November 16, 1999 ( <b>Tuesday</b> )	December 6, 1999
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<b>INDEX 1 - Volume 16</b>		<b>January 2000</b>

\*Filing deadlines are Wednesdays unless otherwise specified.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 30-130-10	Amended	15:1 VA.R. 44 (4390)	9/15/98
1 VAC 30-140-10	Amended	15:7 VA.R. 978	12/1/98
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 15-320-20	Amended	15:5 VA.R. 574	1/1/99
4 VAC 15-320-30	Amended	15:5 VA.R. 575	1/1/99
4 VAC 15-320-100	Amended	15:5 VA.R. 575	1/1/99
4 VAC 15-320-120	Amended	15:5 VA.R. 576	1/1/99
4 VAC 15-320-160	Added	15:5 VA.R. 576	1/1/99
4 VAC 15-330-110	Amended	15:5 VA.R. 577	1/1/99
4 VAC 15-330-120	Amended	15:5 VA.R. 577	1/1/99
4 VAC 15-330-140	Amended	15:5 VA.R. 577	1/1/99
4 VAC 15-330-150	Amended	15:5 VA.R. 578	1/1/99
4 VAC 15-330-160	Amended	15:5 VA.R. 578	1/1/99
4 VAC 15-340-60	Amended	15:5 VA.R. 578	1/1/99
4 VAC 15-360-10	Amended	15:5 VA.R. 579	1/1/99
4 VAC 20-20-10	Amended	15:5 VA.R. 579	10/28/98
4 VAC 20-20-35	Added	15:5 VA.R. 579	10/28/98
4 VAC 20-260-30	Amended	15:3 VA.R. 320	10/1/98
4 VAC 20-260-40	Amended	15:3 VA.R. 320	10/1/98
4 VAC 20-560-40	Amended	15:7 VA.R. 978	12/1/98
4 VAC 20-560-50	Amended	15:7 VA.R. 979	12/1/98
4 VAC 20-620-30	Amended	15:9 VA.R. 1157	1/1/99
4 VAC 20-620-40	Amended	15:5 VA.R. 580	10/28/98
4 VAC 20-620-40	Amended	15:9 VA.R. 1157	1/1/99
4 VAC 20-620-42 emer	Added	15:5 VA.R. 718	10/30/98-11/17/98
4 VAC 20-720-40	Amended	15:3 VA.R. 321	10/1/98
4 VAC 20-720-50	Amended	15:3 VA.R. 321	10/1/98
4 VAC 20-720-60	Amended	15:3 VA.R. 321	10/1/98
4 VAC 20-720-70	Amended	15:3 VA.R. 322	10/1/98
4 VAC 20-720-70	Amended	15:7 VA.R. 979	12/1/98
4 VAC 20-720-80	Amended	15:3 VA.R. 322	10/1/98
4 VAC 20-720-90	Amended	15:3 VA.R. 322	10/1/98
4 VAC 20-720-105	Amended	15:7 VA.R. 979	12/1/98
4 VAC 20-960-45	Amended	15:7 VA.R. 982	1/1/99
4 VAC 25-30 (Forms)	Amended	15:7 VA.R. 1020	--
4 VAC 25-30 (Forms)	Amended	15:10 VA.R. 1351	--
4 VAC 25-35 (Forms)	Amended	15:1 VA.R. 46 (4392)	--
4 VAC 25-40 (Forms)	Amended	15:7 VA.R. 1020	--
4 VAC 25-130-700.5	Amended	15:6 VA.R. 811	1/6/99
4 VAC 25-130-779.22	Repealed	15:6 VA.R. 823	1/6/99
4 VAC 25-130-779.25	Amended	15:6 VA.R. 824	1/6/99
4 VAC 25-130-780.23	Amended	15:6 VA.R. 824	1/6/99
4 VAC 25-130-780.25	Amended	15:6 VA.R. 825	1/6/99

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4 VAC 25-130-780.35	Amended	15:6 VA.R. 826	1/6/99
4 VAC 25-130-783.25	Amended	15:6 VA.R. 827	1/6/99
4 VAC 25-130-784.15	Amended	15:6 VA.R. 827	1/6/99
4 VAC 25-130-784.16	Amended	15:6 VA.R. 828	1/6/99
4 VAC 25-130-784.23	Amended	15:6 VA.R. 830	1/6/99
4 VAC 25-130-800.40	Amended	15:6 VA.R. 830	1/6/99
4 VAC 25-130-816.46	Amended	15:6 VA.R. 832	1/6/99
4 VAC 25-130-816.49	Amended	15:6 VA.R. 834	1/6/99
4 VAC 25-130-816.74	Amended	15:6 VA.R. 836	1/6/99
4 VAC 25-130-816.81	Amended	15:6 VA.R. 837	1/6/99
4 VAC 25-130-816.89	Amended	15:6 VA.R. 837	1/6/99
4 VAC 25-130-816.104	Amended	15:6 VA.R. 838	1/6/99
4 VAC 25-130-816.105	Amended	15:6 VA.R. 838	1/6/99
4 VAC 25-130-817.46	Amended	15:6 VA.R. 838	1/6/99
4 VAC 25-130-817.49	Amended	15:6 VA.R. 840	1/6/99
4 VAC 25-130-817.74	Amended	15:6 VA.R. 842	1/6/99
4 VAC 25-130-817.81	Amended	15:6 VA.R. 843	1/6/99
4 VAC 25-130-817.89	Amended	15:6 VA.R. 844	1/6/99
4 VAC 25-130-840.11	Amended	15:6 VA.R. 844	1/6/99
4 VAC 25-130-843.14	Amended	15:6 VA.R. 845	1/6/99
4 VAC 25-130-845.17	Amended	15:6 VA.R. 846	1/6/99
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4 VAC 25-130-845.19	Amended	15:6 VA.R. 847	1/6/99
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4 VAC 25-150-10	Amended	15:2 VA.R. 135	11/11/98
4 VAC 25-150-50	Amended	15:2 VA.R. 138	11/11/98
4 VAC 25-150-60	Amended	15:2 VA.R. 138	11/11/98
4 VAC 25-150-70	Repealed	15:2 VA.R. 139	11/11/98
4 VAC 25-150-80 through 4 VAC 25-150-130	Amended	15:2 VA.R. 139-143	11/11/98
4 VAC 25-150-90	Erratum	15:6 VA.R. 938	--
4 VAC 25-150-135	Added	15:2 VA.R. 143	11/11/98
4 VAC 25-150-160 through 4 VAC 25-150-360	Amended	15:2 VA.R. 143-156	11/11/98
4 VAC 25-150-380 through 4 VAC 25-150-430	Amended	15:2 VA.R. 156-159	11/11/98
4 VAC 25-150-435	Added	15:2 VA.R. 159	11/11/98
4 VAC 25-150-440 through 4 VAC 25-150-460	Amended	15:2 VA.R. 161-162	11/11/98
4 VAC 25-150-500 through 4 VAC 25-150-530	Amended	15:2 VA.R. 162-163	11/11/98
4 VAC 25-150-500	Erratum	15:6 VA.R. 938	--
4 VAC 25-150-540	Repealed	15:2 VA.R. 165	11/11/98
4 VAC 25-150-560	Amended	15:2 VA.R. 167	11/11/98
4 VAC 25-150-560	Erratum	15:6 VA.R. 938	--
4 VAC 25-150-570	Repealed	15:2 VA.R. 167	11/11/98
4 VAC 25-150-580 through 4 VAC 25-150-610	Amended	15:2 VA.R. 168-169	11/11/98
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4 VAC 25-150-640	Repealed	15:2 VA.R. 171	11/11/98
4 VAC 25-150-650 through 4 VAC 25-150-700	Amended	15:2 VA.R. 171-172	11/11/98
4 VAC 25-150-690	Erratum	15:6 VA.R. 938	--
4 VAC 25-150-710	Repealed	15:2 VA.R. 172	11/11/98
4 VAC 25-150-711	Added	15:2 VA.R. 172	11/11/98
4 VAC 25-150-720 through 4 VAC 25-150-740	Amended	15:2 VA.R. 173	11/11/98
4 VAC 25-150 (Forms)	Erratum	15:6 VA.R. 938	--
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9 VAC 5-20-204	Amended	15:2 VA.R. 174	1/1/99
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9 VAC 20-60-10	Repealed	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-12	Added	15:9 VA.R. 1158	2/17/99

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9 VAC 20-60-14	Added	15:9 VA.R. 1158	2/17/99
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9 VAC 20-60-18	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-60	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-70	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-100	Repealed	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-110	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-120	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-124	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-130	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-140	Repealed	15:9 VA.R. 1159	2/17/99
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9 VAC 20-60-160	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-170	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-180	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-190	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-200	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-210	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-220	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-230	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-240	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-250	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-260	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-261	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-262	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-263	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-264	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-265	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-266	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-268	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-270	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-273	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-279	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-280	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-290	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-300	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-305	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-310	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-315	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-320	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-325	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-330	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-340	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-350	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-360	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-370	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-380	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-390	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-400	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-410	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-420	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-430	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-440	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-450	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-460	Amended	15:9 VA.R. 1158	2/17/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-60-470	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-480	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-490	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-500	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-510	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-520	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-530	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-540	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-550	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-560	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-570	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-580	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-590	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-600	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-610	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-620	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-630	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-640	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-650	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-660	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-670	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-680	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-710	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-720	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-730	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-740	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-750	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-760	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-770	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-780	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-790	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-800	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-810	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-820	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-830	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-840	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-850	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-860	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-870	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-880	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-890	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-930	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-940	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-950	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-970	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-980	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-990	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1000	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1010	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1030	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1040	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1050	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1060	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1080	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1090	Amended	15:9 VA.R. 1158	2/17/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-60-1100	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1110	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1120	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1130	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1140	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1150	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1160	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1170	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1180	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1200	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1250	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1260	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1270	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1280	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1310	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1330	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1340	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1350	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1360	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1370	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1380	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1390	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1400	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1410	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1420	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1430	Amended	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1440	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1450	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1460	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1470	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1480	Repealed	15:9 VA.R. 1159	2/17/99
9 VAC 20-60-1495	Added	15:9 VA.R. 1158	2/17/99
9 VAC 20-60-1505	Added	15:9 VA.R. 1158	2/17/99
9 VAC 25-150-10 et seq.	Repealed	15:9 VA.R. 1159	6/30/99
9 VAC 25-151-10 et seq.	Added	15:9 VA.R. 1160-1224	6/30/99
9 VAC 25-151 (Forms)	Added	15:9 VA.R. 1224	--
9 VAC 25-160-10 et seq.	Repealed	15:9 VA.R. 1224	6/30/99
9 VAC 25-170-10 et seq.	Repealed	15:9 VA.R. 1224	6/30/99
9 VAC 25-180-10	Amended	15:9 VA.R. 1225	6/30/99
9 VAC 25-180-20	Amended	15:9 VA.R. 1227	6/30/99
9 VAC 25-180-30	Amended	15:9 VA.R. 1228	6/30/99
9 VAC 25-180-40	Amended	15:9 VA.R. 1228	6/30/99
9 VAC 25-180-50	Amended	15:9 VA.R. 1228	6/30/99
9 VAC 25-180-60	Amended	15:9 VA.R. 1229	6/30/99
9 VAC 25-180-70	Amended	15:9 VA.R. 1231	6/30/99
9 VAC 25-180 (Forms)	Amended	15:9 VA.R. 1247-1250	--
9 VAC 25-192 (Forms)	Added	15:3 VA.R. 331	--
9 VAC 25-192-40	Amended	15:3 VA.R. 323	12/1/98
9 VAC 25-192-50	Amended	15:3 VA.R. 323	12/1/98
9 VAC 25-192-60	Amended	15:3 VA.R. 323	12/1/98
9 VAC 25-192-70	Amended	15:3 VA.R. 324	12/1/98
9 VAC 25-193-70	Erratum	15:2 VA.R. 241	--
9 VAC 25-430-20	Amended	15:6 VA.R. 849	1/6/99
9 VAC 25-430-30	Amended	15:6 VA.R. 853	1/6/99
9 VAC 25-430-40	Amended	15:6 VA.R. 861	1/6/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-430-60	Amended	15:6 VA.R. 864	1/6/99
9 VAC 25-440-150	Amended	15:6 VA.R. 872	1/6/99
9 VAC 25-440-151	Added	15:6 VA.R. 880	1/6/99
9 VAC 25-610-10	Amended	15:5 VA.R. 581	1/1/99
9 VAC 25-610-30	Repealed	15:5 VA.R. 582	1/1/99
9 VAC 25-610-90	Amended	15:5 VA.R. 582	1/1/99
9 VAC 25-610-110	Amended	15:5 VA.R. 586	1/1/99
9 VAC 25-610-130	Amended	15:5 VA.R. 589	1/1/99
9 VAC 25-610-140	Amended	15:5 VA.R. 590	1/1/99
9 VAC 25-610-160	Amended	15:5 VA.R. 591	1/1/99
9 VAC 25-610-250	Amended	15:5 VA.R. 591	1/1/99
9 VAC 25-610-330	Amended	15:5 VA.R. 592	1/1/99
9 VAC 25-610-400	Added	15:5 VA.R. 592	1/1/99
<b>Title 12. Health</b>			
12 VAC 5-90-10	Amended	15:6 VA.R. 880	1/6/99
12 VAC 5-90-10	Erratum	15:8 VA.R. 1099	--
12 VAC 5-90-40	Amended	15:6 VA.R. 882	1/6/99
12 VAC 5-90-50	Amended	15:6 VA.R. 883	1/6/99
12 VAC 5-90-60	Repealed	15:6 VA.R. 883	1/6/99
12 VAC 5-90-70	Amended	15:6 VA.R. 883	1/6/99
12 VAC 5-90-80	Amended	15:6 VA.R. 883	1/6/99
12 VAC 5-90-90	Amended	15:6 VA.R. 885	1/6/99
12 VAC 5-90-90	Erratum	15:8 VA.R. 1099	--
12 VAC 5-90-100	Amended	15:6 VA.R. 888	1/6/99
12 VAC 5-90-110	Amended	15:6 VA.R. 888	1/6/99
12 VAC 5-90-120	Repealed	15:6 VA.R. 888	1/6/99
12 VAC 5-90-130	Amended	15:6 VA.R. 888	1/6/99
12 VAC 5-90-150	Amended	15:6 VA.R. 888	1/6/99
12 VAC 5-90-160	Amended	15:6 VA.R. 888	1/6/99
12 VAC 5-90-170	Amended	15:6 VA.R. 888	1/6/99
12 VAC 5-90-180	Amended	15:6 VA.R. 889	1/6/99
12 VAC 5-90-190	Repealed	15:6 VA.R. 889	1/6/99
12 VAC 5-90-210	Repealed	15:6 VA.R. 889	1/6/99
12 VAC 5-90-220	Repealed	15:6 VA.R. 889	1/6/99
12 VAC 5-90-230	Added	14:26 VA.R. 4250	10/14/98
12 VAC 5-90-240	Added	14:26 VA.R. 4250	10/14/98
12 VAC 5-90-250	Added	14:26 VA.R. 4251	10/14/98
12 VAC 5-90-260	Added	14:26 VA.R. 4251	10/14/98
12 VAC 5-90-270	Added	14:26 VA.R. 4251	10/14/98
12 VAC 30-20-170	Amended	14:26 VA.R. 4252	1/1/99
12 VAC 30-50-110	Amended	15:5 VA.R. 593	1/1/99
12 VAC 30-50-140	Amended	15:5 VA.R. 593	1/1/99
12 VAC 30-50-140	Amended	15:6 VA.R. 893	1/6/99
12 VAC 30-50-150	Amended	15:6 VA.R. 894	1/6/99
12 VAC 30-50-160	Amended	14:26 VA.R. 4252	1/1/99
12 VAC 30-50-210	Amended	15:5 VA.R. 595	1/1/99
12 VAC 30-50-270 emer	Amended	15:10 VA.R. 1342	1/1/99-12/31/99
12 VAC 30-60-40	Amended	14:26 VA.R. 4254	1/1/99
12 VAC 30-60-40	Amended	15:6 VA.R. 895	1/6/99
12 VAC 30-60-120	Amended	15:6 VA.R. 896	1/6/99
12 VAC 30-60-130 emer	Amended	15:10 VA.R. 1343	1/1/99-12/31/99
12 VAC 30-60-320	Amended	14:26 VA.R. 4257	1/1/99
12 VAC 30-60-340	Amended	14:26 VA.R. 4259	1/1/99
12 VAC 30-80-30	Amended	15:6 VA.R. 900	1/6/99
12 VAC 30-80-30 emer	Amended	15:10 VA.R. 1345	1/1/99-12/31/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-90-264	Amended	14:26 VA.R. 4261	1/1/99
12 VAC 30-90-290	Amended	14:26 VA.R. 4264	1/1/99
12 VAC 30-130-480 emer	Amended	15:10 VA.R. 1346	1/1/99-12/31/99
12 VAC 30-130-490 emer	Amended	15:10 VA.R. 1346	1/1/99-12/31/99
12 VAC 30-130-530 emer	Amended	15:10 VA.R. 1347	1/1/99-12/31/99
12 VAC 30-140-10 through 12 VAC 30-140-50 emer	Added	15:4 VA.R. 478-480	10/23/98-10/22/99
12 VAC 30-150-10 and 12 VAC 30-150-20 emer	Added	15:4 VA.R. 481-483	10/23/98-10/22/99
12 VAC 30-160-00 through 12 VAC 30-160-299 emer	Added	15:4 VA.R. 483-486	10/23/98-10/22/99
12 VAC 30-170-10 and 12 VAC 30-170-20 emer	Added	15:4 VA.R. 487	10/23/98-10/22/99
<b>Title 13. Housing</b>			
13 VAC 5-100-10 emer	Added	15:10 VA.R. 1349	1/6/99-1/5/00
13 VAC 5-100-20 emer	Added	15:10 VA.R. 1350	1/6/99-1/5/00
13 VAC 10-40-230	Amended	15:4 VA.R. 424	10/21/98
<b>Title 14. Insurance</b>			
14 VAC 5-395-10	Amended	14:26 VA.R. 4266	8/20/98
14 VAC 5-395-30	Amended	14:26 VA.R. 4266	8/20/98
14 VAC 5-395-50	Amended	14:26 VA.R. 4267	8/20/98
<b>Title 16. Labor and Employment</b>			
16 VAC 25-50-10	Amended	15:5 VA.R. 600	1/1/99
16 VAC 25-50-15	Added	15:5 VA.R. 603	1/1/99
16 VAC 25-50-20	Amended	15:5 VA.R. 603	1/1/99
16 VAC 25-50-50	Amended	15:5 VA.R. 604	1/1/99
16 VAC 25-50-70	Amended	15:5 VA.R. 605	1/1/99
16 VAC 25-50-80	Amended	15:5 VA.R. 606	1/1/99
16 VAC 25-50-90	Amended	15:5 VA.R. 606	1/1/99
16 VAC 25-50-120	Amended	15:5 VA.R. 606	1/1/99
16 VAC 25-50-150	Amended	15:5 VA.R. 607	1/1/99
16 VAC 25-50-190	Amended	15:5 VA.R. 608	1/1/99
16 VAC 25-50-240	Amended	15:5 VA.R. 608	1/1/99
16 VAC 25-50-250	Amended	15:5 VA.R. 608	1/1/99
16 VAC 25-50-270	Amended	15:5 VA.R. 608	1/1/99
16 VAC 25-50-290	Amended	15:5 VA.R. 608	1/1/99
16 VAC 25-50-350	Amended	15:5 VA.R. 608	1/1/99
16 VAC 25-50-360	Amended	15:5 VA.R. 608	1/1/99
16 VAC 25-50-370	Amended	15:5 VA.R. 612	1/1/99
16 VAC 25-50-380	Amended	15:5 VA.R. 615	1/1/99
16 VAC 25-50-390	Amended	15:5 VA.R. 616	1/1/99
16 VAC 25-50-430	Amended	15:5 VA.R. 616	1/1/99
16 VAC 25-50-440	Amended	15:5 VA.R. 617	1/1/99
16 VAC 25-50-480	Amended	15:5 VA.R. 617	1/1/99
16 VAC 25-90-1910.109	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.110	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.111	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.141	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.142	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.151	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.156	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.183	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.261	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.262	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.265	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.267	Repealed	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.268	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.1017	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.1018	Amended	15:5 VA.R. 631	1/1/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-90-1910.1029	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-90-1910.1052	Amended	15:5 VA.R. 628	1/1/99
16 VAC 25-100-1915.1001	Amended	15:5 VA.R. 633	1/1/99
16 VAC 25-175-1926.31	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-175-1926.50	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-175-1926.152	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-175-1926.906	Amended	15:5 VA.R. 631	1/1/99
16 VAC 25-175-1926.1101	Amended	15:5 VA.R. 633	1/1/99
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 40-20-20	Amended	15:10 VA.R. 1313	3/3/99
18 VAC 40-20-110	Amended	15:10 VA.R. 1313	3/3/99
18 VAC 40-20-120	Amended	15:10 VA.R. 1313	3/3/99
18 VAC 40-20-130	Amended	15:10 VA.R. 1313	3/3/99
18 VAC 40-20-140	Amended	15:10 VA.R. 1313	3/3/99
18 VAC 40-20-150	Amended	15:10 VA.R. 1314	3/3/99
18 VAC 40-20-170	Amended	15:10 VA.R. 1314	3/3/99
18 VAC 45-20-10	Amended	15:9 VA.R. 1251	3/1/99
18 VAC 45-20-20	Amended	15:9 VA.R. 1251	3/1/99
18 VAC 45-20 (Forms)	Added	15:9 VA.R. 1252-1253	--
18 VAC 50-30-10	Amended	15:10 VA.R. 1314	3/3/99
18 VAC 50-30-20	Amended	15:10 VA.R. 1316	3/3/99
18 VAC 50-30-30	Amended	15:10 VA.R. 1316	3/3/99
18 VAC 50-30-40	Amended	15:10 VA.R. 1317	3/3/99
18 VAC 50-30-50	Amended	15:10 VA.R. 1318	3/3/99
18 VAC 50-30-60	Amended	15:10 VA.R. 1318	3/3/99
18 VAC 50-30-70	Amended	15:10 VA.R. 1319	3/3/99
18 VAC 50-30-80	Amended	15:10 VA.R. 1319	3/3/99
18 VAC 50-30-90	Amended	15:10 VA.R. 1319	3/3/99
18 VAC 50-30-100	Amended	15:10 VA.R. 1320	3/3/99
18 VAC 50-30-120	Amended	15:10 VA.R. 1320	3/3/99
18 VAC 50-30-130	Amended	15:10 VA.R. 1320	3/3/99
18 VAC 50-30-140	Amended	15:10 VA.R. 1321	3/3/99
18 VAC 50-30-150	Amended	15:10 VA.R. 1321	3/3/99
18 VAC 50-30-170	Amended	15:10 VA.R. 1321	3/3/99
18 VAC 50-30-190	Amended	15:10 VA.R. 1321	3/3/99
18 VAC 50-30-200	Amended	15:10 VA.R. 1322	3/3/99
18 VAC 50-30 (Forms)	Added	15:10 VA.R. 1322	--
18 VAC 60-20-10	Amended	15:5 VA.R. 636	12/23/98
18 VAC 60-20-15	Added	15:5 VA.R. 637	12/23/98
18 VAC 60-20-16	Added	15:5 VA.R. 637	12/23/98
18 VAC 60-20-20	Amended	15:5 VA.R. 637	12/23/98
18 VAC 60-20-20	Amended	15:5 VA.R. 646	12/23/98
18 VAC 60-20-30	Amended	15:5 VA.R. 638	12/23/98
18 VAC 60-20-30	Amended	15:5 VA.R. 647	12/23/98
18 VAC 60-20-50	Amended	15:5 VA.R. 638	12/23/98
18 VAC 60-20-60	Amended	15:5 VA.R. 639	12/23/98
18 VAC 60-20-70	Amended	15:5 VA.R. 639	12/23/98
18 VAC 60-20-80	Amended	15:5 VA.R. 640	12/23/98
18 VAC 60-20-90	Amended	15:5 VA.R. 640	12/23/98
18 VAC 60-20-110	Amended	15:5 VA.R. 641	12/23/98
18 VAC 60-20-120	Amended	15:5 VA.R. 641	12/23/98
18 VAC 60-20-130	Amended	15:5 VA.R. 641	12/23/98
18 VAC 60-20-140	Amended	15:5 VA.R. 641	12/23/98
18 VAC 60-20-150	Repealed	15:5 VA.R. 642	12/23/98
18 VAC 60-20-160	Repealed	15:5 VA.R. 642	12/23/98

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 60-20-170	Amended	15:5 VA.R. 642	12/23/98
18 VAC 60-20-180	Amended	15:5 VA.R. 642	12/23/98
18 VAC 60-20-190	Amended	15:5 VA.R. 643	12/23/98
18 VAC 60-20-195	Added	15:5 VA.R. 644	12/23/98
18 VAC 60-20-220	Amended	15:5 VA.R. 644	12/23/98
18 VAC 60-20-230	Amended	15:5 VA.R. 644	12/23/98
18 VAC 60-20-240	Amended	15:5 VA.R. 645	12/23/98
18 VAC 65-20-10	Amended	15:7 VA.R. 982	1/20/99
18 VAC 65-20-20	Repealed	15:7 VA.R. 984	1/20/99
18 VAC 65-20-30	Repealed	15:7 VA.R. 984	1/20/99
18 VAC 65-20-40	Repealed	15:7 VA.R. 984	1/20/99
18 VAC 65-20-50	Amended	15:7 VA.R. 984	1/20/99
18 VAC 65-20-60	Amended	15:7 VA.R. 984	1/20/99
18 VAC 65-20-70	Amended	15:4 VA.R. 426	12/9/98
18 VAC 65-20-80	Repealed	15:4 VA.R. 426	12/9/98
18 VAC 65-20-90	Repealed	15:4 VA.R. 427	12/9/98
18 VAC 65-20-100	Repealed	15:4 VA.R. 427	12/9/98
18 VAC 65-20-110	Amended	15:7 VA.R. 984	1/20/99
18 VAC 65-20-120	Amended	15:7 VA.R. 985	1/20/99
18 VAC 65-20-130	Amended	15:7 VA.R. 985	1/20/99
18 VAC 65-20-140	Amended	15:7 VA.R. 985	1/20/99
18 VAC 65-20-150	Amended	15:7 VA.R. 985	1/20/99
18 VAC 65-20-160	Repealed	15:7 VA.R. 985	1/20/99
18 VAC 65-20-170	Amended	15:7 VA.R. 985	1/20/99
18 VAC 65-20-180 through 18 VAC 65-20-230	Repealed	15:7 VA.R. 986	1/20/99
18 VAC 65-20-235	Added	15:7 VA.R. 986	1/20/99
18 VAC 65-20-240	Amended	15:7 VA.R. 986	1/20/99
18 VAC 65-20-250 through 18 VAC 65-20-340	Repealed	15:7 VA.R. 987	1/20/99
18 VAC 65-20-350	Amended	15:7 VA.R. 987	1/20/99
18 VAC 65-20-360 through 18 VAC 65-20-390	Repealed	15:7 VA.R. 988	1/20/99
18 VAC 65-20-400	Amended	15:7 VA.R. 988	1/20/99
18 VAC 65-20-410	Repealed	15:7 VA.R. 988	1/20/99
18 VAC 65-20-430	Repealed	15:7 VA.R. 988	1/20/99
18 VAC 65-20-440	Amended	15:7 VA.R. 988	1/20/99
18 VAC 65-20-450 through 18 VAC 65-20-490	Repealed	15:7 VA.R. 988-989	1/20/99
18 VAC 65-20-500	Amended	15:7 VA.R. 989	1/20/99
18 VAC 65-20-510	Amended	15:7 VA.R. 990	1/20/99
18 VAC 65-20-520	Repealed	15:7 VA.R. 990	1/20/99
18 VAC 65-20-530	Amended	15:7 VA.R. 990	1/20/99
18 VAC 65-20-540	Amended	15:7 VA.R. 990	1/20/99
18 VAC 65-20-550	Amended	15:7 VA.R. 990	1/20/99
18 VAC 65-20-560	Amended	15:7 VA.R. 990	1/20/99
18 VAC 65-20-580	Amended	15:7 VA.R. 990	1/20/99
18 VAC 65-20-590	Amended	15:7 VA.R. 991	1/20/99
18 VAC 65-20-600	Repealed	15:7 VA.R. 991	1/20/99
18 VAC 65-20-610	Repealed	15:7 VA.R. 991	1/20/99
18 VAC 65-20-620	Repealed	15:7 VA.R. 991	1/20/99
18 VAC 65-20-630	Amended	15:7 VA.R. 991	1/20/99
18 VAC 65-20-640 through 18 VAC 65-20-690	Repealed	15:7 VA.R. 992-994	1/20/99
18 VAC 65-20-700	Amended	15:7 VA.R. 994	1/20/99
18 VAC 65-30-10	Amended	15:7 VA.R. 995	1/20/99
18 VAC 65-30-20	Repealed	15:7 VA.R. 997	1/20/99
18 VAC 65-30-30	Repealed	15:7 VA.R. 997	1/20/99
18 VAC 65-30-40	Repealed	15:7 VA.R. 997	1/20/99
18 VAC 65-30-50	Amended	15:7 VA.R. 997	1/20/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 65-30-60	Amended	15:7 VA.R. 997	1/20/99
18 VAC 65-30-70	Amended	15:7 VA.R. 997	1/20/99
18 VAC 65-30-80	Amended	15:7 VA.R. 997	1/20/99
18 VAC 65-30-90	Amended	15:7 VA.R. 998	1/20/99
18 VAC 65-30-110	Amended	15:7 VA.R. 998	1/20/99
18 VAC 65-30-120	Amended	15:7 VA.R. 999	1/20/99
18 VAC 65-30-140	Amended	15:7 VA.R. 999	1/20/99
18 VAC 65-30-150	Repealed	15:7 VA.R. 999	1/20/99
18 VAC 65-30-160	Repealed	15:7 VA.R. 999	1/20/99
18 VAC 65-30-170	Amended	15:7 VA.R. 999	1/20/99
18 VAC 65-30-180	Amended	15:7 VA.R. 999	1/20/99
18 VAC 65-30-190	Repealed	15:7 VA.R. 1000	1/20/99
18 VAC 65-30-200	Amended	15:7 VA.R. 1000	1/20/99
18 VAC 65-30-210	Repealed	15:7 VA.R. 1001	1/20/99
18 VAC 65-30-220	Added	15:7 VA.R. 1001	1/20/99
18 VAC 65-30-230	Added	15:7 VA.R. 1003	1/20/99
18 VAC 65-40-10	Amended	15:7 VA.R. 1008	1/20/99
18 VAC 65-40-20	Repealed	15:7 VA.R. 1008	1/20/99
18 VAC 65-40-30	Repealed	15:7 VA.R. 1008	1/20/99
18 VAC 65-40-40	Amended	15:4 VA.R. 433	12/9/98
18 VAC 65-40-50	Repealed	15:4 VA.R. 433	12/9/98
18 VAC 65-40-60	Repealed	15:4 VA.R. 433	12/9/98
18 VAC 65-40-70	Repealed	15:4 VA.R. 433	12/9/98
18 VAC 65-40-80	Repealed	15:4 VA.R. 433	12/9/98
18 VAC 65-40-90	Amended	15:7 VA.R. 1008	1/20/99
18 VAC 65-40-100	Repealed	15:7 VA.R. 1008	1/20/99
18 VAC 65-40-110	Amended	15:7 VA.R. 1008	1/20/99
18 VAC 65-40-120	Repealed	15:7 VA.R. 1008	1/20/99
18 VAC 65-40-130	Amended	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-140	Repealed	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-150	Repealed	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-160	Amended	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-170	Repealed	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-180	Amended	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-190	Repealed	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-200	Repealed	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-201	Added	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-210	Amended	15:7 VA.R. 1009	1/20/99
18 VAC 65-40-220	Amended	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-230	Repealed	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-240	Repealed	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-250	Amended	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-260	Repealed	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-270	Repealed	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-280	Amended	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-290	Repealed	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-300	Amended	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-310	Repealed	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-320	Amended	15:7 VA.R. 1010	1/20/99
18 VAC 65-40-330	Amended	15:7 VA.R. 1011	1/20/99
18 VAC 65-40-340	Amended	15:7 VA.R. 1011	1/20/99
18 VAC 65-40-350 through 18 VAC 65-40-630	Repealed	15:7 VA.R. 1011-1014	1/20/99
18 VAC 65-40-640	Amended	15:7 VA.R. 1014	1/20/99
18 VAC 85-110-10	Amended	15:4 VA.R. 436	12/9/98
18 VAC 85-110-20	Amended	15:4 VA.R. 437	12/9/98

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-110-30	Amended	15:4 VA.R. 437	12/9/98
18 VAC 85-110-35	Added	15:4 VA.R. 437	12/9/98
18 VAC 85-110-40	Repealed	15:4 VA.R. 438	12/9/98
18 VAC 85-110-50	Amended	15:4 VA.R. 438	12/9/98
18 VAC 85-110-60	Amended	15:4 VA.R. 438	12/9/98
18 VAC 85-110-70	Amended	15:4 VA.R. 439	12/9/98
18 VAC 85-110-80	Amended	15:4 VA.R. 439	12/9/98
18 VAC 85-110-90	Amended	15:4 VA.R. 439	12/9/98
18 VAC 85-110-100	Amended	15:4 VA.R. 439	12/9/98
18 VAC 85-110-120	Repealed	15:4 VA.R. 439	12/9/98
18 VAC 85-110-150	Amended	15:4 VA.R. 439	12/9/98
18 VAC 85-110-160	Amended	15:4 VA.R. 439	12/9/98
18 VAC 85-110-170	Repealed	15:4 VA.R. 440	12/9/98
18 VAC 90-20-10	Amended	15:3 VA.R. 333	12/3/98
18 VAC 90-20-20	Amended	15:3 VA.R. 334	12/3/98
18 VAC 90-20-35	Added	15:3 VA.R. 334	12/3/98
18 VAC 90-20-40	Amended	15:3 VA.R. 334	12/3/98
18 VAC 90-20-50	Amended	15:3 VA.R. 335	12/3/98
18 VAC 90-20-60	Amended	15:3 VA.R. 335	12/3/98
18 VAC 90-20-70	Amended	15:3 VA.R. 335	12/3/98
18 VAC 90-20-80	Amended	15:3 VA.R. 335	12/3/98
18 VAC 90-20-90	Amended	15:3 VA.R. 336	12/3/98
18 VAC 90-20-95	Added	15:3 VA.R. 337	12/3/98
18 VAC 90-20-100	Amended	15:3 VA.R. 337	12/3/98
18 VAC 90-20-110	Amended	15:3 VA.R. 337	12/3/98
18 VAC 90-20-120	Amended	15:3 VA.R. 338	12/3/98
18 VAC 90-20-130	Amended	15:3 VA.R. 338	12/3/98
18 VAC 90-20-140	Amended	15:3 VA.R. 339	12/3/98
18 VAC 90-20-150	Repealed	15:3 VA.R. 339	12/3/98
18 VAC 90-20-160	Amended	15:3 VA.R. 339	12/3/98
18 VAC 90-20-170	Amended	15:3 VA.R. 339	12/3/98
18 VAC 90-20-180	Repealed	15:3 VA.R. 340	12/3/98
18 VAC 90-20-190	Amended	15:3 VA.R. 340	12/3/98
18 VAC 90-20-210	Amended	15:3 VA.R. 341	12/3/98
18 VAC 90-20-250	Repealed	15:3 VA.R. 341	12/3/98
18 VAC 90-20-260	Repealed	15:3 VA.R. 341	12/3/98
18 VAC 90-20-275	Added	15:3 VA.R. 341	12/3/98
18 VAC 90-20-280	Amended	15:3 VA.R. 341	12/3/98
18 VAC 90-20-290	Amended	15:3 VA.R. 342	12/3/98
18 VAC 90-20-300	Amended	15:3 VA.R. 342	12/3/98
18 VAC 90-20-310	Amended	15:3 VA.R. 342	12/3/98
18 VAC 90-20-330	Amended	15:3 VA.R. 342	12/3/98
18 VAC 90-20-340	Amended	15:3 VA.R. 346	12/3/98
18 VAC 90-20-350	Amended	15:3 VA.R. 346	12/3/98
18 VAC 90-20-400	Added	15:3 VA.R. 347	12/3/98
18 VAC 90-20-410	Added	15:3 VA.R. 347	12/3/98
18 VAC 90-30-10	Amended	15:7 VA.R. 1015	1/20/99
18 VAC 90-30-30	Amended	15:7 VA.R. 1015	1/20/99
18 VAC 90-30-40	Repealed	15:7 VA.R. 1015	1/20/99
18 VAC 90-30-70	Amended	15:7 VA.R. 1016	1/20/99
18 VAC 90-30-80	Amended	15:7 VA.R. 1016	1/20/99
18 VAC 90-30-90	Amended	15:7 VA.R. 1016	1/20/99
18 VAC 90-30-120	Amended	15:7 VA.R. 1016	1/20/99
18 VAC 90-30-140	Repealed	15:7 VA.R. 1016	1/20/99
18 VAC 90-30-150	Repealed	15:7 VA.R. 1016	1/20/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-30-160	Amended	15:7 VA.R. 1016	1/20/99
18 VAC 90-30-170 through 18 VAC 90-30-210	Repealed	15:7 VA.R. 1017	1/20/99
18 VAC 95-20-10	Amended	15:4 VA.R. 452	12/9/98
18 VAC 95-20-20	Repealed	15:4 VA.R. 453	12/9/98
18 VAC 95-20-30	Repealed	15:4 VA.R. 453	12/9/98
18 VAC 95-20-40	Repealed	15:4 VA.R. 453	12/9/98
18 VAC 95-20-50	Repealed	15:4 VA.R. 453	12/9/98
18 VAC 95-20-70	Amended	15:4 VA.R. 454	12/9/98
18 VAC 95-20-80	Amended	15:4 VA.R. 454	12/9/98
18 VAC 95-20-90	Repealed	15:4 VA.R. 454	12/9/98
18 VAC 95-20-100	Repealed	15:4 VA.R. 454	12/9/98
18 VAC 95-20-110	Repealed	15:4 VA.R. 454	12/9/98
18 VAC 95-20-120	Repealed	15:4 VA.R. 454	12/9/98
18 VAC 95-20-130	Amended	15:4 VA.R. 454	12/9/98
18 VAC 95-20-140	Repealed	15:4 VA.R. 455	12/9/98
18 VAC 95-20-150	Repealed	15:4 VA.R. 455	12/9/98
18 VAC 95-20-160	Repealed	15:4 VA.R. 455	12/9/98
18 VAC 95-20-170	Amended	15:4 VA.R. 455	12/9/98
18 VAC 95-20-175	Added	15:4 VA.R. 455	12/9/98
18 VAC 95-20-180	Amended	15:4 VA.R. 455	12/9/98
18 VAC 95-20-190	Repealed	15:4 VA.R. 456	12/9/98
18 VAC 95-20-200	Amended	15:4 VA.R. 456	12/9/98
18 VAC 95-20-210	Repealed	15:4 VA.R. 456	12/9/98
18 VAC 95-20-220	Amended	15:4 VA.R. 456	12/9/98
18 VAC 95-20-225	Added	15:4 VA.R. 457	12/9/98
18 VAC 95-20-230	Amended	15:4 VA.R. 457	12/9/98
18 VAC 95-20-240	Repealed	15:4 VA.R. 457	12/9/98
18 VAC 95-20-250	Repealed	15:4 VA.R. 457	12/9/98
18 VAC 95-20-260	Repealed	15:4 VA.R. 457	12/9/98
18 VAC 95-20-270	Repealed	15:4 VA.R. 458	12/9/98
18 VAC 95-20-280	Repealed	15:4 VA.R. 458	12/9/98
18 VAC 95-20-290	Amended	15:4 VA.R. 458	12/9/98
18 VAC 95-20-300	Amended	15:4 VA.R. 458	12/9/98
18 VAC 95-20-310	Amended	15:4 VA.R. 458	12/9/98
18 VAC 95-20-320	Repealed	15:4 VA.R. 458	12/9/98
18 VAC 95-20-330	Amended	15:4 VA.R. 459	12/9/98
18 VAC 95-20-340	Amended	15:4 VA.R. 459	12/9/98
18 VAC 95-20-350	Repealed	15:4 VA.R. 459	12/9/98
18 VAC 95-20-360	Repealed	15:4 VA.R. 459	12/9/98
18 VAC 95-20-370	Repealed	15:4 VA.R. 459	12/9/98
18 VAC 95-20-380	Amended	15:4 VA.R. 459	12/9/98
18 VAC 95-20-390	Amended	15:4 VA.R. 459	12/9/98
18 VAC 95-20-400	Amended	15:4 VA.R. 459	12/9/98
18 VAC 95-20-410	Repealed	15:4 VA.R. 460	12/9/98
18 VAC 95-20-420	Repealed	15:4 VA.R. 460	12/9/98
18 VAC 95-20-430	Amended	15:4 VA.R. 460	12/9/98
18 VAC 95-20-440	Amended	15:4 VA.R. 460	12/9/98
18 VAC 95-20-450	Repealed	15:4 VA.R. 460	12/9/98
18 VAC 95-20-460	Repealed	15:4 VA.R. 460	12/9/98
18 VAC 95-20-470	Amended	15:4 VA.R. 460	12/9/98
18 VAC 95-20-480 through 18 VAC 95-20-740	Repealed	15:4 VA.R. 460-463	12/9/98
Appendices I, II and III of 18 VAC 95-20	Repealed	15:4 VA.R. 463-464	12/9/98
18 VAC 105-20-10	Amended	15:6 VA.R. 902	1/6/99
18 VAC 105-20-15	Added	15:6 VA.R. 902	1/6/99
18 VAC 105-20-20	Amended	15:6 VA.R. 903	1/6/99

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 105-20-30	Repealed	15:6 VA.R. 903	1/6/99
18 VAC 105-20-40	Amended	15:6 VA.R. 903	1/6/99
18 VAC 105-20-45	Added	15:6 VA.R. 904	1/6/99
18 VAC 105-20-50	Amended	15:6 VA.R. 905	1/6/99
18 VAC 105-20-60	Amended	15:6 VA.R. 906	1/6/99
18 VAC 105-20-70	Amended	15:6 VA.R. 906	1/6/99
18 VAC 110-20-10 emer	Amended	15:6 VA.R. 926	11/5/98-11/4/99
18 VAC 110-20-10	Amended	15:8 VA.R. 1070	2/3/99
18 VAC 110-20-20	Amended	15:8 VA.R. 1073	2/3/99
18 VAC 110-20-30	Amended	15:8 VA.R. 1074	2/3/99
18 VAC 110-20-40	Amended	15:8 VA.R. 1074	2/3/99
18 VAC 110-20-50	Amended	15:8 VA.R. 1074	2/3/99
18 VAC 110-20-60	Amended	15:8 VA.R. 1075	2/3/99
18 VAC 110-20-70	Amended	15:8 VA.R. 1075	2/3/99
18 VAC 110-20-90	Amended	15:8 VA.R. 1075	2/3/99
18 VAC 110-20-100	Amended	15:8 VA.R. 1076	2/3/99
18 VAC 110-20-110	Amended	15:8 VA.R. 1077	2/3/99
18 VAC 110-20-130 emer	Amended	15:6 VA.R. 928	11/5/98-11/4/99
18 VAC 110-20-130	Amended	15:8 VA.R. 1077	2/3/99
18 VAC 110-20-135 emer	Added	15:6 VA.R. 928	11/5/98-11/4/99
18 VAC 110-20-140 emer	Amended	15:6 VA.R. 929	11/5/98-11/4/99
18 VAC 110-20-170	Amended	15:8 VA.R. 1077	2/3/99
18 VAC 110-20-190	Amended	15:8 VA.R. 1077	2/3/99
18 VAC 110-20-200	Amended	15:8 VA.R. 1078	2/3/99
18 VAC 110-20-210	Amended	15:8 VA.R. 1078	2/3/99
18 VAC 110-20-220	Amended	15:8 VA.R. 1079	2/3/99
18 VAC 110-20-230	Amended	15:8 VA.R. 1079	2/3/99
18 VAC 110-20-240	Amended	15:8 VA.R. 1079	2/3/99
18 VAC 110-20-260	Repealed	15:8 VA.R. 1080	2/3/99
18 VAC 110-20-270	Amended	15:8 VA.R. 1080	2/3/99
18 VAC 110-20-280	Amended	15:8 VA.R. 1081	2/3/99
18 VAC 110-20-290	Amended	15:8 VA.R. 1081	2/3/99
18 VAC 110-20-330	Amended	15:8 VA.R. 1082	2/3/99
18 VAC 110-20-350	Amended	15:8 VA.R. 1082	2/3/99
18 VAC 110-20-355	Added	15:8 VA.R. 1082	2/3/99
18 VAC 110-20-360	Amended	15:8 VA.R. 1082	2/3/99
18 VAC 110-20-395	Added	15:8 VA.R. 1083	2/3/99
18 VAC 110-20-400	Amended	15:8 VA.R. 1083	2/3/99
18 VAC 110-20-420	Amended	15:8 VA.R. 1083	2/3/99
18 VAC 110-20-470	Amended	15:8 VA.R. 1084	2/3/99
18 VAC 110-20-500	Amended	15:8 VA.R. 1084	2/3/99
18 VAC 110-20-540	Amended	15:8 VA.R. 1085	2/3/99
18 VAC 110-20-550	Amended	15:8 VA.R. 1085	2/3/99
18 VAC 110-20-555	Added	15:8 VA.R. 1085	2/3/99
18 VAC 110-20-570	Amended	15:8 VA.R. 1086	2/3/99
18 VAC 110-20-580	Amended	15:8 VA.R. 1087	2/3/99
18 VAC 110-20-590	Amended	15:8 VA.R. 1087	2/3/99
18 VAC 110-20-620	Amended	15:8 VA.R. 1087	2/3/99
18 VAC 110-20-621	Added	15:8 VA.R. 1087	2/3/99
18 VAC 110-20-622	Added	15:8 VA.R. 1087	2/3/99
18 VAC 110-20-640	Amended	15:8 VA.R. 1088	2/3/99
18 VAC 110-20-650	Repealed	15:8 VA.R. 1088	2/3/99
18 VAC 110-20-680	Amended	15:8 VA.R. 1088	2/3/99
18 VAC 110-20-690 emer	Added	15:6 VA.R. 929	11/5/98-11/4/99
18 VAC 110-20-700 emer	Added	15:6 VA.R. 929	11/5/98-11/4/99

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 110-20-710 emer	Added	15:6 VA.R. 930	11/5/98-11/4/99
18 VAC 110-20-720 emer	Added	15:6 VA.R. 930	11/5/98-11/4/99
18 VAC 135-20-10	Amended	15:5 VA.R. 648	1/1/99
18 VAC 135-20-20	Amended	15:5 VA.R. 649	1/1/99
18 VAC 135-20-30	Amended	15:5 VA.R. 650	1/1/99
18 VAC 135-20-40	Amended	15:5 VA.R. 650	1/1/99
18 VAC 135-20-45	Added	15:5 VA.R. 650	1/1/99
18 VAC 135-20-50	Amended	15:5 VA.R. 651	1/1/99
18 VAC 135-20-60	Amended	15:5 VA.R. 651	1/1/99
18 VAC 135-20-80	Amended	15:5 VA.R. 652	1/1/99
18 VAC 135-20-90	Amended	15:5 VA.R. 652	1/1/99
18 VAC 135-20-100	Amended	15:5 VA.R. 652	1/1/99
18 VAC 135-20-110	Amended	15:5 VA.R. 653	1/1/99
18 VAC 135-20-120	Amended	15:5 VA.R. 654	1/1/99
18 VAC 135-20-150	Amended	15:5 VA.R. 654	1/1/99
18 VAC 135-20-160	Amended	15:5 VA.R. 654	1/1/99
18 VAC 135-20-170	Amended	15:5 VA.R. 654	1/1/99
18 VAC 135-20-180	Amended	15:5 VA.R. 655	1/1/99
18 VAC 135-20-190	Amended	15:5 VA.R. 656	1/1/99
18 VAC 135-20-200	Amended	15:5 VA.R. 657	1/1/99
18 VAC 135-20-210	Amended	15:5 VA.R. 657	1/1/99
18 VAC 135-20-220	Amended	15:5 VA.R. 657	1/1/99
18 VAC 135-20-240	Amended	15:5 VA.R. 658	1/1/99
18 VAC 135-20-250	Amended	15:5 VA.R. 658	1/1/99
18 VAC 135-20-260	Amended	15:5 VA.R. 658	1/1/99
18 VAC 135-20-270	Amended	15:5 VA.R. 658	1/1/99
18 VAC 135-20-280	Amended	15:5 VA.R. 658	1/1/99
18 VAC 135-20-290	Amended	15:5 VA.R. 659	1/1/99
18 VAC 135-20-300	Amended	15:5 VA.R. 659	1/1/99
18 VAC 135-20-310	Amended	15:5 VA.R. 660	1/1/99
18 VAC 135-20-320	Amended	15:5 VA.R. 660	1/1/99
18 VAC 135-20-350	Amended	15:5 VA.R. 660	1/1/99
18 VAC 135-20-360	Amended	15:5 VA.R. 661	1/1/99
18 VAC 135-20-370	Amended	15:5 VA.R. 662	1/1/99
18 VAC 135-20-380	Amended	15:5 VA.R. 662	1/1/99
18 VAC 135-20-390	Amended	15:5 VA.R. 662	1/1/99
18 VAC 135-20-400	Amended	15:5 VA.R. 662	1/1/99
18 VAC 135-20-410	Amended	15:5 VA.R. 662	1/1/99
18 VAC 135-20-420	Repealed	15:5 VA.R. 663	1/1/99
18 VAC 135-20-430	Repealed	15:5 VA.R. 663	1/1/99
18 VAC 135-20-440	Repealed	15:5 VA.R. 663	1/1/99
18 VAC 140-20-10	Amended	15:5 VA.R. 663	12/23/98
18 VAC 140-20-30	Amended	15:5 VA.R. 664	12/23/98
18 VAC 140-20-35	Added	15:5 VA.R. 664	12/23/98
18 VAC 140-20-37	Added	15:5 VA.R. 664	12/23/98
18 VAC 140-20-40	Amended	15:5 VA.R. 664	12/23/98
18 VAC 140-20-45	Added	15:5 VA.R. 665	12/23/98
18 VAC 140-20-50	Amended	15:5 VA.R. 665	12/23/98
18 VAC 140-20-60	Amended	15:5 VA.R. 667	12/23/98
18 VAC 140-20-70	Amended	15:5 VA.R. 668	12/23/98
18 VAC 140-20-80	Repealed	15:5 VA.R. 668	12/23/98
18 VAC 140-20-90	Repealed	15:5 VA.R. 668	12/23/98
18 VAC 140-20-110	Amended	15:5 VA.R. 668	12/23/98
18 VAC 140-20-150	Amended	15:5 VA.R. 669	12/23/98
18 VAC 150-20-10	Amended	15:5 VA.R. 687	12/23/98

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 150-20-30	Amended	15:5 VA.R. 688	12/23/98
18 VAC 150-20-40	Repealed	15:5 VA.R. 688	12/23/98
18 VAC 150-20-50	Repealed	15:5 VA.R. 688	12/23/98
18 VAC 150-20-60	Repealed	15:5 VA.R. 688	12/23/98
18 VAC 150-20-70	Amended	15:5 VA.R. 688	12/23/98
18 VAC 150-20-75	Added	15:5 VA.R. 690	12/23/98
18 VAC 150-20-80	Repealed	15:5 VA.R. 690	12/23/98
18 VAC 150-20-90	Repealed	15:5 VA.R. 690	12/23/98
18 VAC 150-20-100	Amended	15:5 VA.R. 690	12/23/98
18 VAC 150-20-110	Amended	15:5 VA.R. 691	12/23/98
18 VAC 150-20-115	Added	15:5 VA.R. 691	12/23/98
18 VAC 150-20-120	Amended	15:5 VA.R. 692	12/23/98
18 VAC 150-20-130	Amended	15:5 VA.R. 692	12/23/98
18 VAC 150-20-140	Amended	15:5 VA.R. 692	12/23/98
18 VAC 150-20-150	Repealed	15:5 VA.R. 693	12/23/98
18 VAC 150-20-160	Repealed	15:5 VA.R. 693	12/23/98
18 VAC 150-20-170	Repealed	15:5 VA.R. 693	12/23/98
18 VAC 150-20-180	Amended	15:5 VA.R. 694	12/23/98
18 VAC 150-20-185	Added	15:5 VA.R. 694	12/23/98
18 VAC 150-20-190	Amended	15:5 VA.R. 694	12/23/98
18 VAC 150-20-190	Erratum	15:9 VA.R. 1276	--
18 VAC 150-20-195	Added	15:5 VA.R. 696	12/23/98
18 VAC 150-20-200	Amended	15:5 VA.R. 696	12/23/98
18 VAC 150-20-200	Erratum	15:9 VA.R. 1276	--
18 VAC 150-20-205	Added	15:5 VA.R. 701	12/23/98
18 VAC 150-20-210	Amended	15:5 VA.R. 701	12/23/98
<b>Title 19. Public Safety</b>			
19 VAC 30-20-80	Amended	15:9 VA.R. 1254	3/17/99
19 VAC 30-20-220	Amended	15:9 VA.R. 1254	3/17/99
19 VAC 30-20-250	Amended	15:9 VA.R. 1254	3/17/99
19 VAC 30-70-5	Amended	15:2 VA.R. 177	11/11/98
19 VAC 30-70-7	Amended	15:2 VA.R. 178	11/11/98
19 VAC 30-70-10	Amended	15:2 VA.R. 178	11/11/98
19 VAC 30-70-50	Amended	15:2 VA.R. 180	11/11/98
19 VAC 30-70-70 through 19 VAC 30-70-100	Amended	15:2 VA.R. 181-184	11/11/98
19 VAC 30-70-140	Amended	15:2 VA.R. 185	11/11/98
19 VAC 30-70-160	Amended	15:2 VA.R. 187	11/11/98
19 VAC 30-70-180	Amended	15:2 VA.R. 190	11/11/98
19 VAC 30-70-180	Erratum	15:8 VA.R. 1099	--
19 VAC 30-70-200	Amended	15:2 VA.R. 192	11/11/98
19 VAC 30-70-440 through 19 VAC 30-70-500	Amended	15:2 VA.R. 192-203	11/11/98
19 VAC 30-70-550	Amended	15:2 VA.R. 207	11/11/98
19 VAC 30-70-570	Amended	15:2 VA.R. 208	11/11/98
19 VAC 30-70-580	Amended	15:2 VA.R. 209	11/11/98
19 VAC 30-70-680	Amended	15:2 VA.R. 211	11/11/98
<b>Title 22. Social Services</b>			
22 VAC 40-35-10	Amended	15:6 VA.R. 922	1/6/99
22 VAC 40-35-125	Added	15:6 VA.R. 924	1/6/99
22 VAC 40-40-10 et seq.	Repealed	15:9 VA.R. 1256	2/17/99
22 VAC 40-41-10 et seq.	Added	15:9 VA.R. 1256-1258	2/17/99
22 VAC 40-41 (Forms)	Added	15:9 VA.R. 1258	--
22 VAC 40-71-10	Amended	15:9 VA.R. 1259	2/18/99
22 VAC 40-71-490	Amended	15:9 VA.R. 1262	2/18/99
22 VAC 40-140-10 et seq.	Repealed	15:10 VA.R. 1323	3/3/99
22 VAC 40-141-10 through 22 VAC 40-141-210	Added	15:10 VA.R. 1323-1331	3/3/99

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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-141 (Forms)	Added	15:10 VA.R. 1331-1338	--
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 30-200-10	Amended	14:26 VA.R. 4267	10/14/98
24 VAC 30-200-10	Erratum	15:1 VA.R. 50 (4396)	--
24 VAC 30-200-20	Amended	14:26 VA.R. 4268	10/14/98
24 VAC 30-200-30	Amended	14:26 VA.R. 4269	10/14/98
24 VAC 30-200-40	Added	14:26 VA.R. 4270	10/14/98
24 VAC 30-200-40	Erratum	15:1 VA.R. 50	--
24 VAC 30-470-10	Amended	15:10 VA.R. 1339	1/11/99

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### † Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Department of Medical Assistance Services has **WITHDRAWN** the Notice of Intended Regulatory Action for **12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates-Inpatient Hospital Care; 12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services; and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality of Care**, which was published in 15:1 VA.R. 4372 September 28, 1998.

VA.R. Doc. No. R99-2; Filed January 19, 1999, 1:43 p.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services; 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care; 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates-Other Types of Care; 12 VAC 30-130-10 et seq. Amount, Duration and Scope of Selected Services.** The recommended changes will conform Medicaid's hospice services to the Medicare hospice service changes made recently in the federal Balanced Budget Act of 1997. In addition, DMAS intends to repeal its hospice state-only regulations ( Part VII: 12 VAC 30-130-470 through 12 VAC 30-130-530) because all of the provisions are covered in other regulations. The agency does not intend to hold a public hearing on the proposed regulations after publication.

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

Public comments may be submitted until March 17, 1999, to Tamara Whitlock, Manager, Division of Program 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) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R99-89; Filed January 26, 1999, 2:02 p.m.



## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

#### † Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects has **WITHDRAWN** the Notice of Intended Regulatory Action for promulgating **Continuing Education Requirements for Land Surveyors**, which was published in 10:3 VA.R. 441 November 1, 1993. The board no longer sees a need to consider implementing a mandatory continuing education program.

VA.R. Doc. No. R94-90; Filed January 26, 1999, 10:09 a.m.

## BOARD OF DENTISTRY

#### † 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 Dentistry intends to consider amending regulations entitled: **18 VAC 60-20-10 et seq. Virginia Board of Dentistry Regulations.** The purpose of the proposed action is to replace emergency regulations establishing application and renewal fees for volunteer licensure as a dentist or a dental hygienist. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 17, 1999.

**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.

VA.R. Doc. No. R99-80; Filed January 21, 1999, 9:40 a.m.

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# Notices of Intended Regulatory Action

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## BOARD OF MEDICINE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-40-10 et seq. Regulations Governing the Practice of Respiratory Care Practitioners.** The purpose of the proposed action is to replace emergency regulations establishing requirements for licensure of respiratory care practitioners pursuant to § 54.1-2900 et seq. of the Code of Virginia. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until March 17, 1999.

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

VA.R. Doc. No. R99-81; Filed January 21, 1999, 9:39 a.m.

## BOARD OF NURSING

### † 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 Nursing intends to consider amending regulations entitled: **18 VAC 90-20-10 et seq. Regulations of the Board of Nursing.** The purpose of the proposed action is to consider amendments for the replacement of emergency regulations on the delegation of nursing tasks and procedures to unlicensed persons. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until March 17, 1999.

**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.

VA.R. Doc. No. R99-92; Filed January 27, 1999, 11:23 a.m.

## BOARD OF NURSING HOME ADMINISTRATORS

### † 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 Nursing Home Administrators intends to consider amending regulations entitled: **18 VAC 95-20-10 et seq. Regulations of the**

**Board of Nursing Home Administrators.** The purpose of the proposed action is to establish an inactive license for nursing home administrators who are not practicing in Virginia and who want to meet requirements for continuing education. The board will also establish a renewal fee and the conditions by which a practitioner could return to active practice. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until March 17, 1999.

**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.

VA.R. Doc. No. R99-91; Filed January 27, 1999, 11:23 a.m.

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## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **22 VAC 40-30-10 et seq. Food Stamp Program--Resource Exclusion.** The purpose of the proposed action is to repeal the regulation that allows an exclusion of a special savings account from the resource evaluation for the Food Stamp Program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 17, 1999.

**Contact:** Patricia Duva, Food Stamp Program Manager, Department of Social Services, Division of Temporary Assistance Programs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1712 or FAX (804) 692-1704.

VA.R. Doc. No. R99-86; Filed January 25, 1999, 10:18 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 Board of Social Services intends to consider promulgating regulations entitled: **22 VAC 40-295-10 et seq. Temporary Assistance for Needy Families (TANF).** The purpose of the proposed action is to promulgate a regulation that will implement the recommendations of the TANF Advisory Committee and will serve as a comprehensive TANF regulation. On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was enacted,

introducing welfare reform at the federal level. In Title I of the Act, Congress replaced the Aid to Families with Dependent Child (AFDC) Program with the Temporary Assistance for Needy Families (TANF) block grant. This block grant considerably reduced federal regulation of cash assistance and employment services programs, allowing states to design their programs within limited parameters.

Because the framework of the AFDC programs was repealed by Congress, Virginia adopted pre-TANF federal definitions of eligibility criteria in order to maintain the program as it currently operated in Virginia. To that end, the 1997 Virginia General Assembly adopted legislation that codified the old rules, and an advisory committee comprised of legislators, social services directors and workers, local government officials, and citizens was formed to consider new TANF options. The committee made recommendations to simplify and streamline the TANF and VIEW programs. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 17, 1999.

**Contact:** Mark L. Golden, Human Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1730 or FAX (804) 692-1704.

VA.R. Doc. No. R99-85; Filed January 25, 1999, 10:18 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 Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-880-10 et seq. Child Support Enforcement Program.** The purpose of the proposed action is to update selected sections of the current child support enforcement regulation. Changes will be made only to sections impacted by recent state and federal legislation. The current regulation encompasses all functions of the child support enforcement program including application, eligibility for services, location, paternity establishment, order establishment, enforcement, collection, distribution, and case closure. This regulation became effective February 1990, and was last updated in 1995. These changes are necessary to incorporate new state and federal legislation into the current regulation. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-1 and 63.1-25 of the Code of Virginia.

Public comments may be submitted until March 17, 1999.

**Contact:** Bill Brownfield, Manager, Division of Child Support Enforcement, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2401 or FAX (804) 692-2410.

VA.R. Doc. No. R99-87; Filed January 25, 1999, 10:17 a.m.

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# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

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## 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

#### Reproposed

**March 17, 1999 - 10 a.m.** – Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
1st Floor, Training Room, Richmond, Virginia.

**March 18, 1999** - 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 Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-50-10 et seq. New and Modified Stationary Sources and 9 VAC 5-80-10 et seq. Permits for Stationary Sources (Revision YY)**. The regulations apply to the construction or reconstruction of new stationary sources or expansions (modifications) to existing ones. Exemptions are provided for smaller facilities. With some exceptions, the owner must obtain a permit from the agency prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as may be needed to enable the agency to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards and to assess the impact of the emissions from the facility on air quality. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review. The regulation provides a source-wide perspective to determine applicability based solely upon the emissions changes directly resultant from the physical or operational change. The regulation provides for the use of a plantwide applicability limit (PAL). Under this concept, a source owner could make physical or operational changes to emission units covered by the PAL without being subject to the major new source permit program as long as the overall emissions did not exceed the PAL. Concurrent construction, that is construction while waiting for the permit to be issued, is allowed in some cases. Under this arrangement the source owner would assume full liability should the permit not be issued. Provisions covering general permits are included.

Procedures for making changes to permits are included. The regulation also allows consideration of additional factors for making Best Available Control Technology determinations for sources subject to minor new source review.

On December 8, 1997, the board published for public comment a proposal to amend its regulations concerning new and modified new source review. In response to that request, comments were submitted that resulted in several changes being made to the original proposal, primarily to meet EPA regulations and policy. Because of the substantive nature of these additional changes, the board is now republishing the proposal for public comment. The changes are enumerated below and derived from (i) comments made by the general public during the public comment period on the original proposal, (ii) comments made by EPA during the public comment period on the original proposal and during subsequent discussions and negotiations, and (iii) clarifications and other improvements noted by DEQ staff during subsequent reviews.

1. The changes to the regulation are being presented in strikethrough/italicized form using the current version as the base document in order to facilitate review of the proposal in light of the current regulation.
2. The definition of actual emissions has been revised to include the "actuals to future actuals" approach as an option to the "actual to potential" approach for new units as EPA has done in its major source new source review (NSR) reform proposal.
3. The definition of "significant" has been revised to exclude hazardous air pollutants as EPA has done in its major source NSR reform proposal.
4. The definition of "stationary source" has been revised to exclude nonroad engines.
5. Provisions have been added to allow implementation of the federal hazardous air pollutant new source review program (FHAPNSR) by incorporation by reference rather than trying to alter the text of the regulation to accommodate these program elements; it was very difficult to write text to implement this program given the differences and complexities of the various program elements. The FHAPNSR program includes the various preconstruction approval requirements found in 40 CFR Part 61 and 40 CFR Part 63 (including the § 112(g))

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## Public Comment Periods - Proposed Regulations

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requirements). The provisions covering public participation have been changed to require a public comment period only for permit applications requiring a case-by-case maximum available control technology determination under the FHAPNSR program. These changes are reflected in the definition of "federal hazardous air pollutant new source review program," 9 VAC 5-80-1120 H, and various other provisions throughout the new version.

6. The provisions concerning concurrent construction have been revised such that they are not applicable to (i) any stationary source or emissions unit subject to the major source NSR requirements for prevention of significant deterioration (PSD) or nonattainment areas, (ii) any stationary source for which a plantwide applicability limit is established, or (iii) any synthetic minor or other stationary source receiving a minor NSR permit that would establish terms and conditions that would enable the source to avoid major source permit and other requirements. These changes are reflected in the definition of "synthetic minor" and 9 VAC 5-80-1130 D in the new version.

7. The provisions correcting the public participation requirements for major modifications that have been disapproved by EPA have been rewritten for clarity. These changes are reflected in the definition of "major modification" and 9 VAC 5-80-1170 D 2 in the new version.

8. The provisions concerning plantwide applicability limits (PAL) have been revised to incorporate the following provisions: (i) PALs may only be used for the entire stationary source not just a part, (ii) the definition of actual emissions from the current PSD regulations is used in lieu of the version used for the regulation at large, (iii) PALs may only be used to avoid permits for major source modifications unless the permit includes preapprovals (with appropriate terms and conditions) for the specific changes that would otherwise be subject to minor NSR. A minor NSR permit would be required for any changes not covered by the advance approvals. These changes are reflected in the definition of "plantwide applicability limit" and "plantwide applicability limit modification" and 9 VAC 5-80-1310 in the new version.

9. The exemptions related to solvent cleaning operations and various coating operations have been clarified such that they are limited to volatile organic compounds, as was the original intent. These changes are reflected in 9 VAC 5-80-1320 B 4 and B 6 through B19.

10. The exemption of stationary sources under 9 VAC 5-80-1320 C has been rewritten to exclude the facilities exempted under 9 VAC 5-80-1320 B from the calculation of potential to emit.

11. The shutdown (9 VAC 5-20-220) and certification (9 VAC 5-20-230) provisions have been removed as

they have already been adopted as part of our amendments to the state operating permit regulation.

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 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  
806 Westwood Office Park  
Fredericksburg, Virginia 22401  
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.

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# Public Comment Periods - Proposed Regulations

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Public comments may be submitted until 4:30 p.m. March 18, 1999, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Air Regulatory 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 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

**April 16, 1999** - 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 repeal regulations entitled: **22 VAC 40-50-10 et seq. Allowable Variance Policy.** The Allowable Variance Policy is no longer essential because it is a duplicative regulation. The policy has been incorporated into a promulgated regulation entitled General Procedures and Information for Licensure.

Statutory Authority: §§ 63.1-174, 63.1-194.2, and 63.1-202 of the Code of Virginia.

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

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**April 16, 1999** - 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 40-130-10 et seq. Minimum Standards for Licensed Child-Placing Agencies.** The proposed regulation establishes the minimum requirements for licensure to place children and conduct activities related to placement in foster care, in treatment foster care, in adoptive homes, or in independent living arrangements.

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

**Contact:** Doris Jenkins, Manager, Child Welfare Licensing Unit, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1773, FAX (804) 692-2370, or e-mail dtj7@dss.state.va.us.

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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## 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.

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### REPROPOSED

**REGISTRAR'S NOTICE:** The following regulations filed by the State Air Pollution Control Board were initially published as proposed regulations in 14:6 VA.R. 884-923 December 8, 1997.

Title of Regulations: **Regulations for the Control and Abatement of Air Pollution (Revision YY).**

**9 VAC 5-50-10 et seq. New and Modified Stationary Sources (amending 9 VAC 5-50-250, 9 VAC 5-50-260 and 9 VAC 5-50-390).**

**9 VAC 5-80-10 et seq. Permits for Stationary Sources (adding Article 6: 9 VAC 5-80-1100 through 9 VAC 5-80-1320; repealing 9 VAC 5-80-10 and 9 VAC 5-80-11).**

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

Public Hearing Date: March 17, 1999 - 10 a.m.

Public comments may be submitted until 4:30 p.m. on March 18, 1999.

(See Calendar of Events section for additional information)

Reason for Reproposal: In response to the original proposal, comments were submitted that resulted in several changes being made to that proposal, primarily to meet the regulations and policy of the federal Environmental Protection Agency. Because of the substantive nature of these changes, the board is republishing the proposal for public comment. The changes are derived from (i) comments made by the general public during the public comment period on the original proposal, (ii) comments made by the EPA during the public comment period on the original proposal and during subsequent discussions and negotiations, and (iii) clarifications and other improvements noted by Department of Environmental Quality staff during subsequent reviews.

Summary:

*The regulation applies to the construction or reconstruction of new stationary sources or expansions (modifications) to existing ones. Exemptions are provided for smaller facilities. With some exceptions, the owner must obtain a permit from the agency prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as may be needed to enable the agency to conduct a preconstruction review in order to determine*

*compliance with applicable control technology and other standards and to assess the impact of the emissions from the facility on air quality. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review. The regulation provides a source-wide perspective to determine applicability based solely upon the emissions changes directly resultant from the physical or operational change. The regulation provides for the use of a plantwide applicability limit (PAL). Under this concept, a source owner could make physical or operational changes to emission units covered by the PAL without being subject to the major new source permit program as long as the overall emissions did not exceed the PAL. Concurrent construction, that is, construction while waiting for the permit to be issued, is allowed in some cases. Under this arrangement the source owner would assume full liability should the permit not be issued. Provisions covering general permits are included. Procedures for making changes to permits are included. The regulation also allows consideration of additional factors for making Best Available Control Technology determinations for sources subject to minor new source review.*

*The changes made to the original proposal follow:*

- 1. The changes to the regulation are being presented in strikethrough/italicized form using the current version as the base document in order to facilitate review of the proposal in light of the current regulation.*
- 2. The definition of actual emissions has been revised to include the "actuals to future actuals" approach as an option to the "actual to potential" approach for new units as the EPA has done in its major source new source review (NSR) reform proposal.*
- 3. The definition of "significant" has been revised to exclude hazardous air pollutants as the EPA has done in its major source NSR reform proposal.*
- 4. The definition of "stationary source" has been revised to exclude nonroad engines.*
- 5. Provisions have been added to allow implementation of the federal hazardous air pollutant new source review program (FHAPNSR) by incorporation by reference rather than trying to alter the text of the regulation to accommodate these program elements; it was very difficult to write text to implement this program, given the differences and complexities of the various program elements. The FHAPNSR program includes the various preconstruction approval requirements found in 40 CFR Part 61 and 63 (including the § 112(g) requirements). The provisions covering public participation have been*

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# Proposed Regulations

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changed to require a public comment period only for permit applications requiring a case-by-case maximum available control technology determination under the FHAPNSR program. These changes are reflected in the definition of "federal hazardous air pollutant new source review program," 9 VAC 5-80-1120 H, and various other provisions throughout the new version.

6. The provisions concerning concurrent construction have been revised such that they are not applicable to (i) any stationary source or emissions unit subject to the major source NSR requirements for prevention of significant deterioration or nonattainment areas, (ii) any stationary source for which a plantwide applicability limit is established, or (iii) any synthetic minor or other stationary source receiving a minor NSR permit that would establish terms and conditions that would enable the source to avoid major source permit and other requirements. These changes are reflected in the definition of "synthetic minor" and 9 VAC 5-80-1130 D in the new version.

7. The provisions correcting the public participation requirements for major modifications that have been disapproved by the EPA have been rewritten for clarity. These changes are reflected in the definition of "major modification" and 9 VAC 5-80-1170 D 2 in the new version.

8. The provisions concerning plantwide PALs have been revised to incorporate the following provisions: (i) PALs may be used only for the entire stationary source, not just a part; (ii) the definition of actual emissions from the current PSD regulations is used in lieu of the version used for the regulation at large; and (iii) PALs may be used only to avoid permits for major source modifications unless the permit includes preapprovals (with appropriate terms and conditions) for the specific changes that would otherwise be subject to minor NSR. A minor NSR permit would be required for any changes not covered by the advance approvals. These changes are reflected in the definitions of "plantwide applicability limit" and "plantwide applicability limit modification" and 9 VAC 5-80-1310 in the new version.

9. The exemptions related to solvent cleaning operations and various coating operations have been clarified such that they are limited to volatile organic compounds, as was the original intent. These changes are reflected in 9 VAC 5-80-1320 B 4 and B 6 through B 19.

10. The exemption of stationary sources under 9 VAC 5-80-1320 C has been rewritten to exclude the facilities exempted under 9 VAC 5-80-1320 B from the calculation of potential to emit.

11. The shutdown (9 VAC 5-20-220) and certification (9 VAC 5-20-230) provisions have been removed as they have already been adopted as part of our amendments to the state operating permit regulation.

## CHAPTER 50. NEW AND MODIFIED STATIONARY SOURCES.

### PART II. EMISSION STANDARDS.

#### Article 4.

Standards of Performance for Stationary Sources (Rule 5-4).

#### 9 VAC 5-50-250. Definitions.

A. For the purpose of ~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution 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.

"Best available control technology" means a standard of performance (including a visible emission standard) based on the maximum degree of emission reduction for any pollutant which would be emitted from any proposed stationary source which the board, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for such source through the application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard in Article 5 (9 VAC 5-50-400 et seq.) of this part or Article 1 (9 VAC 5-60-60 et seq.) of Part II of 9 VAC 5 Chapter 60. If the board determines that technological or economic limitations on the application of measurement methodology to particular emissions unit would make the imposition of an emission standard infeasible, a design, equipment, work practice, operational standard, or combination of them, may be prescribed instead of requiring the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results. In determining best available control technology for stationary sources subject to Article 6 (9 VAC 5-80-1100 et seq.) of Part II of 9 VAC 5 Chapter 80, consideration shall be given to the nature and amount of the new emissions, emission control efficiencies achieved in the industry for the source type, and the cost effectiveness of the incremental emission reduction achieved.

"Lowest achievable emission rate" means for any source, the more stringent rate of emissions based on the following:

~~a-~~ 1. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner of the proposed stationary source demonstrates that such limitations are not achievable; or

~~b-~~ 2. The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

**9 VAC 5-50-260. Standard for stationary sources.**

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.

B. A major stationary source shall apply best available control technology for each regulated pollutant that it would have the potential to emit in amounts equal to or greater than the levels in 9 VAC 5-80-1320 C.

C. A modification shall apply best available control technology for each regulated pollutant for which it would result in a net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur in amounts equal to or greater than the levels in 9 VAC 5-80-1320 D as a result of physical change or change in the method of operation in the unit.

D. For phased construction projects, the determination of best available control technology shall be reviewed and modified, as appropriate, at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

**9 VAC 5-50-390. Permits.**

A permit may be required prior to beginning any of the activities specified below and if the provisions of this chapter 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.*

CHAPTER 80.  
PERMITS FOR STATIONARY SOURCES.

PART II.  
~~OPERATING PERMITS PERMIT PROCEDURES.~~

Article 6.  
*Permits for New and Modified Stationary Sources.*

**9 VAC 5-80-10. ~~Permits new and modified stationary sources. (Repealed.)~~**

**A. 9 VAC 5-80-1100. Applicability.**

~~1-~~ A. Except as provided in ~~subdivision A-3 subsection C~~ of this section, the provisions of this ~~section~~ article apply to the construction, reconstruction, relocation or modification of any stationary source.

~~2-~~ B. The provisions of this ~~section~~ article apply throughout the Commonwealth of Virginia.

~~3-~~ C. The provisions of this ~~section~~ article do not apply to any ~~facility exempted by 9 VAC 5-80-11 stationary source, emissions unit or facility that is exempt under the provisions of 9 VAC 5-80-1320.~~ Exemption from the requirement to obtain a permit under this ~~section~~ article shall not relieve any owner of the responsibility to comply with any other applicable provisions of ~~these~~ regulations of the board or any other applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction. Any ~~facility stationary source, emissions unit or facility~~ which is exempt from the provisions of this ~~section~~ article based on the criteria in ~~9 VAC 5-80-11 9 VAC 5-80-1320~~ but which exceeds the applicability thresholds for any applicable emission standard in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) if it were an existing source or any applicable standard of performance in 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) shall be subject to the more restrictive of the provisions of either the emission standard in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) or the standard of performance in 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.).

~~4. Where a source is constructed or modified in contemporaneous increments which individually are not subject to approval under this section and which are not part of a program of construction or modification in planned incremental phases approved by the board, all such increments shall be added together for determining the applicability of this section. An incremental change is contemporaneous with the particular change only if it occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs.~~

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# Proposed Regulations

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D. The fugitive emissions of a stationary source shall not be included in determining whether it is subject to this article. The provisions of this article do not apply to a stationary source or modification that would be subject to this article only if fugitive emissions, to the extent quantifiable, are considered in calculating the actual emissions of the source or net emissions increase.

E. An affected facility subject to Article 5 (9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5 Chapter 50 shall not be exempt from the provisions of this article, except where the affected facility is exempt under subsection C of this section and:

1. The affected facility would be subject only to recordkeeping or reporting requirements or both under Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50; or

2. The affected facility is constructed, reconstructed or modified at an existing stationary source which has a current permit for similar affected facilities subject to the provisions of Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50.

F. A boiler, incinerator or industrial furnace as defined in 9 VAC 20-60-10 and subject to 9 VAC 20 Chapter 60 (9 VAC 20-60-10 et seq.) shall not be exempt from the provisions of this article.

G. Regardless of the exemptions provided in this article, no owner or other person shall circumvent the requirements of this article by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.

H. No provision of this article shall be construed as exempting any stationary source or emissions unit from the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

~~5-~~ I. Unless specified otherwise, the provisions of this ~~section~~ article are applicable to various sources as follows:

~~a-~~ 1. Provisions referring to "sources," "new or modified sources, or both" or "stationary sources" are applicable to the construction, reconstruction or modification of all stationary sources (including major stationary sources and major modifications) and the emissions from them to the extent that such sources and their emissions are not subject to the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this ~~chapter or 9 VAC 5-80-30~~ part.

~~b-~~ 2. Provisions referring to "major stationary sources" are applicable to the construction, reconstruction or modification of all major stationary sources.

~~e-~~ 3. In cases where the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this ~~chapter or 9 VAC 5-80-30~~ part conflict with those of this ~~section~~ article, the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this ~~chapter or 9 VAC 5-80-30~~ part shall prevail.

4. For sources and pollutants not subject to federal requirements, the terms "state and federally enforceable" and "federally and state enforceable" or similar wording shall mean "state only enforceable."

## **B- 9 VAC 5-80-1110. Definitions.**

~~4-~~ A. For the purpose of ~~these regulations~~ the Regulations for the Control and Abatement of Air Pollution and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in ~~subdivision B-3~~ subsection C of this section.

~~2-~~ B. As used in this ~~section~~ 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.

~~3-~~ C. Terms defined.

"Actual emissions" means the actual rate of emissions (expressed in tons per year) of a pollutant from a stationary source or portion thereof, as determined in accordance with the provisions of this definition.

1. Actual emissions shall be calculated using an emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted for any 12 consecutive months during the 120 consecutive months that precede the commencement of construction of a proposed physical or operational change at the source, and any current federally and state enforceable limitations on emissions. In cases where no current federally and state enforceable limitations on emissions exist, emission factors based on the uncontrolled emission rate or otherwise acceptable to the board shall be used.

2. The board may presume that source-specific allowable emissions for the emissions unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

4. In lieu of subdivision 3 of this definition, actual emissions of an emissions unit following a physical or operational change shall equal the representative actual annual emissions of the unit, provided the owner maintains and submits to the board, on an annual basis for a period of five years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the board if the board determines such a period to be more representative of normal source post-change operations.

"Allowable emissions" means the emission rate of a stationary source calculated by using the maximum rated capacity of the source (unless the source is subject to state and federally enforceable limits which restrict the operating

rate or hours of operation, or both) and the most stringent of the following:

- (1) 1. Applicable emission standards;
- (2) 2. The emission limitation specified as a state and federally enforceable permit condition, including those with a future compliance date; and
- (3) 3. Any other applicable emission limitation, including those with a future compliance date.

"Begin actual construction" means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. With respect to the initial location of a portable ~~facility~~ emissions unit, this term refers to the delivery of any portion of the portable ~~facility~~ emissions unit to the site.

"Commence," as applied to the construction, reconstruction or modification of an ~~emissions unit~~ a stationary source, means that the owner has all necessary reconstruction approvals or permits and has either:

- (1) 1. Begun, or caused to begin, a continuous program of actual on-site construction, reconstruction or modification of the ~~unit~~ source, to be completed within a reasonable time; or
- (2) 2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction, reconstruction or modification of the ~~unit~~ source, to be completed within a reasonable time.

"Complete application" means that the application contains all the information necessary for processing the application and that the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for purposes of permit processing does not preclude the board from requesting or accepting additional information.

"Construction" means fabrication, erection or installation of an emissions unit.

"Emergency" means, in the context of 9 VAC 5-80-1320 B 2, a situation where immediate action on the part of a source is needed and where the timing of the action makes it impractical to meet the requirements of this article, such as sudden loss of power, fires, earthquakes, floods or similar occurrences.

"Emissions cap" means any limitation on the rate of emissions of any regulated air pollutant from one or more emissions units established and identified as an emissions cap in any permit issued pursuant to the new source review program or operating permit program.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant.

"Enforceable as a practical matter" means that the permit contains emission limitations that are enforceable by the board or the department and meet the following criteria:

1. Are permanent;
2. Contain a legal obligation for the owner to adhere to the terms and conditions;
3. Do not allow a relaxation of a requirement of the State Implementation Plan;
4. Are technically accurate and quantifiable;
5. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the State Implementation Plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits in a rolling basis, monthly or shorter limits, and other provisions consistent with 9 VAC 5-80-1180 and other regulations of the board; and
6. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Federal hazardous air pollutant new source review program" means a program for the preconstruction review and approval of new sources or expansions to existing ones in accordance with regulations specified below and promulgated to implement the requirements of § 112 (relating to permits for hazardous air pollutants) of the federal Clean Air Act.

1. The provisions of 40 CFR 61.05, 40 CFR 61.06, 40 CFR 61.07 and 40 CFR 61.08 for issuing approvals of the construction of any new source or modification of any existing source subject to the provisions of 40 CFR Part 61.
2. The provisions of 40 CFR 63.5 for issuing approvals to construct a new source or reconstruct a source subject to the provisions of 40 CFR Part 63, except for subparts B, C, D and E.
3. The provisions of 40 CFR 63.40 through 40 CFR 63.44 for issuing approvals to construct or reconstruct a major source of hazardous pollutants under 40 CFR 63.40 through 40 CFR 63.44.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or this chapter, including operating permits issued under an EPA-approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the

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administrator. Federally enforceable limitations and conditions include, but are not limited to, the following:

1. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act, as amended in 1990.
2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.
3. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.
4. Limitations and conditions that are part of an approved State Implementation Plan (SIP) or a Federal Implementation Plan (FIP).
5. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by the EPA in accordance with 40 CFR Part 51.
6. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by the EPA into a SIP as meeting the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.
7. Limitations and conditions in a Virginia regulation or program that has been approved by the EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.
8. Individual consent agreements that the EPA has legal authority to create.

"Fixed capital cost" means the capital needed to provide all the depreciable components.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"General permit" means a permit issued under this article that meets the requirements of 9 VAC 5-80-1250.

"Hazardous air pollutant" means any air pollutant listed in § 112(b) of the federal Clean Air Act, as amended by 40 CFR 63.60.

"Major modification" means any modification defined as such in 9 VAC 5-80-20 or 9 VAC 5-80-30, as may apply that would result in a significant net emissions increase of any regulated air pollutant emitted into the atmosphere by the source or which results in the emission in significant amounts of any regulated air pollutant into the atmosphere not previously emitted.

"Major new source review (major NSR)" means a program for the preconstruction review of changes which are subject to review as new major stationary sources or major modifications under Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Major stationary source" means any stationary source which emits, or has the potential to emit, 100 tons or more per year of any regulated air pollutant.

"Minor new source review (minor NSR)" means a program for the preconstruction review of changes which are subject to review as new or modified sources and which do not qualify as new major stationary sources or major modifications under Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Modification" means any physical change in, change in the method of operation of, or addition to, ~~an emissions unit which increases the uncontrolled emission rate~~ a stationary source that would result in a net emissions increase of any regulated air pollutant emitted into the atmosphere by the ~~unit~~ source or which results in the emission of any regulated air pollutant into the atmosphere not previously emitted, except that the following shall not, by themselves (unless previously limited by permit conditions), be considered modifications under this definition:

- (1) 1. Maintenance, repair and replacement which the board determines to be routine for a source type and which does not fall within the definition of reconstruction;
- (2) 2. An increase in the production rate of a unit, if that increase does not exceed the operating design capacity of that unit;
- (3) 3. An increase in the hours of operation;
- (4) 4. Use of an alternative fuel or raw material if, prior to the date any provision of ~~these regulations~~ the regulations of the board becomes applicable to the source type, the ~~emissions unit~~ source was designed to accommodate that alternative use. A ~~unit~~ source shall be considered to be designed to accommodate an alternative fuel or raw material if provisions for that use were included in the final construction specifications; ~~or~~
5. Use of an alternative fuel or raw material if, prior to the date any provision of the regulations of the board becomes applicable to the source type, the source was not designed to accommodate that alternative use and the owner demonstrates to the board that as a result of trial burns at the source or other sources or of other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased;
- (5) 6. The addition, replacement or use of any system or device whose primary function is the reduction of air pollutants, except when ~~an emission control~~ a system or device that is ~~removed~~ or necessary to comply with applicable air pollution control laws and regulations is replaced by a system or device which the board

considers to be less efficient in the control of air pollution emissions; or

7. The removal of any system or device whose primary function is the reduction of air pollutants if the system or device is not necessary for the source to comply with any applicable air pollution control laws or regulations.

"Modified source" means any stationary source (or portion of it), the modification of which commenced on or after March 17, 1972.

"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and those air quality control laws and regulations which are part of the State Implementation Plan.

"Net emissions increase" means the amount by which the sum of the following exceeds zero: (i) any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source and (ii) any other increases and decreases in actual emissions at the source that are concurrent with the particular change and are otherwise creditable. An increase or decrease in actual emissions is concurrent with the increase from the particular change only if it is directly resultant from the particular change. An increase or decrease in actual emissions is not creditable if the board has relied on it in issuing a permit for the source under the new source review program and that permit is in effect when the increase in actual emissions from the particular change occurs. Creditable increases and decreases shall be federally and state enforceable.

"New source" means any stationary source (or portion of it), the construction or relocation of which commenced on or after March 17, 1972; and any stationary source (or portion of it), the reconstruction of which commenced on or after December 10, 1976.

"New source review program" means a program for the preconstruction review and permitting of new stationary sources or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 110 (a)(2)(C), 165 (relating to permits in prevention of significant deterioration areas), 173 (relating to permits in nonattainment areas), and 112 (relating to permits for hazardous air pollutants) of the federal Clean Air Act.

"Nonroad engine" means any internal combustion engine:

1. In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers);
2. In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
3. That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be capable of being carried or moved from one location to another. Indications of transportability include, but are

not limited to, wheels, skids, carrying handles, dollies, trailers, or platforms.

An internal combustion engine is not a nonroad engine if:

1. The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under § 202 of the federal Clean Air Act; or
2. The engine otherwise included in subdivision 3 above remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source.

For purposes of this definition, a location is any single site at a building, structure, facility or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at the single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

"Plantwide applicability limit" means a federally and state enforceable plantwide emission limitation established for a stationary source such that any subsequent physical or operational changes resulting in emissions that remain less than the limit, are excluded from the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

"Plantwide applicability limit modification" means, notwithstanding the definition of major modification and net emissions increase as defined in 9 VAC 5-80-1710 and Article 9 (9 VAC 5-80-2000 et seq.) of this part, any increase in the actual emissions rate (in tons per year) over the plantwide applicability limit. Any emissions increase of volatile organic compounds shall be considered an increase for ozone.

"Portable," in reference to emissions units, means an emissions unit that is designed to have the capability of being moved from one location to another for the purpose of operating at multiple locations and storage when idle.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

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"Public comment period" means a time during which the public shall have the opportunity to comment on the new or modified source permit application information (exclusive of confidential information), the preliminary review and analysis of the effect of the source upon the ambient air quality, and the preliminary decision of the board regarding the permit application.

"Reactivation" means beginning operation of an emissions unit that has been shut down.

"Reconstruction" (~~4~~) means the replacement of an emissions unit or its components to such an extent that:

- ~~(a)~~ 1. The fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new unit; ~~and;~~
- 2. The replacement significantly extends the life of the emissions unit; and
- ~~(b)~~ 3. It is technologically and economically feasible to meet the applicable emission standards prescribed under ~~these~~ regulations of the board.

~~(2)~~ Any determination by the board as to whether a proposed replacement constitutes reconstruction shall be based on:

- ~~(a)~~ 1. The fixed capital cost of the replacements in comparison to the fixed capital cost of the construction of a comparable entirely new unit;
- ~~(b)~~ 2. The estimated life of the unit after the replacements compared to the life of a comparable entirely new unit;
- ~~(c)~~ 3. The extent to which the components being replaced cause or contribute to the emissions from the unit; and
- ~~(d)~~ 4. Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

"Regulated air pollutant" means any of the following:

1. Nitrogen oxides or any volatile organic compound;
2. Any pollutant for which an ambient air quality standard has been promulgated;
3. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act;
4. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning hazardous air pollutants and any pollutant regulated under 40 CFR Part 63; or
5. Any pollutant subject to a regulation adopted by the board.

"Relocation" means a change in physical location of a stationary source or an emissions unit from one stationary source to another stationary source.

"Secondary emissions" means emissions which occur or would occur as a result of the construction, reconstruction, modification or operation of a stationary source, but do not come from the stationary source itself. For the purpose of this ~~section~~ article, secondary emissions must be specific, well-defined, and quantifiable; and must impact upon the same general areas as the stationary source which causes the secondary emissions. Secondary emissions include emissions from any off site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the stationary source. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means:

1. In reference to a plantwide applicability limit or net emissions increase for any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

<i>Pollutant</i>	<i>Emissions Rate</i>
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter	25 tpy
PM <sub>10</sub>	15 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric Acid Mist	7 tpy
Hydrogen Sulfide (H <sub>2</sub> S)	10 tpy
Total Reduced Sulfur (including H <sub>2</sub> S)	10 tpy
Reduced Sulfur Compounds (including H <sub>2</sub> S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 <sup>6</sup> tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy
Municipal waste combustor acid gases (measured as the sum of SO <sub>2</sub> and Hcl)	40 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tpy

2. In reference to a plantwide applicability limit or net emissions increase for any regulated air pollutant that subdivision 1 of this definition does not list, any

*emissions rate. However, for purposes of the applicability of this definition, hazardous air pollutants are not considered regulated pollutants.*

"State enforceable" means all limitations and conditions which are enforceable ~~by the board as a practical matter,~~ including those requirements developed pursuant to ~~9 VAC 5-20-110~~ 9 VAC 5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

"Stationary source" means any building, structure, facility or installation which emits or may emit any *regulated* air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any ~~vessel, watercraft or any nonroad engine.~~ Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two-digit code) as described in the "Standard Industrial Classification Manual," as amended by the supplement (see 9 VAC 5-20-21).

"Synthetic minor" means a stationary source whose potential to emit is constrained by state enforceable and federally enforceable limits, so as to place that stationary source below the threshold at which it would be subject to permit or other requirements governing major stationary sources in regulations of the board or in the federal Clean Air Act.

~~"Uncontrolled emission rate" means the emission rate from a source when operating at maximum capacity without air pollution control equipment. Air pollutant pollution control equipment includes control equipment which is equipment that enables the source to conform to applicable air pollution control laws and regulations and that is not vital to its operation, except that its use enables the source to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8760 hours of operation per year) of the source, unless the source is subject to state and federally enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted or processed may be used in determining the uncontrolled emission rate of a source. Secondary emissions do not count in determining the uncontrolled emission rate of a stationary source.~~

**G. 9 VAC 5-80-1120. General.**

4- A. ~~Except as provided in 9 VAC 5-80-1130,~~ no owner or other person shall begin actual construction, reconstruction or modification of any ~~of the following types of sources~~ stationary source without first obtaining from the board a permit to construct and operate or to modify and operate ~~such~~ the source:

a. Any stationary source; or

~~b. Any stationary source of hazardous air pollutants to which an emission standard prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.) became applicable prior to the beginning of construction, reconstruction or modification. In the event that a new emission standard prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.) becomes applicable after a permit is issued but prior to initial startup, a new permit must be obtained by the owner.~~

2- B. No owner or other person shall relocate any emissions unit ~~subject to the provisions of 9 VAC 5-20-160~~ from one stationary source to another without first obtaining from the board a permit to relocate the unit.

3- C. No owner or other person shall reduce the outlet elevation of any stack or chimney which discharges any pollutant from an affected facility ~~subject to the provisions of 9 VAC 5-20-160~~ without first obtaining a permit from the board.

4- D. The board may combine the requirements of and the permits for emissions units within a stationary source subject to ~~9 VAC 5-80-10, Article 8 (9 VAC 5-80-1700 et seq.) of this chapter, and 9 VAC 5-80-30~~ the new source review program into one permit. Likewise the board may require that applications for permits for emissions units within a stationary source required by ~~9 VAC 5-80-10, Article 8 (9 VAC 5-80-1700 et seq.) of this chapter, and 9 VAC 5-80-30~~ any provision of the new source review program be combined into one application.

E. The board in evaluating permit applications and issuing permits shall not consider any consequences to the applicant of beginning actual construction or modification prior to receiving a permit whether or not it is done under the provisions of 9 VAC 5-80-1130.

F. No emission cap or similar provisions contained in any permit issued by the board shall be construed to be a plantwide applicability limit unless the permit is issued following the requirements of this article in effect after (insert effective date), including specifically 9 VAC 5-80-1170 E and 9 VAC 5-80-1310.

G. Nothing in the regulations of the board shall be construed to prevent the board from granting permits for programs of construction or modification in planned incremental phases. In such cases, all net emissions increases from all emissions units covered by the program shall be added together for determining the applicability of this article.

H. For sources subject to the federal hazardous air pollutant new source review program, the provisions of the federal hazardous air pollutant new source review program shall be implemented through this article. Permits issued under this article shall be the administrative mechanism for issuing approvals under the provisions of federal hazardous air pollutant new source review program. In cases where there are differences between the provisions of this article and the provisions of federal hazardous air pollutant new source review program, the more restrictive provisions shall

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apply. This subsection applies only to the extent that the provisions of the federal hazardous air pollutant new source review program are not being implemented by other new source review program regulations of the board.

## **9 VAC 5-80-1130. Concurrent construction.**

A. An owner may begin and complete actual construction of a modification to an existing stationary source prior to receiving a permit required by this article if each of the following conditions is met:

1. The owner has submitted an application for a permit for the modification with a notice of intent to begin actual construction of the modification;
2. The owner has submitted a certification that he (i) freely assumes all financial and other risks associated with beginning actual construction of the modification prior to receiving a permit and (ii) acknowledges that the board in evaluating permit applications may not consider any consequences to the applicant of beginning actual construction prior to receiving a permit;
3. The board has not, within 60 days of receipt of the permit application, issued a written notice to the owner based on concerns about air quality impacts or emissions control technology requiring the termination of construction as soon as practicable but no later than five business days after receipt of the notice;
4. The owner constructs the modification as described in the permit application; and
5. The owner does not commence operation of the modification until the permit has been issued.

B. An owner may begin actual construction or reconstruction of a new stationary source prior to receiving a permit required by this article in accordance with the following procedures:

1. If the requirement for a permit prior to construction will create an undue hardship to the applicant, the applicant may, prior to submitting a permit application, request a waiver to proceed with construction from the board.
2. The request for a waiver shall be in writing, shall explain the circumstances that will cause the undue hardship, and shall be signed by a responsible official. The request shall contain:
  - a. A certification that the owner (i) freely assumes all financial and other risks associated with beginning actual construction prior to receiving a permit and (ii) acknowledges that the board in evaluating permit applications may not consider any consequences to the applicant of beginning actual construction prior to receiving a permit.
  - b. Sufficient information for the board to make a determination as to whether the permit application is

subject to Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.

3. If the request contains the information specified in subdivision 2 of this subsection and is complete within the context of § 10.1-1321.1 of the Virginia Air Pollution Control Law, the request for a waiver shall be acted upon by the board within 30 days.
4. Upon granting the waiver, the board shall determine what construction activities constitute the beginning of actual construction on that source, and what portions of the source the owner may construct prior to issuance of a permit. In doing so, the board shall consider (i) the extent to which such portions of the source may irrevocably determine the emissions of the completed source and (ii) the undue hardship upon the owner of delaying construction until the permit has been issued.
5. If a waiver is granted, the applicant shall submit the permit application for action by the board as soon as is reasonably practical but no later than 30 days after the waiver is granted. The applicant, after a waiver is granted, shall proceed at his own risk with construction of portions of the source allowed by the terms of the waiver; however, no operation of the source shall commence until a permit has been issued by the board authorizing the operation.

C. After construction, modification, or reconstruction has begun or been completed, if the plans, specifications, and completed installations do not meet applicable regulatory requirements, the application for a permit shall be denied, unless the alterations required to effect approval are made within a reasonable time as specified by the board.

D. No provision of this section shall be construed as applying to the following:

1. Any stationary source or emissions unit subject to the provisions of Article 8 (9 VAC 5-80-1700 et seq.) or Article 9 (9 VAC 5-80-2000 et seq.) of this part.
2. Any stationary source for which a plantwide applicability limit is established.
3. Any synthetic minor or other stationary source receiving a permit under this article that would establish terms and conditions that would enable the source to avoid major new source review.

## **D. 9 VAC 5-80-1140. Applications.**

~~4.~~ A. A single application is required identifying at a minimum each ~~emissions point within the~~ emissions unit subject to the provisions of this ~~section~~ article. The application shall be submitted according to procedures ~~approved by~~ acceptable to the board. However, where several emissions units are included in one project, a single application covering all units in the project may be submitted. ~~A separate application is required for each location.~~

~~B. A separate application is required for each stationary source.~~

~~2. C. For projects with phased development, a single application should be submitted covering the entire project.~~

~~3. D. Any application form, report, or compliance certification submitted to the board shall be signed by a responsible official. A responsible official is defined as follows: comply with the provisions of 9 VAC 5-20-230.~~

~~a. For a business entity, such as a corporation, association or cooperative, a responsible official is either:~~

~~(1) The president, secretary, treasurer, or a vice president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business entity; or~~

~~(2) A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.~~

~~b. For a partnership or sole proprietorship, a responsible official is a general partner or the proprietor, respectively.~~

~~c. For a municipality, state, federal, or other public agency, a responsible official is either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.~~

~~4. Any person signing a document under subdivision D 3 above shall make the following certification:~~

~~"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."~~

~~5. As required under § 10.1-1321.1 of the Virginia Air Pollution Control Law, applications shall not be deemed complete unless the applicant has provided a notice~~

~~from the locality in which the source is located or is to be located that the site and operation of the source are consistent with all local ordinances adopted pursuant to Chapter 11 (§ 15.1-427 et seq.) of Title 15.1 of the Code of Virginia.~~

## **E. 9 VAC 5-80-1150. Application information required.**

~~A. The board shall furnish application forms to applicants. Completion of these forms serves as initial registration of new and modified sources.~~

~~4. B. Each application for a permit shall include such information as may be required by the board to determine the effect of the proposed source on the ambient air quality and to determine compliance with the emission standards which are applicable. The information required shall include, but is not limited to, the following:~~

~~a. That specified on applicable permit forms furnished by the board. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations. Completion of these forms serves as initial registration of new and modified sources; and~~

~~1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.~~

~~2. A description of the source's processes and products (by Standard Industrial Classification Code).~~

~~3. All emissions of regulated air pollutants.~~

~~a. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit or group of emissions units to be covered by the permit.~~

~~b. Emissions shall be calculated as required in the permit application form or instructions.~~

~~c. Fugitive emissions shall be included in the permit application to the extent quantifiable.~~

~~4. Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.~~

~~5. Information needed to determine or regulate emissions as follows: fuels, fuel use, raw materials, production rates, loading rates, and operating schedules.~~

~~6. Identification and description of air pollution control equipment and compliance monitoring devices or activities.~~

~~7. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the source.~~

~~8. Calculations on which the information in subdivisions 3 through 7 of this subsection is based. Any calculations~~

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shall include sufficient detail to permit assessment of the validity of such calculations.

~~b.~~ 9. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the *stationary source or emissions unit*, including the submission of measured air quality data at the proposed site prior to construction, reconstruction or modification. Such measurements shall be accomplished using procedures acceptable to the board.

~~2.~~ C. The above information and analysis shall be determined and presented according to procedures and using methods acceptable to the board.

## **F. 9 VAC 5-80-1160. Action on permit application.**

~~4.~~ A. Within 30 days after receipt of an application, the board shall notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application shall be provided by the board in writing and shall include (i) a determination as to which provisions of ~~this chapter~~ *the new source review program* are applicable, (ii) the identification of any deficiencies, and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board shall notify the applicant of any deficiencies in such information. The date of receipt of a complete application for processing under ~~subdivision F 2 subsection B~~ *subdivision F 2 subsection B* of this section shall be the date on which the board received all required information *and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met.*

~~2.~~ B. *If no public comment period is required, processing time for a permit is normally 90 days following receipt of a complete application. Processing steps normally are as follows. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required. Processing steps may include, but not be limited to, the following:*

~~a.~~ 1. Completion of the preliminary review and analysis in accordance with ~~subsection I of this section 9 VAC 5-80-1190~~ and the preliminary decision of the board. This step may constitute the final step if the provisions of ~~subsection G of this section 9 VAC 5-80-1170~~ concerning public participation are not applicable.

~~b.~~ 2. When required, completion of the public participation requirements in ~~subsection G of this section; and 9 VAC 5-80-1170.~~

~~e.~~ 3. Completion of the final review and analysis and the final decision of the board.

~~3.~~ C. The board *will* normally ~~will~~ take action on all applications after completion of the review and analysis, or expiration of the public comment period (and consideration

of comments from that) when required, unless more information is needed. The board shall notify the applicant in writing of its decision on the application, including its reasons, and shall also specify the applicable emission limitations. These emission limitations are applicable during any emission testing conducted in accordance with ~~subsection J of this section 9 VAC 5-80-1200.~~

~~4.~~ D. The applicant may appeal the decision pursuant to ~~9 VAC 5-20-90 Part VIII (9 VAC 5-170-190 et seq.) of 9 VAC 5 Chapter 170.~~

~~5.~~ E. Within ~~5~~ *five* days after notification to the applicant pursuant to ~~subdivision F 3 subsection C~~ *subdivision F 3 subsection C* of this section, the notification and any comments received pursuant to the public comment period and public hearing shall be made available for public inspection at the same location as was the information in ~~subdivision G 5 a of this section 9 VAC 5-80-1170 F 1.~~

## **G. 9 VAC 5-80-1170. Public participation.**

~~4.~~ A. No later than 15 days after receiving the initial determination notification required under ~~subdivision F 1 of this section 9 VAC 5-80-1160 A~~, the applicant for a permit for a major stationary source or a major modification ~~with a net emissions increase of 100 tons per year of any single pollutant~~ shall notify the public of the proposed source ~~as required or modification~~ in ~~subdivision G 2~~ *accordance with subsection B* of this section.

~~2.~~ B. The public notice required ~~under this~~ *by* subsection *A of this section* shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the following:

~~a.~~ 1. The source name, location, and type;

~~b.~~ 2. The pollutants and the total quantity of each which the applicant estimates will be emitted, and a brief statement of the air quality impact of such pollutants;

~~e.~~ 3. The control technology proposed to be used at the time of the publication of the notice; and

~~d.~~ 4. The name and telephone number of a contact person, employed by the applicant, who can answer questions about the proposed source.

~~3.~~ C. Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public ~~as to that~~ required in ~~subdivision G 2 subsection A~~ of this section.

~~4.~~ D. Prior to the decision of the board, permit applications as specified below shall be subject to a public comment period of at least 30 days. ~~At the end of the public comment period, a public hearing shall be held in accordance with subdivision G 5 of this section.~~

~~a.~~ 1. Applications for stationary sources of hazardous air pollutants ~~as specified in subdivision C 1 b of this section~~ *subject to the federal hazardous air pollutant new*

*source review program and requiring a case-by-case maximum achievable control technology determination.*

~~b. 2. Applications for major stationary sources and major modifications with a net emissions increase of 100 tons per year of any single pollutant.~~

~~c. Applications for stationary sources which have the potential for public interest concerning air quality issues, as determined by the board. The identification of such sources shall be made using the following criteria:~~

- ~~(1) Whether the project is opposed by any person;~~
- ~~(2) Whether the project has resulted in adverse media;~~
- ~~(3) Whether the project has generated adverse comment through any public participation or governmental review process initiated by any other governmental agency; and~~
- ~~(4) Whether the project has generated adverse comment by a local official, governing body or advisory board.~~

~~d. 3. Applications for stationary sources for which any provision of the permit is to be based upon a good engineering practice (GEP) stack height that exceeds the height allowed by paragraphs subdivisions 1 and 2 of the GEP definition. The demonstration specified in paragraph subdivision 3 of the GEP definition must be available during the public comment period.~~

*E. Prior to the decision of the board, permit applications as specified below shall be subject to a public comment period of at least 30 days. At the end of the public comment period, a public hearing shall be held in accordance with subsection F of this section.*

- 1. Applications to establish a plantwide applicability limit.*
- 2. Applications for stationary sources which have the potential for public interest concerning air quality issues, as determined by the board. The identification of such sources shall be made using the following criteria:*
  - a. Whether the project is opposed by any person;*
  - b. Whether the project has resulted in adverse media;*
  - c. Whether the project has generated adverse comment through any public participation or governmental review process initiated by any other governmental agency; and*
  - d. Whether the project has generated adverse comment by a local official, governing body or advisory board.*

~~5. F. When a public comment period and public hearing are required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for the public comment and the public hearing on~~

the information available for public inspection under the provisions of subdivision ~~C-5-a 1~~ of this ~~section~~ *subsection*. The notification shall be published at least 30 days prior to the day of the public hearing.

~~a. 1. Information on the permit application (exclusive of confidential information under ~~9 VAC 5-20-150~~ 9 VAC 5-170-60), as well as the preliminary review and analysis and preliminary decision of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.~~

~~b. 2. A copy of the notice shall be sent to all local air pollution control agencies having State Implementation Plan responsibilities jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.~~

*3. Notices of public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.*

*G. In order to facilitate the efficient issuance of permits under Articles 1 (9 VAC 5-80-50 et seq.) and 3 (9 VAC 5-80-360 et seq.) of this part, upon request of the applicant the board shall process the permit application under this article using public participation procedures meeting the requirements of this section and 9 VAC 5-80-270 or 9 VAC 5-80-670, as applicable.*

**H. 9 VAC 5-80-1180. Standards for granting permits.**

~~A. No permit will be granted pursuant to this section article unless it is shown to the satisfaction of the board that the source will be designed, built and equipped to operate without causing a violation of the applicable provisions of these regulations the regulations of the board and that the following standards have been met:~~

- 1. The source shall be designed, built and equipped to comply with standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and with emission standards prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.);*
- 2. For sources subject to permits issued in accordance with the federal hazardous air pollutant new source review program, the source shall be designed, built, and equipped to comply with the applicable emission standard and other requirements prescribed in 40 CFR Part 61 or 63, as applicable;*
- ~~2- 3. The source shall be designed, built and equipped to operate without preventing or interfering with the attainment or maintenance of any applicable ambient air quality standard and without causing or exacerbating a violation of any applicable ambient air quality standard; and~~
- ~~3. Stack evaluation reductions under 9 VAC 5-80-10 C~~
- 3- 4. The source shall be designed, built and equipped*

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to operate without preventing or interfering with the attainment or maintenance of any applicable ambient air quality standard and without causing or exacerbating a violation of any applicable ambient air quality standard causing a violation of the applicable provisions of regulations of the board.

B. Permits may be granted to stationary sources or emissions units that contain plantwide applicability limits and emission caps provided the limits or caps are made enforceable as a practical matter using the elements set forth in subsection D of this section.

C. Permits granted pursuant to this article may contain emissions standards as necessary to implement the provisions of this article and 9 VAC 5-50-260. The following criteria shall be met in establishing emission standards to the extent necessary to assure that emissions levels are enforceable as a practical matter:

1. Standards may include the level, quantity, rate, or concentration or any combination of them for each affected pollutant.
2. In no case shall a standard result in emissions which would exceed the emissions rate based on the potential to emit of the emissions unit.
3. Standards shall only include limitations that are determined by the board to be achievable through application of production processes or available methods, systems, and techniques, including, but not limited to, any of the following: emissions control equipment, fuel cleaning or treatment, fuel combustion techniques, or substitution of less toxic or nontoxic materials.
4. The standard may prescribe, as an alternative to or a supplement to an emission limitation, an equipment, work practice, fuels specification, process materials, maintenance, or operational standard, or any combination of them.

D. Permits issued under this article shall contain, but not be limited to, any of the following elements as necessary to ensure that the permits are enforceable as a practical matter:

1. Emission standards.
2. Conditions necessary to enforce emission standards. Conditions may include, but not be limited to, any of the following:
  - a. Limit on fuel sulfur content.
  - b. Limit on production rates with time frames as appropriate to support the emission standards.
  - c. Limit on raw material usage rate.
  - d. Limits on the minimum required capture, removal and overall control efficiency for any air pollution control equipment.

3. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size. Specifications included in the permit under this subdivision are for informational purposes only and do not form enforceable terms or conditions of the permit unless the specifications are needed to form the basis for one or more of the other terms or conditions in the permit.

4. Specifications for air pollution control equipment installed or to be installed. Specifications included in the permit under this subdivision are for informational purposes only and do not form enforceable terms or conditions of the permit unless the specifications are needed to form the basis for one or more of the other terms or conditions in the permit.

5. Specifications for air pollution control equipment operating parameters and the circumstances under which such equipment shall be operated, where necessary to ensure that the required overall control efficiency is achieved. The operating parameters may include, but not be limited to, any of the following:

- a. Pressure indicators and required pressure drop.
- b. Temperature indicators and required temperature.
- c. pH indicators and required pH.
- d. Flow indicators and required flow.

6. Requirements for proper operation and maintenance of any pollution control equipment, and appropriate spare parts inventory.

7. Stack test requirements.

8. Reporting or recordkeeping requirements, or both.

9. Continuous emission or air quality monitoring requirements, or both.

10. Other requirements as may be necessary to ensure compliance with the applicable regulations.

## **§ 9 VAC 5-80-1190. Application review and analysis.**

No permit shall be granted pursuant to this section unless compliance with the standards in ~~subsection H of this section~~ 9 VAC 5-80-1180 is demonstrated to the satisfaction of the board by a review and analysis of the application performed on a source-by-source basis as specified below:

1. ~~Stationary sources.~~ Applications for stationary sources shall be subject to the following review and analysis:

- a. Applications for stationary sources shall be subject to a control technology review to determine if such the source will be designed, built and equipped to comply with all applicable standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.).

~~b. Applications shall be subject to~~ An air quality analysis to determine the impact of pollutant emissions as may be deemed appropriate by the board.

~~2. Stationary sources of hazardous air pollutants.~~ Applications for stationary sources of hazardous air pollutants shall be subject to a control technology review to determine if ~~such~~ the source will be designed, built and equipped to comply with all applicable emission standards prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.).

~~3. Stack elevation reductions under 9 VAC 5-80-10 C 3.~~ Applications under ~~9 VAC 5-80-10~~ 9 VAC 5-80-1120 C 3 shall be subject to an air quality analysis to determine the impact of applicable criteria pollutant emissions.

*4. Applications for sources subject to the federal hazardous air pollutant new source review program shall be subject to a control technology review to determine if the source will be designed, built and equipped to comply with all applicable emission standards prescribed under 40 CFR Part 61 or 63.*

**J. 9 VAC 5-80-1200. Compliance determination and verification by performance testing.**

~~4. A.~~ For stationary sources other than those specified in ~~subdivision 2 subsection B~~ of this ~~subsection~~ section, compliance with standards of performance shall be determined in accordance with the provisions of 9 VAC 5-50-20 and shall be verified by performance tests in accordance with the provisions of 9 VAC 5-50-30.

~~2. B.~~ For stationary sources of hazardous air pollutants, compliance with emission standards shall be determined in accordance with the provisions of 9 VAC 5-60-20 and shall be verified by emission tests in accordance with the provisions of 9 VAC 5-60-30.

~~3. C.~~ Testing required by ~~subdivisions J 1 and 2 subsections A and B~~ of this section shall be conducted by the owner within 60 days after achieving the maximum production rate at which the new or modified source will be operated, but not later than 180 days after initial startup of the source; and 60 days thereafter the board shall be provided by the owner with two or, upon request, more copies of a written report of the results of the tests.

~~4. D.~~ For sources subject to the provisions of ~~Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50 or Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60~~ 40 CFR Parts 60, 61 or 63, the requirements of ~~subdivisions J 1 through 3 subsections A, B and C~~ of this section shall be met ~~in all cases as specified in those parts of Title 40 of the Code of Federal Regulations.~~

~~5. E.~~ For sources other than those specified in ~~subdivision J 4 subsection D~~ of this section, the requirements of ~~subdivisions J 1 through 3 subsections A, B and C~~ of this section shall be met unless the board:

~~a. 1.~~ Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

~~b. 2.~~ Approves the use of an equivalent method;

~~c. 3.~~ Approves the use of an alternative method, the results of which the board has determined to be adequate for indicating whether a specific source is in compliance;

~~d. 4.~~ Waives the requirement for testing because, based upon a technical evaluation of the past performance of similar source types, using similar control methods, the board reasonably expects the new or modified source to perform in compliance with applicable standards; or

~~e. 5.~~ Waives the requirement for testing because the owner of the source has demonstrated by other means to the board's satisfaction that the source is in compliance with the applicable standard.

~~6. F.~~ The provisions for the granting of waivers under ~~subdivision J 5 subsection E~~ of this section are intended for use in determining the initial compliance status of a source, and the granting of a waiver does not obligate the board to do so for determining compliance once the source has been in operation for more than one year beyond the initial startup date.

**K. 9 VAC 5-80-1210. Permit invalidation, revocation and enforcement.**

~~4. A.~~ A permit granted pursuant to this ~~section~~ article shall become invalid if a program of continuous construction, reconstruction or modification is not commenced within the latest of the following time frames:

~~a. 1.~~ Eighteen months from the date the permit is granted;

~~b. 2.~~ Nine months from the date of the issuance of the last permit or other authorization (other than permits granted pursuant to this section) from any governmental entity; or

~~c. 3.~~ Nine months from the date of the last resolution of any litigation concerning any such permits or authorizations (including permits granted pursuant to this ~~section~~ article).

~~2. B.~~ A permit granted pursuant to this ~~section~~ article shall become invalid if a program of construction, reconstruction or modification is discontinued for a period of 18 months or more, or if a program of construction, reconstruction or modification is not completed within a reasonable time. This provision does not apply to the period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

~~3. C.~~ The board may extend the periods prescribed in ~~subdivisions K 1 and 2 subsections A and B~~ of this section upon a satisfactory demonstration that an extension is justified. Provided there is no substantive change to the application information, the review and analysis, and the

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decision of the board, such extensions may be granted without being subject to the requirements of ~~subsection G of this section~~ 9 VAC 5-80-1170.

~~4. D.~~ Any owner who constructs or operates a new or modified source not in accordance (i) ~~with the application submitted pursuant to this section~~ or (ii) with the terms and conditions of any permit to construct or operate, or, *except as provided in 9 VAC 5-80-1130*, any owner of a new or modified source subject to this ~~section~~ article who commences construction or operation without ~~applying for and receiving a permit hereunder~~, shall be subject to appropriate enforcement action including, but not limited to, any specified in this ~~subsection~~ section.

~~5. E.~~ Permits issued under this ~~section~~ article shall be subject to such terms and conditions set forth in the permit as the board may deem necessary to ensure compliance with all applicable requirements of the regulations of the board.

~~6. F.~~ The board may revoke any permit if the permittee:

- ~~a. 1.~~ Knowingly makes material misstatements in the permit application or any amendments to it;
- ~~b. 2.~~ Fails to comply with the terms or conditions of the permit;
- ~~c. 3.~~ Fails to comply with any emission standards applicable to an emissions unit included in the permit;
- ~~d. 4.~~ Causes emissions from the stationary source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that an application is submitted; or
- ~~e. 5.~~ Fails to comply with the applicable provisions of this section.

~~7. G.~~ The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit for any of the grounds for revocation contained in subsection ~~K-6 F~~ of this section or for any other violations of ~~these regulations~~ the regulations of the board.

~~H.~~ The permittee shall comply with all terms and conditions of the permit. Any permit noncompliance constitutes a violation of the Virginia Air Pollution Control Law and is grounds for (i) enforcement action or (ii) termination or revocation.

~~8. I.~~ Violation of ~~these regulations~~ the regulations of the board shall be grounds for revocation of permits issued under this ~~section~~ article and are subject to the civil charges, penalties and all other relief contained in ~~Part II of these regulations~~ Part V (9 VAC 5-170-120 et seq.) of 9 VAC 5 Chapter 170 and the Virginia Air Pollution Control Law.

~~9. J.~~ The board shall notify the applicant in writing of its decision, with its reasons, to change, suspend or revoke a permit, or to render a permit invalid.

~~K.~~ Nothing in the regulations of the board shall be construed to prevent the board and the owner from making a mutual determination that a permit is invalid or revoked prior to any final decision rendered under subsection J of this section.

~~L.~~ Nothing in the regulations of the board shall be construed to prevent the board and the owner from making a mutual determination that a permit is rescinded because all of the statutory or regulatory requirements (i) upon which the permit is based or (ii) that necessitated issuance of the permit are no longer applicable.

## **L. 9 VAC 5-80-1220. Existence of permit no defense.**

The existence of a permit under this ~~section~~ article shall not constitute defense to a violation of the Virginia Air Pollution Control Law or ~~these regulations~~ the regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

## **M. 9 VAC 5-80-1230. Compliance with local zoning requirements.**

~~The owner shall~~ No provision of this part or any permit issued thereunder shall relieve any owner from the responsibility to comply in all respects with any existing zoning ordinances and regulations in the locality in which the source is located or proposes to be located; provided, however, that such compliance does not relieve the board of its duty under ~~9 VAC 5-20-140 of these Regulations~~ 9 VAC 5-170-170 and § 10.1-1307 E of the Virginia Air Pollution Control Law to independently consider relevant facts and circumstances.

## **N. Reactivation and permanent shutdown.**

~~1. The reactivation of a stationary source is not subject to provisions of this section unless a decision concerning shutdown has been made pursuant to the provisions of subdivisions N2 through N4 of this section or 9 VAC 5-80-40 P 5.~~

~~2. Upon a final decision by the board that a stationary source is shut down permanently, the board shall revoke the permit by written notification to the owner and remove the source from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the source shall not commence operation without a permit being issued under the applicable provisions of this chapter.~~

~~3. The final decision shall be rendered as follows:~~

- ~~a. Upon a determination that the source has not operated for a year or more, the board shall provide written notification to the owner (i) of its tentative decision that the source is considered to be shut down permanently; (ii) that the decision shall become final if the owner fails to provide, within three months of the~~

~~notice, written response to the board that the shutdown is not to be considered permanent; and (iii) that the owner has a right to a formal hearing on this issue before the board makes a final decision. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent and a projected date for restart up of the source and shall include a request for a formal hearing if the owner wishes to exercise that right.~~

~~b. If the board should find that the basis for the assertion is not sound or the projected restart-up date allows for an unreasonably long period of inoperation, the board shall hold a formal hearing on the issue if one is requested or, if no hearing is requested, the decision to consider the shutdown permanent shall become final.~~

~~4. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that a source is shutdown permanently prior to any final decision rendered under subdivision N 3 of this section.~~

## **Q. 9 VAC 5-80-1240. Transfer of permits.**

~~4. A. No persons shall transfer a permit from one location to another, or from one piece of equipment to another.~~

~~2. B. In the case of a transfer of ownership of a stationary source, the new owner shall abide by any current permit issued to the previous owner. The new owner shall notify the board of the change in ownership within 30 days of the transfer.~~

~~3. C. In the case of a name change of a stationary source, the owner shall abide by any current permit issued under the previous source name. The owner shall notify the board of the change in source name within 30 days of the name change.~~

~~4. D. The provisions of this subsection section concerning the transfer of a permit from one location to another shall not apply to the relocation of portable facilities emission units that are exempt from the provisions of this section article by 9 VAC 5-80-14 9 VAC 5-80-1320 A 1 c.~~

~~P. Circumvention. Regardless of the exemptions provided in this section, no owner or other person shall circumvent the requirements of this section by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.~~

## **9 VAC 5-80-1250. General permits.**

~~A. The requirements for issuance of a general permit are as follows:~~

~~1. The board may issue a general permit covering a stationary source or emissions unit category containing numerous similar stationary sources or emissions units that meet the following criteria:~~

~~a. All stationary sources or emissions units in the category shall be essentially the same in terms of operations and processes and emit either the same pollutants or those with similar characteristics.~~

~~b. Stationary sources or emissions units shall not be subject to case-by-case standards or requirements.~~

~~c. Stationary sources or emissions units shall be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, or recordkeeping.~~

~~2. Stationary sources or emissions units subject to a general permit shall comply with all requirements applicable to other permits issued under this article.~~

~~3. General permits shall (i) identify the criteria by which stationary sources or emissions units may qualify for the general permit and (ii) describe the process for stationary sources or emissions units to use in applying for the general permit.~~

~~4. General permits shall be issued in accordance with § 9-6.14:4.1 C 11 of the Administrative Process Act.~~

~~5. In addition to fulfilling the requirements specified by law, the notice of public comment shall include, but not be limited to, the following:~~

~~a. The name, address and telephone number of a department contact from whom interested persons may obtain additional information including copies of the draft general permit;~~

~~b. The criteria to be used in determining which stationary sources or emissions units qualify for the general permit;~~

~~c. A brief description of the stationary source or emissions unit category that the department believes qualifies for the general permit including, but not limited to, an estimate of the number of individual stationary sources or emissions units in the category;~~

~~d. A narrative statement of the estimated air quality impact contributed by the stationary source or emissions unit category covered by the general permit including information regarding specific pollutants and the total quantity of each emitted pollutant and the type and quantity of fuels used, if applicable;~~

~~e. A brief description of the application process to be used by stationary sources or emissions units to request coverage under the general permit; and~~

~~f. A brief description of the public comment procedures.~~

~~B. The requirements for application for a general permit are as follows:~~

~~1. Stationary sources or emissions units which qualify for a general permit may apply to the board for coverage under the terms of the general permit. Stationary~~

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*sources or emissions units that do not qualify for a general permit shall apply for coverage under a permit issued under the other provisions of this article.*

*2. The application shall meet the requirements of this article and include all information necessary to determine qualification for and to assure compliance with the general permit.*

*3. Stationary sources or emissions units that become subject to the general permit after it is issued to other stationary sources or emissions units in the category addressed by the general permit shall file an application with the board using the application process described in the general permit. The board shall issue the general permit to the stationary source or emissions unit if it determines that the stationary source or emissions unit meets the criteria set out in the general permit.*

*C. The requirements for issuance of a general permit are as follows:*

*1. The board shall grant the conditions and terms of the general permit to stationary sources or emissions units that meet the criteria set out in the general permit covering the specific stationary source or emissions unit category.*

*2. The issuance of a permit to a stationary source or emissions unit covered by a general permit shall not require compliance with the public participation procedures under 9 VAC 5-80-1170.*

*3. A response to each general permit application may not be provided. The general permit may specify a reasonable time period after which a stationary source or emissions unit that has submitted an application shall be deemed to be authorized to operate under the general permit.*

*4. Stationary sources or emissions units covered under a general permit may be issued a letter, a certificate, or a summary of the general permit provisions, limits, and requirements, or any other document which would attest that the stationary source or emissions unit is covered by the general permit.*

*5. The general permit shall specify where the general permit and the letter, certificate, summary or other document shall be maintained by the source.*

*D. The requirements pertaining to enforcement of a general permit are as follows:*

*1. The stationary source or emissions unit shall be subject to enforcement action under 9 VAC 5-80-1210 for operation without a permit issued under this article if the stationary source or emissions unit is later determined by the board not to qualify for the conditions and terms of the general permit.*

*2. The act of granting or denying a request for authorization to operate under a general permit shall not be subject to judicial review.*

## **9 VAC 5-80-1260. Changes to permits.**

*A. The general requirements for making changes to permits are as follows:*

*1. Changes to a permit issued under this article shall be made as specified under subsections B and C of this section and 9 VAC 5-80-1270 through 9 VAC 5-80-1300.*

*2. Changes to a permit issued under this article may be initiated by the permittee as specified in subsection B of this section or by the board as specified in subsection C of this section.*

*3. Changes to a permit issued under this article and incorporated into a permit issued under Article 1 (9 VAC 5-80-50 et seq.) of this part shall be made as specified in Article 1 (9 VAC 5-80-50 et seq.) of this part.*

*4. This section shall not be applicable to general permits.*

*B. The requirements for changes initiated by the permittee are as follows:*

*1. The permittee may initiate a change to a permit by submitting a written request to the board for an administrative permit amendment, a minor permit amendment or a significant permit amendment. The requirements for these permit revisions can be found in 9 VAC 5-80-1270 through 9 VAC 5-80-1290.*

*2. A request for a change by a permittee shall include a statement of the reason for the proposed change.*

*C. The board may initiate a change to a permit through the use of permit reopenings as specified in 9 VAC 5-80-1300.*

## **9 VAC 5-80-1270. Administrative permit amendments.**

*A. Administrative permit amendments shall be required for and limited to the following:*

*1. Correction of typographical or any other error, defect or irregularity which does not substantially affect the permit.*

*2. Identification of a change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source.*

*3. Change in ownership or operational control of a source where the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the board and the requirements of 9 VAC 5-80-1240 have been fulfilled.*

*4. The combining of permits under the new source review program as provided in 9 VAC 5-80-1120 D.*

*B. The administrative permit amendment procedures are as follows:*

1. The board will normally take final action on a request for an administrative permit amendment no more than 60 days from receipt of the request.

2. The board shall incorporate the changes without providing notice to the public under 9 VAC 5-80-1170. However, any such permit revisions shall be designated in the permit amendment as having been made pursuant to this section.

3. The owner may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

## **9 VAC 5-80-1280. Minor permit amendments.**

A. Minor permit amendment procedures shall be used only for those permit amendments that:

1. Do not violate any applicable requirement;

2. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements;

3. Do not require or change a case-by-case determination of an emission limitation or other standard;

4. Do not seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

a. An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act; and

b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act;

5. Are not modifications under the new source review program or under § 112 of the federal Clean Air Act; and

6. Are not required to be processed as a significant amendment under 9 VAC 5-80-1290 or as an administrative permit amendment under 9 VAC 5-80-1270.

B. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for permit amendments involving the use of economic incentives, emissions trading, and other similar approaches to the extent that such minor permit amendment procedures are explicitly provided for in a regulation of the board or a federally-approved program. Minor permit amendment procedures may also be used to require more frequent

monitoring or reporting by the permittee or to reduce the level of an emissions cap.

C. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for permit amendments involving the rescission of a provision of a permit if the board and the owner make a mutual determination that the provision is rescinded because all of the statutory or regulatory requirements (i) upon which the provision is based or (ii) that necessitated inclusion of the provision are no longer applicable.

D. A request for the use of minor permit amendment procedures shall include all of the following:

1. A description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs.

2. A request that such procedures be used.

E. The public participation requirements of 9 VAC 5-80-1170 shall not extend to minor permit amendments.

F. Normally within 90 days of receipt by the board of a complete request under minor permit amendment procedures, the board will do one of the following:

1. Issue the permit amendment as proposed.

2. Deny the permit amendment request.

3. Determine that the requested amendment does not meet the minor permit amendment criteria and should be reviewed under the significant amendment procedures.

G. The requirements for making changes are as follow:

1. The owner may make the change proposed in the minor permit amendment request immediately after the request is filed.

2. After the change under subdivision 1 of this subsection is made, and until the board takes any of the actions specified in subsection F of this section, the source shall comply with both the applicable regulatory requirements governing the change and the proposed permit terms and conditions.

3. During the time period specified in subdivision 2 of this subsection, the owner need not comply with the existing permit terms and conditions he seeks to modify. However, if the owner fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions he seeks to modify may be enforced against him.

## **9 VAC 5-80-1290. Significant amendment procedures.**

A. The criteria for use of significant amendment procedures are as follows:

1. Significant amendment procedures shall be used for requesting permit amendments that do not qualify as minor permit amendments under 9 VAC 5-80-1280 or as administrative amendments under 9 VAC 5-80-1270.

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2. Significant amendment procedures shall be used for those permit amendments that:

a. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard.

c. Seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act.

(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act.

B. A request for a significant permit amendment shall include a description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs. The applicant may, at his discretion, include a suggested draft permit amendment.

C. The provisions of 9 VAC 5-80-1170 shall apply to requests made under this section.

D. The board will normally take final action on significant permit amendments within 90 days after receipt of a complete request.

E. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section.

## **9 VAC 5-80-1300. Reopening for cause.**

A. A permit may be reopened and amended under any of the following situations:

1. Additional regulatory requirements become applicable to the emissions units covered by the permit after a permit is issued but prior to commencement of construction.

2. The board determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

3. The board determines that the permit must be amended to assure compliance with the applicable

regulatory requirements or that the conditions of the permit are not sufficient to meet all of the standards and requirements contained in this article.

4. A new emission standard prescribed under 40 CFR Part 60, 61 or 63 becomes applicable after a permit is issued but prior to initial startup.

B. Proceedings to reopen and reissue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

C. Reopenings shall not be initiated before a notice of such intent is provided to the source by the board at least 30 days in advance of the date that the permit is to be reopened, except that the board may provide a shorter time period in the case of an emergency.

## **9 VAC 5-80-1310. Plantwide applicability limit.**

A. The owner of a stationary source may request the board to approve a plantwide applicability limit for any one or more pollutants, and the board may approve a plantwide applicability limit for a stationary source in accordance with subsections B through F of this section.

B. A plantwide applicability limit may be established only after opportunity for public comment in accordance with 9 VAC 5-80-1170.

C. A plantwide applicability limit may not be established for hazardous air pollutants.

D. A plantwide applicability limit may not be established if it (i) will cause emissions from the stationary source which result in violations of or exacerbate violations of, or interfere with the attainment and maintenance of, any ambient air quality standard or (ii) is not in conformance with any applicable control strategy, including any emission standards or emission limitations, in the implementation plan.

E. The emissions limitations and conditions for a plantwide applicability limit shall be established in accordance with the following:

1. For the purposes of this section the term "actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subdivisions 1 a, b and c of this subsection:

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The board shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

- b. The board may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
- c. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.
2. A plantwide applicability limit shall be established based on either:
- a. Plantwide actual emissions (not to exceed current allowable emissions), including a reasonable operating margin, less than the applicable significant emissions rate; or
- b. Source-wide limits on annual emissions established in a permit issued within the immediately preceding five years pursuant to Article 9 (9 VAC 5-80-2000 et seq.) of this part, where the source-wide emissions limits were completely offset and relied upon in an attainment demonstration plan or maintenance plan approved by the Commonwealth.
3. Any plantwide applicability limit emissions limitations shall be achievable through application of production processes or available methods, systems, and techniques including, but not limited to, emissions control equipment, fuel cleaning or treatment, fuel combustion techniques, substitution of less polluting materials, or limits on production that represent normal source operations.
4. Plantwide applicability limits may include advanced approvals to make physical or operational changes to stationary sources that would be subject to this article provided the advanced approvals meet the following criteria:
- a. Advanced approvals shall (i) identify the projects or alternative operating scenarios and the conditions and restrictions that apply and (ii) include, but not be limited to, pollutants covered, duration of advance approval and types of changes eligible.
- b. Advanced approvals shall assure that the future changes comply with this article by including requirements that preapproved units in certain source categories employ certain, specified control equipment.
- c. Advanced approvals that meet applicable requirements may apply not only to specifically identified new units, but may also apply to new units identified as part of a class, to the extent that associated regulations are written so as to regulate such units as a class. (For example, the federal new source performance standards, national emission standards for hazardous air pollutants, maximum achievable control technology standards, and most state implementation plan limits apply to certain source categories).
- d. Advanced approvals of an alternative scenario proposed by an owner shall not be granted if the scenario: (i) does not comply with applicable requirements, including those of the new source review program; (ii) is not enforceable as a practical matter; or (iii) is not reasonably anticipated.
5. Any physical or operational changes not granted advance approval in a permit establishing a plantwide applicability limit are subject to the provisions of this article.
6. Specific terms and conditions that assure that plantwide applicability limit emissions limitations are enforceable as a practical matter shall be contained in a federally and state enforceable permit applicable to the source.
7. The emissions limitations and conditions established for a plantwide applicability limit shall not relieve any owner of the responsibility to comply fully with any applicable control technology requirements.
- F. The requirements for plantwide applicability limit modifications shall be as follows:
1. Notwithstanding the definitions for major modification and net emissions increase, as defined in 9 VAC 5-80-1710 and 9 VAC 5-80-2010, any physical or operational change consistent with plantwide applicability limit terms and conditions of a permit issued under this article shall not constitute a major modification for the pollutants covered by the plantwide applicability limits. All decreases in emissions shall have approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change;
2. The provisions of 9 VAC 5-80-1140 through 9 VAC 5-80-1200 shall apply to any plantwide applicability limit modification as if it were a modification, except that in lieu of 9 VAC 5-50-260, a plantwide applicability limit modification shall apply best available control technology for each regulated air pollutant if an emissions increase above the plantwide applicability limit would occur; and
3. The best available control technology requirement applies to each emissions unit that undergoes a physical or operational change and contributes to the emissions increase above the plantwide applicability limit.
- G. The requirements for plantwide applicability limit reevaluations shall be as follows:
1. The board shall reevaluate the plantwide applicability limit emissions limitations pursuant to:
- a. Permit renewal and public notification procedures under Articles 1 (9 VAC 5-80-50 et seq.) and 3 (9 VAC 5-80-360 et seq.) of this part; or
- b. Any other proceeding with public notice and opportunity for public comment equivalent to that in 9 VAC 5-80-1170 E.

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2. The board shall evaluate and may adjust the source's plantwide applicability limit emissions limitations to reflect new applicable requirements as they become effective.

H. The requirements for termination of plantwide applicability limits shall be as follows:

1. Nothing in the regulations of the board shall be construed to prevent the board and the owner from making a mutual determination that a plantwide applicability limit is rescinded.

2. In cases where a plantwide applicability limit is rescinded under the provisions of subdivision 1 of this subsection or 9 VAC 5-80-1210, the affected emissions units shall be subject to the requirements of this article as though the plantwide applicability limit had never been in effect.

## 9 VAC 5-80-11. Stationary source (Repealed.)

## 9 VAC 5-80-1320. Permit exemption levels.

A. ~~General.~~ The general requirements for permit exemption levels are as follows:

1. The provisions of this article do not apply to the following stationary sources or emissions units:

a. The construction, reconstruction, relocation or modification of any stationary source or emissions unit that is exempt under the provisions of subsections B through F of this section.

b. The reconstruction of any stationary source or emissions unit if the emissions resulting from the reconstruction will not increase.

c. The relocation of a portable emissions unit provided that:

(1) The emissions from the portable emissions unit are secondary emissions;

(2) The portable emissions unit has previously been permitted or is subject to a general permit;

(3) The unit would not undergo modification or reconstruction;

(4) The unit is suitable to the area in which it is to be located; and

(5) Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 15 days in advance of the proposed relocation unless a different time duration is previously approved by the board.

d. The reactivation of a stationary source unless a determination concerning shutdown has been made pursuant to the provisions of 9 VAC 5-20-220.

e. The use by any source of an alternative fuel or raw material, if the owner demonstrates to the board that as a result of trial burns at their facility or other facilities or other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased.

~~2.~~ 2. In determining whether a facility source is exempt from the requirements of ~~9 VAC 5-80-10~~ provisions of this article, the provisions of subsections B through ~~H~~ D of this section are independent from the provisions of ~~subsection I~~ subsections E and F of this section. A facility source must be determined to be exempt both under the provisions of subsections B through ~~H~~ D taken as a group and under the provisions of subsection ~~I~~ E or F to be exempt from ~~9 VAC 5-80-10~~ this article.

~~2.~~ 3. In determining whether a facility is exempt from the requirements of ~~9 VAC 5-80-10~~ provisions of this article under the provisions of subsections ~~subsections~~ subsection B and C of this section, the definitions in the rule in 9 VAC 5 Chapter 40 (9 VAC 5-40-10 et seq.) that would cover the facility if it were an existing source shall be used unless deemed inappropriate by the board.

B. ~~New source exemption levels by size.~~ Facilities as specified below shall be exempt from the requirements of ~~9 VAC 5-80-10~~ provisions of this article as they pertain to construction, reconstruction or relocation.

1. Fuel burning equipment- units (external combustion units, not engines and turbines) as follows:

a. ~~Any unit~~ Using solid fuel with a maximum heat input of less than 1,000,000 Btu per hour.

b. ~~Any unit~~ Using liquid fuel with a maximum heat input of less than 10,000,000 Btu per hour.

c. ~~Any unit~~ Using liquid and gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.

d. ~~Any unit~~ Using gaseous fuel with a maximum heat input of less than 50,000,000 Btu per hour, ~~unless subject to a new source performance standard in Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50.~~

e. ~~Any unit that powers a mobile source but is removed for maintenance or repair and testing.~~

2. Engines and turbines used for emergency purposes only and which do not exceed 500 hours of operation per year at a single stationary source as follows:

a. Gasoline engines with an aggregate rated brake (output) horsepower of less than 910 hp and diesel engines powering electrical generators having an aggregate rated electrical power output of less than 611 kilowatts.

b. Diesel engines with an aggregate rated brake (output) horsepower of less than 1,675 hp and diesel engines powering electrical generators having an

aggregate rated electrical power output of less than 1125 kilowatts.

c. Combustion gas turbines with an aggregate of less than 10,000,000 Btu per hour heat input (low heating value).

3. Engines that power mobile sources during periods of maintenance, repair or testing.

~~2.~~ 4. Solvent metal cleaning operations. ~~Any solvent metal cleaning operation with an uncontrolled emission rate with a potential to emit of not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~3.~~ 5. Volatile organic compound storage and transfer operations. ~~Any storage or transfer operation involving petroleum liquids and other volatile organic compounds with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions; and any operation specified below:~~

a. Volatile organic compound transfer operations involving:

(1) Any tank of 2,000 gallons or less storage capacity; or

(2) Any operation outside the volatile organic compound emissions control areas designated in 9 VAC 5-20-206.

b. Volatile organic compound storage operations involving any tank of 40,000 gallons or less storage capacity.

~~4.~~ 6. Large appliance coating application systems. ~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~5.~~ 7. Magnet wire coating application systems. ~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~6.~~ 8. Automobile and light duty truck coating application systems. ~~a. Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~b. Any vehicle refinishing operation.~~

~~7.~~ 9. Can coating application systems. ~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the~~

~~potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~8.~~ 10. Metal coil coating application systems. ~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~9.~~ 11. Paper and fabric coating application system. ~~Any coating application system if it is systems within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~10.~~ 12. Vinyl coating application systems. ~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~11.~~ 13. Metal furniture coating application systems. ~~Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~12.~~ 14. Miscellaneous metal parts and products coating application systems. ~~a. Any coating application system if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~b.~~ 15. Vehicle customizing coating operation operations, if production is less than 20 vehicles per day.

~~c.~~ 16. Vehicle refinishing operation operations.

~~d.~~ 17. Coating operations for the exterior of fully assembled aircraft or marine vessel exterior coating operation vessels.

~~13.~~ 18. Flatwood paneling coating application systems. ~~Any coating application system if it is within in a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

~~14.~~ 19. Graphic arts (printing processes). ~~Any printing process if it is within a plant that has an uncontrolled emission rate of stationary source if the potential to emit of the source is not more than seven tons per year, 40 pounds per day and eight pounds per hour of volatile organic compounds.~~

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~~45. 20. Petroleum liquid storage and transfer operations. Any storage or transfer operation involving petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions (kerosene and fuel oil used for household heating have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of 9 VAC 5-80-10 this article when used or stored at ambient temperatures); and any operation specified below:~~

~~a. Bulk terminals— Gasoline bulk loading operations. Any operation at bulk terminals located outside volatile organic compound emissions control areas designated in 9 VAC 5-20-206.~~

~~b. Gasoline dispensing facilities. Any gasoline dispensing facility.~~

~~c. Bulk plants— Gasoline bulk loading operations. at bulk plants:~~

~~(1) Any facility With an expected daily throughput of less than 4,000 gallons, or~~

~~(2) Any operation Located outside volatile organic compound emissions control areas designated in 9 VAC 5-20-206.~~

~~d. Account/tank trucks. No permit is required for account/tank trucks, but; however, permits issued for gasoline storage/transfer facilities should include a provision that all associated account/tank trucks meet the same requirements as those trucks serving existing facilities.~~

~~e. Petroleum liquid storage operations. involving:~~

~~(1) Any tank of 40,000 gallons or less storage capacity;~~

~~(2) Any tank of less than 420,000 gallons storage capacity for crude oil or condensate stored, processed or treated at a drilling and production facility prior to custody transfer.; or~~

~~(3) Any tank storing waxy, heavy pour crude oil.~~

~~46. 21. Dry cleaning plants. Any petroleum dry cleaning plant with a total manufacturers' rated solvent dryer capacity less than 84 pounds as determined by the applicable new source performance standard in 9 VAC 5-50-410.~~

~~47. Wood product manufacturing plants. 22. Any addition of, relocation of or change to a woodworking machine within a wood product manufacturing plant provided the system air movement capacity, expressed as the cubic feet per minute of air, and maximum control efficiency of the control system are not decreased.~~

~~48. 23. Wood sawmills. Any wood sawmill.~~

~~24. Exhaust flares at natural gas and coalbed methane extraction wells.~~

~~C. New sources with no exemptions. Facilities as specified below shall not be exempt, regardless of size or emission rate, from the requirements of 9 VAC 5-80-10 as they pertain to construction, reconstruction or relocation:~~

~~1. Petroleum refineries.~~

~~2. Asphalt plants.~~

~~3. Chemical fertilizer manufacturing plants.~~

~~4. Kraft pulp mills.~~

~~5. Sand and gravel processing facilities.~~

~~6. Coal preparation plants.~~

~~7. Stone quarrying and processing facilities.~~

~~8. Portland cement plants.~~

~~9. Wood product manufacturing plants.~~

~~10. Secondary metal operations.~~

~~11. Lightweight aggregate process operations.~~

~~12. Feed manufacturing plants.~~

~~13. Incinerators.~~

~~14. Coke ovens.~~

~~15. Sulfuric acid production units.~~

~~16. Sulfur recovery operations.~~

~~17. Primary metal operations.~~

~~18. Nitric acid production units.~~

~~19. Concrete batching plants.~~

~~20. Pharmaceutical products manufacturing plants.~~

~~21. Rubber tire manufacturing plants.~~

~~D. New source exemption levels by emission rate.~~

~~Facilities not covered by subsection B or C of this section C. 1. Stationary sources with uncontrolled emission a potential to emit at rates less than all of the significant emission rates specified below shall be exempt from the requirements of 9 VAC 5-80-10 provisions of this article pertaining to construction, reconstruction or relocation.~~

## EMISSION RATES.

Pollutant	Emissions Rate
Carbon monoxide -	100 tons per year.
Nitrogen dioxide -	40 tons per year.
Sulfur dioxide -	40 tons per year.
Particulate matter	25 tons per year.
Particulate matter (PM <sub>10</sub> ) -	15 tons per year.
Volatile organic compounds -	25 tons per year.
Lead -	0.6 ton per year.
Fluorides	3 tpy

Sulfuric Acid Mist	7 tpy
Hydrogen Sulfide (H <sub>2</sub> S)	10 tpy
Total Reduced Sulfur (including H <sub>2</sub> S)	10 tpy
Reduced Sulfur Compounds (including H <sub>2</sub> S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 <sup>-6</sup> tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy
Municipal waste combustor acid gases (measured as the sum of SO <sub>2</sub> and Hcl)	40 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tpy

2. Facilities exempted by subsection B of this section shall not be included in the determination of potential to emit of a stationary source for purposes of exempting sources under this subsection.

~~E. Modified source exemption levels by emission rate. Facilities with increases in uncontrolled emission rates. D. Stationary sources with net emissions increases less than all of the emission rates specified below shall be exempt from the requirements of 9 VAC 5-80-10 provisions of this article pertaining to modification or reconstruction.~~

**EMISSION RATES:**

Pollutant	Emissions Rate
Carbon monoxide -	100 tons per year.
Nitrogen dioxide -	10 tons per year.
Sulfur dioxide -	10 tons per year.
Particulate matter	15 tons per year.
Particulate matter (PM <sub>10</sub> ) -	10 tons per year.
Volatile organic compounds -	10 tons per year.
Lead -	0.6 ton per year.
Fluorides	3 tpy
Sulfuric Acid Mist	7 tpy
Hydrogen Sulfide (H <sub>2</sub> S)	10 tpy
Total Reduced Sulfur (including H <sub>2</sub> S)	10 tpy
Reduced Sulfur Compounds (including H <sub>2</sub> S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 <sup>-6</sup> tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy
Municipal waste combustor acid gases (measured as the sum of SO <sub>2</sub> and Hcl)	40 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tpy

~~F. New source performance standards and national emission standards for hazardous air pollutants. Regardless of the provisions of subsections B, D and E of this section, affected facilities subject to Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50 or subject to Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60 shall not be exempt from the provisions of 9 VAC 5-80-10, with the exception of those facilities which would be subject only to recordkeeping or reporting requirements or both under Article 5 (9 VAC 5-50-400 et seq.) of 9 VAC 5 Chapter 50 or Article 1 (9 VAC 5-60-60 et seq.) of 9 VAC 5 Chapter 60.~~

~~G. Relocation of portable facilities. Regardless of the provisions of subsections B, C, D, E and F of this section, a permit will not be required for the relocation of a portable emissions unit for which a permit has been previously granted under 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) provided that:~~

- ~~1. The emissions of the unit at the new location would be temporary;~~
- ~~2. The emissions from the unit would not exceed its allowable emissions;~~
- ~~3. The unit would not undergo modification or reconstruction;~~
- ~~4. The unit is suitable to the area in which it is to be located; and~~
- ~~5. Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 15 days in advance of the proposed relocation unless a different time duration is previously approved by the board.~~

~~H. Requirements for exempted facilities. Any facility exempted from the provisions of 9 VAC 5-80-10 by subsection B of this section shall be subject to the provisions of any rule which would apply to the facility if it were an existing source unless specifically exempted by that rule.~~

~~I. E. Exemption levels for sources of toxic pollutants: not subject to the federal hazardous air pollutant new source review program shall be as follows:~~

- ~~1. Facilities Stationary sources with an a net emission increase in the uncontrolled emission rate of a toxic pollutant equal to or less than the exempt emission rate calculated using the exemption formulas for the applicable TLV® in subdivision † 4 of this section subsection shall be exempt from the requirements of 9 VAC 5-80-10 provisions of this article pertaining to modification, provided the net emissions increase in the uncontrolled emission rate of the pollutant does not exceed 22.8 pounds per hour or 100 tons per year.~~
- ~~2. Facilities Stationary sources with an uncontrolled emission rate a potential to emit of a toxic pollutant equal to or less than the exempt emission rate calculated using the exemption formulas for the applicable TLV® in subdivision † 4 of this section subsection shall be exempt from the requirements of 9~~

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~~VAC 5-80-10 provisions of this article~~ pertaining to construction, reconstruction or relocation, provided the ~~uncontrolled emission rate potential to emit~~ of the pollutant does not exceed 22.8 pounds per hour or 100 tons per year.

3. If more than one exemption formula applies to a toxic pollutant emitted by a ~~facility~~ *stationary source*, the ~~uncontrolled~~ emission rate of that pollutant shall be equal to or less than both applicable exemption formulas in order for the source to be exempt for that pollutant. The exemption formulas apply on an individual basis to each toxic pollutant for which a TLV® has been established.

4. ~~Exemption formulas. The formulas for making toxic pollutant exemption determinations shall be as follows:~~

a. For toxic pollutants with a TLV-C®, the following exemption formula applies:

$$\text{Exempt Emission Rate (pounds per hour)} = \text{TLV-C® (mg/m}^3\text{)} \times 0.033$$

b. For toxic pollutants with both a TLV-STEL® and a TLV-TWA®, the following exemption formulas apply:

$$\text{Exempt Emission Rate (pounds per hour)} = \text{TLV-STEL® (mg/m}^3\text{)} \times 0.033$$

$$\text{Exempt Emission Rate (tons per year)} = \text{TLV-TWA® (mg/m}^3\text{)} \times 0.145$$

c. For toxic pollutants with only a TLV-TWA®, the following exemption formulas apply:

$$\text{Exempt Emission Rate (pounds per hour)} = \text{TLV-TWA® (mg/m}^3\text{)} \times 0.066$$

$$\text{Exempt Emission Rate (tons per year)} = \text{TLV-TWA® (mg/m}^3\text{)} \times 0.145$$

5. Exemption from the requirements of ~~9 VAC 5-80-10 this article~~ for any ~~facility which has an uncontrolled emission rate~~ *stationary source* of any toxic pollutant without a TLV® shall be determined by the board using available health effects information.

6. The exemption determination shall be made by the board using information submitted by the owner at the request of the board as set out in 9 VAC 5-50-200.

~~7. Facilities as specified below shall not be exempt, regardless of size or emission rate, from the requirements of 9 VAC 5-80-10 as they pertain to modification, construction, reconstruction or relocation.~~

~~a. Incinerators, unless the incinerator is used exclusively as air pollution control equipment.~~

~~b. Ethylene oxide sterilizers.~~

~~c. Boilers or industrial furnaces burning hazardous waste fuel for energy recovery or destruction, or processing for materials recovery or as an ingredient. For the purposes of this subsection, hazardous waste fuel means (i) hazardous waste that is burned for~~

~~energy recovery or (ii) fuel produced from hazardous waste by processing, blending or other treatment (see Hazardous Waste Management Regulations, 9 VAC 20-60-10 et seq.). Hazardous waste means a solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may (i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness, or (ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed (§ 10.1-1400 of the Virginia Waste Management Act). This subdivision shall not apply to boilers or industrial furnaces burning used oil, which is defined as any oil that has been refined from crude oil, used, and as a result of such use, is contaminated by physical or chemical impurities (Hazardous Waste Management Regulations, 9 VAC 20-60-10 et seq.).~~

*F. Any source subject to the federal hazardous air pollutant new source review program shall be exempt from the provisions of this article if specifically exempted from that program by 40 CFR Part 61 or 63.*

VA.R. Doc. No. R96-151; Filed January 21, 1999, 12:55 p.m.

## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

**REGISTRAR'S NOTICE:** 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.

**Title of Regulations:** 14 VAC 5-170-10 et seq. **Rules Governing Minimum Standards for Medicare Supplement Policies (amending 14 VAC 5-170-20, 14 VAC 5-170-30, 14 VAC 5-170-40, 14 VAC 5-170-50, 14 VAC 5-170-60, 14 VAC 5-170-70, 14 VAC 5-170-80, 14 VAC 5-170-90, 14 VAC 5-170-100, 14 VAC 5-170-110, 14 VAC 5-170-120, 14 VAC 5-170-130, 14 VAC 5-170-140, 14 VAC 5-170-150, 14 VAC 5-170-160, 14 VAC 5-170-170, 14 VAC 5-170-180, Appendix A, Appendix B, and Appendix C; adding 14 VAC 5-170-105).**

**Statutory Authority:** §§ 12.1-13 and 38.2-223 of the Code of Virginia.

**Summary:**

*The proposed amendments respond to the federal Balanced Budget Act of 1997 (Public Law 105-33, August 5, 1997), which establishes a new Part C in Medicare (Medicare+Choice) and creates additional*

standards for Medicare supplement insurance policies. Changes to Medicare supplement insurance policies include guaranteed issue without preexisting conditions for continuously covered individuals and limitation on imposition of preexisting condition exclusion during initial open enrollment period. Two new high deductible Medicare supplement policies (High Deductible Plan F and High Deductible Plan J) have also been added to the 10 standardized Medicare supplement plans. The amended regulation also includes changes and additions to the disclosure statements.

Agency Contact: Raquel C. Pino-Moreno, Insurance Analyst, Bureau of Insurance, P.O. Box 1157, 5th Floor, State Corporation Commission, Richmond, VA 23218, telephone (804) 371-9859.

AT RICHMOND, JANUARY 26, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS980193

Ex Parte: In the matter of adopting revised Rules Governing Minimum Standards for Medicare Supplement Policies

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 § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed revised regulation entitled "Rules Governing Minimum Standards for Medicare Supplement Policies"; 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 February 25, 1999, adopting the revised regulation proposed by the Bureau of Insurance unless on or before February 25, 1999, any person objecting to the adoption of such a regulation files a request for a hearing, and in such request specifies in detail his objection to the adoption of the proposed revised regulation, to be effective April 26, 1999, 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 Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky who forthwith shall give

further notice of the proposed adoption of the regulation by mailing a copy of this order, together with a complete draft of the proposed regulation, to all insurers, health services plans, and health maintenance organizations licensed to write Medicare supplement insurance 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 5-170-20. Applicability and scope.

A. Except as otherwise specifically provided in 14 VAC 5-170-60, 14 VAC 5-170-110, 14 VAC 5-170-120, 14 VAC 5-170-150 and 14 VAC 5-170-200, this chapter shall apply to:

- 1. All Medicare supplement policies delivered or issued for delivery in this Commonwealth on or after April 28, 1996 April 26, 1999, and
2. All certificates issued under group Medicare supplement policies for which certificates have been delivered or issued for delivery in this Commonwealth.

B. This chapter shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

14 VAC 5-170-30. Definitions.

For purposes of this chapter (14 VAC 5-170-10 et seq.):

"Applicant" means:

- 1. In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits, and
2. In the case of a group Medicare supplement policy, the proposed certificateholder.

"Bankruptcy" means when a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in this Commonwealth.

"Certificate" means any certificate delivered or issued for delivery in this Commonwealth under a group Medicare supplement policy.

"Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

"Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual did not have a break in coverage greater than 63 days.

"Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

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1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act of 1935 (Medicare) (42 USC § 1395 et seq.);
4. Title XIX of the Social Security Act of 1935 (Medicaid) (42 USC § 1396 et seq.), other than coverage consisting solely of benefits under § 1928;
5. Chapter 55 of Title 10 of the United States Code (CHAMPUS) (10 USC §§ 1071 – 1107);
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under the Federal Employees Health Benefits Act of 1959 (5 USC §§ 8901 - 8914);
9. A public health plan as defined in federal regulation; and
10. A health benefit plan under § 5(e) of the Peace Corps Act of 1961 (22 USC § 2504(e)).

"Creditable coverage" shall not include one or more, or any combination of, the following:

1. Coverage only for accident or disability income insurance, or any combination thereof;
2. Coverage issued as a supplement to liability insurance;
3. Liability insurance, including general liability insurance and automobile liability insurance;
4. Worker's compensation or similar insurance;
5. Automobile medical expense insurance;
6. Credit-only insurance;
7. Coverage for on-site medical clinics; and
8. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"Creditable coverage" shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

1. Limited scope dental or vision benefits;
2. Benefits for long-term care, nursing home care, home health care, community-based care or any combination thereof; and
3. Such other similar, limited benefits as are specified in federal regulations.

"Creditable coverage" shall not include the following benefits if offered as independent, noncoordinated benefits:

1. Coverage only for a specified disease or illness; and

2. Hospital indemnity or other fixed indemnity insurance.

"Creditable coverage" shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

1. Medicare supplement health insurance as defined under § 1882(g)(1) of the Social Security Act of 1935 (42 USC § 1395ss);
2. Coverage supplemental to the coverage provided under Chapter 55 of Title 10 of the United States Code (10 USC §§ 1071 – 1107); and
3. Similar supplemental coverage provided to coverage under a group health plan.

"Employee welfare benefit plan" means a plan, fund or program of employee benefits as defined in the Employee Retirement Income Security Act of 1974 (29 USC § 1002).

"Insolvency" means when an issuer, duly licensed to transact an insurance business in this Commonwealth in accordance with the provisions of Chapter 10, 41, 42 or 43, respectively, of Title 38.2 of the Code of Virginia, is determined to be insolvent and placed under a final order of liquidation by a court of competent jurisdiction.

"Issuer" includes insurance companies, fraternal benefit societies, corporations licensed pursuant to Chapter 42 of Title 38.2 of the Code of Virginia to offer health service services plans, health maintenance organizations, and any other entity delivering or issuing for delivery in this Commonwealth Medicare supplement policies or certificates.

"Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965 (Public Law 89-97, 79 Stat. 286 (July 30, 1965)), as then constituted or later amended.

"Medicare+Choice plan" means a plan of coverage for health benefits under Medicare Part C as defined in § 1859, Title IV, Subtitle A, Chapter 1 of Public Law 105-33, and includes:

1. Coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans;
2. Medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account; and
3. Medicare+Choice private fee-for-service plans.

"Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of health service plans or health maintenance organizations, other than a policy issued pursuant to a contract under § 1876 of the federal Social Security Act of 1935 (42 USC § 1395 et seq.) or an issued policy under a demonstration project specified in 42 USC § 1395ss(g)(1), which is advertised, marketed or designed primarily as a

supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.

"Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

"Secretary" means the Secretary of the United States Department of Health and Human Services.

**14 VAC 5-170-40. Policy definitions and terms.**

No policy or certificate may be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless such policy or certificate contains definitions or terms which conform to the requirements of this section.

"Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

1. The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."
2. The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

"Benefit period" or "Medicare benefit period" shall not be defined more restrictively than as defined in the Medicare program.

"Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

"Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

The expenses shall not include:

1. Home office and overhead costs;
2. Advertising costs;
3. Commissions and other acquisition costs;
4. Taxes;
5. Capital costs;
6. Administrative costs; and
7. Claims processing costs.

"Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the

Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program.

"Medicare" shall be defined in the policy and certificate. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 (42 USC § 1395 et seq.)," or "Title I, Part I of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

"Medicare eligible expenses" shall mean expenses of the kinds covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

"Physician" shall not be defined more restrictively than as defined in the Medicare program.

"Sickness" shall not be defined to be more restrictive than the following:

"Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force."

The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

**14 VAC 5-170-50. Policy provisions.**

A. Except for permitted preexisting condition clauses as described in 14 VAC 5-170-60 B 1 and 14 VAC 5-170-70 B 1, no policy or certificate may be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

B. No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

C. No Medicare supplement policy or certificate in force in ~~the~~ this Commonwealth shall contain benefits which duplicate benefits provided by Medicare.

**14 VAC 5-170-60. Minimum benefit standards for policies or certificates issued for delivery prior to July 30, 1992.**

A. No policy or certificate may be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

B. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this chapter.

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1. A Medicare supplement policy or certificate shall not exclude or limit benefits for ~~losses~~ a loss incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

2. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

3. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

4. A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

a. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or

b. Be cancelled or nonrenewed by the issuer solely on the grounds of deterioration of health.

5. a. Except as authorized by the ~~Commission~~ *State Corporation Commission*, an issuer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

b. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in *subdivision 5 d of this subsection*, the issuer shall offer certificateholders an individual Medicare supplement policy. The issuer shall offer the certificateholder at least the following choices:

(1) An individual Medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group Medicare supplement policy; and

(2) An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in subsection C of this section.

c. If membership in a group is terminated, the issuer shall:

(1) Offer the certificateholder the conversion opportunities described in subdivision 5 b of this subsection; or

(2) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

d. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

6. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

## C. Minimum benefit standards.

1. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

2. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

3. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

4. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 90% of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

5. Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

6. Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible \$100;

7. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

**14 VAC 5-170-70. Benefit standards for policies or certificates issued or delivered on or after July 30, 1992.**

A. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this Commonwealth on or after July 30, 1992. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit standards.

B. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this chapter.

1. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses a loss incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.
2. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.
3. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes provided that loss ratios are being met.
4. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.
5. Each Medicare supplement policy shall be guaranteed renewable.
  - a. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.
  - b. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.
  - c. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subdivision 5 e of this subsection, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):
    - (1) Provides for continuation of the benefits contained in the group policy, or
    - (2) Provides for benefits that otherwise meet the requirements of this subsection.

d. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

- (1) Offer the certificateholder the conversion opportunity described in subdivision 5 c of this subsection; or
- (2) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

e. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

6. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

7. a. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed 24 months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act of 1935 (42 USC § 1396 *et seq.*), but only if the policyholder or certificateholder notifies the issuer of such policy or certificate within 90 days after the date the individual becomes entitled to such assistance.

b. If such suspension occurs and if the policyholder or certificateholder loses entitlement to such medical assistance, the policy or certificate shall be automatically reinstated (effective as of the date of termination of such entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within 90 days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of such entitlement.

c. Reinstatement of such coverages:

- (1) Shall not provide for any waiting period with respect to treatment of preexisting conditions;
- (2) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of such suspension; and

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(3) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

C. Standards for basic (core) benefits common to all benefit plans. Every issuer shall make available a policy or certificate including only the following basic core package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it.

1. Coverage of Part A Medicare Eligible Expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

2. Coverage of Part A Medicare Eligible Expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

3. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the Diagnostic Related Group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

4. Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

5. Coverage for the coinsurance amount of Medicare Eligible Expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

D. Standards for additional benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by 14 VAC 5-170-80 of this chapter.

1. Medicare Part A deductible. Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

2. Skilled nursing facility care. Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

3. Medicare Part B deductible. Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

4. Eighty percent of the Medicare Part B excess charges. Coverage for 80% of the difference between the actual Medicare Part B charge as billed, not to exceed any

charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

5. One hundred percent of the Medicare Part B excess charges. Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

6. Basic outpatient prescription drug benefit. Coverage for 50% of outpatient prescription drug charges, after a \$250 calendar year deductible, to a maximum of \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

7. Extended outpatient prescription drug benefit. Coverage for 50% of outpatient prescription drug charges, after a \$250 calendar year deductible to a maximum of \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare.

8. Medically necessary emergency care in a foreign country. Coverage to the extent not covered by Medicare for 80% of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

9. Preventive medical care benefit. Coverage for the following preventive health services:

a. An annual clinical preventive medical history and physical examination that may include tests and services from subdivision 9 b of *this subsection* and patient education to address preventive health care measures.

b. Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(1) ~~Fecal occult blood test or Digital rectal examination, or both;~~

(2) ~~Mammogram;~~

(3) (2) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria;

(4) (3) Pure tone (air only) hearing screening test, administered or ordered by a physician;

(5) (4) Serum cholesterol screening (every five years);

(6) (5) Thyroid function test;

(7) (6) Diabetes screening.

c. ~~Influenza vaccine administered at any appropriate time during the year and Tetanus and Diphtheria booster (every 10 years).~~

d. Any other tests or preventive measures determined appropriate by the attending physician. Reimbursement shall be for the actual charges up to 100% of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of \$120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

10. At-home recovery benefit. Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

a. For purposes of this benefit, the following definitions shall apply:

*"Activities of daily living"* include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

*"Care provider"* means a duly qualified or licensed home health aide or homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

*"Home"* shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

*"At-home recovery visit"* means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit.

b. Coverage requirements and limitations:

(1) At-home recovery services provided must be primarily services which assist in activities of daily living.

(2) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare; and

(3) Coverage is limited to:

(a) No more than the number and type of at-home recovery visits certified as necessary by

the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

(b) The actual charges for each visit up to a maximum reimbursement of \$40 per visit;

(c) One thousand six hundred dollars per calendar year;

(d) Seven visits in any one week;

(e) Care furnished on a visiting basis in the insured's home;

(f) Services provided by a care provider as defined in this section;

(g) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(h) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight weeks after the service date of the last Medicare approved home health care visit.

c. Coverage is excluded for:

(1) Home care visits paid for by Medicare or other government programs; and

(2) Care provided by family members, unpaid volunteers or providers who are not care providers.

11. New or innovative benefits. An issuer may, with the prior approval of the ~~commission~~ *State Corporation Commission*, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

**14 VAC 5-170-80. Standard Medicare supplement benefit plans.**

A. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic core benefits, as defined in 14 VAC 5-170-70 C.

B. No groups, packages or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this ~~state~~ *Commonwealth*, except as may be permitted in 14 VAC 5-170-70 D 11 and 14 VAC 5-170-90.

C. Benefit plans shall be uniform in structure, language, designation, and format to the standard benefit plans "A" through "J" listed in this subsection and conform to the

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definitions in 14 VAC 5-170-30. Each benefit shall be structured in accordance with the format provided in 14 VAC 5-170-70 C and D and list the benefits in the order shown in this subsection. For purposes of this section, "structure, language, and format" means style, arrangement and overall content of a benefit.

D. An issuer may use, in addition to the benefit plan designations required in subsection C, other designations to the extent permitted by law.

E. Make-up of benefit plans:

1. Standardized Medicare supplement benefit plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as defined in 14 VAC 5-170-70 C.

2. Standardized Medicare supplement benefit plan "B" shall include only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible as defined in 14 VAC 5-170-70 D 1.

3. Standardized Medicare supplement benefit plan "C" shall include only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in 14 VAC 5-170-70 D 1, 2, 3, and 8 respectively.

4. Standardized Medicare supplement benefit plan "D" shall include only the following: The core ~~benefit~~ (*benefits* as defined in 14 VAC 5-170-70 C), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in foreign country, and the at-home recovery benefit as defined in 14 VAC 5-170-70 D 1, 2, 8, and 10 respectively.

5. Standardized Medicare supplement benefit plan "E" shall include only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in 14 VAC 5-170-70 D 1, 2, 8, and 9 respectively.

6. Standardized Medicare supplement benefit plan "F" shall include only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in 14 VAC 5-170-70 D 1, 2, 3, 5, and 8 respectively.

7. *Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefits as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and*

*medically necessary emergency care in a foreign country as defined in 14 VAC 5-170-70 D 1, 2, 3, 5, and 8 respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy and shall be in addition to any other specific benefit deductibles. The calendar year deductible shall be \$1,500 for 1998 and 1999. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending on August 31st of the preceding year and rounded to the nearest multiple of \$10.*

~~7- 8.~~ Standardized Medicare supplement benefit plan "G" shall include only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, 80% of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in 14 VAC 5-170-70 D 1, 2, 4, 8, and 10 respectively.

~~8- 9.~~ Standardized Medicare supplement benefit plan "H" shall ~~consist of~~ *include* only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit and medically necessary emergency care in a foreign country as defined in 14 VAC 5-170-70 D 1, 2, 6, and 8 respectively.

~~9- 10.~~ Standardized Medicare supplement benefit plan "I" shall ~~consist of~~ *include* only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in 14 VAC 5-170-70 D 1, 2, 5, 6, 8, and 10 respectively.

~~10- 11.~~ Standardized Medicare supplement benefit plan "J" shall ~~consist of~~ *include* only the following: The core ~~benefit~~ *benefits* as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in 14 VAC 5-170-70 D 1, 2, 3, 5, 7, 8, 9, and 10 respectively.

*12. Standardized Medicare supplement benefit high deductible plan "J" shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefits as defined in 14 VAC 5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary*

emergency care in a foreign country, preventive medical care benefit, and at-home recovery benefit as defined in 14 VAC 5-170-70 D 1, 2, 3, 5, 7, 8, 9, and 10 respectively. The annual high deductible plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy and shall be in addition to any other specific benefit deductibles. The calendar year deductible shall be \$1,500 for 1998 and 1999. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending on August 31st of the preceding year and rounded to the nearest multiple of \$10.

**14 VAC 5-170-90. Medicare select policies and certificates.**

- A. 1. This section shall apply to Medicare Select policies and certificates, as defined in this section.
- 2. No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.
- B. For the purposes of this section:

"Complaint" means any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.

"Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers.

"Medicare Select issuer" means an issuer offering, or seeking to offer, a Medicare Select policy or certificate.

"Medicare Select policy" or "Medicare Select certificate" mean respectively a Medicare supplement policy or certificate that contains restricted network provisions.

"Network provider" means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy.

"Restricted network provision" means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

"Service area" means the geographic area approved by the ~~commission~~ State Corporation Commission within which an issuer is authorized to offer a Medicare Select policy.

C. The ~~commission~~ State Corporation Commission may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to this section and § 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 (42 USC § 1395ss(t)) if the commission finds that the issuer has satisfied all of the requirements of this chapter.

D. A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this Commonwealth until its plan of operation has been approved by the ~~commission~~ State Corporation Commission.

E. A Medicare Select issuer shall file a proposed plan of operation with the ~~commission~~ State Corporation Commission in a format prescribed by the ~~commission~~ State Corporation Commission. The plan of operation shall contain at least the following information:

1. Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:
  - a. Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.
  - b. The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:
    - (1) To deliver adequately all services that are subject to a restricted network provision; or
    - (2) To make appropriate referrals.
  - c. There are written agreements with network providers describing specific responsibilities.
  - d. Emergency care is available 24 hours per day and seven days per week.
  - e. In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting such providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This subdivision shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.
2. A statement or map providing a clear description of the service area.
3. A description of the grievance procedure to be utilized.
4. A description of the quality assurance program, including:
  - a. The formal organizational structure;
  - b. The written criteria for selection, retention, and removal of network providers; and
  - c. The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

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5. A list and description, by specialty, of the network providers.
  6. Copies of the written information proposed to be used by the issuer to comply with subsection I of this section.
  7. Any other information requested by the ~~commission~~ *State Corporation Commission*.
- F. 1. A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the ~~commission~~ *State Corporation Commission* prior to implementing such changes. Such changes shall be considered approved by the ~~commission~~ *State Corporation Commission* after 30 days unless specifically disapproved.
2. An updated list of network providers shall be filed with the ~~commission~~ *State Corporation Commission* at least quarterly.
- G. A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if:
1. The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and
  2. It is not reasonable to obtain such services through a network provider.
- H. A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.
- I. A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:
1. An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:
    - a. Other Medicare supplement policies or certificates offered by the issuer; and
    - b. Other Medicare Select policies or certificates.
  2. A description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers.
  3. A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized.
  4. A description of coverage for emergency and urgently needed care and other out-of-service area coverage.
  5. A description of limitations on referrals to restricted network providers and to other providers.
  6. A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.
  7. A description of the Medicare Select issuer's quality assurance program and grievance procedure.
- J. Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to subsection I of this section and that the applicant understands the restrictions of the Medicare Select policy or certificate.
- K. A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. Such procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.
1. The grievance procedure shall be described in the policy and certificates and in the outline of coverage.
  2. At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.
  3. Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision makers who have authority to fully investigate the issue and take corrective action.
  4. If a grievance is found to be valid, corrective action shall be taken promptly.
  5. All concerned parties shall be notified about the results of a grievance.
  6. The issuer shall report no later than each March 31st to the ~~commission~~ *State Corporation Commission* regarding its grievance procedure. The report shall be in a format prescribed by the ~~commission~~ *State Corporation Commission* and shall contain the number of grievances filed in the past year and a summary of the subject, nature, and resolution of such grievances.
- L. At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.
- M. 1. At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make such policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six months.
2. For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For

the purposes of this subdivision, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

N. Medicare Select policies and certificates shall provide for continuation of coverage in the event the Secretary of ~~Health and Human Services~~ determines that Medicare Select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.

1. Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make such policies and certificates available without requiring evidence of insurability.

2. For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this subdivision, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

O. A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

**14 VAC 5-170-100. Open enrollment.**

A. An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this Commonwealth, nor discriminate in the pricing of such a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an ~~insurer~~ issuer shall be made available to all applicants who qualify under this subsection without regard to age.

B. 1. *If an applicant qualifies under subsection A of this section and submits an application during the time period referenced in subsection A and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.*

2. *If the applicant qualifies under subsection A of this section and submits an application during the time period referenced in subsection A and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary shall specify the manner of the reduction under this subsection.*

~~B.~~ C. Except as provided in subsection B of this section and 14 VAC 5-170-210, subsection A shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was otherwise diagnosed during the six months before the coverage became effective.

**14 VAC 5-170-105. Guaranteed issue for eligible persons.**

A. *Guaranteed issue provisions follow:*

1. *Eligible persons are those individuals described in subsection B of this section who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in subsection B, and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.*

2. *With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection C of this section that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.*

B. *An eligible person is an individual described in any of the following subdivisions:*

1. *The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare, and the plan terminates, or the plan ceases to provide substantially all such supplemental health benefits to the individual, or the individual is enrolled under an employee welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan;*

2. *The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and any of the following circumstances apply:*

a. *The organization's or plan's certification under 42 USC §§ 1395w-21 et seq. has been terminated or the*

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- organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;
- b. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in § 1851 (g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under § 1856), or the plan is terminated for all individuals within a residence area;
- c. The individual demonstrates, in accordance with guidelines established by the Secretary, that:
- (1) The organization offering the plan substantially violated a material provision of the organization's contract under 42 USC §§ 1395w-21 et seq. in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or
  - (2) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or
- d. The individual meets such other exceptional conditions as the Secretary may provide.
3. a. The individual is enrolled with:
- (1) An eligible organization under a contract under § 1876 (Medicare risk or cost);
  - (2) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;
  - (3) An organization under an agreement under § 1833(a)(1)(A) (health care prepayment plan); or
  - (4) An organization under a Medicare Select policy; and
- b. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under subdivision B 2 of this section.
4. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:
- a. (1) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or
  - (2) Of other involuntary termination of coverage or enrollment under the policy;
- b. The issuer of the policy substantially violated a material provision of the policy; or
- c. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.
5. a. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under § 1876 (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under § 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and
- b. The subsequent enrollment under subdivision 5 a of this subsection is terminated by the enrollee during any period within the first 12 months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under § 1851 (e) of the federal Social Security Act); or
6. The individual, upon first becoming enrolled in Medicare Part B for benefits at age 65 or older, enrolls in a Medicare+Choice plan under Part C of Medicare, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.
- C. The Medicare supplement policy to which eligible persons are entitled under:
1. Subdivisions B 1, 2, 3, and 4 of this section is a Medicare supplement policy which has a benefit package classified as Plan A, B, C or F offered by any issuer.
  2. Subdivision B 5 of this section is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in subdivision 1 of this subsection.
  3. Subdivision B 6 of this section shall include any Medicare supplement policy offered by any issuer.
- D. Notification provisions are:
1. At the time of an event described in subsection B of this section because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection A of this section. Such notice shall be communicated in writing contemporaneously with the notification of termination.

2. At the time of an event described in subsection B of this section because of which an individual ceases enrollment under a contract or agreement, policy or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection A of this section. Such notice shall be communicated in writing within 10 working days of the issuer receiving notification of disenrollment.

**14 VAC 5-170-110. Standards for claims payment.**

A. An issuer shall comply with ~~section~~ § 1882(c)(3) of the Social Security Act (as enacted by ~~section~~ § 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Public Law No. 100-203, 101 Stat. 1330 (December 22, 1991)) by:

1. Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form otherwise required and making a payment determination on the basis of the information contained in that notice;
2. Notifying the participating physician or supplier and the beneficiary of the payment determination;
3. Paying the participating physician or supplier directly;
4. Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central mailing address to which notices from a Medicare carrier may be sent;
5. Paying user fees for claim notices that are transmitted electronically or otherwise; and
6. Providing to the Secretary of ~~Health and Human Services~~, at least annually, a central mailing address to which all claims may be sent by Medicare carriers.

B. Compliance with the requirements set forth in subsection A above shall be certified on the Medicare supplement insurance experience reporting form.

**14 VAC 5-170-120. Loss ratio standards and refund or credit of premium; annual filing; public hearing.**

A. 1. Loss ratio standards. A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

- a. At least 75% of the aggregate amount of premiums earned in the case of group policies; or

b. At least 65% of the aggregate amount of premiums earned in the case of individual policies, calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for such period and in accordance with accepted actuarial principles and practices.

2. All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

3. For policies issued prior to July 30, 1992, expected claims in relation to premiums shall meet:

- a. The originally filed anticipated loss ratio when combined with the actual experience since inception;
- b. The appropriate loss ratio requirement from ~~subdivision~~ subdivisions 1 a and 1 b of this subsection when combined with actual experience beginning with July 1, 1991, to date; and
- c. The appropriate loss ratio requirement from ~~subdivision~~ subdivisions 1 a and 1 b of this subsection over the entire future period for which the rates are computed to provide coverage.

B. 1. Refund or credit calculation. An issuer shall collect and file with the ~~commission~~ State Corporation Commission by May 31 of each year the data contained in the applicable reporting form contained in Appendix A for each type in a standard Medicare supplement benefit plan.

2. If on the basis of the experience as reported the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation shall be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

3. For the purposes of this section, for policies or certificates issued prior to July 30, 1992, the issuer shall make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after April 28, 1996. The first such report shall be due by May 31, 1998.

4. A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include

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interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event shall it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due shall be made by September 30 following the experience year upon which the refund or credit is based.

C. Annual filing of premium rates. An issuer of Medicare supplement policies and certificates issued before or after July 30, 1992, in this Commonwealth shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the ~~commission~~ *State Corporation Commission* in accordance with the filing requirements and procedures prescribed by the ~~commission~~ *State Corporation Commission*. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this Commonwealth shall file with the ~~commission~~ *State Corporation Commission*, in accordance with the applicable filing procedures of this Commonwealth:

1. a. Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents as necessary to justify the adjustment shall accompany the filing.
- b. An issuer shall make such premium adjustments necessary to produce an expected loss ratio under the policy or certificate to conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date.
- c. If an issuer fails to make premium adjustments acceptable to the ~~commission~~ *State Corporation Commission*, the ~~commission~~ *State Corporation Commission* may order premium adjustments, refunds or premium credits deemed necessary to achieve the loss ratio required by this section.

2. Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

D. Public hearings. The ~~commission~~ *State Corporation Commission* may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after July 30, 1992, if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for such reporting period. Public notice of the hearing shall be furnished in a manner deemed appropriate by the ~~commission~~ *State Corporation Commission*.

## **14 VAC 5-170-130. Filing and approval of policies and certificates and premium rates.**

A. An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this Commonwealth unless the policy form or certificate form has been filed with and approved by the ~~commission~~ *State Corporation Commission* in accordance with filing requirements and procedures prescribed by the ~~commission~~ *State Corporation Commission*.

B. An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the ~~commission~~ *State Corporation Commission* in accordance with the filing requirements and procedures prescribed by the ~~commission~~ *State Corporation Commission*.

C. 1. Except as provided in subdivision 2 of this subsection, an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

2. An issuer may offer, with the approval of the ~~commission~~ *State Corporation Commission*, up to four additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

- a. The inclusion of new or innovative benefits;
- b. The addition of either direct response or agent marketing methods;
- c. The addition of either guaranteed issue or underwritten coverage;
- d. The offering of coverage to individuals eligible for Medicare by reason of disability.

3. For the purposes of this section, a "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.

D. 1. Except as provided in subdivision 1a of this subsection, an issuer shall continue to make available for purchase any policy form or certificate form issued after July 30, 1992, that has been approved by the ~~commission~~ State Corporation Commission. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous 12 months.

a. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the ~~commission~~ State Corporation Commission in writing its decision at least 30 days prior to discontinuing the availability of the form of the policy or certificate. ~~After receipt of the notice by the commission, the issuer shall no longer offer for sale the policy form or certificate form in this Commonwealth.~~

b. An issuer that discontinues the availability of a policy form or certificate form pursuant to subdivision 1 a of this subsection shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the ~~commission~~ State Corporation Commission of the discontinuance. The period of discontinuance may be reduced if the ~~commission~~ State Corporation Commission determines that a shorter period is appropriate.

2. The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this subsection.

3. A change in the rating structure or methodology shall be considered a discontinuance under subdivision 1 of this subsection unless the issuer complies with the following requirements:

a. The issuer provides an actuarial memorandum, in a form and manner prescribed by the ~~commission~~ State Corporation Commission, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

b. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The ~~commission~~ State Corporation Commission may approve a change to the differential which is in the public interest.

E. 1. Except as provided in subdivision 2 of this subsection, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in 14 VAC 5-170-120 ~~of this chapter~~.

2. Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of

other forms for purposes of the refund or credit calculation.

**14 VAC 5-170-140. Permitted compensation arrangements.**

A. An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200% of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

B. The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for no fewer than five renewal years.

C. No issuer or other entity shall provide compensation to its agents or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced.

D. For purposes of this section, "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards, and ~~finders~~ finders' fees.

**14 VAC 5-170-150. Required disclosure provisions.**

A. General rules.

1. Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of such provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned ~~and~~, shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.

2. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term shall be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or

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endorsements, the premium charge shall be set forth in the policy.

3. Medicare supplement policies or certificates shall not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary" or words of similar import.

4. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

5. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificateholder shall have the right to return the policy or certificate within 30 days of its delivery and to have all premiums made for the policy refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

6. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to a person(s) eligible for Medicare shall provide to those applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and in a type size no smaller than 12 point type. Delivery of the guide shall be made whether or not such policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this chapter. Except in the case of direct response issuers, delivery of the guide shall be made to the applicant at the time of application and acknowledgement of receipt of the guide shall be obtained by the issuer. Direct response issuers shall deliver the guide to the applicant upon request but not later than at the time the policy is delivered.

For the purposes of this section, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing.

## B. Notice requirements.

1. As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the ~~commission~~ *State Corporation Commission*. The notice shall:

a. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate, and

b. Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare.

2. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

3. Such notices shall not contain or be accompanied by any solicitation.

## C. Outline of coverage requirements for Medicare Supplement Policies.

1. Issuers shall provide an outline of coverage to all applicants at the time *the* application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant; and

2. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany such policy or certificate when it is delivered and contain the following statement, in no less than 12 point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

3. The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than 12 point type. All plans A-J shall be shown on the cover page, and the plan(s) that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

4. The following items shall be included in the outline of coverage in the order prescribed in the following table.

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[COMPANY NAME]  
 Outline of Medicare Supplement Coverage-Cover Page:  
 Benefit Plan(s) \_\_\_\_\_ [insert letter(s) of plan(s) being offered]

Medicare supplement insurance can be sold in only ten standard plans *plus two high deductible plans*.<sup>\*</sup> This chart shows the benefits included in each plan. Every company must make available Plan "A." Some plans may not be available in your state.

**Basic Benefits:** Included in all Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (generally 20% of Medicare-approved expenses).

Blood: First three pints of blood each year.

A	B	C	D	E	F	F*	G	H	I	J	J*
Basic Benefit	Basic Benefit	Basic Benefit	Basic Benefit	Basic Benefit	Basic Benefit		Basic Benefit	Basic Benefit	Basic Benefit	Basic Benefit	
		Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance		Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	
		Part B Deductible			Part B Deductible					Part B Deductible	
					Part B Excess (100%)		Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)	
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	
			At-Home Recovery				At-Home Recovery		At-Home Recovery	At-Home Recovery	
								Basic Drug Benefit (\$1,250 Limit)	Basic Drug Benefit (\$1,250 Limit)	Extended Drug Benefit (\$3,000 Limit)	
				Preventive Care						Preventive Care	

<sup>\*</sup> Plans F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year [\$1500] deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include, in Plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

**PREMIUM INFORMATION**

**Boldface Type**

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this ~~State~~ Commonwealth. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

**DISCLOSURES**

**Boldface Type**

Use this outline to compare benefits and premiums among policies.

**READ YOUR POLICY VERY CAREFULLY**

**Boldface Type**

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

**RIGHT TO RETURN POLICY**

**Boldface Type**

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address.] If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

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## POLICY REPLACEMENT

### Boldface Type

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

## NOTICE

### Boldface Type

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult "The Medicare Handbook" for more details.

**COMPLETE ANSWERS ARE VERY IMPORTANT**

### Boldface Type

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to 14 VAC 5-170-80.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the ~~commission~~ State Corporation Commission.]

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## PLAN A

### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	\$0	<del>\$716</del> \$764 (Part A Deductible)
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All <del>Cost</del> Costs

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<p><b>SKILLED NURSING FACILITY CARE*</b></p> <p>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital</p> <p>First 20 days</p> <p>21st thru 100th day</p> <p>101st day and after</p>	<p>All approved amounts</p> <p>All but <del>\$89.50</del> \$95.50 a day</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p> <p>\$0</p>	<p>\$0</p> <p>Up to <del>\$89.50</del> \$95.50 a day</p> <p>All <del>costs</del> Costs</p>
<p><b>BLOOD</b></p> <p>First 3 pints</p> <p>Additional amounts</p>	<p>\$0</p> <p>100%</p>	<p>3 pints</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p>
<p><b>HOSPICE CARE</b></p> <p>Available as long as your doctor certifies you are terminally ill and you elect to receive these services</p>	<p>All but very limited coinsurance for outpatient drugs and inpatient respite care</p>	<p>\$0</p>	<p>Balance</p>

\* \* \*

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### PLAN A

#### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<p><b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b>, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment</p> <p>First \$100 of Medicare Approved Amounts*</p> <p>Remainder of Medicare Approved Amounts</p>	<p>\$0</p> <p>Generally 80%</p>	<p>\$0</p> <p>Generally 20%</p>	<p>\$100 (Part B Deductible)</p> <p>\$0</p>

# Proposed Regulations

Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>BLOOD</b>			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES -- BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

## PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE-APPROVED SERVICES</b>			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

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## PLAN B

### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$746 \$764	\$746 \$764 (Part A Deductible)	\$0

## Proposed Regulations

61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:	\$0	100% of Medicare Eligible Expenses	\$0
-Additional 365 days	\$0	\$0	All <del>costs</del> Costs
-Beyond the Additional 365 days	\$0	\$0	All <del>costs</del> Costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>\$89.50</del> \$95.50 a day	\$0	Up to <del>\$89.50</del> \$95.50 a day
101st day and after	\$0	\$0	All <del>costs</del> Costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

\* \* \*

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### PLAN B

#### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as</b>			

# Proposed Regulations

physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>BLOOD</b>			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

## PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE-APPROVED SERVICES</b>			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

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## PLAN C

### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	<del>\$716</del> \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All Costs
<b>SKILLED NURSING FACILITY CARE*</b>			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>\$89.50</del> \$95.50 a day	Up to <del>\$89.50</del> \$95.50 a day	\$0
101st day and after	\$0	\$0	All Costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

# Proposed Regulations

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## PLAN C

### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment  First \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts  Part B Excess Charges (Above Medicare Approved Amounts)	  \$0  Generally 80%  \$0	  \$100 (Part B Deductible)  Generally 20%  \$0	  \$0  \$0  All Costs
<b>BLOOD</b>  First 3 pints  Next \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	  \$0  \$0  80%	  All Costs  \$100 (Part B Deductible)  20%	  \$0  \$0  \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

### PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE-APPROVED SERVICES</b>  - Medically necessary skilled care services and medical supplies  - Durable medical equipment	  100%	  \$0	  \$0

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First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

**OTHER BENEFITS - NOT COVERED BY MEDICARE**

<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

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**PLAN D**

**MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	<del>\$716</del> \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All Costs

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<p><b>SKILLED NURSING FACILITY CARE*</b></p> <p>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital</p> <p>First 20 days</p> <p>21st thru 100th day</p> <p>101st day and after</p>	<p>All approved amounts</p> <p>All but <del>\$89.50</del> \$95.50 a day</p> <p>\$0</p>	<p>\$0</p> <p>Up to <del>\$89.50</del> \$95.50 a day</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p> <p>All Costs</p>
<p><b>BLOOD</b></p> <p>First 3 pints</p> <p>Additional amounts</p>	<p>\$0</p> <p>100%</p>	<p>3 pints</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p>
<p><b>HOSPICE CARE</b></p> <p>Available as long as your doctor certifies you are terminally ill and you elect to receive these services</p>	<p>All but very limited coinsurance for outpatient drugs and inpatient respite care</p>	<p>\$0</p>	<p>Balance</p>

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## PLAN D

### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<p><b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b>, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment</p> <p>First \$100 of Medicare Approved Amounts*</p> <p>Remainder of Medicare Approved Amounts</p>	<p>\$0</p> <p>Generally 80%</p>	<p>\$0</p> <p>Generally 20%</p>	<p>\$100 (Part B Deductible)</p> <p>\$0</p>

## Proposed Regulations

Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>BLOOD</b>			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

### PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE-APPROVED SERVICES</b>			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE</b>			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare-approved visits not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

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## OTHER BENEFITS - NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL – NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

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## PLAN E

### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	<del>\$716</del> \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All Costs
<b>SKILLED NURSING FACILITY CARE*</b>			
You must meet Medicare's requirements, including having been in a hospital for at least 3			

## Proposed Regulations

days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>\$89.50</del> \$95.50 a day	Up to <del>\$89.50</del> \$95.50 a day	\$0
101st day and after	\$0	\$0	All <del>costs</del> Costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

\* \* \*

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### PLAN E

#### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	\$0	All Costs
<b>BLOOD</b>			
First 3 pints	\$0	All Costs	\$0

# Proposed Regulations

Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

## PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE-APPROVED SERVICES</b>			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

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## PLAN E

### OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
<b>PREVENTIVE MEDICAL CARE BENEFIT* - NOT COVERED BY MEDICARE</b>			
Annual Some annual physical			

# Proposed Regulations

and preventive tests and services such as: <del>fecal occult blood tests</del> , digital rectal exam, <del>mammogram</del> , hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, <del>influenza shot</del> , tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare	\$0	\$120	\$0
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All Costs

\* Medicare benefits are subject to change. Please consult the latest Guide to Insurance for People with Medicare.

\* \* \*

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## PLAN F or HIGH DEDUCTIBLE PLAN F

### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1500] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	\$716 \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	\$179 \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	\$358 \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All Costs

# Proposed Regulations

<p><b>SKILLED NURSING FACILITY CARE*</b></p> <p>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital</p> <p>First 20 days</p> <p>21st thru 100th day</p> <p>101st day and after</p>	<p>All approved amounts</p> <p>All but <del>\$89.50</del> \$95.50 a day</p> <p>\$0</p>	<p>\$0</p> <p>Up to <del>\$89.50</del> \$95.50 a day</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p> <p>All <del>costs</del> Costs</p>
<p><b>BLOOD</b></p> <p>First 3 pints</p> <p>Additional amounts</p>	<p>\$0</p> <p>100%</p>	<p>3 pints</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p>
<p><b>HOSPICE CARE</b></p> <p>Available as long as your doctor certifies you are terminally ill and you elect to receive these services</p>	<p>All but very limited coinsurance for outpatient drugs and inpatient respite care</p>	<p>\$0</p>	<p>Balance</p>

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## PLAN F or HIGH DEDUCTIBLE PLAN F

### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1500] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
<p><b>MEDICAL EXPENSES</b> - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment</p>			

## Proposed Regulations

First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	100%	\$0
<b>BLOOD</b>			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

### PARTS A & B

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b>			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0

### OTHER BENEFITS - NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

# Proposed Regulations

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## PLAN G

### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	<del>\$716</del> \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All Costs
<b>SKILLED NURSING FACILITY CARE*</b>			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>\$89.50</del> \$95.50 a day	Up to <del>\$89.50</del> \$95.50 a day	\$0
101st day and after	\$0	\$0	All <del>costs</del> Costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			

## Proposed Regulations

Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance
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### PLAN G

#### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment  First \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts  Part B Excess Charges (Above Medicare Approved Amounts)	  \$0  Generally 80%  \$0	  \$0  Generally 20%  80%	  \$100 (Part B Deductible)  \$0  20%
<b>BLOOD</b>  First 3 pints  Next \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	  \$0  \$0  80%	  All Costs  \$0  20%	  \$0  \$100 (Part B Deductible)  \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

#### PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES			

# Proposed Regulations

- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>AT HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE</b>			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare approved visit)	\$0	Up to the number of Medicare approved visits not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

## OTHER BENEFITS - NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

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### PLAN H

#### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

## Proposed Regulations

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	<del>\$716</del> \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All Costs
<b>SKILLED NURSING FACILITY CARE*</b>			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>\$89.50</del> \$95.50 a day	Up to <del>\$89.50</del> \$95.50 a day	\$0
101st day and after	\$0	\$0	All eests Costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

# Proposed Regulations

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## PLAN H

### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment  First \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts  Part B Excess Charges (Above Medicare Approved Amounts)	  \$0  Generally 80%  \$0	  \$0  Generally 20%  \$0	  \$100 (Part B Deductible)  \$0  All Costs
<b>BLOOD</b>  First 3 pints  Next \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	  \$0  \$0  80%	  All Costs  \$0  20%	  \$0  \$100 (Part B Deductible)  \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

### PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b>  - Medically necessary skilled care services and medical supplies  - Durable medical equipment	  100%	  \$0	  \$0

## Proposed Regulations

First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0

### OTHER BENEFITS - NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b>  Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
<b>BASIC OUTPATIENT PRESCRIPTION DRUGS – NOT COVERED BY MEDICARE</b>			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All Costs

\* \* \*

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### PLAN I

#### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	<del>\$716</del> \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0

# Proposed Regulations

<p>91st day and after:</p> <ul style="list-style-type: none"> <li>- While using 60 lifetime reserve days</li> <li>- Once lifetime reserve days are used:</li> <li>-Additional 365 days</li> <li>-Beyond the Additional 365 days</li> </ul>	<p>All but <del>\$358</del> \$382 a day</p> <p>\$0</p> <p>\$0</p>	<p><del>\$358</del> \$382 a day</p> <p>100% of Medicare Eligible Expenses</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p> <p>All Costs</p>
<p><b>SKILLED NURSING FACILITY CARE*</b></p> <p>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital</p> <p>First 20 days</p> <p>21st thru 100th day</p> <p>101st day and after</p>	<p>All approved amounts</p> <p>All but <del>\$89.50</del> \$95.50 a day</p> <p>\$0</p>	<p>\$0</p> <p>Up to <del>\$89.50</del> \$95.50 a day</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p> <p>All <del>costs</del> Costs</p>
<p><b>BLOOD</b></p> <p>First 3 pints</p> <p>Additional amounts</p>	<p>\$0</p> <p>100%</p>	<p>3 pints</p> <p>\$0</p>	<p>\$0</p> <p>\$0</p>
<p><b>HOSPICE CARE</b></p> <p>Available as long as your doctor certifies you are terminally ill and you elect to receive these services</p>	<p>All but very limited coinsurance for outpatient drugs and inpatient respite care</p>	<p>\$0</p>	<p>Balance</p>

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## PLAN I

### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<p><b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b>, such as physician's services, inpatient</p>			

## Proposed Regulations

and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare Approved Amounts)	\$0	100%	\$0
<b>BLOOD</b>			
First 3 pints	\$0	All Costs	\$0
Next \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

### PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>AT HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE</b>			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			

# Proposed Regulations

- Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

## OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b>  Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges*	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
<b>BASIC OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE</b>			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All Costs

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### PLAN J or HIGH DEDUCTIBLE PLAN J

#### MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

\*\*This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1500] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

## Proposed Regulations

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
<b>HOSPITALIZATION*</b>			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <del>\$716</del> \$764	<del>\$716</del> \$764 (Part A Deductible)	\$0
61st thru 90th day	All but <del>\$179</del> \$191 a day	<del>\$179</del> \$191 a day	\$0
91st day and after:			
- While using 60 lifetime reserve days	All but <del>\$358</del> \$382 a day	<del>\$358</del> \$382 a day	\$0
- Once lifetime reserve days are used:			
-Additional 365 days	\$0	100% of Medicare Eligible Expenses	\$0
-Beyond the Additional 365 days	\$0	\$0	All Costs
<b>SKILLED NURSING FACILITY CARE*</b>			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but <del>\$89.50</del> \$95.50 a day	Up to <del>\$89.50</del> \$95.50 a day	\$0
101st day and after	\$0	\$0	All <del>costs</del> Costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b>			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

# Proposed Regulations

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## PLAN J or HIGH DEDUCTIBLE PLAN J

### MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

\*\*This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1,500] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are [\$1,500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE, ** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment  First \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts  Part B Excess Charges (Above Medicare Approved Amounts)	\$0  Generally 80%  \$0	\$100 (Part B Deductible)  Generally 20%  100%	\$0  \$0  \$0
<b>BLOOD</b>  First 3 pints  Next \$100 of Medicare Approved Amounts*  Remainder of Medicare Approved Amounts	\$0  \$0  80%	All Costs  \$100 (Part B Deductible)  20%	\$0  \$0  \$0
<b>CLINICAL LABORATORY SERVICES - BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

# Proposed Regulations

## PARTS A & B

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
<b>HOME HEALTH CARE MEDICARE-APPROVED SERVICES</b>			
- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$0	\$100 (Part B Deductible)	\$0
Remainder of Medicare Approved Amounts	80%	20%	\$0
<b>AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE</b>			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$0	Up to the number of Medicare Approved visits not to exceed 7 each week	
- Calendar year maximum	\$0	\$1,600	

## OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b>			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

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<p><b>EXTENDED OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE</b></p> <p>First \$250 each calendar year</p> <p>Next \$6,000 each calendar year</p> <p>Over \$6,000 each calendar year</p>	<p>\$0</p> <p>\$0</p> <p>\$0</p>	<p>\$0</p> <p>50% - \$3,000 calendar year maximum benefit</p> <p>\$0</p>	<p>\$250</p> <p>50%</p> <p>All Costs</p>
<p><b>PREVENTIVE MEDICAL CARE BENEFIT- NOT COVERED BY MEDICARE***</b></p> <p><del>Annual</del> Some annual physical and preventive tests and services such as: fecal occult blood tests, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare</p> <p>First \$120 each calendar year</p> <p>Additional charges</p>	<p>\$0</p> <p>\$0</p>	<p>\$120</p> <p>\$0</p>	<p>\$0</p> <p>All Costs</p>

\*\*\*Medicare benefits are subject to change. Please consult the latest "Guide to Health Insurance for People with Medicare."

D. Notice regarding policies or certificates which are not Medicare supplement policies.

1. Any accident and sickness insurance policy or certificate issued for delivery in this Commonwealth to persons eligible for Medicare, other than a Medicare supplement policy a policy issued pursuant to a contract under § 1876 of the Federal Social Security Act (42 USC § 1395 et seq.), a disability income policy, or other policy identified in 14 VAC 5-170-20 B of this chapter, issued for delivery in this Commonwealth to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than 12 point type and shall contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR

CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company."

2. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in subdivision 1 of this subsection shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

**14 VAC 5-170-160. Requirements for application forms and replacement coverage.**

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

[Statements]

1. You do not need more than one Medicare supplement policy.
2. If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.
3. You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.
4. The benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within 90 days of losing Medicaid eligibility.
5. Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB).

[Questions]

To the best of your knowledge,

1. Do you have another Medicare supplement policy or certificate in force?
  - a. If so, with which company?
  - b. If so, do you intend to replace your current Medicare supplement policy with this policy [certificate]?
2. Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?
  - a. If so, with which company?
  - b. What kind of policy?
3. Are you covered for medical assistance through the state Medicaid program:
  - a. As a Specified Low-Income Medicare Beneficiary (SLMB)?
  - b. As a Qualified Medicare Beneficiary (QMB)?
  - c. For other Medicaid medical benefits?

B. Agents shall list any other health insurance policies they have sold to the applicant.

1. List policies sold which are still in force.
2. List policies sold in the past five years which are no longer in force.

C. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer upon delivery of the policy.

D. Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant, and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.

E. The notice required by subsection D above for an issuer shall be provided in substantially the following form in no less than 12 point type:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF  
MEDICARE SUPPLEMENT INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN  
THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide 30 days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement coverage. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT [OR  
OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement coverage because you intend to terminate your existing Medicare supplement coverage. The replacement policy is being purchased for the following reason (check one):

- \_\_\_\_\_ Additional benefits.  
\_\_\_\_\_ No change in benefits, but lower premiums.  
\_\_\_\_\_ Fewer benefits and lower premiums.  
\_\_\_\_\_ Other. (please specify)

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
1. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

\_\_\_\_\_  
(Signature of Agent, or Other Representative)\*

[Typed Name and Address of Issuer, or Agent]

\_\_\_\_\_  
(Applicant's Signature)

\_\_\_\_\_  
(Date)

\*Signature not required for direct response sales.

F. Paragraphs 1 and 2 of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve the application of a new preexisting conditions limitation.

## 14 VAC 5-170-170. Filing requirements for advertising.

An issuer shall provide a copy of any Medicare supplement advertisement intended for use in this Commonwealth whether through written, radio or television medium to the ~~Commission~~ *State Corporation Commission* for review.

## 14 VAC 5-170-180. Standards for marketing.

A. An issuer, directly or through its producers, shall:

1. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.

2. Establish marketing procedures to assure excessive insurance is not sold or issued.

3. Display prominently by type, stamp or other appropriate means, on the first page of the policy the following:

"Notice to buyer: This policy may not cover all of your medical expenses."

4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

5. Establish auditable procedures for verifying compliance with ~~this~~ subsection A of *this section*.

B. In addition to the practices prohibited in Chapter 5 (§ 38.2-500 et seq.) of Title 38.2 of the Code of Virginia, the following acts and practices are prohibited:

1. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy or to take out a policy of insurance with another insurer.

2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

3. Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

C. The terms "Medicare supplement," "Medigap," "Medicare Wrap-Around," and words of similar import shall not be used unless the policy is issued in compliance with this chapter.

\* \* \*

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## APPENDIX A.

### MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR

Type<sup>1</sup> \_\_\_\_\_ SMSBP<sup>2</sup> \_\_\_\_\_

FOR THE STATE OF \_\_\_\_\_

Company Name \_\_\_\_\_

# Proposed Regulations

NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_

Address \_\_\_\_\_

Person Completing This Exhibit \_\_\_\_\_

Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

2,500 4,999 7.5%  
 1,000-2,499 10.0%  
 500-999 15.0%

If less than 500, no credibility

(a) Earned Premium<sup>3</sup>      (b) Incurred Claims<sup>4</sup>

11. Adjustment to Incurred Claims for Credibility

line

Ratio 3 = Ratio 2 k Tolerance

1. Current Year's Experience

If Ratio 3 is more than Benchmark Ratio (Ratio 1), a refund or credit to premium is not required.

a. Total (all policy years)

If Ratio 3 is less than the Benchmark Ratio, then proceed.

b. Current year's issues<sup>5</sup>

c. Net (for reporting purposes la-1b)

12. Adjusted Incurred Claims = \_\_\_\_\_  
 [Total Earned Premiums (line 3, col a) - Refunds Since Inception (line6)] x Ratio 3 (Line line 11)

2. Past Year's Experience (All Policy Years)

13. Refund = Total Earned Premiums (line 3, col a) - Refunds Since Inception (line 6) -

3. Total Experience (Net Current Year k Past Year's Experience)

Adjusted Incurred Claims (line 12)  
 Benchmark Ratio (Ratio 1) \_\_\_\_\_

4. Refund last year (Excluding Interest)

If the amount on the line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

5. Previous Since Inception (Excluding Interest)

<sup>1</sup>Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

6. Refunds Since Inception (Excluding Interest)

<sup>2</sup>"SMSBP" = Standardized Medicare Supplement Benefit Plan

7. Benchmark Ratio Since Inception (See Worksheet for Ratio 1)

<sup>3</sup>Includes modal loadings and fees charged.

8. Experienced Ratio Since Inception

<sup>4</sup>Excludes Active Life Reserves.

Total Actual Incurred Claims (line 3, col b) = Ratio 2  
Total Earned Prem. (line 3, col a) - Refunds Since Inception (line 6)

<sup>5</sup>This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios"

9. Life Years Exposed Since Inception \_\_\_\_\_

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.

10. Tolerance Permitted (obtained from credibility table)

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Name--Please Type

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

### Medicare Supplement Credibility Table

Life Years Exposed	Tolerance
Since Inception	
10,000 k	0.0%
5,000-9,999	5.0%

# Proposed Regulations

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## APPENDIX A

### REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES FOR CALENDAR YEAR \_\_\_\_\_

Type (1) \_\_\_\_\_ SMSBP (2) \_\_\_\_\_  
FOR THE STATE OF \_\_\_\_\_  
Company Name \_\_\_\_\_  
NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_  
Address \_\_\_\_\_  
Person Completing This Exhibit \_\_\_\_\_  
Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

(a)(3) Year	(b)(4) Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(o)(5) Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.8
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89

Total: (k): \_\_\_\_\_ (l): \_\_\_\_\_ (m): \_\_\_\_\_ (n): \_\_\_\_\_

Benchmark Ratio Since Inception:  $(l + n) / (k + m)$ :

(1): Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

(2): "SMSBP" = Standardized Medicare Supplemental Supplement Benefit Plan - Use "P" for prestandardized plans.

(3): Year 1 is the current calendar year - 1 Year 2 is the current calendar year - 2 (etc.)

(Example: If the current year is 1991, then: Year 1 is 1990, Year 2 is 1989, etc.)

(4): For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

(5): These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

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## APPENDIX A

### REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES FOR CALENDAR YEAR \_\_\_\_\_

Type (1) \_\_\_\_\_ SMSBP (2) \_\_\_\_\_  
FOR THE STATE OF \_\_\_\_\_  
Company Name \_\_\_\_\_  
NAIC Group Code \_\_\_\_\_ NAIC Company Code \_\_\_\_\_  
Address \_\_\_\_\_

# Proposed Regulations

Person Completing This Exhibit \_\_\_\_\_  
 Title \_\_\_\_\_ Telephone Number \_\_\_\_\_

(a)(3) Year	(b)(4) Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(o)(5) Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.4
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		<del>0.77</del> 0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77

Total: (k): \_\_\_\_\_ (l): \_\_\_\_\_ (m): \_\_\_\_\_ (n): \_\_\_\_\_

Benchmark Ratio Since Inception:  $(l + n) / (k + m)$ :

(1): Individual, Group, Individual Medicare Select, or Group Medicare Select Only.

(2): "SMSBP" = Standardized Medicare Supplemental Supplement Benefit Plan - Use "P" for prestandardized plans.

(3): Year 1 is the current calendar year - 1 Year 2 is the current calendar year - 2 (etc.)

(Example: If the current year is 1991, then: Year 1 is 1990, Year 2 is 1989, etc.)

(4): For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

(5): These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

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## APPENDIX B.

### FORM FOR REPORTING MEDICARE SUPPLEMENT POLICIES

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (please type)

\_\_\_\_\_  
Date

*Due: March 1, annually*

The purpose of this form is to report the following information on each resident of this state who has in force more than one Medicare supplement policy or certificate. The information is to be grouped by individual policyholder.

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## APPENDIX C.

### DISCLOSURE STATEMENTS

Instructions for Use of the Disclosure Statements for Health  
Insurance Policies Sold to Medicare Beneficiaries that  
Duplicate Medicare

1. Federal law, Public Law 103-432, Section 1882(d) of the  
federal Social Security Act of 1935 (42 USC § 1395ss)

Policy and Certificate #	Date of Issuance

# Proposed Regulations

prohibits the sale of a health insurance policy (the term policy or policies includes certificates) that duplicate Medicare benefits unless it will pay benefits without regard to other health coverage, and it includes the prescribed disclosure statement on or together with the application.

2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person ~~that~~ *who* already has a Medicare supplement policy except as a replacement.

4. Property/casualty and life insurance policies are not considered health insurance.

5. Disability income policies are not considered to provide benefits that duplicate Medicare.

6. *Long-term care insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.*

~~6-~~ 7. The federal law does not pre-empt state laws that are more stringent than the federal requirements.

~~7-~~ 8. The federal law does not pre-empt existing state form filing requirements.

9. *Section 1882 of the federal Social Security Act was amended in subsection (d)(3)(A) thereof to allow for alternative disclosure statements. The disclosure statements already in Appendix C remain. Carriers may use either disclosure statement with the requisite insurance product. However, carriers should use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.*

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## APPENDIX C

[~~For~~ *Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.*]

IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

### Before You Buy This Insurance

✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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## APPENDIX C

[~~For~~ *Original disclosure statement for policies that provide benefits for specified limited services.*]

IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFIT

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

### Before You Buy This Insurance

✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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APPENDIX C

[~~For Original disclosure statement for policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease, and other types of health insurance policies that limit reimbursement to named medical conditions.]~~

IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

Before You Buy This Insurance

✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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APPENDIX C

[~~For Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]~~

IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnosis named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

Before You Buy This Insurance

✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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APPENDIX C

[~~For Original disclosure statement for policies that provide benefits for both expenses incurred and fixed indemnity basis.]~~

IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFITS

This is not Medicare Supplement Insurance

# Proposed Regulations

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or services covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

## Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

Rev. 1/99

## APPENDIX C

~~[For Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]~~

### IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or services covered by the policy are also covered by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

## Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement Insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

~~[For long-term care policies providing both nursing home and non-institutional coverage.]~~

### IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

~~Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.~~

- ~~• This is long-term care insurance that provides benefits for covered nursing home and home care services.~~
- ~~• In some situations Medicare pays for short periods of skilled nursing home care, limited home health services and hospice care.~~
- ~~• This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.~~

~~Neither Medicare nor Medicare Supplement insurance provides benefits for most long-term care expenses.~~

## Before You Buy This Insurance

- ~~✓ Check the coverage in all health insurance policies you already have.~~
- ~~✓ For more information about long-term care insurance, review the Shopper's Guide to Long-Term Care Insurance, available from the insurance company.~~
- ~~✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.~~

~~✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.~~

~~[For policies providing nursing home benefits only.]~~

~~IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFITS~~

~~This is not Medicare Supplement Insurance~~

~~Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.~~

- ~~• This insurance provides benefits primarily for covered nursing home services.~~
- ~~• In some situations Medicare pays for short periods of skilled nursing home care and hospice care.~~
- ~~• This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.~~

~~Neither Medicare nor Medicare Supplement insurance provides benefits for most nursing home expenses.~~

~~Before You Buy This Insurance~~

~~✓ Check the coverage in all health insurance policies you already have.~~

~~✓ For more information about long-term care insurance, review the Shopper's Guide to Long-Term Care Insurance, available from the insurance company.~~

~~✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.~~

~~✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.~~

~~[For policies providing home care benefits only.]~~

~~IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFITS~~

~~This is not Medicare Supplement Insurance~~

~~Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.~~

- ~~• This insurance provides benefits primarily for covered home care services.~~
- ~~• In some situations, Medicare will cover some health related services in your home and hospice care which may also be covered by this insurance.~~
- ~~• This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.~~

~~Neither Medicare nor Medicare Supplement insurance provides benefits for most services in your home.~~

~~Before You Buy This Insurance~~

~~✓ Check the coverage in all health insurance policies you already have.~~

~~✓ For more information about long-term care insurance, review the Shopper's Guide to Long-Term Care Insurance, available from the insurance company.~~

~~✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.~~

~~✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.~~

~~Rev. 1/99~~

~~APPENDIX C~~

~~[For Original disclosure statement for other health insurance policies not specifically identified in the previous statements.]~~

~~IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE  
BENEFITS~~

~~This is not Medicare Supplement Insurance~~

~~This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.~~

~~This insurance duplicates Medicare benefits when it pays:~~

- ~~• the benefits stated in the policy and coverage for the same event is provided by Medicare~~

~~Medicare generally pays for most or all of these expenses.~~

~~Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:~~

- ~~• hospitalization~~
- ~~• physician services~~
- ~~• hospice care~~
- ~~• other approved items and services~~

~~Before You Buy This Insurance~~

~~✓ Check the coverage in all health insurance policies you already have.~~

~~✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.~~

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# Proposed Regulations

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✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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## APPENDIX C

[Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

<p>IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE</p>
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Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

<p>Before You Buy This Insurance</p>
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✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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## APPENDIX C

[Alternative disclosure statement for policies that provide benefits for specified limited services.]

<p>IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE</p>
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Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

<p>Before You Buy This Insurance</p>
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✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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## APPENDIX C

[Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease, and other types of health insurance policies that limit reimbursement to named medical conditions.]

<p>IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS IS NOT MEDICARE SUPPLEMENT INSURANCE</p>
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Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization

- physician services
- hospice care
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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APPENDIX C

[Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.

- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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APPENDIX C

[Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.

- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.

- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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APPENDIX C

[Alternative disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.]

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**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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## APPENDIX C

[Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice care
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

✓ Check the coverage in all health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

VA.R. Doc. No. R99-88; Filed January 27, 1999, 9:42 a.m.

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## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

Title of Regulations: **22 VAC 40-50-10 et seq. Allowable Variance Policy (REPEALING).**

Statutory Authority: §§ 63.1-174, 63.1-194.2 and 63.1-202 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until April 16, 1999.

(See Calendar of Events section for additional information)

Basis: Sections 63.1-174, 63.1-194.2 and 63.1-202 of the Code of Virginia provide the statutory authority for the State Board of Social Services to promulgate regulations.

Purpose: The purpose of repealing the regulation is to eliminate a useless regulation that is now part of another promulgated regulation. Having two versions of the same regulation could be confusing to the public.

Substance: The Allowable Variance Policy has been incorporated into the regulation entitled General Procedures and Information for Licensure. The benefits of the policy are still available to licensees and applicants.

The Allowable Variance Policy was developed in April 1984 to allow the Department of Social Services to grant variances

to some child welfare agencies that did not have the provision for variances in their programmatic standards. In June 1984, the State Board of Social Services adopted the Allowable Variance Policy to apply to both adults' and children's programs.

Issues: In December 1984, the Allowable Variance Policy was incorporated into the regulations entitled General Procedures and Information for Licensure (22 VAC 40-80-10 and 22 VAC 15-20-10) which contain the licensing procedures for all programs. The department now proposes to repeal the original Allowable Variance Policy because it is part of a promulgated regulation and licensees will continue to have the benefits of the policy.

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 25 (98). 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 Social Services proposes to repeal its Allowable Variance Policy regulation as the policy has since been incorporated into the department's General Procedures and Information for Licensure (22 VAC 40-80-220 et seq.).

Estimated economic impact. This action will not have any economic effects since the policy has been incorporated into another regulation and the benefits of the policy are still available to licensees and future applicants.

Businesses and entities affected. No business or entities will be affected by the repeal of this regulation.

Localities particularly affected. No localities will be particularly affected by the repeal of this regulation.

Projected impact on employment. The repeal of this regulation will not have any impact on employment in Virginia.

Effects on the use and value of private property. The repeal of this regulation will not have any effect on the use and value of private property in Virginia.

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

Summary:

*The Department of Social Services proposed to repeal its Allowable Variance Policy regulation as the policy has since been incorporated into the General Procedures and Information for Licensure (22 VAC 40-80-220 et seq.).*

VA.R. Doc. No. R98-315; Filed January 22, 1999, 2:25 p.m.

\* \* \* \* \*

Title of Regulations: **22 VAC 40-130-10 et seq. Minimum Standards for Licensed Child-Placing Agencies (amending 22 VAC 40-130-10, 22 VAC 40-130-30 through 22 VAC 40-130-60, 22 VAC 40-130-80 through 22 VAC 40-130-140, 22 VAC 40-130-170 through 22 VAC 40-130-240, 22 VAC 40-130-260 through 22 VAC 40-130-450, 22 VAC 40-130-470 through 22 VAC 40-130-500, and 22 VAC 40-130-520 through 22 VAC 40-130-550; adding 22 VAC 40-130-162, 22 VAC 40-130-195, 22 VAC 40-130-198, 22 VAC 40-130-202, 22 VAC 40-130-211, 22 VAC 40-130-212, 22 VAC 40-130-213, 22 VAC 40-130-221, 22 VAC 40-130-223, 22 VAC 40-130-251, 22 VAC 40-130-261, 22 VAC 40-130-271, 22 VAC 40-130-272, 22 VAC 40-130-289, 22 VAC 40-130-301, 22 VAC 40-130-312, 22 VAC 40-130-314, 22 VAC 40-130-365, 22 VAC 40-130-401, 22 VAC 40-130-402, 22 VAC 40-130-403, 22 VAC 40-130-404, 22 VAC 40-130-406, 22 VAC 40-130-424, 22 VAC 40-130-452 through 22 VAC 40-130-459, and 22 VAC 40-130-600 through 22 VAC 40-130-820; repealing 22 VAC 40-130-160).**

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

Public Hearing Date: N/A -- Public comments may be submitted until April 16, 1999.

(See Calendar of Events section for additional information)

Basis: The statutory authority for promulgating this regulation is found in § 63.1-202 of the Code of Virginia. This statute requires the State Board of Social Services to promulgate regulations for the activities, services and facilities of persons or agencies required to be licensed and to design the regulation to ensure that they are conducive to the welfare of the children under the custody or control of such persons or agencies. The statute requires that the regulations include matters relating to the sex, age, and number of children to be cared for, the buildings and premises to be used, and reasonable standards for the activities and services provided to the children.

Purpose: Child-placing agencies may be licensed to offer one or more of the following programs: domestic adoption, including both agency and parental placement adoptions; international adoption; foster care, including pre-adoptive foster care placement, foster care services for children in need of temporary care, treatment foster care services for children with special needs; and independent living placement services for youth sixteen and older. The agencies provide an array of services including: home study, approval, and training of foster and adoptive homes; matching and placement of children in these homes;

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counseling with birth parents in making decisions that will affect the rest of their lives and the lives of their children; counseling to adoptive parents both before and after the adoptive placement; providing post-placement services; conducting mandated post-supervisory visits to adoptive homes; and providing counseling and treatment services to children with severe emotional and behavioral problems.

This regulation is necessary to protect the children and families receiving services from these agencies and to assure a minimum level of quality to the care and services provided by the agencies. The citizens of the Commonwealth and the local public departments of social services usually pay fees for services from these agencies. They rely on the licensing authority to regulate the agencies and monitor the services offered by the agencies. Documentation by the agencies of the work that they do is critical.

The number of licensed agencies offering treatment (or therapeutic) foster care has grown tremendously in the past few years. The department currently has 27 licensed private child placing agencies providing treatment foster care. It is extremely important that the department establish regulations to oversee these agencies. The proposed standards are supported by the licensed agencies providing treatment foster care as establishing the basic standards of good practice. Treatment foster care standards have been given a separate chapter in the current regulation due to their unique requirements.

Many licensed agencies are responsible for providing independent living placements for youth sixteen years of age and older. The proposed standards address the expectations of agencies offering this service and comply with § 63.1-205 of the Code of Virginia which mandates the State Board of Social Services to establish regulations to monitor the approval of independent living placements for youth.

Substance: The proposed standards add several important criteria to evaluate when making a decision to approve a family to adopt a child. These standards are considered crucial since the licensed agencies make decisions that have a life-long impact on a child's life. The licensed providers of adoption services represented on the ad hoc committee support the proposed standards as consistent with their current practice.

The 1989 standards do not address requirements for staff training or foster and adoptive parent orientation and training. This need was recognized by the adoption and foster care committees who recommended that this area be addressed in the proposed regulation.

The 1989 standards do not address requirements for agencies providing international adoption services. The number of agencies providing these services has increased significantly over the past five years. There are few state or federal laws governing international adoptions. Families wishing to adopt a child from another country and the child being adopted have very little protection under state or federal law. The department attempts to offer some

measure of protection through the addition of standards specific to this area.

The General Assembly passed the Status of Children of Assisted Conception law (§§ 20-156 through 20-165 of the Code of Virginia) in 1991 which requires that child-placing agencies conduct home studies of both the intended parents and the biological parents. The proposed standards address requirements for these home studies.

Issues: The scope of authority and responsibility given to licensed child-placing agencies is extensive. Once a license is issued to an agency authorizing it to provide these services, it may take legal custody of children, make permanent plans for their future, approve foster and adoptive homes to care for these children, and offer a number of services to assist the children and their families. These are serious responsibilities. The department accepts a great responsibility in making the decision to license a child-placing agency. Children need the department's oversight and supervision through licensing visits and through standards that will establish expectations for the care and services they receive.

Additional advantages of the proposed regulation are:

- \* Virginia's citizens who apply to adopt will be protected by the requirements governing international and domestic adoptions;
- \* Families will be protected by requirements governing counseling for birth parents, service plans for children, increased involvement by parents and reunification of families;
- \* Families will benefit from the availability of these private resources and from the knowledge that the state has established regulations to offer a minimal level of protection for them;
- \* The child-placing agencies will benefit by having the services they offer given a higher level of credibility and accountability; and
- \* Local departments of social services will benefit by knowing that the private child-placing agencies are regulated and held accountable for the services they provide to foster children.

There are no disadvantages to the public or the department in implementing this regulation.

Estimated Impact: The proposed regulation will impact 58 licensed private child-placing agencies operating in 93 different locations in Virginia. We project an increase in child-placing agency applications over the next year due to the tremendous growth in treatment foster care and in international adoption. The licensed agencies are currently regulated and representatives on the ad hoc standards development committee have supported a revision to the standards to recognize treatment foster care and to accept expectations that are now standard practice in the field of adoption. The proposed regulation will not impact the department's licensing responsibility for private licensed

agencies since staffing is currently in place to license these agencies.

Identity of Any Locality Affected: Child-placing agencies are located in all areas of the state. The treatment foster care standards have been developed in collaboration with the Department of Medical Assistance Services which will promulgate an emergency treatment foster care regulation for both public and private child-placing agencies. The Department of Social Services, through agreement with DMAS, will provide certification of local departments of social services that apply to provide treatment foster care services and wish to be an enrolled Medicaid provider. This applies only to the chapters in the regulation related to the definitions, the administration and organization of the agency, personnel, treatment foster care, case record requirements and required reports 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 25 (98). 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 the minimum requirements that private child-placing agencies must meet in order to be licensed to operate in Virginia. A child-placing agency arranges placements of children in foster homes, adoptive homes, or independent living arrangements. These changes are intended to respond to a number of changes in the type of services now being offered in the industry and to changes in the standard practices in the industry. Substantive changes are being proposed in the following areas:

- Corporate organization of agencies,
- Staff training,
- Recordkeeping,
- Staff to client ratios in treatment foster care agencies,
- Foster parent orientation and training requirements,
- Standards related to treatment foster care services,
- Standards for service plans,
- Policies and procedures related to discipline and behavior management in foster care,
- Adoption and foster parent home studies,

- Requirements for supervisory visits in adoption placements,
- Requirements for interstate placements and inter-country adoptions,
- Home studies in assisted conception surrogacy contracts,
- Requirements related to youth placed in independent living arrangements who have minimal supervision, and
- Standards relating to corporal punishment.

Estimated economic impact. In a number of areas, this proposal is intended to make the rules comport with the current standards of practice in the industry, which are, in many cases, more stringent than the existing regulations. This is the case with changes to standards for independent living placements, with the separation of treatment foster care from other foster care, and with the international foster care and adoptive service provisions. In these cases and a number of others, since the regulations merely restate what is already standard in the industry, they will have no significant economic impact in the near term.

The proposed regulations separate, for the first time, the standards for "treatment foster care" from the standards for "foster care." Treatment foster care involves placing children with often severe psychological or emotional disorders. Thus, it is reasonable to expect that the standards for care may be quite different from those for the foster care of normal children. The proposed standards for treatment foster care will most likely not exceed industry practice regarding actual services performed but rather increase the level of documentation of those services which is necessary for effective enforcement. While it would not be possible at this time to estimate the additional staff time required to comply with the proposed standards, it is not expected to outweigh the benefits associated with improved enforcement and hence, better care for this population of children.

DSS indicates that the number of clients served in the treatment foster care category has been increasing rapidly in recent years. As the number of clients increases, the benefits of having regulations more tailored to the different populations seems appropriate in terms of the efficient match of services to the types of clientele served. A closer fit between the regulations and the function they are expected to serve is consistent with improved economic efficiency.

Businesses and entities affected. This regulation will affect all private child-placing agencies and birth parents, adoptive parents, and foster parents involved with each of these agencies. There are currently 58 licensed private child-placing agencies operating in Virginia, serving up to 3,676 children. DSS projects a significant increase in the number of licensees in the future. Since these standards are generally consistent with industry standards of practice, it is not expected that they will have a large impact on providers. Those providers who now provide care that does not meet industry standards may find that their costs will increase somewhat. However, it is anticipated that these increased

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costs would not outweigh the expected benefits from the newer, more modern standards.

Localities particularly affected. No localities will be particularly affected by this regulation.

Projected impact on employment. It is unlikely that these proposed changes would have any significant or measurable impact on employment in Virginia.

Effects on the use and value of private property. While the changes to this regulation do, in a number of cases, tighten existing standards, the new rules are generally consistent with current practice in the industry. Thus, there is little expectation that the new rules will have any significant impact on the use and value of private property except possibly in the case of providers offering care that does not meet industry standards.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services agrees with the Economic Impact Analysis of 22 VAC 40-130, Minimum Standards for Licensed Child-Placing Agencies, completed by the Department of Planning and Budget on December 4, 1998.

## Summary:

*This regulation addresses multiple programs offered by child-placing agencies by combining requirements into one set of standards. The standards consolidate requirements related to organization, staff qualifications and staff training in order to streamline the department's regulatory oversight of these agencies. However, standards specific to the different services offered are divided into parts to make the regulation easier to follow and more "user-friendly." The proposed regulation addresses the following topical areas: Definitions, Organization and Administration; Personnel; Foster Care Services; Treatment Foster Care Services; Adoption Services to include domestic, international and parental placement adoptions; Independent Living Placement Services; Services related to the Status of Children of Assisted Conception; Reports; and Case Record Requirements. Child-placing agencies may provide one or more services which include: home study and approval of foster and adoptive homes; matching and placement of children in these homes; counseling with birth parents in making decisions to place their child in foster or adoptive care; post-placement services, counseling and supervisory visits to adoptive homes; training for potential and approved foster and adoptive parents; supervision and counseling to youth in independent living arrangements; and counseling and treatment services to children with severe emotional and behavioral problems.*

*Revisions are made to the standards to clarify terms, avoid repeating statutory code provisions, and make the regulation easier to follow and understand. Revisions are made in the following areas:*

*\* Staff training;*

- \* Smaller caseloads in treatment foster care agencies;*
- \* Foster parent orientation and training requirements;*
- \* Standards related to treatment of foster care services;*
- \* Policies and procedures addressing discipline and behavior management, physical restraint, medication, emergency on-call services, and prohibited actions in foster care;*
- \* Adoption and foster parent home studies;*
- \* Requirements for supervisory visits in adoption placements;*
- \* Requirements for interstate placements and intercountry adoptions;*
- \* Home studies in assisted conception surrogacy contracts;*
- \* Requirements related to youth placed in independent living arrangements who have minimal supervision;*
- \* Definitions addressing the new programs and services covered by the proposed regulation and child-placing activities;*
- \* Requirements related to an agency's Virginia office; and*
- \* The clarification of standards related to corporal punishment.*

## CHAPTER 130.

### MINIMUM STANDARDS FOR LICENSED PRIVATE CHILD-PLACING AGENCIES.

#### PART I.

#### INTRODUCTION, DEFINITIONS AND AUTHORITY.

#### **22 VAC 40-130-10. Definitions.**

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

"*Adoptive home*" means any family home selected and approved by a parent, local board of public welfare or social services, or a licensed child-placing agency for the placement of a child with the intent of adoption.

"*Assisted conception*" means a pregnancy resulting from any intervening medical technology, other than the pregnancy of a woman resulting from the insemination of her ovum using her husband's sperm, whether in vivo or in vitro, which completely or partially replaces sexual intercourse as the means of conception. (§ 20-156 of the Code of Virginia)

"*Casework*" means both direct treatment with an individual or several individuals, and intervention in the situation on the client's behalf. The objectives of casework include: meeting the client's needs, helping the client deal with the problem with which he is confronted, strengthening the client's capacity to function productively, lessening distress, and enhancing opportunities and capacities for fulfillment.

"Certification" means the process of review by representatives of the commissioner, the application of an established set of standards, and the granting of permission to operate a specific service or services when found to be in compliance with those standards.

"Child" means any individual under 18 years of age or under 21 years of age if placed by either a local department of social services or through referral from a Family Assessment and Planning Team.

"Child's family" means the birth or adoptive parents, legal guardians or family to whom the child may return.

"Child-placing activities" means the activities involved in the placement of children in foster or adoptive homes, child-caring institutions or independent living arrangements. Activities include those specified in these standards. Individuals or agencies must be licensed or authorized by the Code of Virginia to conduct child-placing activities in Virginia.

"Child-placing agency" means any ~~individual or agency licensed to place~~ person who places children in foster homes, adoptive homes, child-caring institutions or independent living arrangements pursuant to § 63.1-205 of the Code of Virginia or a local board of public welfare or social services that places children in foster homes or adoptive homes pursuant to §§ 63.1-56, 63.1-204, and 63.1-220.2 of the Code of Virginia. ~~Local departments of social services are child-placing agencies also.~~ Officers, employees, or agents of the Commonwealth, or of any county, city, or town, who serve as or maintain a child-placing agency shall not be required to be licensed, if authorized by the Code of Virginia to provide the services of a child-placing agency.

"Commissioner" means the Commissioner of the Virginia Department of Social Services.

"Complaint" means an accusation received either orally or in writing that: a ~~licensed~~ child-placing agency is not in compliance with one or more of these standards or one or more statutory requirements; ~~or~~ an agency foster or adoptive home is not in compliance with one or more applicable requirements of ~~this chapter~~ these standards; or a child placed in a home or institution by a child-placing agency is being abused or neglected as defined by § 63.1-248.2 of the Code of Virginia or subjected to unwholesome influences or to neglect or mistreatment as stated in § 63.1-211 of the Code of Virginia.

"Corporal punishment" means the inflicting of pain or discomfort. ~~Prohibited actions include but are through actions such as~~ but not limited to spanking, hitting with any part of the body or with an implement, pinching, pulling, shaking, binding a child, forcing him to assume an uncomfortable position, or locking him in a room or closet or any similar action which normally inflicts pain or discomfort.

~~The prohibition is in effect whether punishment is spontaneous or a deliberate technique for effecting behavioral change or part of a behavior management program.~~

"Department" means the Virginia Department of Social Services.

"Discipline" refers to acceptable techniques used to teach appropriate behavior.

~~"Foster care" means the provision of substitute care and supervision, for a child committed or entrusted to a child welfare agency or one for whom the agency has accepted supervision. The child may be placed in a foster or adoptive home, group home, residential facility, institution or independent living arrangement.~~

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.1-248.2 of the Code of Virginia or in need of services as defined in § 16.1-228 of the Code of Virginia and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or the public agency designated by the community policy and management team and the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child-placing agency, or (iv) has been placed under the supervisory responsibility of a local board pursuant to § 16.1-293 of the Code of Virginia.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board or the public agency designated by the community policy and management team where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or child-placing agency.

"Foster home" means the place of residence of any individual or individuals in which any child, other than a child by birth or adoption, resides as a member of the household.

"Independent living arrangement" means the placing of a youth at least 16 years of age, whose custody is held by the child-placing agency or a local department of social services, in a living arrangement in which there is no daily parental supervision.

"Interstate placement" means the placing of a child outside the Commonwealth by a Virginia agency or the placing of a child in Virginia by an individual or agency outside the Commonwealth pursuant to the "Interstate Compact on the Placement of Children," Chapter ~~40 10.1~~ (§ ~~62.1-249~~ 63.1-219.1 et seq.) of Title 63.1 and §§ 63.1-207 and 63.1-207.1 of the Code of Virginia.

"Legal parents" means the birth or adoptive parents of the child.

"Licensee" means any individual, association, partnership or corporation to whom the license is issued.

"Licensing representative" means an employee or officially designated agent of the Department of Social Services, acting as the authorized agent of the commissioner in

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carrying authorized to carry out the responsibilities and duties specified in Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia.

~~"Permanent foster care" means the placement of a child in a foster home where he is expected to stay until he is aged 18. Both the placement and a removal, if any, must be approved by the court. Under certain circumstances, the youth may stay in permanent foster care beyond age 18 but not beyond age 21.~~

"Life book" means a picture and narrative story of a child's life written by the child and case worker using the child's own words, photos, drawings, and memorabilia to tell the child's story.

"Noncustodial agreement" means the agreement which specifies the conditions for care and control of the child that the local department of social services or public agency designated by the community policy and management team enters into with the parent(s) or guardians to place a child in foster care when the parent(s) or guardians retain custody.

"Parental placement adoption" means an adoption where the birth parents or legal guardians place the child with a family of their choice for the purpose of adoption. Section 63.1-220.3 of the Code of Virginia stipulates the requirements for parental placement adoptions.

"Permanent entrustment agreement" means an agreement in which the parents relinquish all parental rights to the child and free the child to be placed for adoption.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 of the Code of Virginia with the expectation and agreement between the child-placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.1-248.9 of the Code of Virginia. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Physical restraint" means the restriction of a child's body movements by means of physical contact in order to manage out of control and unsafe behavior.

"Professional staff" means an individual who possesses the required qualifications and fills the job descriptions of executive director, program director, director of social services, child-placing supervisor, case supervisor, case worker, or case worker trainee.

"Records" means the written information assembled in a file relating to the agency, staff, volunteers, the child, the child's legal family, foster family, treatment foster family, and adoptive family.

"Respite care" means care provided to the child by approved foster families for the express purpose of providing 24

hours or more of rest or relief to the primary foster parents or legal parents.

"Service plan" means a written plan of care for the child, based on an assessment of the medical, emotional, social, behavioral and developmental aspects of the child's situation, containing measurable goals and objectives, the criteria for achieving them and the target dates, the services, activities and experiences designed to meet the objectives, coordination with community services, and permanency planning, including discharge plans.

"Special needs" means any diagnosed physical, mental or emotional disability.

"State board" means the State Board of Social Services.

"Surrogacy contract" means an agreement between intended parents, a surrogate, and her husband, if any, in which the surrogate agrees to be impregnated through the use of assisted conception, to carry any resulting fetus, and to relinquish to the intended parents the custody of and parental rights to any resulting child. (§ 20-156 of the Code of Virginia)

"Treatment" is the coordinated provision of services and use of professionally developed and supervised interventions designed to produce a planned outcome in a person's behavior, attitude, emotional functioning or general condition.

"Treatment foster care (TFC)" is a community-based program where services are designed to address the special needs of children and families. Services to the children are delivered primarily by treatment foster parents who are trained, supervised and supported by agency staff. Treatment is primarily foster family based, and is planned and delivered by a treatment team. Treatment foster care focuses on a continuity of services, is goal directed, results oriented, and emphasizes permanency planning for the child in care.

"Treatment foster parents" means the individual or couple approved by the licensed or certified child-placing agency and trained to provide treatment foster care services.

"Treatment and service plan" means a written comprehensive plan of care, based on an assessment of the medical, psychological, social, behavioral and developmental aspects of the child's situation, containing measurable goals, procedures and interventions for achieving them, and a process for assessing the results. The treatment and service plan must state the treatment objectives, prescribe an integrated program of therapies, activities and experiences designed to meet the objectives and must include coordination with related community services to ensure continuity of care with the child's family, school and community.

"Treatment team" means the group which may consist of the child, professional agency staff, other professionals, the child's family members (where appropriate), the child-placing agency and treatment foster parents who provide mutual

support, evaluate treatment, and design, implement and revise the treatment and service plan.

**22 VAC 40-130-30. Sponsorship.**

Each agency shall have a clearly identified sponsor. An individual, partnership, association, or corporation, may operate a child-placing agency.

1. When an agency is sponsored by an individual, the individual is the licensee.
2. When an agency is sponsored by a partnership, the partnership shall serve as the licensee and have a written agreement (articles of partnership) which allows operation and maintenance of a child-placing agency.
3. When an agency is sponsored by an unincorporated association, the association shall have:
  - a. A governing board which serves as a licensee; and
  - b. A written constitution or by-laws which includes the operation and maintenance of a child-placing agency.
4. When an agency is sponsored by a corporation, it shall have:
  - a. A governing board which serves as the licensee and is made up of three or more members, where at least one of the members has knowledge of and experience in the programs and services the agency offers;
  - b. A certificate of corporate status issued by the State Corporation Commission or, for corporations based out of state, a certificate of authority to transact business in the Commonwealth; and
  - c. A charter which specifies that the purpose of the corporation includes the operation of a child-placing agency.
5. When the child-placing agency is operated by local government, the treatment foster care program shall be approved by the board of public welfare or social services in the locality.

**22 VAC 40-130-40. Maintaining standards.**

The licensee or enrolled Medicaid provider shall be responsible for meeting and maintaining these standards and for complying with other relevant federal, state and local laws and regulations.

**22 VAC 40-130-50. Financing plan.**

The applicant for a license shall have a plan of financing which provides evidence of income and other financial resources that will ensure operation in compliance with this chapter for a period of 12 months. Local departments of social services shall submit a financing plan for the operation of the treatment foster care programs.

**22 VAC 40-130-60. ~~Process~~ Initial and renewal application.**

A. The plan of financing shall be provided to the licensing representative with the initial application and with each renewal.

~~A. Initial applications shall include:~~

- ~~1. A balance sheet showing current assets and liabilities; and~~
- ~~2. The agency's projected budget detailing the expected income and expenses for the year.~~

~~B. Renewal applications shall include:~~

- ~~1. A statement for the last complete fiscal year showing actual income and expenditures;~~
- ~~2. A balance sheet showing current assets and liabilities;~~
- ~~3. A budget detailing income and expenses:
  - a. For the current fiscal year if the agency is less than six months into its current year; or
  - b. For the next fiscal year if the agency is more than six months into its current year.~~

~~NOTE: If the agency is more than three months into its current fiscal year, the latest quarterly statement of income and expenditures is requested. This applies to both 3 a and 3 b.~~

~~B. Initial applications shall include a balance sheet showing current assets and liabilities, the agency's projected budget detailing the expected income and expenses for the year, and documentation that it has cash on hand or a line of credit to cover the first 90 days of operating expenses. Exception: Local departments of social services shall submit this information related to the treatment foster care program.~~

~~C. Renewal applications shall include a statement for the last complete fiscal year showing actual income and expenditures, a balance sheet showing current assets and liabilities, and a budget detailing income and expenses for the current fiscal year if the agency is less than six months into its current year. Exception: Local departments of social services shall submit this information for the treatment foster care program.~~

~~If the agency does not have an approved budget for the next fiscal year at the time of the renewal application, it shall submit a statement indicating the current status of its finances and the status of the projected budget for the next fiscal year. The agency shall submit the next fiscal year's budget to the licensing representative as soon as it is completed and approved.~~

**22 VAC 40-130-80. Audit.**

Financial records shall be audited annually by a certified public accountant not associated with the agency. Exception: This section does not apply to local departments of social services.

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## 22 VAC 40-130-90. Copies of report.

A. A copy of the most recent auditor's report shall accompany the application for license renewal. *Exception: This section does not apply to local departments of social services.*

B. A copy of the program statement and policies and procedures shall be submitted to the licensing authority with the initial application.

## 22 VAC 40-130-100. Agency setting.

The agency shall provide professional staff and maintain an office within Virginia from which the child-placing activities are carried out.

## 22 VAC 40-130-110. Office conditions.

The agency shall provide office space, equipment and supplies to ensure: ~~1-~~ confidentiality and safekeeping of records; ~~2-~~ privacy for interviewing and conferences; and ~~3-~~ availability of visiting rooms for families and children.

~~NOTE: Rooms and offices may serve multiple functions.~~

## 22 VAC 40-130-120. Posting of license.

~~The current license shall be posted in a conspicuous place near the entrance of the agency.~~

~~If the agency has branch offices, copies of the license shall be posted in the same manner in each location.~~

A. As stated in the General Procedures and Information for Licensure, 22 VAC 15-20-10 et seq. and 22 VAC 40-80-10 et seq., the following documents shall be posted in a prominent place at each public entrance of the licensed premises, when applicable:

1. The most recently issued license;
2. The most recent compliance plan or a written notice of where it may be reviewed in the facility;
3. Probationary status announcement; and
4. Denial and revocation.

B. If the agency has branch offices, the required documents shall be posted in the same manner at each location.

## 22 VAC 40-130-130. Caseload numbers and licensed capacity.

A. Total agency capacity shall be the sum of the following:

1. A maximum of 25 children for a full-time child-placing staff person; *except in treatment foster care.*
2. A maximum of 10 children for a beginning trainee; ~~This which~~ may be increased to 15 by the end of the first year and 20 by the end of the second year ~~by which time he will qualify as a caseworker, except in treatment foster care.~~

~~The agency shall have a training program for trainees during the two years. It shall have its own list of topics to be covered.~~

3. A maximum of five children for each student intern, *except in treatment foster care.*

B. Treatment foster care programs shall have a maximum of 12 children for a full-time professional staff person. The caseload shall be adjusted downward if:

1. The caseworker's job responsibilities exceed those listed in the agency's job description for a caseworker, as determined by the supervisor;
2. The difficulty of the client population served requires more intensive supervision and training of the treatment foster parents; or
3. The child's family requires intensive services.

C. In treatment foster care, there shall be a maximum of six children for a beginning trainee which may be increased to nine by the end of the first year and 12 by the end of the second year.

D. In treatment foster care, there shall be a maximum of three children for each student intern.

~~B-~~ E. Children to be counted in the agency caseload are:

1. Children in agency custody including children for whom an interlocutory order has been entered who are still awaiting a final order; and
2. Children not in the custody of the agency, but who are being supervised in a foster or adoptive home, *treatment foster home*, group home, institution, or independent living arrangement for another agency or individual and children who are receiving services from the agency in any of these settings.

## 22 VAC 40-130-140. Conflict of interest.

A. No applicant for or recipient of adoptive services shall serve as an agency board member before the final order for the adoption is entered.

B. No biological legal parent of a child currently placed by the agency may serve as a board member of the agency.

C. No foster home applicant shall serve as a board member of the child-placing agency.

D. No board member who is a foster parent for the agency shall vote on a foster care policy issue.

E. Staff members of an agency may not receive services as foster parents of the agency for which they work.

F. Board members and agency staff who wish to apply to adopt shall be referred to another child-placing agency.

## 22 VAC 40-130-160. Corporal punishment. (Repealed.)

~~Staff members of an agency may not use corporal punishment with children in agency care nor give permission to others to do so.~~

**22 VAC 40-130-162. Policies and procedures.**

A. The agency shall implement a policy to ensure that children are not (i) subjected to corporal punishment as defined in these standards; (ii) subjected to verbal abuse or remarks that belittle or ridicule the child or his family; (iii) denied essential program or treatment services, meals, clothing, bedding, sleep, or personal care products; or (iv) subjected to any humiliating, degrading or abusive actions.

B. The agency shall have written policies and procedures for investigating, responding to and reporting allegations of misconduct toward children, including reporting suspicions of child abuse or neglect to the local department of social services or the Child Abuse and Neglect Hotline.

**22 VAC 40-130-170. Job description.**

A. The agency shall have a written description of the duties and responsibilities, *educational requirements and work experience required* for each staff classification in its program.

B. A copy of each description shall be given to the licensing representative at the time of the initial application and when descriptions are changed.

**22 VAC 40-130-180. Personnel records.**

A separate personnel record shall be maintained for each employee *and contract employee*. The record shall contain:

1. The application for employment or resume;
2. A list of educational credentials and relevant work experience, giving dates, places and details substantiating qualifications required by this chapter;
3. At least two written references, *requested by the agency*, or record of interviews with references;
4. Annual performance evaluations *for professional staff and documentation of training received*;
- ~~5. Copies of professional licensure, when licensure is required by law; and~~
- ~~6.~~ 5. The criminal record *certificate check, sworn disclosure statement, and child abuse and neglect registry check* as required by § 63.1-198.1 of the Code of Virginia; *and*
6. A signed statement that staff members of an agency shall not use corporal punishment with children in agency care nor give permission to others to do so.

**22 VAC 40-130-190. Staff composition and qualifications.**

A. A staff member shall be designated to perform each function described in ~~this chapter~~ *these standards*. ~~This does not limit the agency to the use of the job titles in this chapter.~~

B. When a staff person serves multiple functions within the agency, he shall meet the qualifications for each position held.

C. Executive director. ~~4.~~ The licensee shall appoint an executive director to whom responsibility for the administration of the agency has been delegated in writing. An individual licensee may be the executive director.

~~2-~~ 1. The executive director is responsible to the licensee for the administration of the agency, including implementation of all agency policies, procedures, and financial management.

~~3-~~ 2. The executive director shall have a doctor's or master's degree plus ~~three~~ five years of experience in a social service agency or program including one year in an administrative, supervisory or consultative capacity.

~~4-~~ 3. The executive director shall appoint a staff member to serve in his absence. He shall provide the department with a written statement of the duties and authority of his designated substitute at the time of application and renewal.

~~5-~~ 4. When the executive director does not have a doctor's or master's degree in social work from a college or university accredited by the Council on Social Work Education, he shall employ a *program* director or supervisor of social services.

D. *Program* director or supervisor of social services. ~~4-~~ The *program* director or supervisor of social services shall:

- ~~a-~~ 1. Supervise directly or through others all child-placing staff and activities; and
- ~~b-~~ 2. Assist the executive director and governing body in the formulation and implementation of the agency's policies and programs related to child placing *and in the specific program area in which he works*.

~~2-~~ The *program* director or supervisor of social services shall have *either* a doctor's or master's degree in social work from a college or university accredited by the Council on Social Work Education, plus three years of experience in providing casework services to children and their families including one year as an administrator or supervisor of casework services.

E. Child-placing supervisor. ~~4-~~ When an agency employs six or more child-placing staff persons, the agency shall employ a child-placing supervisor.

~~2-~~ The supervisor shall:

- ~~a-~~ Be responsible for direct supervision of child-placing staff, but
- ~~b-~~ May not supervise more than eight child-placing staff members.

~~1.~~ The supervisor shall be responsible for direct supervision of child-placing staff, but may not supervise more than eight child-placing staff members.

~~3-~~ 2. The supervisor shall have:

- a. A doctor's or master's degree in social work from a college or university accredited by the Council on

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Social Work Education plus two years of experience in providing casework services to children and families; or

b. A baccalaureate degree plus four years of experience in providing casework services to children and families.

F. Case worker. ~~4.~~ Responsibilities of case worker include:

- ~~a.~~ 1. Interviewing children and families;
- ~~b.~~ 2. Conducting home studies;
- ~~c.~~ 3. Preparing and carrying out social plans with children and families;
- ~~d.~~ 4. Preparatory counseling with children and families for placement or discharge, ~~or both~~;
- ~~e.~~ 5. Supervising children in foster or adoptive homes, group homes, institutions or independent living arrangements; and
- ~~f.~~ 6. Preparing and maintaining case records.

~~2.~~ G. The case worker shall have:

- ~~a.~~ 1. A doctor's or master's degree in social work from a college or university accredited by the Council on Social Work Education or a field related to social work such as sociology, psychology, education or counseling, with a student placement in providing casework services to children and families. One year of experience in providing casework services to children and families may be substituted for a student placement; ~~or~~
- ~~b.~~ 2. A baccalaureate degree in social work or a field related to social work including sociology, psychology, education or counseling and one year of experience in providing casework services to children and families; or
- ~~c.~~ 3. A baccalaureate degree in any field plus two years experience in providing casework services to children and families.

~~3.~~ H. Case worker trainee. When an agency employs a casework trainee, all of the following conditions shall be met:

- ~~a.~~ 1. The trainee shall have a baccalaureate degree;
- ~~b.~~ 2. The *program* director or supervisor of social services or a supervisor of child placing shall directly supervise the trainee *on at least a weekly basis, and develop a written training program listing topics to be covered during the period of time the individual is a trainee; and*
- ~~c.~~ 3. Placement decisions made by the trainee shall be approved by the supervisor.

~~G. Consultants. All consultants engaged to provide services to the agency or to families and children served by the agency shall be qualified according to the requirements of the Code of Virginia governing professions.~~

~~H. Volunteers.~~

~~4.~~ 1. The agency shall, if it makes use of volunteers *and students/interns*, have a written plan for their selection, orientation, training, *supervision* and assignment.

~~2.~~ 1. When a ~~volunteer~~ *the individual* is used to perform any staff function or responsibility, the ~~volunteer individual~~ shall meet the qualifications for the position.

~~3.~~ 2. The agency shall not be wholly dependent upon the use of volunteers, *students or interns receiving professional training* to ensure the provision of services.

~~4.~~ Staff who usually supervise or perform the assigned tasks shall supervise volunteers.

~~I. Students or interns receiving professional training.~~

~~1. If an agency provides professional training to undergraduate or graduate students or interns, it shall have a written plan for their selection, orientation, training, assignment and evaluation.~~

~~2. An individual with a doctor's degree or a master's degree in social work from a college or university accredited by the Council on Social Work Education shall supervise students or interns who perform child placing activities. That supervisor shall approve all placement decisions made by the student or intern.~~

~~3. The agency shall not be dependent upon the use of students or interns to provide required services.~~

## **22 VAC 40-130-195. Staff development.**

A. Professional staff shall participate in orientation and training within 30 days after employment. Orientation and training shall address:

- 1. The agency's program statement, policies and procedures including expectations for service delivery, confidentiality, and documentation;
- 2. The standards, related policies in the Division of Service Programs' policies, child abuse and neglect reporting laws, and other relevant laws of the Commonwealth of Virginia; and
- 3. The individual's job description and skills needed for the position.

B. Professional staff shall also participate in the agency's first available preservice training for adoptive and foster parents following the start of their employment.

C. The agency shall schedule ongoing education or training for professional staff throughout each calendar year to include:

- 1. A review of the topics covered during orientation;
- 2. Identification of child abuse and neglect and reporting procedures;
- 3. For adoption agencies, training or education that will develop and enhance knowledge and skills in adoption placement; services to birth and adoptive parents; assessment and evaluation of adoptive homes; services

to children, including grief and loss issues; the provision of services after adoption; and services to adopted individuals; and

4. For foster care agencies, training or education that will enhance and develop knowledge and skills in foster care placements; services to children and their families; services to foster parents; assessment and evaluation of foster homes; and grief and loss issues for children in foster care, including the significance of birth families to children placed in foster care.

D. Treatment foster care programs shall provide additional staff development in the following areas:

1. The agency's treatment philosophy and skill training in the specific treatment methodologies it employs, including crisis intervention techniques; and

2. Ongoing education or training in effectively working with children who have emotional and behavioral problems and who may have been abused and neglected.

PART IV.  
FOSTER CARE SERVICES.

**22 VAC 40-130-198. Requirements.**

The standards in this part shall be met to obtain a license to provide foster care, other than treatment foster care, services in Virginia. Individuals or agencies in or out of state, or out of the country may obtain these services legally only from a licensed child-placing agency or local department of social services.

**22 VAC 40-130-200. Program statement.**

A. Child-placing agencies shall have a statement describing their services, organizational structure, policies, and recordkeeping including:

1. The purpose of the foster care program, including a description of the population the agency is prepared to serve and the geographical area to be served;

2. An open admissions policy if federal or local social service agency funds are involved. It shall state that their program is open to all children without regard to race, color, national origin or sex. It shall say also that children with ~~handicapping conditions~~ disabilities will be accepted if their needs can be reasonably accommodated. ~~The statement shall describe the population the agency is prepared to serve.~~ The policy shall also state that race shall not be a factor in determining the best placement for the child.

The agency shall include this policy in all brochures and material used for advertisement or distributed to the public.

3. A list of the agency's preadmission requirements; an explanation of the fee system, if any; and decision-making procedures for acceptance, matching, placement and ~~termination of~~ discharge from care;

4. A description of the services provided to children, ~~biological legal~~ families and foster families;

5. A statement of eligibility requirements for foster families;

6. A description of the agency's procedures for foster family study and approval including a description of ~~any~~ orientation and training;

7. A description of agency policy and procedures for independent living arrangements, if offered; and

8. A description of ~~division of~~ the responsibilities and workload of the child-placing staff and the training provided to professional staff.

B. Either the full statement or a summary shall be given to agencies and individuals who inquire about the services provided.

C. The program statement shall be updated when changes are made in the program, and a copy provided to the licensing representative within 30 days of the change.

**22 VAC 40-130-202. Policies and procedures.**

A. The agency shall have a written plan for back-up emergency care in the event that a child's placement in a family fails or if the agency ceases to operate.

B. The agency shall describe and implement a policy of acceptable methods of control and discipline. The policy shall include a statement that the use of physical restraint of children is not permitted.

C. The agency shall implement policies and procedures governing the agency's responsibility to determine that foster parents properly administer and document the medication as prescribed for foster children placed in their home; that foster parents have knowledge of side effects and actions to be taken; that foster parents notify the agency of adverse reactions to medications; and that foster parents have knowledge of the secure storage, retention and disposal of medication.

D. Agencies shall implement a policy and procedure governing the assignment of designated staff to be on call to foster parents on a 24-hour, seven days-a-week basis.

E. Agencies shall have a written discharge policy describing both planned and emergency discharge from the program.

**22 VAC 40-130-210. Intake.**

~~A child-placing agency may receive a child through court commitment or from an individual or agency having legal custody.~~

A. Authority to place. Before placing a child in foster care, the agency shall have the authority to place based on one of the following:

1. Court commitment;

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2. Permanent entrustment by the parent or parents, or other person having legal custody; ~~or~~

~~NOTE: If it appears that a child may need subsidy in the future, the agency should try to have the child enter care through court commitment. Few children who enter care through permanent entrustment are eligible for IV-E Adoption Assistance (federal subsidy). See 22 VAC 40-130-310 B 2 b Note.~~

3. Temporary entrustment by the parent or parents or other person having legal custody, or a placement agreement from an agency with legal custody. The agency shall petition the court for approval of a temporary entrustment within 30 days unless the entrustment is for less than 90 days;

4. A placement agreement from an agency with legal custody; or

5. A placement agreement signed by the local department of social services having jurisdiction when a noncustodial agreement has been signed between the parent or legal guardian and the local department or another public agency.

Exception: An agency licensed as a child-placing agency and certified as a proprietary school for the handicapped by the Department of Education shall not be required to take custody of a child placed in its special education program but shall enter into a placement agreement with the parent or other individual holding custody.

## ~~B. Intake assessment.~~

~~1. The assessment shall include items listed in subdivisions 1a through 1d. However, the agency shall collect the information for items listed in subdivisions 1a and 1b before accepting the child for placement. The required items are:~~

*B. Preadmission assessment. To achieve sound placement decisions and planning for relevant services to children, the agency shall receive and review the following material prior to a child's admission:*

~~a.~~ 1. The reason the placement is requested;

~~b.~~ 2. Current information on the child's:

(1) a. Health;

(2) b. Behavior in the home or other living situation; and

(3) c. Grade level and adjustment to school, if of school age; or adjustment to day care or nursery school, if any, for preschool children;

~~e.~~ The dates and persons involved in placement visits and staffings;

d. Potential problems with the child's placement; and

e. Information on the child's skills, interests and talents;

~~d.~~ 3. The reason or reasons the child was accepted and the date the decision was made.

~~2.~~ 4. The assessment shall be written within 30 days of placement.

*C. A child shall be accepted only after careful consideration of how well the prospective foster family can meet the child's needs and preferences. Important considerations include, but are not limited to:*

1. Foster parents' specific skills, abilities and attitudes needed to work effectively with the child; and

2. The family composition, willingness and ability to work with the child's family.

*D. The worker shall make a recommendation as to the most suitable foster home that can provide services to the child and his family.*

1. Siblings shall be placed together whenever possible unless it is clearly not in their best interest.

2. The agency shall document why a particular foster home is selected for the child.

*E. Unless there are valid reasons for not doing so, the agency shall interview the child and his parent or legal guardian prior to placement. If the child, the parent or the legal guardian cannot be interviewed, the reason shall be documented in the child's record.*

*F. The agency shall prepare the child for placement and arrange a preplacement visit for the child in the foster home. If this is not possible, the reason shall be documented in the child's record.*

~~G.~~ G. Social history. The purpose of the history is to assist in determining the appropriate goal for the child and identify the services needed to reach the goal. 1. The study social history shall be completed within 30 days of placement and include the date it was completed. 2. Information shall be collected on the items listed below. If information on an item is not available, the explanation shall be recorded.

~~3.~~ 1. The study social history shall cover:

a. Family structure, relationships and involvement with the child;

b. The child's previous placement history, if any;

c. The child's developmental, educational, social and medical history;

~~d.~~ A description of the child's appearance;

~~e.~~ d. Any emotional or psychological problems of the child including strengths and needs, and professional treatment received, if applicable;

~~f.~~ The child's school history;

~~g.~~ e. The education, medical history and occupation of parents; and

~~h. Family medical history as it relates to the suitability of the child for placement.~~

~~4. The worker shall:~~

~~a. Recommend long-term goals and intermediate objectives;~~

~~b. Identify services needed to meet the objectives and goals; and~~

~~c. Make a recommendation as to the type of home best suited to the child. Siblings shall be placed together whenever possible unless it is clearly not in their best interest.~~

~~5. When a home is selected, the worker shall explain why it was chosen.~~

~~f. The child's history as a victim of abuse or neglect, if applicable.~~

~~D. H. Physical or and dental examinations.~~

1. A child shall have an examination by or under the direction of a licensed physician within the 90 days before placement. The discharge summary from a hospital shall be acceptable for a newborn.

Exception: The 90-day requirement may be waived if:

a. A report of an examination no more than a year old is available; together with ~~b.~~ a report of all medical treatment provided in the interim, and

~~c.~~ b. The child has been in the continuous placement of a public or private agency.

2. When a child, accepted in an emergency, has not had an examination within 90 days before placement, he shall have one within 30 days after placement.

3. Each child over three years shall have had a dental examination within 12 months before placement or within 60 days after placement.

~~E. I. School enrollment.~~ The agency shall contact school authorities within five days of placement to arrange for the enrollment of each school age child.

**22 VAC 40-130-211. Acceptance of child and placement agreements.**

~~F. A.~~ Acceptance of a child from another agency. When a child is accepted for placement from another child-placing agency which is retaining custody:

1. The receiving agency shall obtain a placement agreement before placing the child. It shall cover the financial and other responsibilities of each agency including the services each agency agrees to provide for the child, the biological legal family and foster family.

2. The agreement shall be signed by a person from each agency who has the authority to commit the agency to the provisions by the receiving agency and by the custodial agency or by the local department of social services when the placement is authorized through a

*noncustodial agreement with the legal parents. If changes are made, the agreement shall be amended and the changes signed or initialed by an appropriate person.*

3. The referring agency which retains custody is required by §§ 16.1-281 and 16.1-282 of the Code of Virginia to send the court service plans for each child in its custody. The receiving agency shall obtain a copy of the service plan sent to the court or document its efforts to obtain one. It shall develop service plan or plans compatible with the goal or goals in the plan sent to the court.

~~G. B.~~ Acceptance of a child from parent or legal parents or other individual. When accepting a child for placement from a parent or other individual holding custody, the agency shall:

1. Obtain an entrustment agreement and follow the requirements of § 63.1-204 of the Code of Virginia (Exception: See 22 VAC 40-130-220 22 VAC 40-130-210 A 3);

2. Explain the agency's foster care program;

3. Collect information for the intake preadmission assessment and social history which shall be recorded only under those headings;

~~4. Explain service plan, covering:~~

~~a. Long-term goals;~~

~~b. Steps for their accomplishment;~~

~~c. The case worker's responsibilities;~~

~~d. The parent or other individual's responsibilities; and~~

~~e. Date setting for intermediate and long-term goals.~~

~~NOTE: Only the client's reactions should be recorded here; elements of the plan should be with the service plan itself.~~

4. Provide the legal parent or legal guardian placing the child with information about the agency's services, and discuss the parent's or guardian's long-term plans for the child, their responsibilities for the child, and the case worker's responsibilities; and

5. Explain service planning to the parent or guardian and discuss their involvement in this process, as well as their plans for visitation and financial support.

**22 VAC 40-130-212. Service plans in foster care.**

~~H. Service plans in foster care.~~ A. An agency shall prepare and implement a service plan for each child in its care. The parents shall be consulted unless parental rights have been terminated. Prior custodians or foster parents shall be consulted when appropriate.

~~1. Service plan requirement when the agency holds custody.~~

~~a. The plan shall be filed with the court within 60 days after the agency receives custody unless:~~

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- ~~(1) The court grants an additional 60 days, or~~
- ~~(2) The child is returned home or placed for adoption within 60 days.~~

~~b. The goal is to provide services that will lead to the child's placement in a permanent situation. Goals in order of priority are:~~

- ~~(1) Return to parents or prior custodians;~~
- ~~(2) Placement with relatives with planned transfer of custody;~~
- ~~(3) Adoptive placement;~~
- ~~(4) Permanent foster care; and~~
- ~~(5) Continued foster care or placement with relatives without transfer of custody.~~

~~c. Reports to the court are in two parts: A and B.~~

~~(1) Part A, only, shall be used if the goal is to return to the parents or prior custodians. It shall include:~~

- ~~(a) The services to be offered to the child and parents;~~
- ~~(b) The participation to be sought from the parent or parents or prior custodian or custodians;~~
- ~~(c) Visitation between the child and parent or parents or prior custodian or custodians;~~
- ~~(d) The type of placement being provided; and~~
- ~~(e) A projected date for the return of the child to the parent or custodian.~~

~~(2) If the agency determines that it is not likely that the child can be returned to the parent or parents or custodian within a reasonable period of time, both Parts A and B shall be used.~~

~~Part B shall include:~~

- ~~(a) The reasons the child cannot be returned to the parents or prior custodians;~~
  - ~~(b) The goal selected;~~
- ~~It must be the highest feasible goal. The reasons a higher goal was not selected must be explained.~~
- ~~(c) A plan for attainment of the selected goal; and~~
  - ~~(d) A projected date for attainment of the goal.~~

~~d. Procedures in the Service Programs Manual, Volume VII, Section III, Chapter B, "Preparing the Service Plan" shall be followed. These procedures are incorporated by reference and made a part of these regulations.~~

~~2. Service plan requirements when agency does not hold custody.~~

~~a. The plan shall include:~~

- ~~(1) The goal for the child;~~

~~(2) The services to be offered to the child and parents or prior custodians;~~

~~(3) The participation to be sought from the parents or prior custodians;~~

~~(4) The type of placement recommended for the child and how it relates to the goal; and~~

~~(5) The target date for achievement of the goal.~~

~~b. The plan shall be completed within 60 days of placement.~~

*B. When the agency holds custody of the child, a service plan shall be filed with the court within 60 days after the agency receives custody unless the court grants an additional 60 days, or the child is returned home or placed for adoption within 60 days.*

*The permanency planning goals and the requirements and procedures in the department's Service Programs Manual, Volume VII, Section III, Chapter B, "Preparing the Initial Service Plan," June 1998, shall be followed. These requirements and procedures are incorporated by reference and made a part of these regulations.*

*C. Service plan. When the agency does not hold custody of the child, professional agency staff shall develop a service plan within the first 60 days of placement which shall include:*

- 1. An assessment of the child's emotional, social, behavioral, educational, developmental and medical needs;*
- 2. Clear and realistic goals and objectives, the criteria for achievement, and target dates for each;*
- 3. The services, activities and experiences designed to meet the objectives provided to date and those to be provided within specified time frames (include a description of the agency's coordination with related community services to provide a continuity of care with the child's family, school, and community);*
- 4. The long-term permanency planning goals and plans for reunification of the child and the child's family, where appropriate;*
- 5. The target date for discharge from the program; and*
- 6. For children age 16 and over, a description of the programs and services that will help the child's transition from foster care to independent living.*

*Based on the agency's evaluation and work with the child and the child's family, it shall develop other areas to be addressed in the service plan.*

*The plan shall be signed and dated by the staff person who completed the plan.*

*D. The agency shall include and work with the child, the child-placing agency and the parents, where appropriate, in the development of the service plan and provide a copy to them.*

E. The agency shall provide supervision, training, support and guidance to foster families in implementing the service plan for the child.

F. The agency shall arrange for and encourage contact and visitation between the foster child, his family and others as specified in the service plan.

**22 VAC 40-130-213. Quarterly progress reports.**

A. Progress reports shall be completed quarterly beginning with the date of the service plan. The report shall evaluate and describe progress in each specified area of the service plan and include any changes recommended. The progress summary shall also include:

1. Services provided and a list of the individuals providing the services;
2. Any changes to the service plan and services to be provided during the next quarter;
3. Behavioral issues to be addressed and plans for addressing them;
4. Changes to the goals and objectives, the criteria for achievement and target dates;
5. Contacts between the child and the child's family and plans for reunification of the family, where appropriate;
6. The child's assessment of his progress and his description of services needed, where appropriate;
7. Medical needs, specifying medical treatment provided and still needed; and
8. Permanency planning goals, any changes in these goals, and discharge plans.

B. The fourth quarterly progress report shall address the above requirements and evaluate and update the service plan for the upcoming year.

C. The staff person who completed the report shall date and sign each quarterly progress report.

D. The agency shall include each child who has the ability to understand in the preparation of the child's service plan and progress report or document the reasons this was not possible. The child's comments shall be recorded in the report.

**22 VAC 40-130-220. ~~Ongoing services~~ Contacts with child.**

~~A. Visitation.~~

- ~~1. There shall be a face-to-face contact between the child placing staff and the child every 30 days during the first year of placement in a foster home.~~
- ~~2. Contacts every 60 days shall be in the placement setting.~~
- ~~3. If the child is in the same home after one year, the number of required contacts is still 12 per year but there~~

~~may be 45 days between any two visits. Alternate required visits shall still be in the placement setting.~~

**EXCEPTIONS:**

A. There shall be a face-to-face contact between the case worker or a designated professional child-placing agency staff and the child monthly to assess the child's progress, monitor service delivery and allow the child to communicate concerns. Contacts every other month shall be in the home.

B. A description of all contacts shall be documented in the narrative.

C. Children who are able to communicate shall be interviewed privately once a month.

~~a-~~ D. At least one face-to-face contact shall be made each quarter with a child in a group care facility.

~~b-~~ E. Visits to children in permanent foster care shall be made at least every six months in accordance with Service Programs Manual, Volume VII, Section III, Chapter B, Permanent Foster Care Placement, June 1997.

~~e-~~ F. Youth who cannot meet the requirements for court-approved permanent foster care ~~because~~ because they are over 18 but meet all other requirements and have been in a stable placement for a year, shall be visited at least every six months, unless the youth is in the agency's approved independent living arrangement (see Part VIII (22 VAC 40-130-454 et seq.) of this chapter).

~~e-~~ G. The agency shall assure that visits to children in out-of-state placements ~~shall be the responsibility of~~ are conducted by the agency supervising the placement.

H. Another licensed private agency or public child-placing agency that does not hold custody of the child may conduct visits; however, documentation must be provided and maintained in the child's record of the dates and substance of the contacts.

I. Unless specifically prohibited by court or custodial agency, foster children shall have access to regular contact with their families as described in the service plan.

J. The child-placing agency shall work actively to support and enhance child-family relationships and work directly with families toward reunification as specified in the service plan.

**~~B-~~ 22 VAC 40-130-221. Medical care.**

A. The agency shall assure that all children in its care receive routine and emergency medical care.

1. Frequency of examinations.

a. The physician's recommendations for children under one year shall be followed.

b. Examinations for children over one year shall be no more than 13 months apart. If the examining physician recommends it, examinations may be every two years for youths over 18.

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2. Reports shall be signed by the physician, his designee or an official of the local health department.

3. *The School Entrance Physical Examination of the Department of Health or equivalent may be used to meet the requirements for a medical examination.*

~~3.~~ 4. All reports except the discharge summary on a newborn shall include the following ~~when, at the discretion of the physician, they become appropriate to the child's age; unless the physician recommends otherwise:~~

a. Immunizations given in the past 13 months or since the last examination;

b. Current physical condition, including growth and development, visual and auditory acuity, nutritional status, evidence of freedom from tuberculosis in a communicable form, allergies, chronic conditions and handicaps *or disabilities*.

4. 5. The agency shall arrange for the child to receive recommended follow-up care as well as care for illnesses or injuries *and shall document all such visits*.

~~5. The School Entrance Physical Examination of the Department of Health or equivalent may be used to meet the requirements for a medical examination.~~

*B. The agency shall record all medications prescribed for each child and any reported side effects or adverse reactions.*

C. Dental care.

1. Each child over three years shall have a dental examination within 13 months of the last examination and every 13 months after that.

2. The findings shall be signed by a licensed dentist or his designee.

3. The agency shall arrange for the child to receive the recommended follow-up care as well as care for injuries or other conditions requiring attention between examinations.

D. Psychological and psychiatric care. The agency shall *provide or* arrange for a child to receive psychiatric ~~or~~, psychological, *and other clinical* services if the need for them has been recommended or identified.

~~EXCEPTION: If the agency does not follow a recommendation, it shall explain in the record why following the recommendation would not be in the child's best interest.~~

## **22 VAC 40-130-223. Other responsibilities of agency.**

~~E.~~ A. Clothing. The agency shall see that each child in care has his own supply of clothing for indoor and outdoor wear, suitable to the season, *and in good condition*.

~~F.~~ B. Spending money. School-age children shall have an allowance.

## **22 VAC 40-130-230. Narratives, ~~quarterly summaries and service plans~~ in the child's record.**

A. Narratives shall be in chronological order and current within 30 days. ~~Entries may be in narrative form or recorded on a contact sheet.~~ They shall cover:

1. Casework treatment and services provided;

2. Contacts with the child, ~~parent or~~ parents, the person ~~or~~ persons or agency holding custody if other than the parent, and collaterals; ~~and~~

3. *Areas required by these standards; and*

~~3.~~ 4. Other significant events, if any.

~~B. Summaries and service plans shall be made quarterly. The date of the initial service plan is the beginning date of the first quarter.~~

~~1. The summary for the quarter shall evaluate the progress made in reaching the goal including:~~

~~a. Problems met and problems still existing or arising; and~~

~~b. An evaluation of:~~

~~(1) The services provided the child;~~

~~(2) The participation of the services offered the biological parents, if any;~~

~~(3) The participation of the foster parents; and~~

~~(4) The continued suitability of the goal and termination date.~~

~~2. The service plan for the next quarter shall cover:~~

~~a. Any changes recommended in the goal and termination date;~~

~~b. Services needed for the child and their availability;~~

~~c. Contacts planned with the foster parents, school, biological parent or parents and other relatives; and~~

~~d. Progress anticipated during the coming quarter.~~

~~3. The fourth quarterly report shall also address subdivision 2 b, c and d for the next 12 months.~~

For recording in biological and foster family records, see 22 VAC 40-130-280.

## **22 VAC 40-130-240. Termination of Discharge from care.**

A. The closing narrative shall be completed within 30 days of termination *agency shall complete a discharge summary within 30 days of discharge* and include:

1. The reason or reasons for the ~~termination~~ *discharge*;

2. The name or names of persons with whom the child has been placed or to whom he was discharged;

3. Follow-up services, if any, to be provided the child and family or guardian; ~~and~~

4. ~~A brief statement of what was accomplished~~ summary of the services provided while the child was in care; ~~and~~

5. Progress made while the child was in care; and

~~5-~~ 6. Recommendations for services if the child is discharged to another agency.

B. Discharge planning shall be developed with the child, the child's parents or guardian, and the child-placing agency, if applicable.

C. Children in the custody of a local department of social services or private child-placing agency shall not be discharged without the knowledge, consent, and notification of the child-placing agency. The parents or guardian shall be notified of the child's discharge from the program.

D. Children under the age of 18 shall only be discharged to the parent or guardian having legal custody.

F. For independent living placements the summary shall include an evaluation of the progress made towards achievement of the identified life skills.

~~B-~~ G. Upon discharge a copy of medical and school records, and birth certificate if the agency holds custody, shall be given to the parents or receiving agency. Information shall be released, to a child who has reached 18 years of age in accordance with § 63.1-209 of the Code of Virginia.

**22 VAC 40-130-251. Respite care.**

Foster parents shall have access to both planned and crisis respite care for their foster children. Respite care may be provided only in foster homes which have been selected and trained according to these standards. Respite providers shall be informed of the child's service plan and assisted in the implementation of this plan.

**22 VAC 40-130-260. Independent living arrangement.**

~~Any agency may place a child in an independent living arrangement. Procedures in the Service Programs Manual, Volume VII, Section III, Chapter B, "Placing the Child in an Independent Living Arrangement" must be followed.~~

Agencies placing children in independent living arrangements shall follow the requirements established in Part VIII (22 VAC 40-130-454 et seq.) of this chapter.

**22 VAC 40-130-261. Training for foster parents.**

A. Prior to approval of the home, all foster parents shall satisfactorily complete preservice training. This training shall include the following topics:

1. Information about the strengths and needs of children and their families who require family foster care services;
2. Information about the impact of separation and loss for all parties involved in family foster care;
3. The laws, regulations, policies, procedures, and values that direct the agency's family foster care program;

4. The knowledge and practice skills necessary to be a foster parent;

5. The impact of fostering on foster parents, their children, and all aspects of their family life; and

6. Knowledge and understanding of the specific types of children served by the agency and the services these children will need.

B. On-going training. The agency shall develop an on-going training plan for foster parents. The specific training topics shall be included in the agency's program statement and shall include, but not be limited to the following:

1. Building on basic skills and developing advanced skills, such as working directly with parents of children in care to teach parenting skills;
2. Helping children develop self esteem and learn appropriate behaviors;
3. Responding to signs and symptoms of physical abuse, sexual abuse, neglect, and emotional maltreatment; and
4. Helping children with family reunification, adoption, and preparation for young adult life.

**22 VAC 40-130-270. The foster family and foster home study.**

~~A. The foster home study. Information on the items listed below shall be gathered in order to assess whether or not it would be a suitable foster home, and, if so, what types of children would fit into the home.~~

- ~~1. The foster parent or parents shall be at least 18 years old.~~
- ~~2. Workers shall see marriage licenses for couples applying to be foster parents. If there have been previous marriages, the worker shall ascertain that divorces from the former spouses are final.~~
3. Health:

~~a. Each permanent member of the household shall obtain a report signed by a physician, his designee or an official of the local health department containing:~~

- ~~(1) An evaluation of the current health of the individual;~~
- ~~(2) A statement that the individual does not have tuberculosis in a communicable form including the date and type or types of test or tests and the results;~~

~~If the test is positive or no test is done, there shall be a written explanation by the physician.~~

~~(3) An opinion as to whether or not the health of the household member will affect the care of foster children.~~

b. Additional tests are not required unless:

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~~(1) The individual comes in contact with a known case of tuberculosis; or~~

~~(2) Develops chronic respiratory symptoms.~~

~~For either of these symptoms, he must be evaluated according to subdivisions 2 a (2) and 2 a (3) of this subsection.~~

~~e. At the request of the agency or the licensing representative, an examination shall be obtained when there are indications that the safety of the children in care may be jeopardized by the physical or mental health of a household member.~~

~~The agency shall plan for the immediate removal of the child or children if the examination reveals that their safety might be in jeopardy.~~

~~4. Income and financial resources of the foster family shall be sufficient to assure continuing maintenance of the foster family. If there is an amount in the agency's monthly payment above that required for the needs of the child, it may be counted as income.~~

~~5. Child care if parents are employed. When a single foster parent or both parents are employed, there shall be plans approved by the agency for the care of the child during their absence.~~

~~6. CPSIS and Division of Motor Vehicles checks.~~

~~a. Persons applying to be foster parents and other adult members of the household shall consent to a search of the Child Protective Services Central Registry (CPSIS).~~

~~(1) The agency shall use the form provided by the registry and follow the instructions thereon.~~

~~(2) A search must be done for the initial approval and may be repeated if the child placing staff believes it necessary.~~

~~(3) The home shall not be used if an adult in the household has a founded or unfounded reason to suspect child abuse or neglect record.~~

~~NOTE: The Central Registry name is to be changed from CPSIS to CANIS (Child Abuse and Neglect Information System) in the early fall of 1989. The method of judging injury to children is to be changed. Agencies will be sent information on the changes when they occur.~~

~~b. Persons applying to be foster parents shall consent to a check of Department of Motor Vehicles records if the agency thinks it is needed. The agency may require consent to a check after a home is in use if it appears to be needed.~~

~~7. Residence and surrounding area.~~

~~a. The home shall have:~~

~~(1) A working telephone;~~

~~(2) Screens on all doors and windows used for ventilation;~~

~~(3) Some method of ventilation for the rooms where children sleep;~~

~~(4) Closet or drawer space or both for clothing and personal possessions of children over two years;~~

~~(5) Separate beds for each foster child except that two siblings of the same sex may share a double bed;~~

~~(6) A written plan for evacuation of the home in case of fire.~~

~~(a) The worker shall review the plan during the initial home study and at the time of the reevaluation if the family has moved.~~

~~(b) The foster parents shall review the plan, with any child old enough to understand, within five days of placement. This requirement shall be in the foster home agreement or other document signed by the foster parent.~~

~~b. If the family possesses firearms, they shall be stored in locked cabinets or locked areas not accessible to children. Ammunition shall be stored in a locked place separate from the firearms.~~

~~c. There shall be an assessment of the following based on the worker's observations and discussion with the applicant or applicants:~~

~~(1) The availability and use of sleeping space;~~

~~(2) The availability of play or recreation areas appropriate for the ages of children to be placed;~~

~~(3) The availability of study areas if school age children are to be placed;~~

~~(4) Housekeeping standards; and~~

~~(5) The neighborhood and the accessibility of applicable community facilities.~~

~~8. Interviews with family members.~~

~~a. There shall be a minimum of three face-to-face interviews with each foster parent, including at least one joint interview in the home.~~

~~b. All other members of the household shall be interviewed face-to-face at least once.~~

~~c. The following areas shall be covered:~~

~~(1) Each applicant's reasons for and expectations of becoming a foster parent;~~

~~(2) Each applicant's parenting skills, understanding of types of children to be placed, prior experiences with children, attitudes toward natural parents and toward working with the agency;~~

~~(3) The abilities of all members of the household to accept a foster child including their experiences in~~

~~sharing with and caring for children not related to them;~~

~~(4) The social and academic adjustment of the applicant's children such as peer relationships, grade placement, and school performance;~~

~~(5) Family relationships including marital;~~

~~(6) General patterns of family life; and~~

~~NOTE: The purpose of recording the patterns is to assess how a child will fit into the usual routines or activities of the household.~~

~~(7) The applicant's relationships with extended family and friends.~~

~~9. References. At least three references for the family shall be obtained.~~

~~10. Worker's recommendations.~~

~~a. The child placing staff shall recommend approval or disapproval of the home. The date of the action shall be recorded.~~

~~b. Applicants shall be informed within a week of approval or disapproval.~~

~~c. The worker shall recommend the type, number, age and sex of children that can successfully be cared for in the home. Foster parent or parents preferences shall be taken into consideration.~~

~~11. The foster home study shall be written and the home approved before a child is placed.~~

*A. Foster homes shall be evaluated and approved according to the requirements set forth in these standards. An agency may have additional requirements at its discretion.*

*B. Assessment of foster family applicants. Information on the items below shall be gathered in order to assess the applicants' capacities as foster parents. If the home is approved, the information shall be used to determine the type of child that can successfully be placed in the home.*

*C. The agency shall conduct interviews with all family and household members. Dates and content of interviews shall be documented in the home study.*

*D. There shall be a minimum of three face-to-face interviews with each applicant. At least one interview with a couple shall be joint and one shall take place in the home.*

*E. Orientation and preservice training sessions provided during the home study process shall not count towards the required number of interviews.*

*F. The agency shall request and obtain a minimum of three nonrelative references for the family. Additional references may also be requested from relatives or others at the agency's discretion.*

*G. A report of a medical examination by a licensed physician, his designee, or an official of a local health department of all members of the household shall be*

*obtained. The exam shall be conducted no earlier than six months prior to the approval and shall contain:*

*1. An evaluation of the current health of the individual. Additional reports from specialists shall be received when health concerns are noted;*

*2. A statement that the individual does not have tuberculosis in a communicable form including the date and type of test and the results. If the test is positive or no test is done, there shall be a written explanation by the physician. Additional tests are not required unless the individual comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms;*

*3. An opinion as to whether or not the health of the individual will affect the care or present a hazard to the health of children; and*

*4. The signature of a physician, his designee or an official of the local health department.*

*H. The medical examination shall be updated if the agency has concerns about the health of members of the foster family.*

*I. The agency shall receive the results of a search of the Child Abuse and Neglect Registry before approval is granted. The home shall not be approved if an applicant or another adult living in the home has a founded child abuse or neglect record. Note: See § 63.1-198.1 of the Code of Virginia.*

*J. Criminal history record reports and sworn disclosure statements shall be received on each applicant pursuant to § 63.1-198.1 of the Code of Virginia prior to approval. Agencies shall not approve foster families if either foster parent applicant has been convicted of the specified offenses in the law.*

*The content of and copies of criminal record reports and sworn disclosure statements shall not be shared with other agencies or persons, other than the person named in the report, the licensing representative, other state or federal authorities and a court as required by state or federal law, except as permitted by § 63.1-198.1 of the Code of Virginia.*

*K. The agency shall check the applicants' Department of Motor Vehicles records.*

*L. The agency worker shall see the marriage license for couples.*

*M. The agency shall discuss the employment history of each applicant and assess the applicants' management of income and financial resources in relation to expenses.*

*Applicants shall have sufficient income and financial resources to assure continuing maintenance of the family. The agency shall receive a financial statement indicating income and expenses. If there is an amount in the agency's monthly payment above that required for the needs of the child, it may be counted as income.*

*N. If the applicant has previously applied to be a foster parent through another agency, the current agency shall*

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request information from the applicant about their previous application. The current agency shall also request information from the previous agency.

O. Foster parent applicants shall sign a statement that they will not use corporal punishment on any child placed in their home nor give others permission to use corporal punishment with the foster children in their home.

P. The agency shall conduct an assessment of the motivations, expectations, commitment, and abilities of the applicants. The agency shall assure that the following areas are covered in its assessment and document the basis for its conclusions:

1. Family relationships to include how the couple and the family resolve conflicts and express affection, relationships with extended family, and children living outside of the home;
2. Stability of the marriage in relation to its length;
3. The applicants' experiences with children and as children;
4. Discipline of children to include the discipline the applicants' received as children, their current parenting skills, their opinion and attitudes towards discipline, and the discipline techniques they will use with a child placed in their home;
5. Applicants' willingness to assist in the service plan;
6. Applicants' education and attitudes towards education;
7. Applicants' willingness to work with the school;
8. Applicants' attitudes towards the legal parents and towards working with the agency;
9. Health issues in the applicants' family and how this will impact the care of a child;
10. The age and type of child desired; and
11. Supervision arrangements when the applicants are out of the home.

Q. Residence and surrounding area. The agency shall assess and approve the residence and surrounding area. The following areas shall be included in the agency's assessment:

1. The applicants' home is free of hazards to the health and safety of children, is clean and is in good physical repair.
2. Rooms used by children shall be well-lighted for activities and safety.
3. The applicant shall have a written plan for seeking assistance from fire and rescue professionals.
4. Foster parents shall have a written evacuation plan in case of emergencies and shall rehearse the plan with children every six months. Foster parents shall review the plan with each child within 48 hours of placement.

5. All sleeping areas shall have operable smoke detectors and the home shall have at least one operable fire extinguisher.

6. The home shall have an operable heating and ventilation system.

7. Firearms and other weapons shall be locked. Firearms shall be kept unloaded and ammunition shall be locked in a separate location.

8. Children over the age of two shall not share a bed or bedroom with the foster parents or other adults in the home, unless the child's documented medical needs or disabilities require the foster parent to sleep in the room with the child.

9. The home shall have closet or drawer space or both for clothing and personal possessions of children over two years of age.

10. There shall be separate beds for children except that two siblings of the same sex may share a double bed.

11. Children's bedrooms shall not be used as passageways and shall have doors for privacy.

12. The home shall keep cleaning supplies and other toxic substances stored away from food, locked and out of the reach of children.

13. The applicants shall have a working telephone.

R. The agency shall recommend approval or disapproval based on a careful assessment of the characteristics outlined in this section, information received through the home study process, the applicants' participation in the home study process and in any orientation and preservice training.

S. The decision to approve or deny shall be made in consultation with the supervisor or in a staff meeting, and the date of the decision shall be recorded in the applicants' record.

T. If approval is recommended, the worker shall recommend the age, sex, and type of children who can successfully be placed and give the basis for the recommendation.

U. The applicants shall be informed in writing within one week of the approval or disapproval and offered an interview to have the agency's decision explained to them.

V. The home study shall be written and the home approved before a child is placed.

~~B. Foster home capacity.~~ W. The total number of children in the foster home shall not exceed eight including the parent's own children. Exception: When placement of a sibling group in one home is in the best interest of the siblings, the total may exceed eight.

~~C.~~ X. The agency shall provide the following services and requirements following approval.

1. The agency shall ~~have a plan of~~ *provide orientation and on-going training* for each newly approved foster family.

2. The agency shall provide the foster family with written procedures for handling emergencies during and outside the agency's regular office hours.

3. Prior to placement the family shall be assisted to make an informed decision as to whether a particular child is appropriate for them.

4. ~~The agency shall have a written foster home agreement with the family for each child in care.~~

~~a. The agreement shall be signed on or before the date the child is placed in the home.~~

~~b. The agreement shall include:~~

~~(1) The payment for foster care;~~

~~(2) Payment for other expenses;~~

~~(3) Arrangements for medical care;~~

~~(4) Arrangements for the provision of clothing;~~

~~(5) Arrangements for spending money for the child;~~

~~(6) Arrangements for visits by parents;~~

~~(7) An agreement not to use corporal punishment or give others permission to do so;~~

~~EXCEPTION: If the agency prefers, it may substitute a written policy statement containing the prohibition which foster parent or parents shall sign saying they have read and will follow to the best of their ability. If a statement is substituted, it needs to be signed only at the time of the first placement. It shall state that it applies to any child placed by the agency.~~

~~(8) A clear statement that the agency has the right to remove the child when it considers it in the child's best interest; and~~

~~(9) A statement that the foster family has the right to receive the support and assistance of agency staff at all times in relation to the child's care in the home.~~

~~D. Re-evaluation of foster homes. The agency shall re-evaluate the foster home after one year and every two years after that covering the topics in the initial home study.~~

~~The re-evaluation shall take place in the home. The visit shall be made when both parents can be present. The re-evaluation may be done at the time of one of the regular home visits.~~

~~NOTE: A form may be used to indicate those areas in which there has been no change. The same form may be used to note changes that have occurred and to cover items listed in subdivisions 1 through 5 of this subsection providing there is space for an explanation.~~

~~The re-evaluation shall also cover:~~

~~1. A brief description of the adjustment of each child placed in the home since the last evaluation;~~

~~2. An evaluation of the performance of the foster parents addressing:~~

~~a. Their ability to relate to the children;~~

~~b. Their ability to help children reach their goals;~~

~~c. Skills in working with particular types of problems; and~~

~~d. Their ability to work with the agency in meeting the needs of a child.~~

~~3. The relationship between the children and the family members. Family members shall be mentioned by name but may be listed together if one statement applies to all;~~

~~4. The stability of the home and any problems or significant changes that have occurred in the family since the last evaluation; and~~

~~5. Worker's recommendations regarding continued use of the home, and age, sex, types and number of children which home can handle successfully.~~

## **22 VAC 40-130-271. Foster home agreement.**

*The agency shall have a written foster home agreement with the family for each child in care. The agreement shall be signed on or before the date the child is placed in the home and shall include:*

*1. The payment for foster care and other expenses;*

*2. Arrangements for medical care, for spending money for the child, for visits by parents, for the provision of clothing and an agreement not to use corporal punishment or give others permission to do so;*

*3. A clear statement that the agency has the right to remove the child when it considers it in the child's best interest;*

*4. A statement that the agency shall provide foster parents with the support and assistance of agency staff at all times in relation to the child's care in the home, including emergency procedures and telephone numbers to call; and*

*5. A statement that unless a move is required to protect the health or safety of the child or other foster family members, the agency shall require foster parents to provide reasonable notice, as determined by the agency, to professional staff if requesting a child's removal from the home.*

## **22 VAC 40-130-272. Reevaluation of foster homes.**

*A. The agency shall reevaluate the foster home after one year and every two years thereafter covering the topics in the initial home study. The reevaluation shall take place in the home and the visit made when both parents can be present.*

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B. A reevaluation to address pertinent standards shall be done whenever there is a change in physical location or marital status. The agency shall make a redetermination of the continued status of the foster parents.

C. At the request of the agency or the licensing representative, a medical examination shall be obtained when there are indications that the safety or health of the children in care may be jeopardized by the health of a household member. The agency shall plan for the immediate removal of any foster children if the examination reveals that their safety or health might be in jeopardy.

D. The reevaluation shall also cover (i) a description of the adjustment of each child placed in the home since the last evaluation and (ii) an evaluation of the performance of the foster parents addressing their ability to relate to the children and to help children reach their goals. The agency shall also include and assess:

1. The foster parents' skills in working with particular types of problems;
2. The relationship between the children and the family members and the stability of the home and any problems or significant changes that have occurred in the family since the last evaluation; and
3. Their ability to work with the agency and with the legal parents in meeting the needs of a child.

E. The agency shall receive a current report from the Department of Motor Vehicles on any new drivers in the home if they are to transport foster children.

F. The agency shall make a recommendation regarding continued use of the home, further training needs of the foster parents, and age, sex, types and number of children that the home can successfully handle.

## 22 VAC 40-130-280. Foster care records.

A. The agency shall maintain a record for the child, the biological family legal parents and the foster family. The biological family legal parents' record may be a part of the child's record.

~~A. The child's record. The record shall include:~~

- ~~1. A face sheet completed within five working days of placement, with the following information:
  - a. For the child: birth date, place of birth, sex and race and source of this information;
  - b. For the biological parents: full names, address or addresses, telephone numbers, if available, and marital status;
  - c. For siblings: names, and addresses, if available;
  - d. Names, addresses and telephone numbers of person or persons or agency holding custody; and
  - e. Names and telephone numbers of persons to be contacted in an emergency, and~~

~~2. Other material pertaining to a child in foster care as required by this chapter.~~

B. Requirements for case records for children. The agency shall maintain a case record for each child. All services provided to the child shall be documented in the case record. If an agency has offices in more than one location, the record shall identify the office which provided the service.

C. All entries shall be in chronological order, be dated and identify the person making the entry. Entries shall be typed or legibly handwritten in ink. The child's case record shall include:

1. A face sheet completed within five working days of placement which includes:
  - a. Personally identifying information to include the child's name, birth date, place of birth, Medicaid number (if applicable), and Social Security number;
  - b. Parent's names, addresses, marital status, telephone numbers, Social Security numbers and information about grandparents, close relatives, and siblings, when known;
  - c. Names, addresses and telephone numbers of person or agency holding custody; and
  - d. Names and telephone numbers of persons to be contacted in an emergency.
2. Intake assessment information including referral forms, preadmission assessment, social history, psychological or psychiatric reports, school information, placement agreements or entrustment agreements, and medical reports received at intake.
3. Authorizations for routine and emergency medical and dental care and for out-of-state travel, participation in special activities, publicity releases.
4. Child's birth certificate.
5. Ongoing school and educational records.
6. Ongoing medical and dental treatment.
7. Clinical treatment including progress notes and psychological or psychiatric evaluations.
8. Service plans, quarterly reports, and discharge reports.
9. Names, addresses and dates of all placements the child has while in the agency's care.
10. All correspondence related to the child.
11. Narrative, including a chronological narrative or summary of contacts with and services provided to the family. It shall include visits between the parents and the child or attempts to visit.
12. Documentation of any serious incidents, accidents, or injuries.

13. *Other material pertaining to a child in foster care as required by these standards, and any other applicable standards and laws.*

*D. Information on the child's legal family, previous foster families, and services provided to them shall be documented either in the child's record or a separate family record.*

~~B. The biological parent's record.~~ *E. The legal parents' record shall contain cross-references to the child's record, unless it is a part of the child's record, and:*

1. ~~A face sheet with the following information: names, addresses, telephone numbers and marital status of the parents and addresses and telephone numbers of other members of the family when available.~~

~~a. Names, addresses and marital status of the biological parents;~~

~~b. Members of the biological family and their whereabouts with addresses and telephone numbers when available; and~~

~~c. Cross-references to the child's record.~~

2. A chronological narrative or summary of contacts with and services provided to the family. It shall include visits ~~of between the parents with and the child and visits,~~ or attempts to visit, ~~with the parents.~~

3. Material relating to ~~biological~~ legal parents as required by ~~this chapter these standards and applicable laws.~~

~~C. F. The foster home record.~~ *The record shall contain:*

1. A face sheet listing all members of the household and their relationship to the foster parents;

2. The agency application ~~for~~ *form completed by the* foster parents;

3. A record of orientation and training provided to the foster parents;

~~NOTE: A form listing the training offered by the agency may be filed in the record. When the parent or parents complete a course, the date may be entered on the form.~~

4. A narrative account of the preparation of the family for each child placed with them;

5. A list of the children placed including names, birth date or age, dates of placement and removal and reasons for removal;

6. Copies of all foster home agreements;

7. ~~Other material required for foster home studies~~ *The foster home study and all material required for the home study by this chapter these standards;*

8. Reevaluation of the foster home, ~~and;~~

9. When applicable, date and reason for closure; ~~and~~

10. *A narrative of any concerns the agency has about the status of the foster home.*

*G. The agency shall maintain documentation in the foster parents' record of all complaints involving the foster parents, including the agency's investigation report and findings and police and child protective services' involvement.*

PART V.  
ADOPTION SERVICES.

**22 VAC 40-130-289. Requirements to provide adoption services in Virginia.**

*A. The standards in this part shall be met to obtain a license to provide adoption services in Virginia. Individuals or agencies, in or out of the state or out of the country, may obtain these services legally in Virginia only from a licensed child-placing agency or local department of social services.*

*B. Agencies shall be responsible for maintaining compliance with these standards; the Family Services manual, Volume VII, Section III, Chapter C, Adoption Agency Placement (Post-Adoption Services, July 1989) and Chapter D, Adoption-Nonagency Placement and Other Court Services (Guidelines Regarding the Preparation of Adoption Material to Be Forwarded to the Adoption Reports Unit for Preservation in a Nonagency Adoption, November 1991); and all related laws in Virginia.*

**22 VAC 40-130-290. Program statement.**

*A. Child-placing agencies shall have a statement describing their services including:*

1. The purpose of the adoption program;

2. An open admissions policy if federal or local social service agency funds are involved. It shall state that the program is open to all children without regard to race, color, national origin or sex. It shall say also that children with ~~handicapping conditions~~ *disabilities* will be accepted if their needs can be reasonably accommodated, ~~and that race shall not be a factor in the placement of the child.~~ *A summary of the agency's policy shall also be included in advertisements and on materials distributed to the public;*

~~The statement shall describe the population to be served.~~

3. Qualifications for adoptive families;

4. A description of the study, approval and selection process for adoptive families ~~including orientation and training offered by the agency and policy regarding fees;~~

5. *A description of the orientation and training given to adoptive applicants to include:*

*a. Information shared about the birth family;*

*b. Disclosure to the child about his adoption;*

*c. The adoptive parent's understanding of adoption as a life-long process; and*

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d. Where the family can receive continuing services.

A copy of the training curriculum shall accompany the program statement;

~~5-~~ 6. A description of the population to be served and a list of services, including adoptive family preservation services, provided to children, biological legal families and adoptive families prior to the final order of adoption;

~~6-~~ 7. A list of services provided after the final order, either directly or by referrals to adopted children and families;

~~7-~~ 8. A description of services provided to adult adopted persons; and

~~8-~~ 9. A description of the responsibilities and workload of agency staff;

10. A copy of the agency's policy regarding fees for all services offered;

11. A description of intercountry services and identification of the agency's roles and responsibilities regarding the provision of services; and

12. A description of the agency's parental placement adoption services, if applicable, and identification of the agency's roles and responsibilities regarding the provision of services.

B. The program statement or a summary shall be given to agencies or individuals who ask about the services of the agency.

C. A copy shall accompany the initial application for a license.

D. The program statement shall be updated when changes are made and a copy sent to the licensing representative within 30 days of the change.

## **22 VAC 40-130-300. Intake. ~~A. Services to biological legal parents contemplating placing their child for adoption.~~**

~~1. While parents may have decided to place their child for adoption before coming to the agency, counseling sessions shall be offered to assure that:~~

~~a. The decision was not made under duress; and~~

~~b. The decision is firm.~~

~~2. Alternatives to adoptive placement shall be discussed including:~~

~~a. Services to help the family stay together if it is in the best interest of both the child and the family;~~

~~b. Temporary foster care; and~~

~~c. Placement with relatives.~~

A. Alternatives to adoptive placement shall be discussed including services to help the family stay together if it is in the

best interest of both the child and the family, placement with relatives, and temporary foster care.

B. While parents may have decided to place their child for adoption before coming to the agency, counseling sessions shall be offered to assure that the decision was not made under duress and the decision is firm, the reason for the decision, and that the birth parents are aware of the impact of placing a child for adoption,

~~3-~~ C. Additional counseling sessions shall be offered as needed. ~~4-~~ If either of the parents was not offered counseling, the worker shall record the reason or reasons.

~~5-~~ D. Agency adoption services shall be explained to the birth parents and shall include agency policies and procedures, the adoption process, and the rights and responsibilities of all parties.

E. The agency shall document the services offered to the birth parents and their responses, including reasons why each alternative was not chosen.

~~6-~~ F. If the parents choose adoption, the agency shall secure a termination of parental rights in accordance with termination procedures in the Service Programs Manual, Volume VII, Section III, Chapter B, "~~How Terminating Parental Rights are Terminated.~~", June 1998. These procedures shall be explained to the birth parents. These procedures are incorporated by reference and made a part of this regulation.

## **~~B. 22 VAC 40-130-301. Authority to place.~~**

A. The agency shall have the authority to place a child either in a foster or adoptive home.

1. An agency may place a child in a foster home with:

a. A court commitment;

b. A permanent entrustment by the parent or parents or other person holding custody; or;

c. A temporary entrustment by the parent or parents or other person holding custody; (the agency shall petition the court for approval of a temporary entrustment within 30 days unless the entrustment is for less than 90 days.);

d. A placement agreement from an agency holding custody; or

e. A placement agreement signed by the local department of social services having jurisdiction when a noncustodial agreement has been signed between the parent or legal guardian and the local department or another public agency.

2. To place a child for adoption, an agency shall have:

a. A permanent commitment with termination of parental rights from the court; or

b. A permanent entrustment by the parent or other person holding custody; (Note: A child coming into care through permanent entrustment is eligible for

federal or state subsidy (~~Title IV-E, Adoption Assistance~~) if: as provided in 22 VAC 40-130-365, Adoption Assistance); or

~~(1) The court finds that remaining in the home would be contrary to the welfare of the child, and~~

~~(2) The child has been living with the parent or parents within six months of the initiation of court proceedings.~~

~~The agency should consult with the local departments of social services to determine whether other relatives would be acceptable.~~

~~In order to conserve state funds, agencies should do everything possible to make a child eligible for IV-E if he or she is likely to need subsidy. Permanently entrusted children who are not eligible for subsidy are, however, eligible for state subsidy. State and local funds pay for the same needs and services for the child.~~

or

c. Transfer of custody from another agency. Agency transfer requires court approval.

*B. The agency shall comply with §§ 63.1-204, 63.1-205, 63.1-220.1 and 63.1-220.2 of the Code of Virginia. Note: Copies of these statutes will be provided by the department.*

*C. When two agencies are participating in the placement of a child for adoption, the agencies shall develop a child-specific, mutually acceptable written agreement which:*

- 1. Outlines the roles and responsibilities of each agency;*
- 2. Assures open communication between the participating agencies;*
- 3. Addresses the procedures for resolving cases where there is disagreement between the two agencies; and*
- 4. Specifies payment for services rendered.*

**22 VAC 40-130-310. Temporary foster care prior to adoption for children under one year.**

~~A. The foster home.~~ The foster home shall be approved under the provisions of 22 VAC 40-130-270. The foster home agreement *specified in 22 VAC 40-130-271* shall be signed by the agency and foster parents.

~~B. Intake assessment.~~ *In order to determine the appropriateness of accepting a child for placement and assessing the needs of the child, the agency shall collect the following information for an intake assessment before accepting the child for placement in a foster home:*

- 1. The reason the placement is requested, and a brief report on his living situation or situations if he did not come directly from the hospital.*
- 2. Current information on the child's health. The hospital discharge summary is an acceptable medical examination for a newborn.*

~~a. The hospital discharge summary is an acceptable admission examination for a newborn.~~

~~b. 3. If a child under one year has not come directly from the hospital, the hospital summary and a report of interim care, and a medical report signed by the physician shall be obtained. The report shall be no more than 30 days old. The absence of abnormalities shall be noted or the presence of abnormalities noted and explained on the report. Any medical conditions needing follow-up care shall be explained in the report.~~

~~3. In addition,~~ 4. The assessment shall ~~cover~~ be completed within 30 days of foster home placement and prior to completion of the adoptive placement agreement. The assessment shall also cover the dates and persons involved in placement visits and staffing, the reason the child was accepted and the date the decision was made.

a. Dates and persons involved in placement visits and staffing; and

b. The reason or reasons the child was accepted and the date the decision was made

~~4. The assessment shall be completed within 30 days of placement.~~

~~C. Social history.~~ The purpose of the history is to assist in the determination of the most suitable adoptive home for the child. The agency shall prepare a social history on the child and use the social history to assist in the determination of a suitable adoptive home for the child. If a child is referred from another agency, the private child-placing agency shall request a copy of the referring agency's social history on the child. If some item of information is not available, the reason shall be recorded.

1. The history shall cover:

a. The reasons for and the goal of the foster home placement;

b. The physical appearance of the child and of both parents if available;

c. The child's parents' nationality, race and religion;

d. *The medical and psychiatric history of the child's parents', siblings', aunts', uncles' and grandparents' medical and psychiatric history as it relates to the selection of a suitable home for the child;*

e. The education and occupation of the child's parents, siblings, aunts, uncles and grandparents; and

f. The expected length of placement in foster care.

2. The social history shall be completed *before the adoptive placement agreement is signed, and* within 30 days after placement in the foster home and include the date it was completed.

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3. The worker shall describe the type of adoptive home that appears to be best for the child or explain why that determination has not yet been made.

D. ~~Visitation.~~ The case worker shall have a face-to-face contact with the child every 30 days. Visits every 60 days shall be in the foster home.

E. The worker shall see that the child has an adequate supply of clothing.

F. *The agency shall follow the physician's recommendations as to frequency of medical examinations for children under one year.*

1. All reports, except the discharge summary on a newborn, shall include the following unless the physician recommends otherwise:

a. Immunizations given;

b. Current physical condition, including growth and development, visual and auditory acuity, nutritional status, evidence of freedom from tuberculosis in a communicable form, allergies, chronic conditions and disabilities.

2. The agency shall arrange for the child to receive recommended follow-up medical and dental care, when appropriate, as well as care for illnesses or injuries and shall document all such visits.

G. *The agency shall record all medications prescribed for each child and any reported side effects or adverse reactions.*

~~F. H.~~ Continuing contact with parent or legal parents.

1. Parents shall be included in service planning, including goal setting, until or unless rights are terminated.

2. If parental rights are terminated, and the parents request it, the agency shall arrange continuing services, either directly or by referral.

~~G. Service plans in foster care. If the agency holds custody it shall file a foster care plan with the court within 60 days unless the child is returned home or placed for adoption within that time. (See 22 VAC 40-130-220 H.)~~

~~H. For narrative, quarterly reports and termination of care, see 22 VAC 40-130-240 and 22 VAC 40-130-250.~~

## **22 VAC 40-130-312. Service plans and progress summaries.**

A. *An agency shall prepare and implement a service plan for each child in its care. The parents shall be consulted unless parental rights have been terminated. Prior custodians or foster parents shall be consulted when appropriate.*

B. *When the agency does not hold custody, the service plan requirements are as follows:*

1. *The plan shall include the goals for the child, including permanency planning goals; the services to be offered to the child and parents or prior custodians; the participation to be sought from the parents or prior custodians; the type of placement recommended for the child and how it relates to the goal; and the target date for achievement of the goal.*

2. *The plan shall be completed and filed in the child's record within 60 days of placement.*

C. *When the agency holds custody of the child, a service plan shall be filed with the court within 60 days after the agency receives custody unless the court grants an additional 60 days, or the child is returned home or placed for adoption within 60 days.*

*The permanency planning goals and the requirements and procedures in the Service Programs Manual, Volume VII, Section III, Chapter B, Preparing the Initial Service Plan, June 1998, shall be followed. These requirements and procedures are incorporated by reference and made a part of these regulations.*

D. *The agency shall provide supervision, support and guidance to foster families in implementing the service plan for the child.*

E. *The agency shall arrange for and encourage contact and visitation between the foster child, his family and others as specified in the service plan.*

F. *A progress summary shall be completed quarterly beginning with the date of service plan. The summary shall evaluate and describe progress in each specified area of the service plan and include any changes recommended. The progress summary shall also include:*

1. *Services provided and a list of the individuals providing the services;*

2. *Any changes to the service plan and services to be provided during the next quarter;*

3. *Changes to the goals;*

4. *Contacts between the child and the child's family and plans for reunification of the family, where appropriate;*

5. *The child's assessment of his progress and his description of services needed, where appropriate;*

6. *Medical needs, specifying medical treatment needed; and*

7. *Permanency planning goals, any changes in these goals, and discharge plans.*

*The fourth quarterly progress report shall address the above requirements and evaluate and update the service plan for the upcoming year.*

G. *The agency shall include each child who has the ability to understand in the preparation of the child's service plans and progress summaries or document the reasons this was*

not possible. The child's comments shall be recorded in the report.

**22 VAC 40-130-314. Narratives.**

Narratives shall be in chronological order and current within 30 days. Narratives shall include areas specified in the standards and cover treatment and services provided, all contacts related to the child, visitation between the child and the child's family and other significant events.

**22 VAC 40-130-320. After approval; items to be considered when selecting an adoptive home.**

A. Siblings shall be placed together unless it clearly is not in the best interest of the children. Reasons for separation shall be explained in the record.

~~B. Consideration shall be given to placing children with families of the same racial or cultural or religious identity; however, no one or all of these factors shall be determinative since the best interest of the child shall always be paramount.~~

~~B. The selection of a particular child for the adoptive family shall be in the best interests of the child and is the responsibility of the agency. The reasons for selecting the specific home for the child shall be stated in the child's record.~~

C. Foster parents shall be considered a primary adoptive resource when that is considered in the best interest of the child. (Reference § 63.1-221 of the Code of Virginia.)

~~NOTE: Section 63.1-221 of the Code of Virginia has the following provision: When a foster parent who has a child placed by an agency wishes to adopt the child and the child has been in the home at least 18 months, the foster parent may petition the court directly for permission to adopt.~~

~~D. The ages of the adoptive parents in relation to the age of the child shall be considered in determining the best interest of the child.~~

~~E. The agency may consider the recommendations of a physician, an attorney licensed in the Commonwealth, or a clergyman who is familiar with the situation of the proposed adoptive parents only as provided in § 63.1-204 C 1 of the Code of Virginia.~~

D. The agency shall provide the adoptive parents with full factual information about the child and the child's birth family except for identifying information. The agency shall provide in writing to the adoptive parents information about:

1. The social and cultural history; the medical, developmental, and mental history of the child; the birth parents; and extended family (including siblings, aunts, uncles, and grandparents) when known; and
2. Full factual information about the child's birth.

This statement shall be signed by the adoptive parents, dated, and a copy filed in the adoptive home record.

E. The prospective family shall be permitted to decide whether to accept a child. Refusal of a child shall not be the sole basis for excluding a family from consideration for another child.

**22 VAC 40-130-330. Direct placement in adoptive home.**

A. If a child is placed in the adoptive home before he is 25 days old or before the child is legally free for adoption, a statement acknowledging this shall be signed by the prospective adoptive parents and filed in the child's record.

B. Such a placement shall be recognized as a foster home placement and a foster home agreement following the requirements of 22 VAC 40-130-271 must be signed by the agency and foster parents.

C. The adoptive placement agreement shall not be signed until the child is legally free.

**22 VAC 40-130-340. Adoptive placement of older children over one year; additional provisions.**

A. The provisions of Part IV (22 VAC 40-130-200 22 VAC 40-130-198 et seq.) are applicable when placing children over one year of age in foster care prior to adoption. When selecting an adoptive home, items in 22 VAC 40-130-320 shall be considered. ~~In addition, an older child's concerns about adoption shall be taken into account.~~

B. The agency shall prepare the older child for adoptive placement, recognizing the rights of the child to information and plans affecting his future. The child shall be involved in adoption planning, where appropriate, and his concerns and individual needs shall be taken into account.

C. The agency shall document in the narrative contacts and services provided to the child which demonstrate the agency's efforts to prepare the child for adoptive placement. These efforts shall include:

1. Discussion with the child about his feelings about adoption and indicators that he is ready for the adoptive placement;
2. Discussion with the child regarding his birth family, past placements and relationships, and the reason he cannot return to his birth parents;
3. Preplacement visits for the child in the prospective adoptive home. The number of visits shall be determined by the needs of the child and the adoptive family;
4. Discussion of the child's relationship to the social worker, foster family, and the prospective adoptive family;
5. Efforts made to receive photographs of the child from birth through his current age and provide these to the child, as appropriate, and to the adoptive family; and
6. Preparation of a life book for the child by the agency.

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## **22 VAC 40-130-350. Agency responsibility after child is placed in the adoptive home Supervisory visits and adoptive family support and preservation services.**

A. The agency shall ensure that supervisory visits are made in compliance with §§ 63.1-228 and 63.1-229 of the Code of Virginia, or according to the laws of the state in which the final order of adoption is issued.

~~The Code of Virginia stipulates that the child shall have lived in the adoptive home continuously for a period of six months before the petition for the final order is filed with the court. A minimum of three visits shall be made during a period of six months with at least 90 days between the first and last visits.~~

B. *In agency placement adoptions, except in rare cases where an interlocutory order is entered, the child shall have lived in the adoptive home continuously for a period of six months before the petition for adoption is filed with the court.*

C. *A minimum of three visits shall be made during a period of six months with at least 90 days between the first and last visits. The agency shall make additional visits to the home as the needs of the child and family require.*

D. *The child shall be seen at each visit and at least one visit shall be in the home in the presence of the child and the petitioners. The agency shall individually interview children who are able to understand and speak.*

~~B.~~ E. The agency shall maintain contact with the family until the final order is entered. If conditions warrant, it shall proceed to remove the child in accordance with the provisions of § 63.1-211.1 of the Code of Virginia.

~~G.~~ F. The agency is legally responsible for the child until the final order is entered.

G. *The following areas shall be assessed during the supervisory period:*

- 1. Health and development of the child, including medical care;*
- 2. The child's adjustment to the family and the relationship of child to the parents and siblings;*
- 3. Impact of adoption on the family functioning and the marriage, including discussion of any stress revealed and changes in work and financial status; and*
- 4. Motivation to proceed with the adoption and the adoptive family's readiness to finalize the adoption.*

H. *The agency shall discuss the child's day care or school adjustment, the child's behavior and special needs, and resources available to meet those needs.*

I. *The final supervisory visit shall also include discussion of the procedures for finalization along with information on obtaining a birth certificate and naturalization, where appropriate.*

J. *The agency shall document efforts to assure that the adoption petition is filed. When there is a delay in filing the*

*petition, the agency shall make an assessment of the situation, including at least quarterly visits.*

K. *When an agency places a child in its custody in an adoptive home, the agency shall offer to provide or refer the adoptive family to available resources for services after the final order.*

## **22 VAC 40-130-360. Provisions for children with special needs.**

A. ~~Referral to AREVA (Adoption Resource Exchange of Virginia) Special needs children who are legally free for adoption shall be registered with AREVA (Adoption Resource Exchange of Virginia) within 30 days of termination of parental rights unless an adoptive family has been identified.~~

~~1. Special needs children who are legally free for adoption shall be registered with AREVA within the timeframes set by service programs.~~

~~2. 1. Families willing to accept special needs children shall also be registered also within 30 days of approval unless a child has been identified for placement.~~

~~3. 2. Agencies shall follow procedures in the Service Programs Manual, Volume VII, Section III, Chapter C, "Adoption Resource Exchange of Virginia-," July 1989. These procedures are incorporated by reference and made a part of this regulation.~~

B. *Agencies shall assure that necessary and appropriate services are provided to children with special needs.*

### ~~B. Subsidy.~~

~~1. Subsidy payments shall be provided for a special needs child determined eligible for subsidy.~~

~~NOTE: A special needs child is not eligible for subsidy until reasonable efforts have been made to find an appropriate home without subsidy. However, in some cases such as where the child has developed significant emotional ties with the prospective adoptive parents while in their care as a foster child, efforts to find another home are not required.~~

~~"Reasonable efforts" are defined in the Service Programs Manual, Volume VII, Section III, Chapter C, "Subsidized Adoption."~~

~~2. Agencies shall follow service programs procedures and work with their local department of social services to secure a subsidy.~~

~~3. Refer to 22 VAC 40-130-300 B-2-b for the explanation of the effect of permanent entrustment on eligibility for subsidy.~~

~~C. Services for children after final order. When an agency places a child in its custody in an adoptive home and the child has longstanding mental or physical problems, the agency shall make arrangements for services after the final order. This may be through continued agency services or referral to some other resource such as another agency, a~~

~~post-adoption counseling group or resources for medical or psychiatric services.~~

**22 VAC 40-130-365. Adoption assistance.**

When a licensed child-placing agency has a child who appears to meet eligibility for adoption assistance, the agency has the following responsibilities:

1. Documenting the special needs of the child;
2. Recruiting and conducting home studies on prospective adoptive families;
3. Making reasonable efforts to place the child without subsidy;
4. Obtaining background information on the birth parents sufficient to determine eligibility for Title IV-E. This shall include information on:
  - a. Who the child was residing with during the six months immediately preceding removal from the home;
  - b. Whether the child was deprived of parental support as a result of absence or disability of one parent;
  - c. The financial situation of the birth parents;
  - d. Obtaining the required court determination within 180 days, if the child entered care through a permanent entrustment agreement;
  - e. Sending a referral and the documentation to the eligibility unit in the local public agency;
  - f. Notifying the service unit in the public agency of the family's interest in adoption assistance;
  - g. Assisting the public agency in working with the family to complete the adoption assistance agreement; and
  - h. Signing the adoption assistance agreement.

**22 VAC 40-130-370. Involuntary termination of parental rights.**

~~When a child has been in the custody of a licensed child-placing agency for 12 months, the court may terminate parental rights if it finds that the parent or parents have been unable or unwilling to remedy the conditions that led to the placement.~~

- ~~1. If the agency elects to take the case to court for an adjudication, the agency shall submit a plan for finding a permanent placement for the child.~~
2. When it is necessary to petition the court to terminate parental rights, the agency shall follow the procedures in the Service Program Manual, Volume VII, Section III, Chapter B, Terminating Parental Rights, August 1994. These procedures are incorporated by reference and made a part of this regulation.

**22 VAC 40-130-380. Interlocutory orders of children in custody of an agency.**

A. While agencies are legally responsible for a child placed in an adoptive home until the final order, an agency may issue its consent to an interlocutory order *only* if a determination is made that:

1. The adoptive ~~parent or~~ parents are financially able to care for the child (subsidy funds may be counted in the assessment where appropriate);
2. The adoptive ~~parent or~~ parents are ~~suitable persons approved~~ to care for the child;
3. A home visit made at least 30 days after placement and any other contacts provide evidence that the child and family are making a positive adjustment to each other; and
4. The best interest of the child is served by entering an interlocutory order rather than waiting until the end of the visitation period.

B. A notarized statement shall accompany the order stating that the agency will assume legal responsibility if the placement disrupts before the final order.

C. The child shall be visited at least three times in the six months following the interlocutory order with not less than 90 days between the first and last visits. *At least one visit shall be in the home with the child and both parents unless one of the parents no longer resides in the home. The agency will contact the absent parent to determine interest in remaining involved in the proceedings.*

D. The agency shall continue to count the child in determining agency caseload capacity until the final order is entered.

**22 VAC 40-130-390. Agency fees.**

A. If the agency requires fees from adoptive applicants, it shall attach an explanation of ~~agency~~ *the agency's fee* policy to the ~~license renewal~~ application. The explanation shall cover the amounts charged, how the figures were arrived at, and what services are to be provided for the fees.

~~If a new agency plans to charge fees, an explanation of the proposed policy shall accompany the application for a license.~~

B. Fees shall be discussed with applicants ~~before or at the start of~~ *prior to initiating* the home study. Applicants shall be given ~~an~~ *a written* explanation of:

1. The amount they must pay and when and how payments are to be made;
2. How the amount is determined ~~and~~, what services it covers, *and the risks involved*; and
3. The agency refund policy if any.

C. *Agencies shall develop a mutually acceptable agreement with adoptive applicants regarding the fees to be paid and the services to be provided.*

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## 22 VAC 40-130-400. The adoptive home study.

~~A. Information on the items below shall be gathered in order to assess the applicant's or applicants' capacities as adoptive parent or parents. If the home is approved, the information is also used to determine the type of child that can successfully be placed in the home.~~

~~B. Interviews with family and household members.~~

~~1. There shall be a minimum of three face-to-face interviews with the adoptive applicant or applicants. At least one interview with a couple shall be joint and one shall take place in the home.~~

~~2. All members of the household shall be interviewed as well as children of each adoptive parent living outside the home. Information may be requested by telephone or letter if the child is over 18 and lives more than 50 miles from the parents' home.~~

~~3. If the required contacts with children living outside the home should not or could not be made, the reasons shall be taken into consideration in the assessment of the home.~~

~~C. Subjects to be covered in interviews with the applicants shall include:~~

~~1. A description of:~~

- ~~a. The home and surrounding area; and~~
- ~~b. The physical appearance of the applicant or applicants.~~

~~2. A discussion of the family covering:~~

- ~~a. The compatibility of the couple and stability of the marriage in relation to its length;~~
- ~~b. The relationships with other household members and children in the home, if any;~~
- ~~c. Physical and mental health history;~~
- ~~d. The interests and activities of family members, including a judgment as to whether or not the general patterns of family life will accommodate a child;~~
- ~~e. Extended family, social and community relationships;~~
- ~~f. Childhood or family life experiences of adoptive applicant or applicants;~~
- ~~g. The place of religion in family life; and~~
- ~~h. Income and financial resources in relation to expenses.~~

~~3. The family in relation to adoptions:~~

- ~~a. The applicant's or applicants' motivation for and expectations of adoption;~~
- ~~b. Experiences of the applicant or applicants with children;~~
- ~~c. Attitudes and opinions about discipline of children;~~

~~d. Attitudes toward biological parents;~~

~~e. Attitudes about periodic contact with parent or parents or prior custodians for older children (open adoption);~~

~~f. The age and type of child desired and the age or ages of the applicant or applicants in relation to the child; and~~

~~g. The attitude toward adoption of family and extended family members, especially natural children living outside the home.~~

~~4. A discussion of agency services before and after adoption if family is interested in a special needs child.~~

~~D. Information from other sources.~~

~~1. A minimum of three references for the family shall be obtained.~~

~~2. A report of a recent medical examination of all members of the household shall be obtained. It shall report on both mental and physical health and be signed by the physician. If difficulties are noted, specialists in the appropriate field shall be consulted.~~

~~3. Adoptive applicants shall consent to a search of the Child Protective Services Central Registry (CPSIS).~~

~~a. The agency shall use the form provided by the registry and follow the instructions thereon.~~

~~b. The home shall not be used if an applicant has a founded or unfounded reason to suspect child abuse or neglect record.~~

~~NOTE: The Central Registry name is to be changed from CPSIS to CANIS (Child Abuse and Neglect Information System) in the early fall of 1989. The method of judging injury to children is to be changed. Agencies will be sent information on the changes when they occur.~~

~~4. If an agency believes it is needed, it may, in addition, require consent to check Division of Motor Vehicle records.~~

~~5. The worker shall see the marriage license for couples. If there has been a previous marriage, the worker shall ascertain that the divorce is final to make sure there is a valid marriage.~~

~~6. If a single adoptive applicant is divorced, the worker shall ascertain that the divorce is final to avoid legal difficulties with the adoption.~~

~~7. Employment shall be verified by pay stub or other written evidence, personal knowledge of an agency staff member or interview with the employer.~~

~~E. Approval or disapproval.~~

~~1. The worker shall recommend approval or disapproval.~~

~~2. If approval is recommended, the worker shall recommend the age, sex, special characteristics and number of children that could successfully be nurtured.~~

~~The adoptive parent's or parents' preferences shall be considered in reaching the recommendations.~~

~~3. The applicant or applicants shall be informed in writing within a week of the approval or disapproval and offered an interview to have the agency's decision explained to them.~~

~~F. The selection of the child for the adoptive family shall be in the best interests of the child and is the responsibility of the agency. The reasons for selecting the specific home for the child shall be stated.~~

~~The adoptive parents have the right to full factual information about the child and the child's birth family except for identifying information.~~

~~The prospective family shall, however, be permitted to decide whether or not a child is suitable for them. Refusal of a child shall not be the sole basis for excluding a family from consideration for another child.~~

~~G. The adoptive placement agreement. The agreement shall include:~~

~~1. The agency's responsibilities until final order is entered;~~

~~2. The adoptive family's responsibilities until final order is entered;~~

~~3. The statement that the agency is legally responsible for the child until the final order and may, with the sanction of the court, remove the child if it is necessary for the child's well being; and~~

~~4. A statement of services to be provided after the final order, if any have been agreed upon.~~

~~H. Corporal punishment. The agency shall have a written statement prohibiting corporal punishment which the adoptive parent or parents shall sign saying they have read and will follow to the best of their ability.~~

~~I. Re-evaluations.~~

~~1. When 12 months have elapsed after completion of the original home study and the agency is contemplating placing a child, a reevaluation shall be made which includes:~~

~~a. A visit to the home;~~

~~b. Face-to-face interviews with all members of the household; and~~

~~c. Updated medical reports.~~

~~2. When subsequent adoptive placements are considered, the agency shall reevaluate the home covering all areas of the original study. Concrete areas such as house or neighborhood which have not changed may be noted on a form. At least one home visit shall~~

~~be made with all household members present except for members out of the home for extended periods.~~

~~A. Information on the items below shall be gathered in order to assess the applicants' capacities as adoptive parents. If the home is approved, the information shall be used to determine the type of child that can successfully be placed in the home.~~

~~B. The agency shall conduct interviews with all family and household members. Dates and content of interviews shall be documented in the home study.~~

~~C. There shall be a minimum of three face-to-face interviews with each applicant. At least one interview with a couple shall be joint and one must take place in the home.~~

~~Minor and adult children of each adoptive applicant living outside the home shall be interviewed. If face-to-face contact with a child is not possible and the child lives more than 50 miles from the adoptive applicant's home, an interview shall be conducted by telephone or letter. If this interview is not possible, the reason shall be documented and assessed in the home study.~~

~~D. Orientation and preservice training sessions provided during the home study process shall not count towards the required number of interviews.~~

~~E. The agency shall request and obtain a minimum of three nonrelative references for the family. Additional references may also be requested from relatives or others at the agency's discretion.~~

~~F. A report of a medical examination by a licensed physician, his designee, or an official of a local health department of all members of the household shall be obtained. The exam shall be conducted no earlier than 12 months prior to the approval and shall contain:~~

~~1. An evaluation of the current health of the individual. Additional reports from specialists shall be received when health concerns are noted;~~

~~2. A statement that the individual does not have tuberculosis in a communicable form including the date and types of tests and the results. If the test is positive or no test is done, there shall be a written explanation by the physician. Additional tests are not required unless the individual comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms;~~

~~3. An opinion as to whether the health of the individual will affect the care or present a hazard to the health of children;~~

~~4. An assessment of the life expectancy of the applicants; and~~

~~5. The signature of a physician, his designee or an official of the local health department.~~

~~G. Pursuant to § 63.1-198.1 of the Code of Virginia, the agency shall receive the results of a search of the Child Abuse and Neglect Registry before approval is granted. The~~

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home shall not be approved if an applicant or another adult living in the home has a founded child abuse or neglect record.

H. Criminal record clearance reports and sworn disclosure statements shall be received on each applicant pursuant to § 63.1-198.1 of the Code of Virginia prior to approval. Agencies shall follow the standards in the Regulation for Criminal Record Checks for Child Welfare Agencies (22 VAC 15-50-10 et seq.)

The content of and copies of criminal record reports, sworn disclosure statements, and child abuse and neglect registry checks shall not be shared with other agencies or persons, other than the person named in the report, the licensing representative, other state or federal authorities and a court as required by state or federal law, except as permitted by state or federal law.

I. The agency shall check the applicants' Department of Motor Vehicles records.

J. The agency worker shall see the marriage license for couples. If there have been previous marriages, the worker shall verify that divorces from the former spouses are final to avoid legal difficulties with the adoption.

K. Employment shall be verified by pay stub or other written evidence, personal knowledge of an agency staff member or interview with the employer.

L. The agency shall discuss the employment history of each applicant and assess the applicants' management of income and financial resources in relation to expenses.

M. Applicants shall have sufficient income and financial resources to assure continuing maintenance of the family.

N. If the applicant has previously applied to adopt through another agency, the current agency shall request information from the applicant about their previous application. The current agency shall also request information from the previous agency.

O. The agency shall have the applicants sign a statement prior to approval of the home study which states they will not use corporal punishment while the agency retains legal custody of the child or give others permission to do so.

## **22 VAC 40-130-401. Additional areas to assess in the home study.**

A. The agency shall conduct an assessment of the motivations, expectations, commitments, and abilities. The agency shall assure that the following areas are covered in its assessment and document the basis for its conclusions:

1. Family relationships to include how the couple and the family resolve conflicts and express affection; relationships with extended family and children living outside of the home;
2. Stability of the marriage in relation to its length;

3. The applicants' experiences with children and as children;

4. Discipline of children to include the discipline the applicants' received as children, their current parenting skills, their opinion and attitudes towards discipline, and the discipline techniques they will use with a child placed in their home;

5. The applicants' education and attitudes towards education;

6. The applicants' attitudes towards birth parents and towards working with the agency;

7. Health issues in the applicants' family and how this will impact the care of a child;

8. The age and type of child desired;

9. Child care arrangements; and

10. The applicants' knowledge of safety hazards and preventive actions to avoid injuries and accidents in young children.

B. The agency shall also assess the applicants' ages in relation to a child to be placed, their capacity to love a child not born to them, ability to change in relation to the needs of children, and understanding and abilities in the following areas:

1. The child's ethnic, religious and cultural issues;

2. The extended family's attitudes towards adoption;

3. The applicants' infertility, where applicable, including how they have resolved issues of grief and blame and if they have accepted their infertility;

4. The ability of the applicants' marriage to continue successfully without a child;

5. The critical issues in adoption to include:

a. The child's need to be told about adoption;

b. Adoption as a life-long process;

c. The developmental stages of adoption;

d. The impact of the applicants' attitudes toward birth parents on the adopted child;

e. The importance of the child's linkage to his birth family and significant others, when appropriate; and

f. The child's need to have information about his background and birth parents.

C. The agency shall assess and approve the residence and surrounding area.

D. The agency shall determine that the applicants' home is free of hazards to the health and safety of children, is clean and is in good physical repair. The following areas shall also be included in the agency's assessment of the home:

1. Rooms used by children shall be well-lighted for activities and safety.
2. All sleeping areas shall have operable smoke detectors and the home shall have at least one operable fire extinguisher.
3. The home shall have an operable heating and ventilation system.
4. Firearms and other weapons shall be locked. Firearms shall be kept unloaded and ammunition shall be locked in a separate location.
5. The home shall have closet or drawer space or both for clothing and personal possessions of children over two years of age.
6. There shall be separate beds for children except that two siblings of the same sex may share a double bed.
7. Children's bedrooms shall not be used as passageways and shall have doors for privacy.
8. The home shall keep cleaning supplies and other toxic substances stored away from food, locked and out of the reach of children.
9. The applicants shall have a working telephone.

## **22 VAC 40-130-402. Approval or disapproval.**

A. The agency shall recommend approval or disapproval based on a careful assessment of the characteristics outlined in this part, information received through the home study process, and the applicants' participation in the home study process and in any orientation and preservice training.

B. The decision to approve or deny shall be made in consultation with the supervisor or in a staff meeting. The date of the decision shall be recorded in the applicants' record.

C. If approval is recommended, the worker shall recommend the age, sex, special characteristics and number of children who can successfully be placed and give the basis for the recommendation. The adoptive parents' preferences shall be considered in reaching the recommendations.

D. The worker shall state if the approval is for healthy children, special needs children, or children from other countries and give the basis for this recommendation.

E. The applicants shall be informed in writing within a week of the approval or disapproval and offered an interview to have the agency's decision explained to them.

F. The home study shall be written and the home approved before a child is placed.

## **22 VAC 40-130-403. The adoptive placement agreement.**

The agreement shall include the signatures of the agency representative and the adoptive family and include:

1. The agency's and the adoptive family's responsibilities until final order is entered;

2. The statement that the agency is legally responsible for the child until the final order and may remove the child if it is necessary for the child's well-being (see § 63.1-211 and 63.1-220.5 of the Code of Virginia); and

3. A statement of services to be provided after the final order, if any have been agreed upon.

## **22 VAC 40-130-404. Home study updates.**

A. When 18 months have elapsed after completion of the original adoptive home study and the agency that conducted the original home study is contemplating placing a child, an update shall be made which includes a visit to the home and face-to-face interviews with all members of the household to include:

1. A review of the compatibility of the couple and stability of the marriage;
2. A review of the family, social and community relationships, including any children in the home;
3. Income, employment status and financial resources in relation to expenses;
4. A review of the applicants' motivation for and expectations of adoption;
5. The age and type of child desired and the age of the applicant in relation to the child;
6. A review of the home and living arrangements; and
7. Updated medical reports.

B. If the adoptive applicants have moved during the 18 months after their initial approval and a child has not been placed, the agency shall visit the home and conduct a review of the residence based on 22 VAC 40-130-401 C and D.

C. If the agency conducting the home study update is not the agency that conducted the original home study, the agency shall have more than one face-to-face interview with the applicants.

## **22 VAC 40-130-406. Subsequent adoptive placements.**

A. When the adoptive applicants request additional adoptive placements, the agency shall evaluate the home based on the requirements for the initial adoptive home study.

B. If the agency conducted the original home study, the agency shall conduct at least two visits, one face-to-face interview in the office or home and a home visit with all household members currently living in the home.

C. If the original home study was conducted by another agency, the following shall apply:

1. Orientation and training shall be required of the adoptive applicants;
2. If the agency has a copy of the original home study for the applicants, two visits shall be made. If the original home study is not available, three visits are required; and

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3. *The home study shall follow the requirements of the initial adoptive home study.*

## **22 VAC 40-130-410. Direct Parental placement services adoptions.**

~~If an agency chooses to provide direct parental placement services, it shall do so in accordance with §§ 63.1-220.3 through 63.1-220.5 and 63.1-238.01 and 63.1-238.02 of the Code of Virginia.~~

A. *The agency shall follow the provisions of Chapter 11 (§ 63.1-220 et seq.) of Title 63.1 of the Code of Virginia and the Adoption Services Manual, Volume VII, Section III, Chapter D, Parental Placement Adoptions, November 1991, except the section on home studies in parental placement adoptions. These requirements and procedures are incorporated by reference and made a part of this regulation.*

B. *The agency shall follow the adoptive home study requirements of these standards. (See 22 VAC 40-130-400, 22 VAC 40-130-401 and 22 VAC 40-130-402.)*

C. *The agency shall, through face-to-face contact with the birth parents, assure that the birth parents are aware of:*

1. *Alternatives to adoption;*
2. *Adoption procedures; and*
3. *Opportunities for placement with other adoptive families.*

D. *If the birth parents have not received counseling regarding these issues, the agency shall provide it.*

E. *The face-to-face contact with the birth parents shall take place on a different day from the date of the meeting to exchange identifying information.*

F. *The consent of the birth parents shall be informed and not coerced.*

G. *Pursuant to § 63.1-220.2 of the Code of Virginia, when the agency accepts custody of a child for the purposes of placing the child with adoptive parents designated by the birth parents or a person other than a licensed child-placing agency or local board of public welfare, the provisions of § 63.1-220.3 of the Code of Virginia shall apply.*

## **22 VAC 40-130-420. Adoption records.**

A. *The agency shall maintain a case record for each child, the biological legal family and the adoptive family. The biological legal family record may be a part of the child's record.*

B. ~~The child's record. The record shall include:~~

1. *Identifying information including the child's birth certificate, birthdate, place of birth, sex, race, height, weight, hair color, eye color and identifying marks;*
2. *The legal documents required for adoption;*
3. *A record in the narrative dictation of the child's and family's preparation for the placement; and*

4. *Other information required in this chapter.*

C. ~~The biological legal family's record. The record shall include:~~

1. *Identifying information including, names, addresses, telephone numbers, Social Security numbers and marital status of the parents or guardians;*
2. *Names and addresses of grandparents, close relatives and siblings;*
- ~~3. A narrative of contacts; and~~
- ~~4. Other information required by this chapter these standards.~~

D. ~~The adoptive family record. The record shall contain:~~

1. *The agency application;*
2. *A copy of any written information given to the adoptive parent or parents concerning the child;*
3. *Summaries of supervisory visits and closing summary; and*
4. *The adoption home study and related documents;*
5. *Orientation and training provided;*
6. *A copy of the full, factual information on the child provided to the adoptive parents;*
7. *Narrative account of the agency's preparation of the family for the placement of the child;*
8. *Fees charged and agreement between agency and applicants regarding fees;*
9. *Documentation of any complaints or investigations by Child Protective Services; and*
- ~~10. Other information required by this chapter these standards.~~

## **22 VAC 40-130-424. Forwarding of Adoption Material.**

*After finalization of the adoption, all pertinent material shall be forwarded to the Virginia Department of Social Services, Foster Care and Adoption Unit, for preservation. Guidelines for the preparation of adoption material to be forwarded are contained in the Services Manual, Volume VII, Section III, Chapter C, Post-Adoption Services, July 1998, and Chapter D, Guidelines Regarding the Preparation of Adoption Material to be Forwarded to the Adoption Reports Unit for Preservation in a Nonagency Adoption, November 1991. This material is incorporated by reference and made a part of this regulation.*

### PART VI.

#### INTERSTATE AND INTERCOUNTRY PLACEMENTS.

## **22 VAC 40-130-430. Interstate compacts Compact on the Placement of Children.**

*A child-placing agency shall comply with the Interstate Compact on the Placement of Children (§§ 63.1-207, 63.1-207.1, and 63.1-219 et seq. of the Code of Virginia and*

related standards) before sending a child out of state or receiving a child into the Commonwealth for foster care or adoption. ~~The procedures to be followed are in the Service Programs Manual, Volume VII, Section III, Chapter E.~~

## **22 VAC 40-130-440. Procedures.**

~~If an agency does an adoptive home study before a child has been identified, the Interstate Compact Office is not involved. However, the agency shall:~~

- ~~1. Inform the potential adoptive parent or parents that the placement of an out-of-state child must go through the compact office; and~~
- ~~2. Attach a statement to the home study explaining the requirement.~~

*The procedures to be followed are in the Service Programs Manual, Volume VII, Section III, Chapter E, July 1983. These requirements apply to both agency and nonagency adoptions.*

*Note: The Interstate Compact on the Placement of Children law and manual procedures apply to placement with nonexempt relatives, placements for foster care and placements for adoption, only after a child has been identified for placement.*

## **22 VAC 40-130-450. ~~Out-of-state child.~~ Agency responsibility for adoption and foster care services on behalf of an out-of-state agency.**

A. If a Virginia agency is asked to supervise the placement of an out-of-state child, it must have notification of compact approval of the placement from the *Interstate Compact on the Placement of Children* before proceeding. The child-placing agency is responsible for obtaining compact approval.

B. For adoptive placements, the agency shall have an interagency agreement which specifies the period of supervision and responsibilities of both agencies until the adoption is finalized or the placement is terminated.

C. When an agency is providing supervision for an adoptive placement of a child in the care of an out-of-state agency, visits shall be conducted in accordance with these standards. The agency shall also comply with any requirements of the interagency agreement with the child-placing agency.

D. The agency shall send reports of supervision to the Virginia Interstate Compact on the Placement of Children office and shall not send reports directly to any entity in the sending state without permission of the Interstate Compact on the Placement of Children office.

E. A child-placing agency shall not provide services in other states without obtaining the written approval to provide those services from the appropriate authorities in the other state.

F. The agency shall provide the Virginia Interstate Compact on the Placement of Children office with a copy of the written approval.

G. If the agency becomes aware that placement has been made without interstate approval, the agency shall notify the Interstate Compact on the Placement of Children office in writing of the placement.

H. When an agency has agreed to complete an adoptive home study for a family that has applied to an agency in another state or a family pursuing a parental placement of a child from another state, the home study shall be completed in accordance with the adoptive home study requirements in this regulation.

I. The agency shall inform the potential adoptive parents that the placement of an out-of-state child is governed by the Interstate Compact on the Placement of Children. This shall be documented in the home study.

J. When a child in an adoptive placement moves from another state into Virginia or if a placement is planned within three months of a family's relocation to Virginia, a home study update shall be completed in accordance with the home study update requirements of these standards. A new home study in accordance with 22 VAC 40-130-400, 22 VAC 40-130-401, and 22 VAC 40-130-402 shall be completed in all other cases.

K. The agency shall send the home study or update to the Virginia Interstate Compact on the Placement of Children office when a specific child has been identified for placement.

## **22 VAC 40-130-452. Agency responsibility in intercountry placements/adoptions.**

A. In order for an agency to assist families or agencies in arranging for placements of children from foreign countries, the agency must provide intercountry services and follow standards for conducting home studies and supervision in accordance with these standards.

B. The agency shall maintain and make available to its staff and to applicants written information about Virginia's preadoptive requirements for intercountry placements and assist the family in determining when these requirements are applicable.

C. The agency shall maintain and make available to its staff and to applicants written information about the requirements of the Immigration and Naturalization Office.

D. An agency providing intercountry services shall comply with the following provisions:

1. The agency shall ensure and receive documentation of a child's legal availability for adoption before the child is assigned to the adoptive applicant.
2. The agency shall verify the credentials and qualifications of agents in foreign countries working in their behalf on adoption matters.
3. The agency shall obtain all known medical, developmental, and social history for the child, the birth family and extended family, including the child's

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placement history, and receive a written statement that the information provided is accurate and complete.

4. Documentation for the above requirements shall be filed in the child's record where the agency has received custody or in a separate section of the adoptive applicants' record where the adoptive applicants have received guardianship or a final decree of adoption in the foreign country.

5. The agency shall notify the adoptive applicants within five working days whenever it receives information that a foreign country is suspending its adoption program.

6. During the home study process, the agency shall discuss with the applicants the following:

a. The risks of adopting a child from another country, including but not limited to coping with changes in laws in the other country, changes in fees, and the placement of another child if the child originally described is no longer available;

b. The applicants' ability to assume responsibility for the care, guidance, and protection of a child from a different race or ethnic background;

c. The applicants' feelings and attitude toward sharing with the child facts about the adoption including how the applicants plan to teach the child about, identify with and have information about his native country;

d. The applicants' expectations for children whose living circumstances prior to placement included living in an orphanage or institution and the applicants' ability to cope with any issues that may occur related to their living circumstances;

e. The availability of and requirements for post-placement supervision and importance of supervision in the resolution of any adoption related issues; and

f. That it is unlikely that the child will be eligible for adoption assistance.

E. In addition, an agency working directly with agencies or resources in other countries shall comply with the following provisions:

1. When referring families to or working with a specific agency or resource in a foreign country, written information on the laws, policies and procedures for U.S. citizens to adopt from the particular country shall be maintained by the agency and made available to staff and applicants, or the agency shall document its efforts to obtain the information.

2. During the home study process, the agency shall discuss with the applicants the time frame and fees specific to adopting a child from another country, the children typically available from specific countries, and the applicants' responsibility for a child when receiving custody or guardianship of a child under the laws of the child's country.

F. If, after completion of the home study for an intercountry adoption, the family decides to pursue an intercountry placement without the assistance of the agency, the agency shall document in the applicants' record that the family withdrew from the intercountry program, and the agency shall have no further responsibility to provide services.

G. An agency completing a home study for an intercountry adoption shall offer to provide or refer the family for supervision and adoptive family support and preservation services.

H. The agency shall document its efforts to encourage the family to file an adoption petition and inform the family of the need to complete the process of the child's naturalization through Immigration and Naturalization Services which confers citizenship to the child.

## PART VII. ASSISTED CONCEPTION.

### **22 VAC 40-130-453. Home study requirements.**

A. Agencies shall comply with §§ 20-156 through 20-165 of the Code of Virginia which establishes control of actions related to the status of children of assisted conception.

B. Agencies shall conduct home studies in accordance with the adoptive home study requirements of 22 VAC 40-130-400, 22 VAC 40-130-401, and 22 VAC 40-130-402.

C. Agencies shall provide or assure that all parties have received counseling concerning the effects of the surrogacy contract. This information shall be documented in the record.

## PART VIII. INDEPENDENT LIVING PLACEMENTS.

### **22 VAC 40-130-454. Authorization to provide independent living placement services.**

The standards in this part shall be met to receive authorization to provide independent living placement services in Virginia.

### **22 VAC 40-130-455. Program statement.**

A. An agency authorized to place youth in independent living shall include the following in its written program statement:

1. The agency's philosophy on and purpose of supervised independent living situations;

2. The criteria for admission and discharge, including requirements for emergency termination;

3. The intake assessment, ongoing process and methods used to determine the appropriateness of the independent living placements;

4. The nature and frequency of supervision provided to youth placed in independent living arrangements;

5. A description of services available to the youth during placement and the life skills the youth must achieve to be successfully discharged;

6. The types of living arrangements approved by the agency and the criteria used to approve the living arrangements;

7. A crisis response system ensuring that youth have 24-hour access to agency personnel;

8. The means of financial support for the youth; and

9. Provisions for emergency medical care which ensure prompt response to a youth's medical needs.

B. The program statement shall be provided to all youth placed in independent living and either the complete statement or a summary shall be given to agencies or individuals who ask about the services of the agency.

## **22 VAC 40-130-456. Responsibilities of the agency.**

It shall be the responsibility of the agency to:

1. Evaluate each youth's ability to assume responsibility and work towards the goal of independence within a specified time frame;

2. Obtain written approval of the parents or legal guardian for youth under 18 years of age regarding the youth's participation in the program;

3. When the parents are not the legal guardians of the youth, provide the parents with written notification of the youth's placement where possible and appropriate;

4. If a youth is discharged from the program prior to the age of 18, release him to the legal guardian with notification to the court when appropriate;

5. Develop a service agreement, review the agreement every three months and revise and update as necessary;

6. Develop a monthly budget with the youth and meet monthly with the youth to review the budget (these reviews may occur less frequently after the first six months if the youth demonstrates the ability to maintain the budget);

7. Meet with the youth twice a month through face-to-face contact to discuss the youth's progress as it relates to the service agreement and to cover the life skills assessment. At least one meeting per month shall be at the youth's residence. These contacts shall be documented in the youth's record;

8. Provide the youth with the name and telephone number of someone he can contact in an emergency on a 24-hour basis;

9. Have a written plan which will assure the availability of resources to meet the youth's basic needs for shelter, food, clothing, and medical care;

10. Assume responsibility to provide or seek services to support the independent living placement for the youth until such time it is determined that the youth is no longer

appropriate for the program or is able to successfully complete the program; and

11. Provide medical care as required in 22 VAC 40-130-221.

## **22 VAC 40-130-457. Intake.**

A. In addition to the agency's criteria for admission, the youth shall meet the following requirements before the agency shall place him in an independent living arrangement. The youth shall:

1. Be at least 16 years of age, but not yet 21;

2. Be in the custody of a local department of social services, private child-placing agency, parent or guardian, or if legally emancipated, a voluntary self-admission;

3. Be able to live without daily substitute parental supervision;

4. Not be a threat or danger to himself or to others in the community; and

5. Be involved or have a commitment to be involved in an educational or vocational training program or be employed.

B. The agency shall assure that it has the authority to place the youth as specified in 22 VAC 40-130-210.

C. Prior to admission for placement in an independent living arrangement, the agency shall assess the youth's suitability and appropriateness for placement. The assessment shall be documented in the youth's record and shall include:

1. Information from the parent or guardian, foster parent, and community resource person, if applicable, about the youth's current behavioral functioning in the home or the community;

2. Physical and dental examinations as required by 22 VAC 40-130-210 F including a psychological evaluation, if applicable;

3. List of medications the youth is currently taking and the youth's ability to administer medication independently; and

4. Social history as required by 22 VAC 40-130-210 D.

D. The agency shall have a face-to-face interview with the youth prior to the youth's acceptance for independent living placement. This interview shall be documented and include the following:

1. A review of the service agreement with the youth to include a discussion of the agency's and youth's expectations and responsibilities;

2. Orientation to the program and services to be provided; and

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3. *The goals and objectives of independent living placement.*

E. *The youth and his parents or guardians, if available, shall participate in planning the independent living arrangement.*

F. *Prior to the youth's placement, the agency shall approve all living arrangements based on the agency's criteria as described in the agency's program statement.*

G. *An agreement between the agency and the youth shall be developed, signed and kept in the youth's record. Copies of the agreement shall be given to the youth and to the legal guardian and child-placing agency.*

H. *The agreement shall include, but is not limited to, the following:*

1. *Method, frequency, and amount of financial payment;*
2. *Youth's understanding that the physical arrangements must be approved by the agency or are exempt from agency approval;*
3. *Youth's responsibility to inform the agency within a specified time frame, but no later than 72 hours, of any major changes in his situation and need for surgery, serious injuries or illness;*
4. *A plan to seek emergency assistance from medical professionals, police and fire fighters; and*
5. *A statement that the youth will be terminated from the program if the agency's attempts to support the youth have been unsuccessful.*

## **22 VAC 40-130-458. Plan for transitional services for youth in independent living placement and case record requirements.**

A. *A plan for transitional services shall be written with each youth in an independent living arrangement and placed in the youth's record within 30 days of admission. The plan shall include:*

1. *A description of the specific life skills to be achieved by the youth, the youth's responsibilities along with time frames for achievement of each identified life skill, and a description of the parents' or guardians' responsibilities in achieving the identified life skills. If involvement of the parents or guardians is not possible or is clearly inappropriate, the reasons shall be stated in the plan;*
2. *A description of the services and training offered by the agency to help the youth achieve the identified life skills and a statement of the type and frequency of supervision provided by the agency;*
3. *An assessment of the youth's physical and mental health including any medical or dental care the youth receives;*
4. *An assessment of the youth's living arrangement using the criteria developed by the agency; and*

5. *The target date for discharge and the youth's involvement in discharge planning.*

B. *The plan for transitional services shall be evaluated quarterly from the date of the initial plan with progress reported on each item in the plan, including each identified life skill.*

C. *Each youth shall have a file which contains the documentation required by these standards. The record shall also contain a face sheet which shall be updated as needed and includes the youth's name, date of birth, and date of admission; the name, address and phone number of the legal guardian and child-placing agency; and the address of the youth's independent placement with a telephone number, if available.*

## **22 VAC 40-130-459. Discharge from care.**

A. *The agency shall complete a discharge summary within 30 days of discharge and include:*

1. *The reason or reasons for the discharge;*
2. *The name or names of persons with whom the youth has been placed or to whom he was discharged;*
3. *Follow-up services, if any, to be provided the youth and family or guardian;*
4. *A description of the services provided while the youth was in care;*
5. *An evaluation of the progress made towards achievement of the identified life skills; and*
6. *Recommendations for services if the youth is placed with another agency.*

B. *Discharge planning shall be developed with the youth, the youth's parents or guardian, and the child-placing agency, if applicable.*

C. *Youth in the custody of a local department of social services or private child-placing agency shall not be discharged without the knowledge, consent, and notification of the child-placing agency.*

D. *Youth under the age of 18 shall only be discharged to the parent, guardian or child-placing agency holding custody. If the youth is discharged to the child-placing agency, the parents or guardian shall be notified of the youth's discharge from the program.*

E. *Upon discharge a copy of medical and school records, and birth certificate if the agency holds custody, shall be given to the parents or receiving agency. Information shall be released to a youth who has reached 18 years of age in accordance with § 63.1-209 of the Code of Virginia.*

## **PART VII. IX. REPORTS.**

## **22 VAC 40-130-470. Death of a child.**

~~The agency shall:~~

~~1. Notify the parent or parents or guardian of the child immediately; and~~

~~2. Notify the licensing representative within 48 hours.~~

*When a child in agency custody or care dies, the agency shall notify the parent or guardian of the child immediately and notify the licensing representative within 24 hours. A written report of the circumstances shall be made to the licensing representative within seven days of the death.*

**22 VAC 40-130-480. Abuse or and neglect, or both.**

The agency shall:

1. Immediately notify the appropriate *Child Protective Services' unit of the local department of social services or the Child Abuse and Neglect Hotline* of all complaints of suspected cases of abuse and neglect of a child. *The agency shall also immediately notify the child-placing agency worker or supervisor. The licensing representative shall be notified within 24 hours whenever the allegations of abuse or neglect involve a staff member of the agency;*

2. Cooperate with the local department in its investigation of the complaint;

~~3. Make its own investigation of each complaint to determine whether or not its policies and procedures have been violated~~ *Investigate each complaint to determine if its policies and procedures have been violated. The findings shall be recorded in the appropriate record; and*

4. *Where the complaint has been accepted by Child Protective Services for investigation, the agency shall submit a written report of the results of its the agency's investigation to the licensing representative within 90 60 days of receipt of the complaint. Violations of the agency's program statement and policies and procedures shall be reported to the licensing representative along with the agency's plans for corrective action.*

PART VIII. X.  
CASE RECORD REQUIREMENTS.

**22 VAC 40-130-490. Inspection.**

The agency shall provide *the* licensing representatives reasonable opportunity to inspect all facilities, books and records related to the child-placing program.

**22 VAC 40-130-500. Storage.**

Active and closed case records shall be ~~kept stored~~ in locked, metal files cabinets. ~~They shall be systematically filed.~~

**22 VAC 40-130-520. Entries in case records.**

A. All entries shall be dated. They shall indicate who performed the service ~~and be signed or initialed.~~ B. If an agency has offices in more than one ~~state location~~, the record shall identify the office which provided the service.

**22 VAC 40-130-530. Evidence of compliance.**

To be in compliance with a standard:

~~1. There shall be written evidence that the requirement has been met;~~

~~2. It shall be completed by the required date if a time limit is specified in the standard; and~~

~~3. It must be filed in the appropriate record within 30 days unless otherwise specified in this chapter.~~

~~NOTE: Whenever possible, information shall be recorded in the appropriate place and not repeated elsewhere.~~

*To be in compliance with a standard, the agency shall have written evidence that the requirement has been met within the date required by the standard and filed in the appropriate record within 30 days unless otherwise specified in a standard.*

**22 VAC 40-130-540. Retention of records.**

A. Upon entry of a final order of adoption or other final disposition of a matter involving adoption, all reports and collateral information shall be forwarded to the commissioner. ~~B.~~ The agency shall retain a copy of the child's subsidy record as long as the child receives a subsidy.

~~G. B.~~ If a child has been united with his biological family before reaching majority, case records shall be retained until ~~one year after his 21st~~ *five years after his 18th* birthday.

~~D. C.~~ When the agency has custody of a child, the records shall be retained permanently for any children who have not been adopted nor reunited with their families.

*When the agency does not have custody of the child, the agency shall retain the record for five years past the child's 18th birthday and then offer the record or information from the record to the custodial agency and provide it upon request.*

~~E. D.~~ When an agency ceases to operate, it shall *store its closed records with a public or private child-placing agency and* inform the department in writing of the location for the retention of its records.

**22 VAC 40-130-550. Disclosure of information.**

A. If a child has reached his majority without being adopted, information shall be revealed to him according to the provisions of § 63.1-209 of the Code of Virginia.

B. Information concerning children who have been legally adopted shall be revealed to them only according to the provisions of §§ 63.1-236 and 63.1-236.01 of the Code of Virginia.

PART XI.  
TREATMENT FOSTER CARE.

**22 VAC 40-130-600. Requirements.**

*In order to be licensed or certified as a child-placing agency providing treatment foster care services in Virginia,*

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child-placing agencies shall meet the requirements of this part in addition to Parts I, II, III, VI, IX, and X of this chapter.

## **22 VAC 40-130-610. Program description.**

A. A child-placing agency shall have a comprehensive written program description of its services, organizational structure, policies, and recordkeeping including:

1. The purpose of the treatment foster care program, including a description of the population the agency is prepared to serve and the geographical area to be served.
2. The agency's treatment philosophy and the specific treatment techniques it uses, including the specific behavior management strategies to be used by the agency's treatment foster parents.
3. A staffing pattern which allows for the intensity of services required in treatment foster care; describes the professional staff responsible for the treatment services, the treatment team, and treatment plans; provides for at least one full-time professional staff and a total of two full-time equivalent staff; and designates a qualified individual responsible for the program.
4. An open admissions policy if federal or local social service agency funds are involved. The policy shall state that the program is open to all children without regard to race, color, national origin or sex. It shall also state that:
  - a. Race will not be a factor in determining the best placement for the child;
  - b. Children with disabilities will be accepted if their needs can be reasonably accommodated; and
  - c. The agency shall include a summary of this policy in its advertisements or other materials distributed to the public.
5. A list of the agency's preadmission requirements; an explanation of the fee system, if any; and decision-making procedures for acceptance, matching, placement and discharge from care.
6. A description of the services provided to children, legal families and foster families.
7. A description of the agency's procedures and requirements for treatment foster family study and approval including a description of orientation and training.
8. A description of the responsibilities and workload of the child-placing staff, and the training provided to professional staff.
9. The requirements for the organization and contents of the child's case record, to include all required documentation.

B. Either the full statement or a summary shall be given to agencies and individuals who inquire about the services provided.

C. The program description shall be submitted with the initial application, updated when changes are made in the program, and updates provided to the licensing representative within 30 days.

## **22 VAC 40-130-620. Policies and procedures.**

A. The agency shall implement a written policy to ensure that children are not (i) subjected to corporal punishment as defined in these standards; (ii) subjected to verbal abuse or remarks that belittle or ridicule the child or his family; (iii) denied essential program or treatment services, meals, clothing, bedding, sleep, or personal care products; or (iv) subjected to any humiliating, degrading or abusive actions.

B. The agency shall have written policies and procedures for investigating, responding to and reporting allegations of misconduct toward children, including reporting suspicions of child abuse or neglect to child protective services or the Child Abuse and Neglect Hotline.

C. The agency shall have a written plan for back-up emergency care in the event that a child's placement in a family fails or if the agency ceases to operate.

D. The agency shall implement a written policy of acceptable methods of control and discipline which includes a prohibition on physical punishment and a description of specific types of punishments which are unacceptable.

E. The agency shall implement written policies and procedures governing the agency's responsibility to determine that foster parents (i) properly administer and document the medication as prescribed for foster children placed in their home; (ii) have knowledge of side effects and actions to be taken; (iii) notify the agency of adverse reactions to medications; and (iv) have knowledge of the secure storage, retention and disposal of medication.

F. The agency shall implement a written policy and procedure governing the assignment of designated staff to be on call to foster parents on a 24-hour, seven days a week basis.

G. The agency shall have a written discharge policy describing both planned and emergency discharge from the program.

H. The agency's written policy shall prohibit mechanical restraints and seclusion.

I. The written policies required by these standards shall be submitted to the licensing representative with the initial application and all changes shall be submitted within 30 days after the change is made.

## **22 VAC 40-130-630. Program evaluation.**

Treatment foster care agencies shall have and implement a written program evaluation plan which:

1. Describes the information to be collected, summarized and analyzed at least annually;

2. Identifies who will have access to the evaluation and how it will be used;
3. Describes the factors for assessing the effectiveness of the services provided; and
4. Describes how progress on the long- and short-term treatment goals of each child's treatment plan will be tracked.

## **22 VAC 40-130-640. Intake.**

A. Authority to place. Before placing a child in foster care, the agency shall have the authority to place based on:

1. A court commitment;
2. A permanent entrustment by the parents or other person having legal custody;
3. A temporary entrustment by the parents or other person having legal custody;
4. A placement agreement from an agency with legal custody; or
5. A placement agreement signed by the local department of social services having jurisdiction when a noncustodial agreement has been signed between the parent or legal guardian and the local department or another public agency.

*Exception:* An agency licensed as a child-placing agency and certified as a school for children with disabilities by the Department of Education shall not be required to take custody of a child placed in its special education program, but shall enter into a placement agreement with the parent or other individual holding custody.

B. Preadmission assessment. To achieve sound placement decisions and planning for relevant treatment services to children, the agency shall receive and review the following material prior to a child's admission:

1. The reason the placement is requested;
2. Current case plans from others and discharge plans, if applicable;
3. Current information on the child's health, behavior in the home or other living situation;
4. Current school information, including grade level and adjustment to school;
5. The previous and current (within a year of referral date) psychological and psychiatric assessments, when available;
6. Background information from other sources when available; and
7. All documentation required by the Department of Medical Assistance Services, if placements are funded by Medicaid.

C. The agency's assessment shall be written within 30 days of placement and also include:

1. Potential problems with the child's placement;
2. Information on the child's skills, interests and talents;
3. The reason the child was accepted; and
4. The date the decision was made.

D. Social history. A social history shall be completed within 30 days of placement and include the date it was completed. The social history shall include, but not be limited to the following:

1. Family structure, relationships and involvement with the child;
2. The child's previous placement history, if any, and public agencies involvement;
3. The child's developmental, educational and medical history and the family's medical history;
4. The emotional or psychological problems of the child including strengths and needs, and professional treatment received;
5. The education and occupation of parents; and
6. The child's history as a victim of abuse or neglect, if applicable.

E. Matching. A child shall be accepted and placed only after careful consideration of how well the prospective treatment foster family can meet the child's needs and preferences. Important considerations include, but are not limited to:

1. Treatment foster parents' specific skills, abilities and attitudes needed to work effectively with the child to be placed in their care in the areas of behavior management, crisis intervention and stabilization, supportive counseling, and implementation of a treatment and service plan;
2. The treatment family composition, willingness and ability to work with the child's family; and
3. Availability and access to resources required to meet the child's needs.

F. Preplacement interview and visit. Unless there are valid reasons for not doing so, the agency shall interview the child and his parent or legal guardian prior to placement. If the child, the parent or the legal guardian cannot be interviewed, the reason shall be documented in the child's record.

The agency shall prepare the child for placement and arrange a preplacement visit for the child in the treatment foster home. If this is not possible, the reason shall be documented in the child's record.

The worker shall make a recommendation as to the most appropriate treatment foster home that can provide services to the child and his family and document why a particular treatment foster home is selected for the child.

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G. The agency shall assure that each child is provided treatment, services, and care in a nurturing home setting with attention given to the health, safety, and welfare of the child.

H. Medical examination. Within the 90 days before placement, a child shall have an examination by or under the direction of a licensed physician.

Exception: If the child has been in the continuous placement of a public or private agency, the 90-day requirement may be waived if a report of an examination is no more than a year old and a report of all medical treatment provided in the interim is provided.

When a child, accepted in an emergency, has not had an examination within 90 days before placement, he shall have one within 30 days after placement.

I. Dental examination. Each child shall have had a dental examination within 12 months before placement or within 60 days after placement.

J. School enrollment. The agency shall contact school authorities within five working days of placement to arrange for the enrollment of each school age child.

### **20 VAC 40-130-650. Acceptance of child and placement agreements.**

A. Placement agreement. When a child is accepted for placement from another child-placing agency that is retaining custody or has a noncustodial agreement with the parents or guardian:

1. The receiving agency shall obtain a placement agreement before placing the child. It shall cover the financial and other responsibilities of each agency including the services each agency agrees to provide for the child, the legal family and foster family.

2. The agreement shall be signed by the custodial agency or by the local department of social services when the placement is authorized through a noncustodial agreement with the parents. If changes are made, the agreement shall be amended and the changes signed or initialed by an appropriate person.

3. The receiving agency shall obtain a copy of the service plan sent to the court by the child-placing agency or document its efforts to obtain one. It shall develop service plans compatible with the goals in the plan sent to the court.

4. The agency shall cooperate with the placing and custodial agency and allow access to the child at all times.

B. When accepting a child for placement from a parent or other individual holding custody, the agency shall obtain a temporary entrustment and follow the requirements of § 63.1-204 of the Code of Virginia. See Chapter B, Foster Care Services, in the Services' Manual, Volume VII, Section III for guidance.

### **22 VAC 40-130-660. Treatment and service plans and progress summaries in treatment foster care.**

A. An agency shall prepare and implement a treatment and service plan for each child in its care. The parents shall be consulted unless parental rights have been terminated. Prior custodians or foster parents shall be consulted when appropriate.

B. When the agency holds custody of the child, a service plan shall be filed in accordance with §§ 16.1-281 and 16.1-282 with the court within 60 days after the agency receives custody unless the court grants an additional 60 days, or the child is returned home or placed for adoption within 60 days.

The permanency planning goals and the requirements and procedures in the Service Programs Manual, Volume VII, Section III, Chapter B, Preparing the Initial Service Plan, June 1998, shall be followed. These requirements and procedures are incorporated by reference and made a part of these regulations.

C. Initial treatment and service plan. For children in treatment foster care the agency shall prepare an individualized initial treatment and service plan within two weeks of placement that includes:

1. The child's specific problems, behaviors or skills to be addressed and the methods of intervention and strategies to be implemented;

2. Clear and realistic goals and objectives for the first 60 days of placement;

3. Discussion of the permanency planning goals for the child; and

4. The specific services to be provided to the child during the first 60 days.

D. Comprehensive treatment and service plan. Designated professional agency staff shall develop a comprehensive treatment and service plan as defined in 22 VAC 40-130-10 within the first 60 days of placement which shall include:

1. A comprehensive assessment of the child's psychological, social, behavioral, educational, developmental and medical needs.

2. Clear and realistic goals and objectives, the criteria for achievement, and target dates for each.

3. The integrated program of therapies, activities and experiences designed to meet the objectives provided to date and those to be provided within specified time frames. Include a description of the agency's coordination with related community services to provide a continuity of care with the child's family, school, and community.

4. The long-term permanency planning and treatment goals and plans for reunification of the child and the child's family, where appropriate.

5. The target date for discharge from the program.

6. For children age 16 and over, a description of the programs and services that will help the child's transition from foster care to independent living.

Based on the agency's evaluation and work with the child and the child's family, it shall develop other areas to be addressed in the comprehensive treatment and service plan.

The plan shall be signed and dated by the designated staff. It shall indicate all members of the treatment team who participated in its development.

E. The agency shall include and work with the child, the child-placing agency and the parents, where appropriate, in the development of the service plan and provide a copy to them.

F. The agency shall provide supervision, training, support and guidance to foster families in implementing the treatment and service plan for the child;

G. The agency shall arrange for and encourage contact and visitation between the foster child, his family and others as specified in the service plan.

**22 VAC 40-130-670. Progress summaries.**

A. Agencies shall complete written quarterly progress summaries beginning 90 days after the date of the comprehensive treatment and service plan.

B. The summary shall evaluate and describe progress in each specified area of the treatment and service plan and include any changes recommended. The progress summary shall also include:

1. Services provided and listing the individuals providing the services;
2. Any changes to the treatment and service plan and services to be provided during the next quarter;
3. Behavioral issues to be addressed and significant revisions in behavior management techniques;
4. Changes to the treatment goals and objectives, the criteria for achievement and target dates;
5. Contacts between the child and the child's family and plans for reunification of the family, where appropriate;
6. The child's assessment of his progress and his description of services needed, where appropriate;
7. Medical needs, specifying medical treatment provided and still needed; and
8. Permanency planning goals, any changes in these goals, and discharge plans.

C. The fourth quarterly progress report shall address the above requirements and evaluate and update the comprehensive treatment and service plan for the upcoming year.

D. The designated staff shall date and sign each quarterly progress report.

E. The agency shall include each child who has the ability to understand in the preparation of the child's treatment and service plans and progress summaries or document the reasons this was not possible. The child's comments shall be recorded in the report.

F. The agency shall include and work with the child, the child-placing agency and the parents, where appropriate, in the development of the quarterly progress summary and provide a copy to them.

**22 VAC 40-130-680. Contacts with child.**

A. There shall be face-to-face contact between the case worker or a designated professional child-placing agency staff and the child, based upon the child's treatment and service plan and as often as necessary to ensure that the child is receiving safe and effective services.

B. Face-to-face contacts shall be no less than twice a month, one of which shall be in the foster home. One of the contacts shall include the child and at least one treatment foster parent and shall assess the relationship between the child and the treatment foster parents.

C. The contacts shall assess the child's progress, provide training and guidance to the treatment foster parents, monitor service delivery and allow the child to communicate concerns.

D. A description of all contacts shall be documented in the narrative.

E. Children who are able to communicate shall be interviewed privately once a month.

F. Visits to children in permanent foster care shall be made in accordance with the child's treatment and service plan, but no less than every six months.

G. Unless specifically prohibited by court or custodial agency, foster children shall have access to regular contact with their families as described in the treatment and service plan.

H. The child-placing agency shall work actively to support and enhance child-family relationships and work directly with families toward reunification as specified in the treatment and service plan.

**22 VAC 40-130-690. Medical examinations.**

A. Examinations shall be no more than 13 months apart. Reports shall be signed by the physician, his designee or an official of the local health department.

1. The School Entrance Physical Examination of the Department of Health or equivalent may be used to meet the requirements for a medical examination.
2. All reports shall include the following unless the physician recommends otherwise:

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## Proposed Regulations

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a. Immunizations given in the past 13 months or since the last examination; and

b. Current physical condition, including growth and development, visual and auditory acuity, nutritional status, evidence of freedom from tuberculosis in a communicable form, allergies, chronic conditions and handicaps.

3. The agency shall arrange for the child to receive recommended follow-up care as well as care for illnesses or injuries and shall document all such visits.

B. The agency shall record all medications prescribed for each child and any reported side effects or adverse reactions.

C. Dental care. Each child over three years of age shall have a dental examination within 13 months of the last examination and every 13 months thereafter. The findings shall be signed by a licensed dentist or his designee. The agency shall arrange for the child to receive the recommended follow-up care as well as care for injuries or other conditions requiring attention between examinations.

D. Professional clinical or consultative services. The agency shall provide or arrange for a child to receive psychiatric, psychological, and other clinical services if the need for them has been recommended or identified.

### **22 VAC 40-130-700. Other responsibilities of agency.**

A. Clothing. The agency shall see that each child in care has his own supply of clothing for indoor and outdoor wear, suitable to the season.

B. Spending money. School-age children shall have an allowance.

### **22 VAC 40-130-710. Narratives in the child's record.**

A. Narratives shall be in chronological order and current within 30 days. Narratives shall include areas specified in the standards and shall cover:

1. Treatment and services provided;
2. All contacts related to the child;
3. Visitation between the child and the child's family; and
4. Other significant events.

B. There shall be a monthly summary of the child's progress towards the goals and objectives identified in the treatment and service plan.

### **22 VAC 40-130-720. Treatment teams in treatment foster care.**

A. The agency shall assure that a professional staff person provides leadership to the treatment team which includes:

1. Managing team decision-making regarding the care and treatment of the child and services to the child's family;

2. Providing information and training as needed to treatment team members; and

3. Involving the child, the child's family, and the child-placing agency in treatment team meetings, plans and decisions and keeping them informed of the child's progress, whenever possible.

B. Treatment team members shall consult as often as necessary, but at least on a quarterly basis.

### **22 VAC 40-130-730. Crisis intervention and physical restraint.**

A. Agencies that do not permit the use of physical restraint shall have a policy stating that physical restraint is prohibited.

B. Agencies that permit physical restraint shall train designated professional staff and treatment foster parents prior to supervision of children in less intrusive interventions and in physical restraint techniques approved by the agency.

C. The agency shall require that other methods of crisis intervention be used before physical restraint is attempted on a child.

D. Physical restraint, as defined in these standards, shall be only that which is minimally necessary to protect the child or others from injury or to prevent serious damage to property and is used as part of a therapeutic intervention.

E. Physical restraint shall only be used as described in the child's treatment and service plan.

F. Agencies that permit physical restraint shall have written policies and procedures governing the use of physical restraint by treatment foster parents. The policies and procedures shall include:

1. Guidelines to follow and the nonintrusive crisis intervention techniques approved for use by treatment foster parents before using physical restraint;
2. A statement prohibiting the use of mechanical restraint or seclusion of a child in a locked room;
3. A description of the agency approved methods of restraint and the training required prior to the use of these methods; and
4. A description of the agency's method for determining the treatment foster parent's abilities to apply these methods.

G. Agencies shall require treatment foster parents to document each instance of physical restraint and shall maintain copies of these reports in the child's record. The documentation shall include:

1. The reason for the restraint;
2. What nonintrusive interventions were attempted prior to the physical restraint;
3. A description of the restraint used and the duration of the restraint;

- 4. Any injuries resulting from the restraint; and
- 5. The outcome of the crisis intervention.

H. Agencies shall require treatment foster parents to notify them within 24 hours of each instance of physical restraint.

**22 VAC 40-130-740. Discharge from care.**

A. A discharge summary shall be developed for each child and placed in the child's record within 30 days of discharge. It shall include the date of and reason for discharge, the name of the person with whom the child was placed or to whom he was discharged, and a description of the services provided to the child and progress made while the child was in care.

B. The summary shall also include an evaluation of the progress made towards achievement of the child's treatment goals.

C. Discharge planning shall be developed with the treatment team in treatment foster care and with the child, the child's parents or guardian, if applicable, and the child-placing agency.

D. Children in the custody of a local department of social services or private child-placing agency shall not be discharged without the knowledge, consent, and notification of the child-placing agency.

E. Children under the age of 18 shall only be discharged to the agency, parent or guardian having legal custody. The parents or guardian shall be notified of the child's discharge from the program. This includes a child being moved from treatment foster care to a residential facility.

F. Upon discharge a copy of medical and school records, and birth certificate if the agency holds custody shall be given to the parents or receiving agency.

G. Information shall be released to a child who has reached 18 in accordance with § 63.1-209 of the Code of Virginia.

H. Written recommendations for aftercare shall be made for each child prior to the child's discharge. Such recommendations shall specify the nature, frequency and duration of aftercare services to be provided to the child and the child's family.

**22 VAC 40-130-750. Permanent foster care.**

A child-placing agency may place a child in permanent foster care in accordance with § 63.1-206.1 of the Code of Virginia. Agencies shall follow procedures in the Service Programs Manual, Volume VII, Section III, Chapter B, Permanent Foster Care Placement, June 1997.

**22 VAC 40-130-760. The treatment foster family and foster home capacity.**

A. Treatment foster homes shall be evaluated and approved according to the requirements set forth in the home study section of these standards (22 VAC 40-130-810). An agency may have additional requirements at its discretion.

The number of children placed in one treatment foster home shall not exceed two without justification. Such justification may include the need to place a sibling group, the extraordinary abilities of a particular family in relation to the special needs of the child, and the family's ability and capacity to take an additional child.

Justification for exceeding two children shall be written, dated, approved and signed by the supervisor prior to the placement of additional children in the home. The justification shall include the impact of the additional placement on the other children in the home.

Treatment foster parents shall have the right to refuse placement of any child they feel is inappropriate for the home or may be a danger to the children currently in the home.

**B. Services and requirements following approval.**

1. The agency shall provide orientation and on-going training for each foster family.
2. The agency shall provide the foster family with written procedures for handling emergencies during and outside the agency's regular office hours.
3. Prior to placement the family shall be assisted to make an informed decision as to whether a particular child is appropriate for them.

C. The agency shall specify in its program description all considerations it will use in making a placement decision.

**22 VAC 40-130-770. Treatment foster home agreement.**

The agency shall have a written foster home agreement with the treatment family for each child in care. The agreement shall be signed on or before the date the child is placed in the home and shall include:

1. The payment for foster care and other expenses;
2. Arrangements for medical care, for spending money for the child, for visits by parents, for the provision of clothing and an agreement not to use corporal punishment or give others permission to do so;
3. A clear statement that the agency has the right to remove the child when it considers it in the child's best interest;
4. A statement that the agency shall provide treatment foster parents with the support and assistance of agency staff at all times in relation to the child's care in the home, including training, emergency procedures and telephone numbers to call; and
5. A statement that unless a move is required to protect the health or safety of the child or other foster family members, the agency shall require treatment foster parents to provide reasonable notice, as determined by the agency, to professional staff if requesting a child's removal from the home.

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## **22 VAC 40-130-780. Respite care.**

Foster parents shall have access to both planned and crisis respite care for their foster children. Respite care may be provided only in foster homes which have been selected and trained according to these standards. Respite providers in treatment foster care shall be informed of the child's treatment and service plan and supervised in the implementation of this plan.

## **22 VAC 40-130-790. Training for foster parents.**

A. Prior to approval of the home, all foster parents shall satisfactorily complete preservice training and demonstrate minimum competence in the following:

1. Information about the strengths and needs of children and their families who require family foster care services;
2. Information about the impact of separation and loss for all parties involved in family foster care;
3. The laws, regulations, policies, procedures, and values that direct the agency's family foster care program;
4. The knowledge and practice skills necessary to be a foster parent;
5. The impact of fostering on foster parents, their children, and all aspects of their family life;
6. Knowledge and understanding of the specific types of children served by the agency and the services these children will need;
7. Crisis intervention procedures and physical restraint techniques utilized by agency, if applicable;
8. Agency's treatment philosophy and skill training in treatment methods the agency uses;
9. How the treatment team operates within the agency and the role of treatment foster parents as effective and essential members of the team;
10. The differences between treatment foster parenting and other types of parenting, including birth, adoptive, and other foster parenting; and
11. The identification and reporting of child abuse and neglect.

B. On-going training. The agency shall develop an on-going training plan for treatment foster parents. The specific training topics shall be included in the agency's program description and shall include, but not be limited to, the following:

1. Building on basic skills and developing advanced skills, such as working directly with parents of children in care to teach parenting skills;
2. Helping children develop self esteem and learn appropriate behaviors;

3. Responding to signs and symptoms of physical abuse, sexual abuse, neglect, and emotional maltreatment;

4. Helping children with family reunification, adoption, and preparation for young adult life; and

5. A review of crisis intervention procedures, physical restraint techniques utilized by the agency, the agency's treatment philosophy and skill training in treatment methods the agency uses.

Additional training shall be provided based on the needs of the treatment foster parents and the children in care.

## **22 VAC 40-130-800. Requirements for case records for children.**

A. The agency shall maintain a case record for each child which is indexed indicating the organization and documentation in the record. All services and treatment provided to the child shall be documented in the case record. If an agency has offices in more than one location, the record shall identify the office which provided the service.

B. All entries shall be in chronological order, be dated and identify the person making the entry. Entries shall be typed or legibly handwritten in ink. The child's case record shall include:

1. A face sheet which includes:

- a. Personally identifying information including the child's name, birthdate, place of birth, Medicaid number, and Social Security number;
- b. Parent's names, addresses, marital status, telephone numbers, Social Security numbers and information about grandparents, close relatives, and siblings, when known;
- c. Names, addresses and telephone numbers of person or agency holding custody; and
- d. Names and telephone numbers of persons to be contacted in an emergency;

2. Intake assessment information including referral forms, social history, psychological or psychiatric reports, school information, placement agreements or entrustment agreements, medical reports received at intake;

3. Copy of birth certificate;

4. Documentation of rationale for placing the child in the selected treatment foster home;

5. Authorizations from the child-placing agency or legal guardian for routine and emergency medical and dental care; for out of state travel and overnight travel within the state; participation in special activities, and publicity releases;

6. Ongoing school and educational records;

7. Ongoing medical and dental treatment;

8. Clinical treatment including progress notes and psychological or psychiatric evaluations;

9. Treatment and service plans and quarterly progress reports, including the members of the child's treatment team and the designated lead professional staff;

10. Names, addresses and dates of all placements the child has while in the agency's care;

11. All correspondence related to the child;

12. Narrative, including a chronological narrative or summary of contacts with and services provided to the family. It shall include visits between the parents and the child or attempts to visit.

13. Documentation of serious incidents, physical restraints, injuries, and behavior management reports, where appropriate; and

14. Other material pertaining to a child in treatment foster care as required by these standards, Medicaid requirements, and any other applicable standards and laws.

C. Information on the child's birth family, previous foster families, and services provided to them shall be documented either in the child's record or a separate family record.

D. The treatment foster home record. The foster home record shall contain:

1. A face sheet listing all members of the household and their relationship to the foster parents. The face sheet shall be updated as needed;

2. The agency application form completed by the foster parents;

3. A record of orientation and training provided to the foster parents;

4. A narrative account of the preparation of the family for each child placed with them;

5. A list of the children placed including names, birth date or age, dates of placement and removal and reasons for removal;

6. Copies of all foster home agreements;

7. The foster home study and all material required for the home study by these standards;

8. Reevaluations of the foster home;

9. When applicable, date and reason for closure; and

10. A narrative of any concerns the agency has about the status of the foster home.

E. The agency shall maintain documentation in the foster parents' record of all complaints involving the foster parents, including the agency's investigation report and findings and police and child protective services' involvement.

**22 VAC 40-130-810. Home study of treatment foster family applicants.**

A. The information required in this section shall be gathered in order to assess the applicants' capacities as treatment foster parents. If the home is approved, the information shall be used to determine the type of child that can successfully be placed in the home.

B. The agency shall conduct interviews with all family and household members. Dates and content of interviews shall be documented in the home study.

C. There shall be a minimum of three face-to-face interviews with each applicant. At least one interview with a couple shall be joint and one must take place in the home.

D. Orientation and preservice training sessions provided during the home study process shall not count towards the required number of interviews.

E. The agency shall request and obtain a minimum of three nonrelative references for the family. Additional references may also be requested from relatives or others at the agency's discretion.

F. A report of a medical examination by a licensed physician, his designee, or an official of a local health department of all members of the household shall be obtained. The exam shall be conducted no earlier than six months prior to the approval and shall contain:

1. An evaluation of the current health of the individual. Additional reports from specialists shall be received when health concerns are noted;

2. A statement that the individual does not have tuberculosis in a communicable form including the date and type of test and the results. If the test is positive or no test is done, there shall be a written explanation by the physician. Additional tests are not required unless the individual comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms;

3. An opinion as to whether or not the health of the individual will affect the care or present a hazard to the health of children; and

4. The signature of a physician, his designee or an official of the local health department.

G. The medical examination shall be updated if the agency has concerns about the health of members of the foster family.

H. Pursuant to § 63.1-198.1 of the Code of Virginia the agency shall receive the results of a search of the Child Abuse and Neglect Registry before approval is granted. The home shall not be approved if an applicant or another adult living in the home has a founded child abuse or neglect record.

I. Criminal history record reports and sworn disclosure statements shall be received on each applicant pursuant to § 63.1-198.1 of the Code of Virginia prior to approval.

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Agencies shall follow the standards in the Regulation for Criminal Record Checks for Child Welfare Agencies (22 VAC 15-50-10 et seq.)

The content of and copies of criminal record reports, sworn disclosure statements, and child abuse and neglect registry checks shall not be shared with other agencies or persons, other than the person named in the report, the licensing representative, other state or federal authorities and a court as required by state or federal law, except as permitted in § 63.1-198.1 of the Code of Virginia.

J. The agency shall check the applicants' Department of Motor Vehicles records.

K. The agency worker shall see the marriage license for couples.

L. The agency shall discuss the employment history of each applicant and assess the applicants' management of income and financial resources in relation to expenses.

Applicants shall have sufficient income and financial resources to assure continuing maintenance of the family. The agency shall receive a financial statement indicating income and expenses. If there is an amount in the agency's monthly payment above that is required for the needs of the child, it may be counted as income.

M. If the applicant has previously applied to be a foster parent through another agency, the current agency shall request information from the applicant about their previous application. The current agency shall also request information from the previous agency.

N. Foster parent applicants shall sign a statement that they will not use corporal punishment on any child placed in their home nor give others permission to use corporal punishment.

O. The agency shall conduct an assessment of the motivations, expectations, commitment, and abilities. The agency shall assure that the following areas are covered in its assessment and document the basis for its conclusions:

1. Family relationships to include how the couple and the family resolve conflicts and express affection, relationships with extended family, and children living outside of the home;
2. Stability of the marriage;
3. The applicants' experiences with children and as children;
4. Discipline of children to include the discipline the applicants' received as children, their current parenting skills, and their opinion and attitudes towards discipline;
5. The applicants' ability to learn and apply the agency's recommended behavior management techniques, their willingness to assist in the treatment plan, and their commitment to become a part of the agency's treatment team;

6. The applicants' education and attitudes towards education;

7. The applicants' willingness to work with the school;

8. The applicants' attitudes towards legal parents and towards working with the agency;

9. Health issues in the applicants' family and how this will impact the care of a child;

10. The age and type of child desired; and

11. Supervision arrangements when the applicants are out of the home.

P. The agency shall assess and approve the residence and surrounding area.

Q. The agency shall determine that the applicants' home is free of hazards to the health and safety of children, is clean and is in good physical repair. The following areas shall also be included in the agency's assessment of the home:

1. Rooms used by children shall be well-lighted for activities and safety.
2. The applicant shall have a written plan for seeking assistance from fire and rescue professionals.
3. Foster parents shall have a written evacuation plan in case of emergencies and shall rehearse the plan with children every six months. Foster parents shall review the plan with each child within 48 hours of placement.
4. All sleeping areas shall have operable smoke detectors and the home shall have at least one operable fire extinguisher.
5. The home shall have an operable heating and ventilation system.
6. Firearms and other weapons shall be locked. Firearms shall be kept unloaded and ammunition shall be locked in a separate location.
7. Children over the age of two shall not share a bed or bedroom with the foster parents or other adults in the home unless the child's documented medical needs or disabilities require the foster parent to sleep in the room with the child.
8. The home shall have closet or drawer space or both for clothing and personal possessions of children over two years of age.
9. There shall be separate beds for children except that two siblings of the same sex may share a double bed.
10. Children's bedrooms shall not be used as passageways and shall have doors for privacy.
11. The home shall keep cleaning supplies and other toxic substances stored away from food, locked and out of the reach of children.
12. The applicants shall have a working telephone.

R. The agency shall recommend approval or disapproval based on a careful assessment of the characteristics outlined in this section, information received through the home study process, the applicants' participation in the home study process and in any orientation and preservice training.

S. The decision to approve or deny shall be made in consultation with the supervisor or in a staff meeting and the date of the decision shall be recorded in the applicants' record.

T. If approval is recommended, the worker shall recommend the age, sex, and type of children who can successfully be placed and give the basis for the recommendation.

U. The applicants shall be informed in writing within a week of the approval or disapproval and offered an interview to have the agency's decision explained to them.

V. The home study shall be written and the home approved before a child is placed.

## **22 VAC 40-130-820. Reevaluation of foster homes.**

A. The agency shall reevaluate the foster home after one year and every two years thereafter covering the topics in the initial home study. The reevaluation shall take place in the home and the visit made when both parents can be present.

B. A reevaluation to address pertinent standards shall be done whenever there is a change in physical location or marital status. The agency shall make a redetermination of the continued status of the foster parents.

C. At the request of the agency or the licensing representative, a medical examination shall be obtained when there are indications that the safety or health of the children in care may be jeopardized by the health of a household member. The agency shall plan for the immediate removal of any foster children if the examination reveals that their safety or health might be in jeopardy.

D. The reevaluation shall also cover a brief description of the adjustment of each child placed in the home since the last evaluation; an evaluation of the performance of the treatment foster parents addressing their ability to relate to the children and to help children reach their goals. The agency shall also include and assess:

1. The foster parents' skills in working with particular types of problems;
2. The relationship between the children and the family members and the stability of the home and any problems or significant changes that have occurred in the family since the last evaluation; and
3. Their ability to work with the agency and with the birth parents in meeting the needs of a child.

E. The agency shall receive a current report from the Department of Motor Vehicles on any new drivers in the home, if they are to transport foster children.

F. The agency shall make a recommendation regarding continued use of the home, further training needs of the foster parents, and age, sex, types and number of children that the home can successfully handle.

G. The agency shall evaluate the treatment family's skills and abilities as treatment foster parents and identify any concerns and training needs.

### DOCUMENTS INCORPORATED BY REFERENCE

Service Programs Manual, Volume VII, Section # III, Chapter B, ~~Virginia Department of Social Services, 7/85 Foster Care,~~ revised June 1998.

Service Programs Manual, Volume VII, Section III, Chapter D, Adoption - Nonagency Placement and Other Court Services, revised November 1991.

Service Programs Manual, Volume VII, Section III, Chapter C, Adoption - Agency Placement, revised July 1989.

Service Programs Manual, Volume VII, Section III, Chapter E, Interstate/Intercountry Placement of Children, revised July 1983.

<p><b>NOTICE:</b> The forms used in administering 22 VAC 40-130-10 et seq., Minimum Standards for Licensed Child-Placing Agencies, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>
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### FORMS

Application for *Initial and Renewal* License for ~~Private~~ Child-Placing Agencies, 1/99.



IN MAKING THIS APPLICATION TO OPERATE A LICENSED CHILD-PLACING AGENCY, I STATE THAT:

1. I am in receipt of and have read a copy of the Minimum Standards for Licensed Child-Placing Agencies, 22 VAC 40-130-10 et seq., and other applicable regulations and statutes.
2. I certify that it is my intent to comply with the aforementioned regulations and statutes and to remain in compliance with them if I am so licensed.
3. I grant permission to the Department of Social Services and its authorized agents to make all necessary investigation of the circumstances surrounding this application and any statement made herein, including financial status, inspection of the agency, and records. I understand that, following licensure, authorized agents of the Department of Social Services will make announced and unannounced visits to the agency to determine its compliance with standards and to investigate any complaints received.
4. I understand that an application for a license is subject to either issuance or denial. In the event of denial, it is understood that I have the right to appeal this decision which is explained in the General Procedures and Information for Licensure.
5. I am aware that it is a misdemeanor for any person to operate a child-placing agency, defined in Section 63.1-195 of the Code of Virginia, without a license.
6. To the best of my knowledge and belief, all information I have given to the Department of Social Services and its authorized agents during this application process and during any pre-application conference is true and correct. I will supply true and correct information requested during all subsequent investigations.

Signature of Board President, Executive Director or Designee: \_\_\_\_\_

Date: \_\_\_\_\_

NEW APPLICATIONS  
REQUIRED ATTACHMENTS FOR LICENSED CHILD-PLACING AGENCIES

- A. The agency's document of sponsorship:
  1. Incorporated agencies based in Virginia must attach a copy of their certificate of incorporation. Out-of-state agencies must attach a copy of their certificate of authority to transact business in the Commonwealth.
  - A copy of the agency's charter must be attached. It must specify that the purpose of the corporation includes the operation of a child-placing agency.
  2. Unincorporated associations must attach a copy of their constitution or by-laws which specify that the purpose of the association includes the operation of a child-placing agency.
  3. Partnerships must attach a copy of their articles of partnership, which shall include the operation of a child-placing agency.
- Note: A document of sponsorship is not required for an agency sponsored by an individual who is the licensee.
- B. A list of board members, with their addresses, if the agency has a board. Please designate officers.
- C. The plan of financing including:
  1. a balance sheet listing current assets and liabilities;
  2. the agency's projected budget listing expected income and expenses for one year; and
  3. documentation of cash on hand or a line of credit to cover the first ninety days of operating expenses
- D. A copy of the agency's fee schedule for each Child Placing Agency program including a description of the services covered by the fees and the agency's refund policy, if any.
- E. If applicable, a foster care program statement as required by standards, a treatment foster care program statement as required by standards, an adoption program statement as required by standards, and an independent living placement program statement as required by standards.
- F. A description of the duties and responsibilities of each job classification.

Return Application to:  
Child Welfare Licensing Unit  
Division of Licensing Programs  
Department of Social Services  
Theater Row Building  
730 East Broad Street, 7th Floor  
Richmond, VA 23219-1849

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Required Attachments for New Applications  
Licensed Child-Placing Agencies  
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**RENEWAL APPLICATIONS  
REQUIRED ATTACHMENTS FOR LICENSED CHILD-PLACING  
AGENCIES**

- G. Samples of all agency forms.
  - H. Work and educational requirements for each staff position, i.e., resumes.
  - I. The names and addresses of three references, for each of the following: the Executive Director, the officers of the board of incorporated and unincorporated agencies, partners of a partnership and for an individual who is the agency sponsor. The references must be unrelated to the individual and able to attest to his or her character and reputation.
  - J. Address, telephone number and written directions to each Virginia office.
  - K. Hours of operation for each Virginia office.
  - L. Application fee: \_\_\_\_\_ amount enclosed.
- A. A list of current board members with their addresses if the agency has a board. Please designate officers.
  - B. Financial information:
    - 1. A copy of the most recent auditor's report.
    - 2. A balance sheet listing current assets and liabilities.
- Note: For agencies licensed in other states, submit only information pertaining to the Virginia office for items 3 and 4 below.
- 3. A statement for the last complete fiscal year, showing actual income and expenditures.
  - 4. A budget detailing income and expenditures.
    - a. For the current fiscal year if the agency is less than six months into its current year;
    - b. If the agency does not have an approved budget for the next fiscal year at the time of renewal, it must submit a statement indicating current status of finances and status of projected budget for next fiscal year. The next fiscal year's budget must be submitted as soon as it is completed and approved.
- Note: If the agency is more than three months into its current fiscal year, the latest quarterly statement of income and expenditures is requested.
- C. Samples of any new forms or revised forms.
  - D. A report of major changes in programs or facilities during the past year or contemplated for the coming year. Include copies of revisions to program statement and policies and procedures.
  - E. If the previous license was provisional, a statement showing which requirements listed as conditions of the provisional license were met and, if any were not met, the plan for meeting them.

Required Attachments for Renewal Applications  
Licensed Child-Placing Agencies  
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Required Attachments for New Applications  
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- F. A copy of the agency's fee schedule for each child-placing agency program including a description of the services covered by the fees and the agency's refund policy, if any.  
If there has been no change, a copy need not be attached but there should be a statement saying there has been no change.
- G. Self-certification compliance form.
- H. Statistical information form covering the agency's operation during the last year of the current licensing period. (You may give it to the Licensing Representative during the renewal study.)
- I. Address, telephone number and written directions to each Virginia office.
- J. Hours of operation for each Virginia office.
- K. Application fee: \_\_\_\_\_ amount enclosed.

Required Attachments for Renewal Applications  
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# FINAL REGULATIONS

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For information concerning Final Regulations, see Information Page.

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## 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.

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## TITLE 2. AGRICULTURE

### PESTICIDE CONTROL BOARD

Title of Regulation: **2 VAC 20-50-10 et seq. Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act (REPEALED).**

Title of Regulation: **2 VAC 20-51-10 et seq. Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act.**

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Effective Date: March 17, 1999.

#### Summary:

*The final regulation specifies requirements for certification of applicators of pesticides in accordance with statutory changes effective July 1, 1995, in §§ 3.1-249.27, 3.1-249.51, and 3.1-249.53 of the Code of Virginia as well as responds to comments from the general public and from industry workers in response to the agency's review of regulations under the Governor's Executive Order 15 (94). The certification regulation sets standards of certification for persons specified by statute who use or supervise the use of pesticides in Virginia. Those persons governed by the regulation include, but are not limited to, farmers using restricted use pesticides (any pesticide classified for restricted use by the Administrator of the United States Environmental Protection Agency) on their own land and persons who apply pesticides commercially. The certification regulation does not apply to persons who use general use pesticides (any pesticide classified as general use by the Administrator of the United States Environmental Protection Agency) in and around their homes. The certification regulation will help to assure that those persons subject to the certification regulation are adequately trained and competent to use pesticides.*

*A few terms and definitions have been included in the final certification regulation where needed for clarification. The final certification regulation includes a summary of who must be certified to apply pesticides in Virginia. Lists of the various classifications of pesticide applicators and the procedures for becoming certified are also included.*

*The final regulation incorporates a change in 2 VAC 20-51-40, Specific certification requirements for private applicators, since the publication of the proposed regulation. The Pesticide Control Board, in cooperation with the Department of Motor Vehicles (DMV), will be*

*offering private applicator applicants the opportunity to take computerized pesticide applicator certification examinations at over 70 DMV Customer Service Centers in the state sometime in the year 2000 instead of just at the current 12 Virginia Department of Agriculture and Consumer Services (VDACS) testing locations and offices of cooperative extension agents. In addition, applicants will be able to take examinations at the DMV centers five and one-half days per week instead of the current one to two days per month at most of the VDACS testing locations.*

*In 2 VAC 20-51-60, supervised forestry applicators who apply general use pesticides in ground-based operations are exempt from certification. The board modified the proposed language for this exemption to clarify that the exemption applied only to ground-based operations and that applicators were within a reasonable distance of the certified commercial applicator to allow for supervised pesticide applicator. The categories for private pesticide applicator (an applicator who uses or supervises the use of any pesticide which is classified for restricted use for the purposes of producing any agricultural commodity) certification have been combined to form four categories rather than seven. A section has been included in the regulation to provide details about the specific requirements for on-the-job training for registered technicians (an individual who renders services similar to those of a certified commercial pesticide applicator, but who has not completed all the training or time in service requirements to be eligible for examination for certification as a commercial pesticide applicator and is limited to application of general use pesticides).*

*2 VAC 20-50-120 was combined with 2 VAC 20-51-130 to make renewal of certification (training) and certificates (the document) occur at the same time instead of two different years. This section also requires payment of the certificate fee on a biennial basis instead of an annual basis.*

*A section entitled Reciprocal Recertification (2 VAC 20-51-190) has been included to allow individuals who have received reciprocal certification to be recertified in Virginia by maintaining their training in the state where they are certified. Evidence of Financial Responsibility (2 VAC 20-50-220), a section in the current certification regulation, is not included because it is not the Pesticide Control Board's intent to require Commercial Applicators Not for Hire (a commercial pesticide applicator who uses or supervises the use of pesticides as part of his duties only on property owned or leased by him or his employer) to provide evidence of financial responsibility. This is a requirement placed on commercial firms that apply pesticides and is adequately covered by Rules*

and Regulations Governing Licensing of Pesticide Businesses by the Department of Agricultural and Consumer Services Operating Under Authority of the Virginia Pesticide Control Act (2 VAC 20-40-80).

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Copies of the regulation may be obtained from Marshall W. Trammell, Jr., Program Coordinator, Office of Pesticide Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3798.

CHAPTER 51.  
REGULATIONS GOVERNING PESTICIDE APPLICATOR  
CERTIFICATION UNDER AUTHORITY OF VIRGINIA  
PESTICIDE CONTROL ACT.

PART I.  
DEFINITIONS.

**2 VAC 20-51-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. An asterisk or double asterisk following a definition indicates that the definition has been taken from the Virginia Pesticide Control Act, Article 1 (§ 3.1-249.27 et seq.) or Article 4 (§ 3.1-249.58 et seq.), respectively, of Chapter 14.1 of Title 3.1 of the Code of Virginia.

"Accident" means an unexpected, undesirable event, involving the use or presence of a pesticide, that adversely affects man or the environment.

"Act" means the Virginia Pesticide Control Act.

"Adjuvant" means any substance added to a pesticide formulation to enhance the effect of the active ingredient.

"Agricultural commodity" means any plant or part thereof, or animal, or animal product, produced by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, nurserymen, wood treaters not for hire, or other comparable persons, primarily for sale, consumption, propagation, or other use by man or animals.\*

"Board" means the Pesticide Control Board.\*

"Board approved training" means a course which includes, at a minimum, study and review of all the material contained in [ ~~the most current~~ an ] edition used in Virginia of (i) [ ~~the~~ a ] basic pesticide applicator certification training core manual and (ii) [ ~~the~~ a ] certification training manual for each specific category pertaining to the type of pesticide application to be done.

"Certificate" means the document issued to a certified applicator or registered technician who has completed all the requirements of Article 3 (§ 3.1-249.51 et seq.) of Chapter 14.1 of Title 3.1 of the Code of Virginia.

"Certification" or "certified" means the recognition granted by the Pesticide Control Board to an applicator upon satisfactory completion of board approved requirements.\*

"Chemigation" means the application of any pesticide through an irrigation system.

"Commercial applicator" means any applicator who has completed the requirements as determined by the board, including appropriate training and time in service, to apply for a certification, and who uses or supervises the use of any pesticide for any purpose or on any property, other than as provided in the definition of private applicator.\*

"Commercial applicator not for hire" means any commercial applicator who uses or supervises the use of pesticides as part of his job duties only on property owned or leased by him or his employer. This definition shall also apply to governmental employees who use or supervise the use of pesticides, whether on property owned or leased by them or their employers or not, in the performance of their official duties.

"Commissioner" means the Commissioner of Agriculture and Consumer Services.\*

"Department" means the Department of Agriculture and Consumer Services.\*

"Drift" means the physical movement of pesticide through the air at the time of pesticide application or soon thereafter from the target site to any nontarget or off-target site. Pesticide drift will not include movement of pesticides to nontarget or off-target sites caused by erosion, migration, volatility, or windblown soil particles that occurs after application unless specifically addressed on the pesticide product label with respect to drift control requirements.

"EPA" means the United States Environmental Protection Agency.

"Fumigant" means any substance which by itself or in combination with any other substance emits or liberates a gas or gases, fumes or vapors, which gas or gases, fumes or vapors, when liberated and used, will destroy vermin, rodents, insects, and other pests, and are usually lethal, poisonous, noxious, or dangerous to human life.

"Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi or plant disease.\*

"Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.\*

"Incident" means a definite and separate occurrence or event, involving the use or presence of a pesticide, that adversely affects man or the environment.

"Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.\*

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"Knowledge" means the possession and comprehension of pertinent facts, together with the ability to use them in dealing with specific problems and situations within the pesticide context.

"Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any, of the pesticide or device.\*

"Labeling" means all labels and other written, printed, or graphic matter (i) upon the pesticide or device or any of its containers or wrappers, (ii) accompanying the pesticide or device at any time, or (iii) to which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, nonmisleading reference is made to current official publications of the agricultural experiment station, the Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services, the State Board of Health, or similar federal institutions or other official agencies of the Commonwealth or other states when such states are authorized by law to conduct research in the field of pesticides.\*

"Licensed" or "licensee" means those businesses which, when meeting the requirements established by the Pesticide Control Board, are issued a license to engage in the sale, storage, distribution, recommend the use, or application of pesticides in Virginia in exchange for compensation.\*

"Marine antifoulant paint" means any compound, coating, paint or treatment applied or used for the purpose of controlling freshwater or marine fouling organisms on vessels.\*\*

"Nontarget organism" means any living organism, including but not limited to animals, insects, and plants, other than the one against which the pesticide is intended to be applied.

"Pesticide" means (i) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest; (ii) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and (iii) any substance which is intended to become an active ingredient thereof.\*

"Pesticide business" means any person engaged in the business of: distributing, applying or recommending the use of a product; or storing, selling, or offering for sale pesticides directly to the user. The term "pesticide business" does not include (i) wood treaters not for hire; (ii) seed treaters not for hire; (iii) operations which produce agricultural products unless the owners or operators of such operations described in clauses (i), (ii), and (iii) are engaged in the business of selling or offering for sale pesticides, or distributing pesticides to persons outside of that agricultural producing operation in connection with commercial transactions; or (iv) businesses exempted by regulations adopted by the board.\*

"Private applicator" means an applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.\*

"Reentry interval" as noted on the pesticide label, means the amount of time which must elapse between the time of a pesticide application and the time when it is safe for a person to enter the treated area without label-required personal protective equipment.

"Restricted entry interval" means the time after the end of a pesticide application during which entry into the treated area is restricted.

"Registered technician" means an individual who renders services similar to those of a certified commercial applicator, but who has not completed all the training or time in service requirements to be eligible for examination for certification as a commercial applicator and is limited to application of general use pesticides. However, if he applies restricted use pesticides he shall do so only under the direct supervision of a certified commercial applicator.\*

"Repeat violation" means another violation following the first violation of the same provision of the Virginia Pesticide Control Act or the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136 et seq.), or regulations adopted pursuant thereto, committed within a three-year period commencing with the date of official notification of the first violation of the provision.

"Restricted use pesticide" or "pesticide classified for restricted use" means any pesticide classified for restricted use by the administrator of the EPA under the provisions of 1947 (7 USC § 3(d)(1)(c)) of the Federal Insecticide, Fungicide, and Rodenticide Act (as amended).

"Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the commissioner shall declare to be a pest.\*

"Synergism" means the interaction of two or more active ingredients in a pesticide formulation which produce a total pesticidal effect that is greater than the sum of the ingredients.

"Tributyltin compounds" means any compound having three normal butyl groups attached to a tin atom and with or without an anion such as chloride, fluoride, or oxide.\*\*

"Under the direct supervision of" means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person.\*

"Under the direct, on-site supervision of" means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of

a certified applicator who is responsible for the actions of that person and is physically present on the property upon which the pesticides are being applied.

"Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.\*

"Use" means the employment of a pesticide for the purposes of (i) preventing, destroying, repelling, or mitigating any pest or (ii) regulating plant growth, causing defoliation or desiccation of plants. The term "use" shall include application or mixing, and shall include handling or transfer of a pesticide after the manufacturer's original seal is broken. The term "use" shall also include any act with respect to a particular pesticide which is consistent with the label directions for that particular pesticide.\*

"Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water, whether self-propelled or otherwise, and includes barges and tugs.\*\*

PART II.

CERTIFICATION OF PESTICIDE APPLICATORS.

**2 VAC 20-51-20. General requirements for certification.**

A. The following persons must be certified as pesticide applicators:

1. Commercial applicators;
2. Registered technicians; and
3. Private applicators.

B. Commercial applicators not for hire must be certified only when using any pesticide [ ~~on~~ in the following areas except as noted in subsection C of this section ]:

1. Areas open to the general public at educational institutions, health care facilities, and convalescent facilities;
2. Areas where open food is stored, processed, or sold; and
3. Recreational lands over five acres in size.

[ C. ] Employees of local, state, and federal governmental agencies who use or supervise the use of [ any ] pesticides [ on any area ] in the performance of their official duties [ ~~are also considered~~ must be certified as either ] commercial applicators not for hire [ or registered technicians ], but they are exempt from any certification fees.

[ ~~C~~. D. ] All persons desiring certification as pesticide applicators must:

1. Complete board approved training appropriate for the desired classification; and
2. Pass required examination(s).

a. Applicants who do not pass the examination on their first attempt are eligible to be reexamined for the same category 10 days from the date of the first examination.

b. Applicants who fail on the second or subsequent attempts must wait 30 days from the date of the last examination before being reexamined in the same category.

c. Applicants requesting reexamination must resubmit a completed application to the commissioner or his duly authorized agent and pay the nonrefundable applicator certification fee again.

[ ~~D~~. E. ] Persons with a history of repeat violations of federal or state pesticide laws or whose certification or business license has been revoked within the two-year period immediately prior to application are not eligible for certification. Persons may appear before the board to show why they should be granted certification.

[ ~~E~~. F. ] Applicants for certification cannot engage in the activity for which they are requesting certification, unless participating in supervised direct on-site training, until certification has been issued by the commissioner.

[ ~~F~~. G. ] A commercial or private applicator or registered technician may request a duplicate of the certification card if the applicator's or technician's card has been lost, stolen, mutilated or destroyed. The department shall issue a duplicate card to the applicator or technician upon payment of the costs of duplication.

**2 VAC 20-51-30. Specific certification requirements for commercial applicators.**

A. In addition to the general requirements listed in 2 VAC 20-51-20, applicants for commercial applicator certification shall meet the following requirements:

1. Certification as a registered technician, as well as employment as a registered technician for at least a year; or
2. One year of education, training, or experience in a pesticide related field which provides the equivalent practical knowledge of proper pesticide use required of a registered technician.

B. The application process for commercial applicators is as follows:

1. The application must be in writing to the commissioner; and
2. The application must contain:
  - a. Name;
  - b. Principal business address in the Commonwealth and elsewhere;
  - c. Qualifications and proposed operations; and
  - d. Classification(s) desired.

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Individuals seeking certification as commercial applicators must pay a fee as determined by regulations promulgated by the Pesticide Control Board.

C. Applicants shall, within 90 days after submitting the application and paying the fee, report to an authorized testing location and take the required examinations.

D. Aerial pesticide application applicants must meet the requirements of the Federal Aviation Agency, the Department of Aviation of the Commonwealth, and any other applicable federal or state laws or regulations to operate aerial equipment.

## **2 VAC 20-51-40. Specific certification requirements for private applicators.**

A. Each applicant for a private applicator's certificate shall apply to the commissioner [ ~~by reporting~~ and then report ] to an authorized testing location [ within 90 days ] and [ ~~taking~~ take ] an examination for each certification category, specified in 2 VAC 20-51-80, applicable to his operation. The [ ~~completed examination or examinations, when forwarded by the test proctor to the department for scoring, shall serve as the~~ ] application [ shall contain the applicant's name, address and classification desired ] for certification.

B. Persons who cannot read or understand labels will not be certified as private applicators. After consulting the appropriate Virginia Cooperative Extension Service agent, a department pesticide investigator may recommend that the board grant a waiver of the literacy requirement. Persons certified under this waiver shall obtain certification in the categories of limited certificate or single product certification as described in [ ~~2 VAC 20-51-80~~ 2 VAC 20-51-80 ]. Recommendations shall be based upon personal knowledge of the individuals' competence to apply restricted use pesticides on their own properties.

## **2 VAC 20-51-50. Certification procedures for registered technicians.**

A. In addition to the general requirements listed in 2 VAC 20-51-20, individuals seeking certification as registered technicians must:

1. Receive on-the-job training in the proper application of pesticides under the direct on-site supervision of a certified commercial applicator for at least 20 hours during the six-month period prior to applying for certification;
2. Complete at least 20 hours of board approved training;
3. Submit an application form with the fee established by regulations of the Pesticide Control Board; and
4. Pass the examination within 90 days after submitting the application and paying the fee.

B. Certified commercial applicators may apply to the commissioner, or his duly authorized agent, in writing, for authorization to proctor the registered technician exam.

Authorized proctors may administer and grade the examinations, and shall notify the commissioner, or his duly authorized agent, of the grade received by the applicant. Failure to safeguard examination materials or follow testing procedures shall result in revocation of authority to proctor the registered technician examination.

## **2 VAC 20-51-60. Persons exempt from certification.**

The following persons are exempt from certification:

1. Persons conducting laboratory research involving restricted use pesticides;
2. Doctors of medicine or doctors of veterinary medicine applying pesticides as drugs or medication during the course of their practice, or to control pests in corpses;
3. Persons who use or supervise the use of nonrestricted use pesticides as part of their duties only on properties owned or leased by their employers, except those persons identified in 2 VAC 20-51-20 B;
4. Persons who provide janitorial or cleaning services using nonrestricted use sanitizers, disinfectants, and germicides;
5. Painters who apply restricted-use marine antifoulant paint under the direct supervision of a commercial applicator. One commercial applicator shall be present for every eight painters;
6. Forestry applicators [ standing on the ground ] who apply general use herbicides for forest vegetation control and tree thinning under the direct onsite supervision of a commercial applicator. One commercial applicator shall be present for every eight forestry applicators and be within voice contact of [ and no more than 200 feet from ] such applicators; and
7. Individuals engaged in the training required for certification while under the direct on-site supervision of a certified applicator.

### **PART III.**

#### **CATEGORIES OF PESTICIDE APPLICATOR CERTIFICATION.**

## **2 VAC 20-51-70. Categories for commercial applicator certification.**

A. Commercial applicators must be certified in one or more of the following commercial applicator categories or subcategories:

1. Agricultural pest control.
  - a. Agricultural plant pest control. This subcategory is for commercial applicators who will be using or supervising the use of pesticides in production of agricultural crops, or on grasslands, or noncrop agricultural lands.
  - b. Agricultural animal pest control. This subcategory is for commercial applicators who will be using or

supervising the use of pesticides on agriculturally related animals.

c. *Fumigation of soil and agricultural products.* This subcategory is for commercial applicators who will be using or supervising the use of pesticides for soil fumigation in production of an agricultural commodity and the application of pesticides for fumigation of agricultural products. Certification in this subcategory requires concurrent certification in the agricultural plant pest control category.

d. *Chemigation.* This subcategory is for commercial applicators who will be using or supervising the use of pesticides through an irrigation system. Certification in this subcategory requires concurrent certification in the agricultural plant pest control category.

2. *Forest pest control.* This category is for commercial applicators who will be using or supervising the use of pesticides in forests, forest nurseries, and seed orchards.

3. *Ornamental and turf pest control.*

a. *Ornamental pest control.* This subcategory is for commercial applicators who will be using or supervising the use of pesticides in the maintenance and production of ornamental trees, shrubs, and flowers in and out-of-doors.

b. *Turf pest control.* This subcategory is for commercial applicators who will be using or supervising the use of pesticides in the production and maintenance of turf, including, but not limited to, turf in golf courses, residential lawns, parks, and cemeteries.

4. *Seed treatment (excluding fumigation).* This category is for commercial applicators who will be using or supervising the use of pesticides on seeds.

5. *Aquatic pest control.*

a. *Aquatic pest control - general.* This subcategory is for commercial applicators who will be using or supervising the use of pesticides in or on standing or running water, for the express purpose of controlling pests (this excludes applicators engaged in public health related activities included in subdivision 8 of this subsection, "public health pest control").

b. *Marine antifoulant paints.* This subcategory is for commercial applicators who will be using or supervising the use of marine antifoulant paints containing tributyltin or other pesticides.

6. *Right-of-way pest control.* This category is for commercial applicators who will be using or supervising the use of pesticides in the maintenance of public rights-of-way and in the maintenance of fence lines, structural perimeters or other similar areas.

7. *Industrial, institutional, structural, and health-related pest control.*

a. *General pest control (excluding fumigation).* This subcategory is for commercial applicators who will be using or supervising the use of pesticides to control household type pests, pests that inhabit or infest structures, stored products, and residential food preparation areas, and pests capable of infesting or contaminating foods and foodstuffs at any stage of processing facilities.

b. *Wood-destroying pest control (excluding fumigation).* This subcategory is for commercial applicators who will be using or supervising the use of pesticides to control organisms that destroy structures made of wood.

c. *Fumigation.* This subcategory is for commercial applicators who will be using or supervising the use of fumigant-type pesticides.

d. *Vertebrate pest control (excluding structural invaders).* This subcategory is for commercial applicators who will be using or supervising the use of pesticides to control vertebrate pest animals.

e. *Sewer root pest control.* This category is for commercial applicators who use pesticides for sewer line root control.

8. *Public health pest control.* This category is for commercial applicators who will be using or supervising the use of pesticides for the management and control of pests having medical and public health significance.

9. *Regulatory pest control.* This category is for federal, state, and local governmental employee applicators who will be using or supervising the use of pesticides in the control of regulated pests.

10. *Demonstration and research pest control.* This category is for commercial applicators who will be demonstrating the proper use and techniques of application of pesticides (including classroom demonstration), or who will be supervising such demonstration. It also includes applicators who will be conducting pesticide research on greenhouse or field plots.

11. *Aerial pesticide application.* This category is for commercial applicators who will be using or supervising the use of any pesticide applied by fixed- or rotary-wing aircraft.

12. *Wood preservation and wood product treatment.* This category is for commercial applicators who will be using or supervising the use of pesticides at treating plants and sawmills for preservative treatment of wood and wood products.

B. A commercial applicator certified in one category and seeking initial certification in one or more additional categories shall meet the certification requirements of each of the new categories in which he desires certification.

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## **2 VAC 20-51-80. Categories for private applicator certification.**

Private applicators who apply or supervise the application of restricted use pesticides shall be certified in one or more of the following categories:

1. Food, fiber, forestry products, and commodity production. Includes private applicators who use or supervise the use of restricted use pesticides: in the production of agricultural crops [ , including fumigation and chemigation ]; forestry products; on animals; in places where animals are confined; for the control of vertebrate pests of agricultural crops and livestock animals; in the production of agricultural commodities; and for the fumigation of agricultural products.
2. Ornamental production. Includes private applicators who use or supervise the use of restricted use pesticides to control pests: in tree nurseries; shrub nurseries; ornamental plant nurseries; flower nurseries; in greenhouses used for breeding and growing ornamental plants; [ ~~and~~ ] in irrigation systems [ ; and in ornamental production using fumigants ].
3. Limited certificate--single product/single use. Includes private applicator applicants who are seeking authorization to apply a single restricted use pesticide for a single identified purpose. This category is intended for limited use under special or emergency circumstances as identified by the board on a case-by-case basis.
4. Single product certification. Includes private applicator applicants who are seeking authorization to apply a single identified restricted use product, or related restricted use products with the same active ingredient and with a similar formulation and use. This category is intended for limited use under special or emergency circumstances as identified by the board.

### PART IV.

#### KNOWLEDGE REQUIRED FOR CERTIFICATION OF PESTICIDE APPLICATORS.

## **2 VAC 20-51-90. Determination of general knowledge and qualifications for private and commercial applicators and registered technicians.**

A. Applicants shall be tested on their knowledge and qualifications concerning the use and handling of pesticides. The examination will test the applicants' general knowledge required for all categories, and the additional knowledge specifically required for each category or subcategory in which an applicator desires to be certified.

B. All applicants for certification as private or commercial applicators or registered technicians shall demonstrate practical knowledge of the principles and practices of pest control and the safe use of pesticides [ , as contained in a basic pesticide applicator certification training core manual ]. Testing will be based on problems and situations in the following areas [ ~~as contained in the current core manual authorized by the board~~ ]:

1. Federal and Commonwealth of Virginia pesticide laws and regulations;
2. Understanding and interpreting pesticide labels;
3. Handling of accidents and incidents;
4. Proper methods of storing, mixing/loading, transporting, handling, applying, and disposing of pesticides;
5. Safety and health, including proper use of personal protective equipment;
6. Potential adverse effects caused by various climatic or environmental conditions, such as drift from the target area, pesticide run-off, ground water and drinking water contamination, and hazard to endangered species; and
7. Recognizing common pests and general pest biology.

## **2 VAC 20-51-100. Specific knowledge required for the categories of commercial applicators.**

Applicants for commercial applicator certification shall possess the skills and knowledge associated with the chosen category(s) [ as they pertain to those items listed in 2 VAC 20-51-90 B 1 through 6, including recognizing category specific pests and their biology ] as contained in [ ~~the most current~~ a Virginia ] category specific training manual(s) [ ~~authorized by the board~~ ].

## **2 VAC 20-51-110. Specific knowledge required for the categories of private applicators.**

[ ~~Specific knowledge required for the categories under private applicator may be found in the most current core manual authorized by the board.~~ Applicants for private applicator certification shall possess the skills and knowledge associated with the chosen category(s) as they pertain to those items listed in 2 VAC 20-51-90 B 1 through 6, including recognizing category specific pests and their biology as contained in a Virginia category specific certification training manual(s). ]

## **2 VAC 20-51-120. Specific knowledge required for registered technicians.**

[ ~~Specific knowledge required for the registered technician category may be found in the most current core manual authorized by the board.~~ Additionally In addition to the skills and knowledge required in 2 VAC 20-51-90 B 1 through 6 ], the applicant shall obtain the required amount of on-the-job training [ ~~τ~~ ] as discussed in 2 VAC 20-51-50.

### PART V.

#### RENEWAL OF CERTIFICATION AND CERTIFICATES.

## **2 VAC 20-51-130. Renewal of certification.**

A. Any certified pesticide applicator or registered technician who desires to renew his certification shall do so biennially for the category or subcategory for which he is certified. All applicators must first attend board approved recertification course(s) and submit proof of attendance at such courses, or be reexamined in basic pesticide safety and

the categories desired for recertification. In addition to the above requirement, commercial applicators and registered technicians shall also pay the biennial certificate fee and submit an application for renewal before the commissioner will renew their certification.

B. Certified applicators may accumulate up to four years of credit by attending board approved recertification courses.

C. Upon expiration of certification, the applicator's certificate shall become invalid. Any pesticide applicator or registered technician who desires to renew his certification, but fails to do so within 60 days after its expiration, shall be reexamined.

## **2 VAC 20-51-140. Reexamination.**

Reexamination or special examination will be required by the board of any commercial applicator or registered technician under the following circumstances:

1. Certificate has been suspended or revoked;
2. Significant technological advances have occurred in the category or subcategory for which the applicator or registered technician has been certified, requiring additional knowledge;
3. Additional standards established by the EPA require reexamination;
4. Commercial applicator or registered technician desires certification in an additional category; or
5. Regulations require reexamination.

## **PART VI.**

### **SUSPENSION AND REVOCATION OF CERTIFICATES.**

## **2 VAC 20-51-150. Summary suspension by commissioner.**

A. The commissioner may summarily suspend the certificate of any person without a hearing if he finds there is any substantial danger, or threat of substantial danger, to the public health, safety, or environment which warrants the summary suspension. The commissioner shall schedule a hearing for a date not exceeding five working days after the date of the summary suspension.

B. No person whose certificate has been suspended may engage in the activity for which he had been certified.

## **2 VAC 20-51-160. Revocation of certificate by the board.**

A. Any of the violative acts listed under § 3.1-249.63 C of the Code of Virginia shall constitute grounds for revocation by the board of a certificate.

B. The board shall suspend the license or certificate of an individual if a civil penalty issued to the person is not paid within 60 days of issuance unless the business or person challenges such civil penalty pursuant to [ ~~subsection F of~~ ] § 3.1-249.70 [ F of the Code of Virginia ].

## **PART VII.**

### **REPORTING OF PESTICIDE ACCIDENTS, INCIDENTS, OR LOSS.**

## **2 VAC 20-51-170. Reporting of pesticide accidents and incidents.**

A. Commercial or private applicators or registered technicians shall report any pesticide accident or incident in which they are involved that constitutes a threat to any person, to public health or safety, or to the environment, as a result of the use or presence of any pesticide. The accident or incident shall be reported whether or not a restricted use pesticide is involved.

B. The applicator shall make the initial notification to the department's Office of Pesticide Services by telephone within a reasonable time, not to exceed 48 hours after the accident or incident occurrence, should circumstances prevent immediate notification. The applicator shall prepare and submit a full written report of the accident or incident to Office of Pesticide Services within 10 days after the initial notification.

C. When the accident or incident involves a discharge or spillage of a pesticide the applicator shall contact the department for guidance to determine whether the discharged or spilled amount is a reportable quantity [ ~~as set forth in the guidelines established pursuant to the Resource Conservation and Recovery Act (42 USC § 6901 et seq.).~~ ]

D. The applicator shall make the initial notification to the department's Office of Pesticide Services by telephone within a reasonable time, not to exceed 48 hours after the accident or incident occurrence, should circumstances prevent immediate notification. The applicator shall prepare and submit a written report of the accident or incident to the Office of Pesticide Services within 10 working days after the initial notification. The report shall include the following:

1. Name of individuals involved in accident or incident;
2. Name of pesticide involved;
3. Quantity of pesticide spilled, and containment procedures;
4. Time, date, and location of accident or incident;
5. Mitigating actions taken; and
6. Bodies of water nearby.

## **PART VIII.**

### **RECIPROCAL AGREEMENT.**

## **2 VAC 20-51-180. Issuance of a certificate on a reciprocal basis.**

A. A person who is certified by another state or by a federal agency may make written application to the commissioner, or his duly authorized agent, for issuance of a certificate on a reciprocal basis without examination, in accordance with § 3.1-249.57 of the Code of Virginia. Along with his written application, an applicant shall either (i)

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# Final Regulations

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present an original certificate issued by the state of origin or issued by a federal agency or (ii) request that the state of origin or federal agency send an attested copy of the applicant's certification directly to the commissioner or his duly authorized agent.

The applicant shall either include a document granting power of attorney to a resident of Virginia to receive process or provide proof that the applicant has appointed a registered agent under the laws of the Commonwealth. Reciprocal certification shall not be granted based on reciprocal certification issued in another state.

B. Any certificate issued on a reciprocal basis may be suspended in the same manner and on the same grounds as a Virginia certificate pursuant to the provisions of Chapter 14.1 (§ 3.1-249.27 et seq.) of Title 3.1 of the Code of Virginia. A certificate issued on a reciprocal basis may also be suspended if the nonresident's original certificate or federal certification is suspended or revoked.

## **2 VAC 20-51-190. Reciprocal recertification.**

Reciprocal recertification shall be granted to out-of-state applicators if they: (i) maintain certification in their home state; (ii) provide proof of current certification to the commissioner prior to the date of Virginia certification expiration; (iii) are currently certified in a state that grants reciprocal recertification to Virginia applicators in like categories; (iv) have met all other Virginia requirements for recertification.

### PART IX. RECORDKEEPING.

## **2 VAC 20-51-200. General recordkeeping requirements for commercial applicators not for hire.**

A. Commercial applicators not for hire, being exempt from the pesticide business license requirement of the board and the recordkeeping requirements under this license, are required to maintain pesticide application records as prescribed in this chapter. These records shall be maintained by the commercial applicator not for hire for a period of two years.

B. Records governed by this regulation shall be made available for inspection by the commissioner, or his duly authorized agent, during normal business hours upon written request. Records not readily available shall be submitted to the commissioner within 72 hours, if so requested, in writing.

C. Persons possessing records governed by this part shall fully comply with the requirements contained in 7 USC § 136f and regulations adopted pursuant thereto.

## **2 VAC 20-51-210. Specific recordkeeping requirements for commercial applicators not for hire.**

Commercial applicators not for hire shall maintain a record of each restricted use pesticide applied, containing the following:

1. Name of property owner, address or location, and, as applicable, phone number of the site of application;

2. Name and certification number (or certification number of the supervising certified applicator) of the person making the application;

3. Day, month, and year of application;

4. Type of plants, crops, animals, or sites treated and principle pests to be controlled;

5. Acreage, area, or number of plants or animals treated;

6. Brand name or common product name of pesticide used;

7. EPA registration number;

8. Amounts of pesticide concentrate and amount of diluent used, by weight or volume, in mixture applied; and

9. Type of application equipment used.

**NOTICE:** The forms used in administering 2 VAC 20-51-10 et seq., Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act, are listed below and are published following the listing.

Commercial Pesticide Applicator Certification Application [ - A ], Form VDACS-07211 (eff. [ ~~7/95~~ 11/98 ]).

Pesticide Registered Technician Application, Form VDACS-07212 (eff. [ ~~7/95~~ 11/98 ]).

[ Private Pesticide Applicator Request for Authorization to Take Pesticide Applicator Examination at Department of Motor Vehicles Customer Service Center (eff. 12/98). ]

Application for Reciprocal Pesticide Applicator Certificate, Form VDACS-07210 (eff. 7/95).

Power of Attorney (not dated).

Commercial Pesticide Applicator [ ~~Certification Examination~~ ] Request for [ ~~Retesting, Additional Category, Reinstatement, or Recertification~~ Authorization to Take Pesticide Applicator Examination - B ], Form VDACS-07218 (eff. [ ~~7/95~~ 11/98 ]).

Commercial Pesticide Applicator Certification Exam, Form VDACS-07216 (not dated).

Virginia Registered Technician Certification Examination Answer Sheet (eff. [ ~~6/95~~ 2/98 ]).

Not-For-Hire Virginia Registered Technician Certification Examination Answer Sheet (eff. [ ~~6/95~~ 2/98 ]).

**PESTICIDE REGISTERED TECHNICIAN APPLICATION**  
**VIRGINIA DEPARTMENT OF AGRICULTURE**  
**AND**  
**CONSUMER SERVICES**

P. O. Box 526  
 Richmond, Virginia 23218-0526

In accordance with Section 3.1-249.52 of the Virginia Pesticide Control Act, and regulations adopted thereunder, application is hereby made for CERTIFICATION as a REGISTERED TECHNICIAN. Registered Technicians may apply for general-use pesticides unsupervised, and restricted-use pesticides only under the direct supervision of a Certified Commercial Applicator.

The annual non-refundable certification fee is \$ 15.00. Please make check payable to: **Treasurer of Virginia**. Mail application and check to the above address. Federal, State, and Local Government employees are exempt from fee. Certificates expire on June 30.

New applicator  Retesting  Reinstatement

Please check the appropriate boxes below:

Please type or print the following information:

SOCIAL SECURITY NO.: \_\_\_\_\_  
 NAME OF APPLICANT: \_\_\_\_\_ (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (M.I.)  
 MAILING ADDRESS: \_\_\_\_\_ (Street or RFD) \_\_\_\_\_ STATE \_\_\_\_\_ COUNTY \_\_\_\_\_ (M.I.)  
 CITY: \_\_\_\_\_  
 EMPLOYED BY (Company or agency you work for): \_\_\_\_\_  
 PESTICIDE BUSINESS LICENSE NO.: \_\_\_\_\_ BUSINESS PHONE NO.: \_\_\_\_\_  
 BUSINESS ADDRESS: \_\_\_\_\_ (Street or RFD) \_\_\_\_\_ COUNTY \_\_\_\_\_  
 CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

NAME OF SUPERVISING COMMERCIAL APPLICATOR TRAINER: \_\_\_\_\_ CERT. NUMBER: \_\_\_\_\_  
 I certify that I have received at least 40 hours of training in the skills necessary to properly apply pesticides in the performance of my job, and I agree to abide by all the laws, rules and regulations governing pesticide usage.

(Signature of Applicant) \_\_\_\_\_ DATE: \_\_\_\_\_  
 (Signature of Commercial Applicator Trainer) \_\_\_\_\_ DATE: \_\_\_\_\_

AMOUNT TO REMIT: \$ 15.00  
 VDACs ACCT. 756-02-02437  
 VDACs-07212 1/198

(SEE REVERSE SIDE FOR TRAINING REQUIREMENTS AND INSTRUCTIONS)



**COMMERCIAL PESTICIDE APPLICATOR**  
**CERTIFICATION APPLICATION**  
**VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

P. O. Box 526  
 Richmond, Virginia 23218-0526

In accordance with Section 3.1-249.52 of the Virginia Pesticide Control Act, and regulations adopted thereunder, application is hereby made for CERTIFICATION as a Commercial Applicator in Virginia.

The annual non-refundable certification fee is \$ 35.00. Please make check payable to: **Treasurer of Virginia**. Mail application and check to the above address. Federal, State, and Local Government employees are exempt from fee. Certificates expire on June 30.

**CERTIFICATE CLASS DESIRED** (Please check only one of the following four classes of certification listed below):

COMMERCIAL (FOR-HIRE)  
 NOT-FOR-HIRE COMMERCIAL  
 GOVERNMENT EMPLOYEE  
 INACTIVE (Not Currently Employed)

Please type or print the following information:

SOCIAL SECURITY NO.: \_\_\_\_\_ HOME PHONE NO.: \_\_\_\_\_  
 NAME OF APPLICANT: \_\_\_\_\_ (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (M.I.)  
 MAILING ADDRESS: \_\_\_\_\_ (Street or RFD) \_\_\_\_\_ COUNTY \_\_\_\_\_  
 CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_  
 EMPLOYED BY (Company or agency you work for): \_\_\_\_\_  
 VIRGINIA PESTICIDE BUSINESS LICENSE NO.: \_\_\_\_\_ BUSINESS PHONE NO.: \_\_\_\_\_  
 BUSINESS ADDRESS: \_\_\_\_\_ (Street or RFD) \_\_\_\_\_ COUNTY \_\_\_\_\_  
 CITY: \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

Please check all of the appropriate qualifications below by which you are eligible to apply for a Commercial Pesticide Applicator Certification.

Currently hold a valid Virginia Registered Technician Certificate and have worked in Virginia as a Certified Registered Applicator for at least one year. Please print your certificate number: \_\_\_\_\_  
 Have at least one year of formal education and/or training in a pesticide related field.  
 Have at least one year of formal education and/or training in a pesticide related field.

Please give a brief explanation, including dates, of your experience, training, and/or education: \_\_\_\_\_

I request to be examined for the core exam<sup>\*\*\*</sup> and the following category exams (please refer to the description of certification categories listed in the instructions)

CATEGORY NO.	CATEGORY TITLE	CATEGORY NO.	CATEGORY TITLE
(1)	_____	(3)	_____
(2)	_____	(4)	_____

\*\*\* The core exam is not required for individuals requiring certification in category 5B - Marine Antifoulant Paints.

I certify that I meet the eligibility requirements for commercial certification. I further certify that I have been trained in the and regulations governing pesticide usage in Virginia.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_  
 AMOUNT TO REMIT: \$ 35.00  
 VDACs ACCT. 756-02-02656  
 VDACs-07211 1/198

(SEE REVERSE SIDE FOR TRAINING/ELIGIBILITY REQUIREMENTS AND INSTRUCTIONS)

## APPLICATION FOR RECIPROCAL PESTICIDE APPLICATOR CERTIFICATE

### Mailing Address:

Virginia Department of Agriculture & Consumer Services  
P. O. Box 526  
Richmond, Virginia 23218-0526

### Physical Location:

VDACS/Office of Pesticide Services  
1100 Bank St., Room 401  
Richmond, Virginia 23219

In accordance with Section 3.1-246.57 of the Virginia Pesticide Control Act, application is hereby made for CERTIFICATION as a COMMERCIAL PESTICIDE APPLICATOR Under the Reciprocal Agreement between the Commonwealth of Virginia and the State of \_\_\_\_\_ Certificates expire on June 30 each year. Certificates must be renewed by June 30 each year to avoid payment of a 20% late fee.

Certificate fee is \$35.00 annually (ALL FEES ARE NON-REFUNDABLE). Make check payable to: **Treasurer of Virginia.** Mail application, check, and other required forms to the above address. FEDERAL, STATE, AND LOCAL GOVERNMENT EMPLOYEES ARE EXEMPT FROM PAYING FEE.

Please type or print the following information:

Cal.#	Title	Cal.#	Title
_____	_____	_____	_____
_____	_____	_____	_____
(see reverse side for applicator categories)			
CERTIFICATE CLASS DESIRED: (check appropriate class)			
Commercial (For Hire) _____		Not-For-Hire Commercial _____ Gov't Employee _____	
Social Security #: _____ COUNTY: _____			
APPLICANT'S NAME _____			
MAILING ADDRESS: _____ (Last)		_____ (First) _____ (M.I.)	
CITY: _____		STATE: _____ ZIP CODE: _____	
EMPLOYED BY: _____			
VA. PESTICIDE BUSINESS LICENSE #: _____		BUSINESS PHONE #: _____	
BUSINESS ADDRESS: _____ (Street or RFD) _____ (City, State, Zip)			
NAME AND TITLE OF SUPERVISOR: _____			

I certify that I have been trained in the specific skills necessary to properly apply pesticides in the performance of my job, and I agree to abide by all laws, rules and regulations governing pesticide usage in Virginia.

(Signature of Applicant) \_\_\_\_\_ Date: \_\_\_\_\_

AMOUNT TO REMIT: \$ 35.00

VDACS ACCT: 756-02-02656

VDACS-07210 07/95

FOR DEPARTMENTAL USE ONLY

Comm Appl. # \_\_\_\_\_

Date of Issue \_\_\_\_\_

Keyed to Database by \_\_\_\_\_

## VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Pesticide Services  
P. O. Box 1163  
Richmond, VA 23218

PRIVATE PESTICIDE APPLICATOR REQUEST FOR AUTHORIZATION  
TO  
TAKE PESTICIDE APPLICATOR EXAMINATION AT  
DEPARTMENT OF MOTOR VEHICLES CUSTOMER SERVICE CENTER

Please check the appropriate box below:

- New Applicator  Retesting  Reinstatement

PLEASE TYPE OR PRINT THE FOLLOWING INFORMATION:

Person taking the Virginia Private Pesticide Applicator Exam:

SOCIAL SECURITY NO.: \_\_\_\_\_

HOME PHONE NO.: \_\_\_\_\_ (Area Code)

NAME OF APPLICANT: \_\_\_\_\_ (Last) \_\_\_\_\_ (First) \_\_\_\_\_ (M.I.)

MAILING ADDRESS: \_\_\_\_\_ (Street or RFD)

COUNTY: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

FOR DEPARTMENT USE ONLY:  
Date Keyed: \_\_\_\_\_  
Keyed to Database by: \_\_\_\_\_

12/98



COMMERCIAL PESTICIDE APPLICATOR
REQUEST FOR AUTHORIZATION TO TAKE
PESTICIDE APPLICATOR EXAMINATION

(Do not use for certificate renewal)

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Richmond, Virginia 23219-0528

In accordance with the Virginia Pesticide Control Act and regulations adopted thereunder, application is hereby made to take one or more written examinations for COMMERCIAL PESTICIDE APPLICATOR. (SEE BACK FOR DEFINITIONS)

Check reason for requesting examination:

- Retake previous exams not passed
Please certified in one or more additional pest control categories.
Recertify in lieu of attending a recertification course. All fees waived if the test is administered prior to August 29th and the annual non-refundable certification fee has already been paid.
The annual non-refundable certification fee is \$35.00. Please make check payable to: Treasurer of Virginia. Mail application and check to the above address. Federal, State, and Local Government employees are exempt from fee.
Certificates expire on June 30.

CERTIFICATE CLASS DESIRED (Please check only one of the following four classes of certification listed below):

- COMMERCIAL (FOR-HIRE)
NOT-FOR-HIRE COMMERCIAL
GOVERNMENT EMPLOYEE
INACTIVE (Not Currently Employed)

Please type or print the following information:

SOCIAL SECURITY NO.: COMMERCIAL CERTIFICATE NO.:
NAME OF APPLICANT: (Last) (First) (MI)
MAILING ADDRESS: COUNTY:
CITY: (Street or RFD) STATE: ZIP CODE:
EMPLOYED BY (Company or agency you work for):
VA PESTICIDE BUSINESS LICENSE NO.: BUSINESS PHONE NO.:
BUSINESS ADDRESS: COUNTY: ZIP CODE:
CITY: (Street or RFD) STATE: ZIP CODE:

I request to be examined in the following categories (please refer to the description of certification categories listed in the instructions):

Table with 4 columns: CATEGORY NO., CATEGORY TITLE, CATEGORY NO., CATEGORY TITLE. Rows 1 and 2.

(Please note: If you are retaking exams and have not yet passed the Core Exam, or if you are reinstating an expired certification, you are required to take and pass the Core Exam in addition to any category specific exams you may have listed above.)

I certify that I have the necessary experience, training and/or education to properly apply pesticides in the performance of my job, and I agree to abide by all laws, rules, and regulations governing pesticide usage in Virginia.

Signature of Applicant: Date:

FOR DEPARTMENT USE ONLY
Keyed for authorization letter: (date) by (initial)
Keyed for certification on: (date) (initial)
AMOUNT TO REMIT: \$35.00
VDACS ACCT. 756-02-02556
VDACS-07218 1/98

(SEE REVERSE SIDE FOR COMMERCIAL APPLICATOR CATEGORIES)



VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Division of Consumer Protection
Office of Pesticide Services
P O Box 1163, Richmond VA 23218

POWER OF ATTORNEY

The following is for use by non-Virginia residents in designating an agent upon whom service of process (summons to court, etc.) may be had in the event of any suit against such non-resident person. You, as a non-resident pesticide applicator, may designate either the Secretary of the Commonwealth of Virginia as that agent or a duly appointed resident agent by completing and filing the following information.

Please complete and file in duplicate. Enclose with this form, a check for \$3.00 made payable to the SECRETARY OF THE COMMONWEALTH and mail to the above address.

KNOWN ALL MEN BY THESE PRESENTS: THAT \_\_\_\_\_ (Applicant's name and address) residing at \_\_\_\_\_

does hereby make, constitute, and appoint \_\_\_\_\_ (Name and Address of agent) OR \_\_\_\_\_

does hereby make, constitute and appoint the SECRETARY OF THE COMMONWEALTH OF VIRGINIA, and his successor or successors in office to be the true and lawful agent and attorney-in-fact upon whom all legal processes against said non-resident person may be served; and the said person hereby stipulates and agrees that any lawful process against the said person which is duly served on said agent and attorney-in-fact shall be of the same legal force and validity as if served on said person.

IN WITNESS WHEREOF the said person has executed and subscribed this Power of Attorney in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

ATTEST: \_\_\_\_\_ (Witness's Signature)

State of \_\_\_\_\_ City (or County) of \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the State and city or county aforesaid, hereby certify that \_\_\_\_\_ and \_\_\_\_\_ (Applicant's Name) whose names are signed to the foregoing Power of Attorney, have acknowledged the same before me in my city or county aforesaid. Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public: \_\_\_\_\_ My Commission Expires: \_\_\_\_\_

Affix Official Seal



Category Name Registered Technician Score \_\_\_\_\_  
 Category No. 60 Test Version No. 3 Proctor's Certificate No. \_\_\_\_\_  
 \*\*\*\*\*NOT-FOR-HIRE\*\*\*\*\*  
**VIRGINIA REGISTERED TECHNICIAN CERTIFICATION**  
 \*\*\*\*\*EXAMINATION\*\*\*\*\*  
 ANSWER SHEET

DATE \_\_\_\_\_ SOCIAL SECURITY NO. \_\_\_\_\_  
 NAME OF APPLICANT: \_\_\_\_\_ (Last) \_\_\_\_\_ (M.I.)  
 MAILING ADDRESS: \_\_\_\_\_ (Street or RFD) \_\_\_\_\_ COUNTY: \_\_\_\_\_  
 CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
 HOME PHONE NUMBER: \_\_\_\_\_  
 EMPLOYED BY (Company or agency you work for): \_\_\_\_\_  
 BUSINESS PHONE NO: \_\_\_\_\_

1. \_\_\_\_\_ 27. \_\_\_\_\_ 40. \_\_\_\_\_  
 2. \_\_\_\_\_ 28. \_\_\_\_\_ 41. \_\_\_\_\_  
 3. \_\_\_\_\_ 29. \_\_\_\_\_ 42. \_\_\_\_\_  
 4. \_\_\_\_\_ 30. \_\_\_\_\_ 43. \_\_\_\_\_  
 5. \_\_\_\_\_ 31. \_\_\_\_\_ 44. \_\_\_\_\_  
 6. \_\_\_\_\_ 32. \_\_\_\_\_ 45. \_\_\_\_\_  
 7. \_\_\_\_\_ 33. \_\_\_\_\_ 46. \_\_\_\_\_  
 8. \_\_\_\_\_ 34. \_\_\_\_\_ 47. \_\_\_\_\_  
 9. \_\_\_\_\_ 35. \_\_\_\_\_ 48. \_\_\_\_\_  
 10. \_\_\_\_\_ 36. \_\_\_\_\_ 49. \_\_\_\_\_  
 11. \_\_\_\_\_ 37. \_\_\_\_\_ 50. \_\_\_\_\_  
 12. \_\_\_\_\_ 38. \_\_\_\_\_  
 13. \_\_\_\_\_ 39. \_\_\_\_\_ (2/98)

-----cut along dotted line-----  
**TO BE COMPLETED UPON OBTAINING A PASSING SCORE!**  
**REGISTERED TECHNICIAN APPLICATOR CERTIFICATE**

This certifies that (full name) \_\_\_\_\_ has taken the Registered Technician Examination and achieved a passing score on (date) \_\_\_\_\_. I further certify that this technician is supervised by a certified commercial applicator: \_\_\_\_\_

Certified by: Signature of Proctor \_\_\_\_\_ Signature of Registered Technician \_\_\_\_\_  
 Date of Issue: \_\_\_\_\_

(Eff. 2/98)

VA.R. Doc. No. R97-428; Filed January 25, 1999, 1:46 p.m.

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# Final Regulations

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## TITLE 8. EDUCATION

### GEORGE MASON UNIVERSITY

**REGISTRAR'S NOTICE:** George Mason University is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

**Title of Regulation:** 8 VAC 35-30-10 et seq. **Space Utilization and Scheduling Policies and Procedures (amending 8 VAC 35-30-30, 8 VAC 35-30-50, 8 VAC 35-30-160, 8 VAC 35-30-200, 8 VAC 35-30-210, 8 VAC 35-30-220, 8 VAC 35-30-230 and 8 VAC 35-30-240).**

**Statutory Authority:** § 23-91.29 of the Code of Virginia.

**Effective Date:** January 18, 1999.

**Agency Contact:** Jeffrey A. Brandwine, Assistant Vice President for Legal Affairs, George Mason University, Department of Legal Affairs, MS 2A3, 4400 University Drive, Fairfax, VA 22030-4444, telephone (703) 993-2619 or FAX (703) 993-2340.

**Summary:**

*The regulation amends the guidelines and fee structure for rental of university facilities. This regulation applies to all university faculty, staff, students, and contractors and to organizations outside of the university who are given authorized use of university space and facilities.*

**8 VAC 35-30-30. Responsibilities.**

A. The responsibilities of the university departments and individuals charged with monitoring, scheduling, providing support services, and the day-to-day administrative coordination of this policy are set forth in this section.

B. *The Office of Events Management encompasses the Office of University Activities and Scheduling. The Office of Events Management shall have the responsibility of coordinating campus events for the university community as well as for outside groups who are using campus facilities or campus personnel for meeting planning.*

*The Director of the Office of Events Management is responsible for the following:*

1. *Overseeing scheduling and events coordination;*
2. *Actively pursuing the users of space on campus and ensuring that all university events are entered into the university database, including the events from the distributed campuses;*
3. *Warning users of space about potential conflicts;*
4. *Overseeing the university calendar and establishing workable plans for conflicts or tight scheduling;*
5. *Communicating problematic events for decision by an advisory board consisting of the Vice President for*

*University Relations, the Executive Officer, the Senior Vice President and the Provost;*

6. *Communicating the entire university schedule for the following offices: Information Services, Media Relations, Publications, Community Relations and any other offices which need this information and are not part of the events management team;*

7. *Overseeing special university events; and*

8. *Coordinating space requirements with the Office of the Registrar.*

*Event coordinators will oversee the set-up of all major events and attend the events to ensure that all goes well.*

*If an event is sponsored by an off-campus user, or if a faculty member is sponsoring an event off-campus, the customer will be assigned a conference administration coordinator. Conference administration coordinators will provide all services required by such customers. On-campus users may also use conference administration coordinators if their events have special requirements.*

*The point of contact will always be the Events Management Office, allowing fees to be charged when the university deems applicable and waived when the university feels it is in its interest to do so.*

~~B-~~ C. ~~The Events Event Scheduling Coordination~~ ~~Coordinator~~ Group shall have the responsibilities for monitoring this policy and recommending new or revised policies and procedures or both. The ~~Events Event Scheduling Coordination~~ ~~Coordinator~~ Group also exists to recommend a management system for scheduling and for conducting multiple nonacademic events at all George Mason University locations. The ~~coordination~~ coordinator group is charged to:

1. Identify and resolve problems and conflicts associated with event scheduling and management, focusing on long-term planning;
2. Develop logistical strategies for managing major, multiple, simultaneous events;
3. Establish a mechanism for resolving disputes not settled within the core group; and
4. Recommend policies, procedures, and communication networks to improve the management of university events.

The members of this group are listed in 8 VAC 35-30-210.

~~G-~~ D. The persons or departments, or both, responsible for scheduling university spaces governed by these policies and procedures are listed in 8 VAC 35-30-220. They are to schedule university space in accordance with the policies and procedures set forth in this chapter.

The persons or departments, or both, scheduling university spaces for events are to submit at a minimum the names of the events, place of the events, date(s), and times to the office of the University Scheduling

Coordinator/Information Services to be entered into the master event schedule and calendar; information entered must be entered or submitted by use of the Welber Facilities Scheduling System.

The persons or departments, or both, scheduling university space are responsible for scheduling only their ~~respected~~ *respective* spaces.

~~D.~~ *E.* Supplementary to the persons or departments, or both, scheduling space, the individuals responsible for support services are listed in 8 VAC 35-30-230. These individuals are responsible for planning and implementing the services necessary to support the event in accordance with this chapter.

~~E.~~ *F.* The University Scheduling Coordinator shall have the ~~responsibilities~~ *responsibility* of maintaining communication with all persons scheduling spaces, *with* support services and, when required, *with* users. The University Scheduling Coordinator's primary responsibility is to maintain a master schedule of the events for all George Mason University locations, ensure the dissemination of all necessary event information to the appropriate university departments, and ensure that all schedulers and users comply with the policies and procedures of this ~~document~~ *chapter*.

The University Scheduling Coordinator shall work with the ~~Events Event Scheduling Coordination~~ *Coordinator* Group. The University Scheduling Coordinator is responsible for scheduling and chairing the meetings of the ~~Events Event Scheduling Coordination~~ *Coordinator* Group.

### **8 VAC 35-30-50. Student unions and George W. Johnson Center.**

The first priority of the student unions is to accommodate the needs of the student or university sponsored programs that have the university community as the primary target or that are directly tied to a major university initiative. Programs internally directed that do not have the university community as the target audience receive second priority. Booked events receive third priority and community events receive fourth, all under the scheduling time sequences discussed in 8 VAC 35-30-40.

*The first priority of the George W. Johnson Center is to accommodate the needs of university programs that have the university community as the primary target or that are directly tied to a major university initiative. Programs internally directed that do not have the university community as the target audience receive second priority. Brokered events receive third priority and community events receive fourth priority, all under the scheduling time sequences discussed in 8 VAC 35-30-40.*

### **8 VAC 35-30-160. Fees and support costs.**

A. The user fees and support services cost schedules are presented in Part IX (8 VAC 35-30-240 [ ~~et seq.~~ ] ) of this *chapter*. The rental fees and support services costs shall be applicable to all users as defined in this section or as set forth in 8 VAC 35-30-170.

B. User fees are not normally charged to university schools, colleges, departments, institutes, centers, faculty, staff, and students for programs that relate to the educational and research mission of the university. Typical exceptions are events cosponsored with a nonuniversity group or agency in a profit-sharing contract. Support services and equipment fees may be charged.

C. User fees and support service fees, if required, shall be assessed to all other authorized groups for each day or part of a day for the time period of the facility use.

D. User fees and support service fees shall be reviewed and, where required, revised annually. The effective dates for fees shall coincide with the university's fiscal year calendar, unless otherwise noted.

E. Increases or decreases in fees listed for the facilities and services must be approved by the Office of the Executive Vice President for Finance and Planning. All increases and decreases in fees are to be submitted to the Director of ~~Auxiliary Enterprises~~ *University Services* for processing the approval. No fee change shall be implemented without the approval of the Office of the Executive Vice President for Finance and Planning.

### **8 VAC 35-30-200. Amendments and additions.**

All amendments and additions to this chapter are to be reviewed and approved by the Office of the ~~Executive Vice President for Administration and the Office of the Executive Vice President for Finance and Planning~~ *Provost and the Office of the Senior Vice President*.

### **8 VAC 35-30-210. Event Scheduling Coordinator Group.**

The Event Scheduling Coordinator Group exists to develop and implement a management system for scheduling university space and for conducting multiple events on campus. The members of the group are:

- University Scheduling Coordinator
- ~~Director of the Institute of~~ *General Manager, Center for the Arts*
- Director of Athletics
- Dean of Student Services
- ~~Student Union II Scheduling Coordinator~~
- Director of Operations, Student Union I & II, George W. Johnson Center*
- General Manager of the Patriot Center
- Director of Public Safety
- Vice President for Facilities
- Vice Provost for Academic Support
- Director of University Activities
- Director of Prince William Institute
- Director of ~~Auxiliary~~ *University Services*

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Director of Media Relations

~~Director of Arlington Campus/Quincy Street Professional Center~~

*Coordinator, Arlington Campus*

Director of Food Service

~~Director of Housing and Resident Life~~

*General Manager, Campus Hospitality*

Associate Director of Student Unions *and George W. Johnson Center*

~~Representative of the Student Union Board~~

Representative of the Student Government

Chairperson of the Faculty Senate Committee on Facilities and Support Services

Director of Conferences and Institutes for Center for Professional Development

In the event that the designated person listed is unable to attend a meeting, a representative shall be selected to attend in his absence.

## 8 VAC 35-30-220. Scheduling university spaces.

The persons or departments, or both, responsible for scheduling university spaces governed by this policy are:

### RESPONSIBLE

PERSON/DEPARTMENT

SPACE/FACILITY

~~Associate Director for Union Operations Events Management [ Office ]~~

Student Union I, Student Union II, *George W. Johnson Center*  
Academic Space: Nonclass activities during nonsummer term

~~Director of Student Organizations~~

~~Student Union I Quad and Grounds around Student Union II~~

Registrar

Academic Space: Classes only

Director of Summer Term

Academic Space: All activities during summer term

~~House Manager Events Coordinator, Center for the Arts~~

Center for the Arts (Concert Hall, ~~Institute of the Harris Theater, Black Box, Arts Theater Space and Dance Studios~~)

~~Director of the Professional Center Arlington Campus Coordinator~~

Arlington Campus Professional Center and GMU Quincy Street Station Professional Center, ~~George Mason University at the Center for Innovative Technology~~

~~Director of University Activities Office~~

Mason Hall and Plaza

Associate Dean, School of Law

Law School Facilities

Music Department Director

Music Rehearsal Rooms, Hemlock Overlook and Bull Run Marina

Director of Conferences and Institutes

Center for Professional Development

~~Director of Housing and Residence Life General Manager, Campus Hospitality~~

Housing

Director of Sports and Recreation Complex

Sports and Recreation Complex, Physical Education Building, Athletic Fields and Courts Areas

Associate Vice President for Operational Services

Outdoor space other than the Student Union I Quad, Athletic Fields, Mason Hall Plaza, and Student Union II Plaza and Court Area

Director, Center Management

Patriot Center

Director, Prince William Institute

Prince William Institute, Manassas

## 8 VAC 35-30-230. Scheduling university support services.

The persons responsible for scheduling university support services are:

PERSON

SUPPORT SERVICE

Director of Work Control, Physical Plant

Building and Grounds Custodial Electrical/Mechanical

Manager, Parking Services

Parking Lots Parking Technician

House Manager, Center for the Arts

House Manager Theater Technician Ushers

Director for Public Safety

Police Officers Traffic Control Officers

Director, Media Relations

Media

Director, Food Service

Food Service Catering

Associate Director, *George W. Johnson Center and Union Operations*

Union Housekeeping Union Audio Visual Equipment

~~Director, Housing and Residence Life General~~

Housekeeping within the student housing complex

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## Manager, Campus Hospitality

NOTE: Scheduling building and grounds and parking services for the Arlington Campus are the responsibilities of the staff located at the site.

### 8 VAC 35-30-240. Fees.

A. The fees associated with the use of George Mason University facilities and services are presented in this part. The fees listed are in effect for George Mason University fiscal year [ ~~1995~~ 1998-1999 ], unless noted otherwise.

Increases or decreases in fees listed for the facilities and services must be approved by the Office of the ~~Executive Vice President for Finance and Planning~~ *Senior Vice President*. All increases and decreases in fees are to be submitted to the Director of ~~Auxiliary Enterprises~~ *University Services* for processing the approval. No fee change shall be implemented without the approval of the Office of the ~~Executive Vice President for Finance and Planning~~ *Senior Vice President*.

B. Academic space is generally available only on weekends during the academic year through the facilities scheduling coordinator for student unions. Academic space during the summer is available on a first-come, first-served basis through the Summer Administration Office. Fees are rarely charged since almost all users are university related. At the Arlington Campus, space is generally available during the daytime. In the event fees are charged, they are as follows:

Lecture Halls	\$200 per day	
Classrooms (Main Campus)		
under 50 seat	\$50 per day	
50-100 seats	\$75 per day	
over 100 seats	\$100 per day	
Arlington Campus	Nonprofit Group	Profit Group
3rd floor conference room	\$150 per day	\$250 per day
classroom, 25-50 seats	\$100 per day	\$150 per day
classroom, 50-100 seats	\$125 per day	\$175 per day
classroom, 100+ seats	\$150 per day	\$200 per day
Study lounge	\$100 per day	\$150 per day
Metro Gallery	*\$100 per day	*\$150 per day

\*optional

Additional services for academic space will be charged in a manner similar to student unions.

C. *Programs and events should make appropriate use of the special facilities of the George W. Johnson Center according to the following criteria: collaborative and diverse, imaginative mix of curricular and cocurricular learning, and creative use of the unique resources.* Student union space is scheduled on a priority basis with university groups receiving the highest priorities and nonuniversity groups receiving lower priorities. Reservations are made through the ~~facilities scheduling coordinator of each student union building~~ *Events*

Management Office. The facility and equipment fees for nonuniversity groups are noted below:

	University Group	Nonuniversity Group	
		For Profit	Nonprofit
<b>Student Union I</b>			
Phase I Cafeteria	Free	\$50/6 hours	
Phase II Cafeteria	Free	\$150/6 hours	\$300
		\$400	
Rathskeller	Free	\$100/6 hours	
North Terrace	Free	\$50/6 hours	\$100
		\$150	
South Terrace	Free	\$50/6 hours	
Patriots Lounge	Free	\$150/6 hours	\$200
		\$300	
Meeting Room A, B and C	Free	\$50/6 hours	\$75/room
		\$100/room	
Table Space Rental	Free	\$50/table or \$25/table	\$100
		\$100	
		(sponsored university group)	
<b>Student Union II</b>			
Marketplace	Free	\$150/6 hours	\$300
		\$400	
Room 1-7	Free	\$50/6 hours	
<del>VIP 1-3</del>	Free	\$50/6 hours	
VIP I	Free	\$110	\$80
VIP II	Free	\$110	\$80
VIP III	Free	\$90	\$75
Ballroom	Free	\$1,000	\$800
Ballroom A - Back	Free	\$150/6 hours	\$200
		\$250	
Ballroom B - Mid	Free	\$150/6 hours	\$200
		\$250	
Ballroom C - Front	Free	\$300/6 hours	\$400
		\$500	
Ballroom A, B and C Whole	Free	\$500/6 hours	
Ballrooms A and B Back and Mid	Free	\$250/6 hours	
Ballrooms C and B Front and Mid	Free	\$400/6 hours	
Table Space	Free	\$25/table	
Table Rental	Free	\$150	\$150
TV/VCR	Free	\$30/6 hours	\$30
		\$30	
16MM projector	Free	\$30/6 hours	\$20
		\$20	
Lecternette	Free	\$20/6 hours	\$50
		\$75	
Slide projector	Free	\$20/6 hours	\$20
		\$20	

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Tape recorder	Free	\$20/6 hours	
Overhead	Free	\$20/6 hours	
Screen	Free	\$10/6 hours	
Easels	Free	Free \$2.00	\$1.00
Large portable sound-system	\$75/6 hours	\$200/6 hours	
Mid-portable sound-system	\$50/6 hours	\$175/6 hours	
Small portable sound-system	\$25/6 hours	\$150/6 hours	
Large DJ system	\$50/6 hours	\$175/6 hours	
Small DJ system	\$25/6 hours	\$150/6 hours	
Piano	Free	\$100	\$100
Pipe and drape	Free	\$5/6 ft panel	\$2.50/6 ft panel

Charge event additional- \$7.50/hr \$7.50/hr  
 \$7.50/hr/person \$7.50/hr/person

NOTE: Free events are those which are open to any student at George Mason University and which do not charge admission. Charge events are those which charge some type of admission or are open to only a particular group of students.

AV Technician \$7.50/hr/per person \$10/hr  
 Lights \$15/6 hrs \$50/6 hrs  
 Video Taping \$15/hr (includes tech) \$50/hr (includes tech)

D. Residential spaces and lounges are not normally available during the academic year. During the summer, however, facility use is available through the Summer Housing Office. Fees are as follows:

George W. Johnson Center				[ University Group ]	Nonuniversity Group
Bistro	Free	\$300	\$250		
Meeting rooms A-H	Free	\$125/room	\$100/room		
Multipurpose room Lobby	Free	\$200	\$150		
Multipurpose room	Free	\$1,500	\$1,100		
1/2 Multipurpose room	Free	\$750	\$550		
Cinema	Free	\$800	\$600		
Pre-function hallway	Free	\$200	\$150		
Dance studio	Free	\$400	\$300		
Exhibition space	Free	\$150	\$100		
Glass lounges	Free	\$90/room	\$75/room		
Open exhibit space	Free	\$90	\$75		
Green room	Free	\$125	\$100		
G32	Free	\$125	\$100		
G33	Free	\$125	\$100		
Atrium	Free	\$2,000	\$1,800		
North Plaza	Free	\$1,000	\$800		
South Plaza	Free	\$500	\$300		

### Meeting Space

Eisenhower			
large meeting room	\$50/day \$65/day \$65/evening	8 a.m.-5 p.m. 5 p.m.-12 a.m.	
small meeting room	\$25/day \$50/day \$50/evening	8 a.m.-5 p.m. 5 p.m.-12 a.m.	
Hanover			
basement lounge	\$50/day \$50/day \$50/evening	8 a.m.-5 p.m. 5 p.m.-12 a.m.	
first floor lounge	\$25/day \$65/day \$65/evening	8 a.m.-5 p.m. 5 p.m.-12 a.m.	
kitchen	\$15/day \$30/breakfast \$30/lunch \$30/dinner	7 a.m.-9 a.m. 11 a.m.-1 p.m. 6 p.m.-8 p.m.	

### Residential Space

Double occupancy	\$20/person/day
Single occupancy	\$30/person/day
Deluxe townhouse	\$45/person/day
Regular townhouse	\$25/person/day

Residential Space: rates for traditional and suite facilities are per person. Rates for townhouse facilities are per unit, regardless of occupancy.

### Other fees (for university and nonuniversity groups):

Early openings: \$15 per hour requested

Late closings: \$95 for first 30 minutes and \$25 for every 30 minutes thereafter

Special operations staff assistance: Minimum of \$25 per hour

For events requiring staff past normally scheduled hours or for extra staff, the fees are as noted below:

	University Group	Nonuniversity Group
Housekeeping Event Coordinator	\$15 per hr/person	\$20 per hr/person
Free event	first - free	\$7.50/hr

Type of facility	1998 GMU Single	1998 GMU Double	1998 Non-GMU Single	1998 Non-GMU Double
President's Park, No Linen (Traditional)	\$13	\$10	\$16	\$13
President's Park, Linen	\$29	\$19	\$32	\$22

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<i>(Traditional)</i> <i>Commonwealth</i> <i>and Dominion,</i> <i>Linen (Suite-</i> <i>style)</i>	\$36	\$26	\$39	\$29
<i>Townhouse, Linen</i>	\$56	\$38	\$59	\$41

E. Meeting space in Mason Hall is not generally available to nonuniversity groups without prior presidential approval.

F. The Concert Hall and Harris Theater are available for use by George Mason University organizations and nonuniversity groups on an as-available basis. All Concert Hall rental requests by individuals or organizations are reviewed by the Institute of the Arts and the university administration. If a rental request is approved, a contract is issued by the Center for the Arts. Receipt of the signed contract and rental deposit finalizes the rental agreement. Harris Theater use requests are handled directly by the Center for the Arts.

Prior to the finalization of any use agreement, appropriate staff members of the Center for the Arts may require one or more on-site meetings to ensure optimum event planning. All necessary staffing and services are provided by the Center for the Arts. This includes technical crew, front-of-house staff, security, custodial services, and box office services.

The box office utilizes a computerized system to print and sell tickets for Concert Hall and Harris Theater events. The box office is open for ticket sales during business hours and in the performance space on the day of the event. Credit cards are accepted.

## HARRIS THEATER

### Seating Capacity:

Orchestra: 397

Balcony: 124

TOTAL SEATS: 521

Handicapped accessibility for orchestra seating

### Stage Specifications:

Proscenium width 39.5 feet

Stage depth:

To curtain 17 feet

To back wall 35 feet

## CONCERT HALL

### Seating Capacity:

Orchestra: 717

Orchestra Pit: 106

Grand Tier (Balcony): 1,112

TOTAL SEATS: 1,935

### Handicapped Seating:

Orchestra: 26

Grand Tier: 6

### Stage Specifications:

Proscenium width 52 feet

Stage depth from curtain line	42 feet
Stage depth of orchestra shell:	
Full Stage	39 feet (60 feet wide)
Chamber Ensemble	22 feet (52 feet wide)
Computerized theatrical lighting and rigging systems	

## CONCERT HALL USER FEES:

	GMU	Nonprofit	Commercial
<b>Rental Fee</b>			
First Performance	NC	\$3,500	\$5,000
Additional Performances	NC	\$3,000	\$4,500
<b>Box Office Services</b>			
Single day, ea. Performance	DBE	\$300	\$350
Subsequent day(s), each performance	DBE	\$200	\$250
<b>Facilities</b>			
Separate tech/reh days	NC	\$500	\$500
<b>Personnel (Per person, per hour)</b>			
Stage technicians	\$14	\$14	\$18
Rigger(s)	DBE	DBE	DBE
Dresser(s)	DBE	DBE	DBE
Sound operator/engineer	DBE	DBE	DBE
Lighting control operator	DBE	DBE	-DBE
Followspot operator	DBE	DBE	DBE
<b>Equipment</b>			
Grand Piano (per day)	NC	\$75	\$75
Tuning	\$75	\$75	\$75
<b>Dance Floor (per day)</b>			
Each panel	NC	NC	\$10
<b>Sound System, first day</b>			
Basic System	NC	\$50	\$50
Intermediate System	NC	\$250	\$250
Full System	NC	\$500	\$500
<b>Sound system, each add. day</b>			
Basic System	NC	\$50	\$50
Intermediate System	NC	\$125	\$125
Full System	NC	\$250	\$250
<b>Stage lighting</b>			
instruments ea. per day	NC	\$4	\$4
<b>Stage lighting control</b>			

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system per day			
Basic System	NC	NC	\$25
Limited System	NC	\$25	\$50
Full System	NC	\$50	\$100
Followspot, ea. per perf.	\$50	\$50	\$50
Installation of supplied light plot	Determined per event		
Additional Box Office Services			
Return of printed tickets advanced to licensee	<del>-\$0.50 ea.</del>		
Credit card service charge	<del>7.0% of credit card receipts</del>		
First performance	NC	\$350	\$350
Subsequent performance(s)	NC	\$250	\$250
Credit card service charge	NC	5.0% of CC sales	5.0% of CC sales
Listing in events calendar	NC	\$150	\$150
Ticket printing - main floor	\$75/event	NC	NC
Ticket printing - full house	\$100/event	NC	NC
Ticket sellers	\$6.50/hour	NC	NC
Ticket seller supervisors	\$9/hour	NC	NC
Production			
Technicians	\$20/hour	\$20/hour	\$20/hour
Tuned grand piano	\$75/day	\$150/day	\$150/day
Dance floor	NC	\$100/day	\$100/day
Follow spot (each)	NC	\$100/day	\$100/day
Recording Session			
One-day rate (per day)	NC	\$1,000	\$1,000
Three-day rate (per day)	NC	\$800	\$800
Cleaning			
3rd floor reception cleaning	\$135	\$135	\$135
Cleaning - full house	\$422	NC	NC
Cleaning - main floor	\$322	NC	NC
Ancillary Services			
HVAC engineer	\$37/hour	\$37/hour	\$37/hour
Police	\$25-50/hour	\$25-50/hour	\$25-50/hour
Parking marshals	\$200	\$200	\$200
Front of House			
Ushers	\$6.50/hour	NC	NC
Supervisors	\$9/hour	NC	NC

House manager	NC	NC	NC
3rd floor reception set up	\$25	\$25	NC

INCLUDED IN THE RENTAL FEE

Facilities and Equipment:

Basic black fabric stage masking, orchestra shell, conductor's podium, platform risers, chairs, music stands, stand lights, general white stage lighting, conductor and soloist(s) lighting, and use of dressing rooms (2 small, 3 large).

Personnel (included in non-GMU rentals only. GMU rentals pay direct costs for the following personnel.):

One stage manager, one front-of-house manager, ushers (quantity determined per event), restroom porters and custodial services, building engineer, and on-site security officers.

~~(DBE = Determined By Event)~~

HARRIS THEATER USER FEES:

	GMU	Nonprofit	Commercial
Rental Fees			
First performance	NC	\$1,500	\$1,800
Additional events (ea.)	NC	\$800	\$1,200
Separate tech/reh days	NC	\$500	\$500
Nonperformance day	NC	\$300	\$300
Box Office Services			
Each Event	DBE	\$200	-\$250
Equipment			
Sound system, per day	NC	\$50	\$50
Lighting system, per day	NC	\$50	\$50
Follow spot, ea.	\$50	\$50	\$50
Special lighting	Determined by event		
Piano, per day	\$75	\$75	\$75
Tuning, ea.	\$75	\$75	\$75
Personnel (per hr, 3 hr. min. ea.)			
Stage technicians	\$14	\$14	\$18
Followspot operator	DBE	DBE	DBE
Rigger(s)	DBE	DBE	DBE
Police/security	DBE	DBE	DBE

Additional box office services:

Return of printed tickets advanced to user ~~-\$0.50 ea.~~

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## Credit card service charge (7.0% of credit card receipts)

First performance	NC	\$150	\$150
Subsequent performance(s)	NC	\$100	\$100
Credit card service charge	NC	5.0% of CC sales	5.0% of CC sales
Listing in events calendar	NC	\$150	\$100
Ticket printing-main floor	\$50/event	NC	NC
Ticket sellers	\$6.50/hour	NC	NC
Ticket seller supervisors	\$9/hour	NC	NC

## Production

Technicians	\$15/day	\$20/day	\$20/day
Tuned grand piano	\$75/day	\$150/day	\$150/day
Dance floor	NC	\$100/day	\$100/day
Follow spot (each)	NC	\$100/day	\$100/day

## Front of House

Ushers	\$6.50/hour	NC	NC
Supervisors	\$9/hour	NC	NC

## INCLUDED IN THE RENTAL FEE

### Equipment:

Basic black fabric stage masking, conductor's podium, chairs, music stands & stand lights, platform risers, general white stage lighting, special conductor and soloist(s) lighting, and use of dressing rooms.

Personnel (included in non-GMU rentals only. GMU rentals pay direct costs for the following personnel.):

One stage manager, one front-of-house manager, ushers, custodial service, and building engineer.

(DBE = Determined by event)

## ~~ADDITIONAL ITEMS NOT INCLUDED IN THE (Concert Mode/Theater Mode) BASIC PACKAGE~~

~~Rehearsal (not on performance day)  
\$500 per day (Includes 2 technicians)~~

~~Announce Microphone, Sound System, Limited Foldback \$25 per Perf./Reh~~

~~Limited Sound System, Tape Playback, Limited Foldback, and Sound Operator \$125 per day~~

~~Full Sound System \$350 per day~~

~~Sound Operator \$24 per hour (4 hr. min.)~~

~~Limited Stage Lighting System (12 Channels)  
\$25 per day~~

~~Setup/Takedown of Small Light Plot (Theater Mode Only)~~

Example: 4 stagehands X 4 hours X hourly rate  
\$224 (\$14/hr)

~~Setup/Takedown of Large Light Plot (Theater Mode Only)~~

Example: 8 stagehands X 8 hours X hourly rate  
\$896 (\$18/hr)

Lighting Instruments, Color, Accessories No Charge

Light Board Operator (4 hour minimum) \$14 per hour

Followspot Operator (4 hour minimum) \$14 per hour

Sound Engineer (4 hour minimum) \$14 per hour

Stagehand, each (4 hour minimum) \$14 per hour

Rigger, each (4 hour minimum) \$24 per hour

Standard Lighting Plot w/light board \$75 per day

Lighting Instruments (daily charge) \$1 per instr.

Followspots (daily charge) No Charge

Dance Floor: 4' 11" X 58'-0" per panel \$5 per day

Dance Floor, Full Stage \$50 per day

Floor Setup, Full Stage \$112 (ea. setup/takedown)

Choral Platforms, Aluminum, Full Setup  
\$168 (ea. setup)

Choral Platforms, Steel If Available, Full Setup  
\$224 (ea. setup)

Choral Chairs, Full Setup No Charge

Piano (tuned) \$75 per day

Shuttle Buses (3 buses) \$600

Credit Card Service Charge 5.0% of Gross Credit

G. The Sports and Recreation Complex (Field House) is rarely rented out due to the intensive use by students, faculty, and staff. The only regular, nonuniversity events in the Field House are high school track meets. The cost for nonuniversity groups is \$500/day plus direct reimbursable expenses. These would be negotiated with staff at the Field House. If the facility is available, there would be no charge for university groups.

H. The Physical Education Building is used much the same way as the Field House. If it were available, the cost to nonuniversity groups would be \$400/day plus reimbursable expenses for either the upper or lower gym. There would be no charge to university groups.

I. The Patriot Center is a 10,000-seat arena. The fees are as follows:

University Event: Direct expenses, approximately \$4,000-\$5,000 per event. Expenses will vary with the type and number of services requested, number of attendees, and duration of the event.

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Nonuniversity Event: Daily rental of \$8,000 plus expenses. Many ticketed events will be charged a rent as a percentage of gross receipts.

J. Hemlock Overlook Center for Outdoor Education is an outdoor education center located near Clifton, Virginia, about 12 miles from campus, and is managed by the university for the Northern Virginia Regional Park Authority. There are no discounts on fees for university groups. The fees are noted below:

Room and board, Summer/Spring	\$25 per day
Room and board, Fall/Winter	\$30 per day
Room, Summer/Spring	\$12 per day
Room, Fall/Winter	\$17 per day
Lodge, Summer/Spring	\$10 per hour
Lodge, Fall/Winter	\$15 per hour
Conference Rooms, Summer/Spring	\$5 per hour
Conference Rooms, Fall/Winter	\$10 per hour

K. The costs associated with using the university police in connection with special event programming are:

Police Officer	\$22.50/hr (minimum 2 hours)
Dispatcher	\$16/hr (minimum 2 hours)
Security Watchman	\$15/hr (minimum 2 hours)

L. All individuals who do not have valid university parking decals or authorized parking permits/passes must pay for parking at locations owned and operated by George Mason University. University schools, colleges, institutes, centers, departments, faculty, staff, and recognized student groups can reserve parking lots at a daily rate for each participant's vehicle without a valid university decal or authorized parking permit/pass. University-sponsored events must include parking arrangements approved by the parking services office one week in advance.

Authorized nonuniversity sponsored events must include parking arrangements approved by the parking services office two weeks prior to the scheduled event.

## Parking Fees:

For all faculty, staff, and [ ~~students~~ student ] vehicles that do not have a valid university parking decal or an authorized parking permit or pass

\$3.00 per day

To reserve parking lot T

\$1.00/hr/vehicle using the lot plus \$10/hr/per technician to monitor the lot

To reserve specific areas in other general parking lots (Lots A, B, C, & K) for multiple-day events

\$2.50/day/per vehicle for the first day  
\$1.50/day/per vehicle thereafter

Nonreserved use of other general parking lots A, B, C, & K for multiple-day events

\$3.00/day/per vehicle for the first day  
\$2.00/day/per vehicle thereafter

## Parking deck fees for special events

\$3.00 per car for 4 hours or less  
\$5.00 per car for 5 hours or more

M. The Center for Professional Development is located at the University Park Townhouses, 4260 Chain Bridge Road. The center has two classrooms. The larger of the two rooms will accommodate 25 people and is equipped with tables, chairs, and a blackboard. The smaller room will accommodate 15-plus people and has student stations and a blackboard.

There is no on-site food service available, although there are vending machines containing soft drinks and snacks.

The rooms are available for program use Monday through Friday from 8:30 a.m. to 10 p.m. Space can be available for Saturday and Sunday.

The fees are denoted below.

## University and nonprofit users:

Per room	\$40/half day
Per room	\$80/full day
Per room	\$40/evening

## Nonuniversity and for-profit users:

Per room	\$60/half day
Per room	\$120/full day
Per room	\$60/evening

## Additional services and equipment charges:

Assistant	\$15/hour
Set-up/strike fee	\$35/day
Overhead projector	\$35/day
Flipcharts/easel	\$15/day
*Photocopying	\$.10/page

\*Arrangements must be made for this service in advance.

N. Arlington Campus: Most credit courses are held in the evening. Therefore, space for noncredit educational programming can be scheduled by outside groups such as government agencies or private sector corporations during the day by the Professional Center. Government agencies can secure training space and educational services through agency contracts, blanket purchase agreements, purchase orders, etc. Private corporations can secure space through a letter of agreement and a 50% deposit.

Arlington Campus is located one and one-half blocks from the George Mason University/Virginia Square Metro Station. Food service is available on campus.

The building hours and fees are:

## Building Hours:

Monday-Friday	8 a.m. to 11 p.m.
Summer	8 a.m. to 10 p.m.
Saturday	9 a.m. to 6 p.m.
Sunday	9 a.m. to 11 p.m.

University support charges will be assessed. Building operating charges for electrical, HVAC, parking, and security will be charged, where applicable.

## Seminar Room Fees:

Classrooms - accommodate 15-50 people

Nonprofit	\$100 per day/evening
Profit	\$150 per day/evening

Computer Lab - accommodates 24 people

\$500 per day/evening

Conference Room - accommodates 150+ people

Nonprofit	\$150 per day/evening
Profit	\$250 per day/evening

## Management Fees:

Assistant Fee	\$15 per hour
Set-up and Strike (when applicable)	\$60-\$100
Building and Grounds early open/late close	\$20 per hour
Campus Police (early open/late close)	\$22.50 \$25 per hour (2 hours minimum)

## Equipment User/Additional Fees:

VCR/Monitor	\$50 for first day, \$25 per day thereafter
Slide Projector	\$30 for first day, \$20 per day thereafter
16mm Projector	Film \$30 for first day, \$20 per day thereafter
P/A System	\$75 for first day, \$50 per day thereafter
Coffee Urns	\$15 for first day, \$5 per day thereafter
Photocopying available - copy center on site:	\$.10 a copy
[ <del>Kodak</del> ] Computer Datashow	\$50 per day
Inkjet Computer Paper	\$40 per box
Flipchart Paper	Provided by the instructor
Fax Service, per page	
University departments	Incoming \$.50 Outgoing \$1.00
Nonuniversity	Incoming \$1.00 Outgoing \$2.50

Flipchart stands, overhead projectors, screens, chalkboards, and chalk are provided in each classroom.

O. GMU at Quincy Street Station: Most credit courses are held in the evening. Therefore, space for noncredit educational programming can be scheduled by outside groups such as government agencies or private sector corporations by the Professional Center. Government agencies can secure training space and educational services through agency contracts, blanket purchase agreements,

purchase orders, etc. Private corporations can secure space through a letter of agreement and a 50% deposit.

Quincy Street station is located one and one-half blocks from the Ballston Metro Station. Food service is available.

The building hours and fees are ~~denoted below~~:

## Building Hours:

Monday-Friday 8 a.m. to 9 p.m.

Special arrangements can be made for Saturday and Sunday use of the facility by reservation. Also, the facility can open early and close late, by reservation. University support charges will be assessed. Building operating charges for electrical, HVAC, parking and security will be charged, where applicable.

## Seminar Room Fees:

Classrooms - accommodate 15-45 people

Nonprofit	\$125 per day/evening
Profit	\$165 per day/evening

Classrooms - accommodate 70 people

Nonprofit	\$150 per day/evening
Profit	\$165 per day/evening

## Management Fees:

Assistant Fee	\$15 per hour
Set Up and Strike (when applicable)	\$60-\$100

## Equipment User/Additional Fees:

VCR/Monitor	\$50 for first day, \$25 per day thereafter
Slide Projector	\$30 for first day, \$20 per day thereafter
Coffee Urns	\$15 for first day, \$5 per day thereafter
Photocopying available:	\$.10 a copy
Flipchart Paper	Provided by the instructor
Fax Service, per page	
University departments	Incoming \$.50 Outgoing \$1.00
Nonuniversity	Incoming \$1.00 Outgoing \$2.50

Flipchart stands, overhead projectors, screens, chalkboards, and chalk are provided in each classroom.

P. Prince William Institute: Initially, most credit courses will be held in the evenings. Noncredit programming can be scheduled by university and nonuniversity groups during the day time.

The building hours and fees are ~~denoted below~~:

## Building Hours:

Monday-Friday 8:30 a.m. to 5 p.m.

Special arrangements can be made for evening and weekend use of facilities by reservation. Building operating

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fees for HVAC and electrical services will be charged, when applicable.

## Seminar Room Fees:

Classrooms - accommodate 15-45 people

Nonprofit	\$50 per day and/or evening
Profit	\$75 per day and/or evening

## Management Fees:

Assistant Fee	\$12 per hour
Set-up Fee and Strike (where applicable)	\$40-\$80

## Equipment User/Additional Fees:

VCR/Monitor (2 available)	\$25 per day per room
Slide Projector (2 available)	\$20 per day per room
Coffee Urn (1 available) - 100 cup capacity	\$15 for first day, \$5 per day thereafter
Photocopying available:	\$.10 a copy
<del>Fax Available:</del>	<del>\$1 per page</del>
Flipchart Paper	Provided by the user
Fax Machine	
University departments	Incoming \$.50
	Outgoing \$1.00
Nonuniversity	Incoming \$1.00
	Outgoing \$2.50

Flipchart stands, overhead projectors, screens, whiteboards, and markers are provided in each classroom.

Q. The third-floor space at the George Mason University at The Center for Innovative Technology is dedicated to the George Mason University Small Business Incubator Program. The fourth-floor spaces are used for credit and noncredit educational programming. The largest classroom on the fourth floor is assigned all day Fridays and Saturdays for a credit educational program.

The building hours and fees are:

## Building Hours:

Monday-Friday 8 a.m. to 6 p.m.

Special arrangements can be made for evening and weekend use of facilities by reservations. Building operating fees for HVAC, electrical, and security will be charged where applicable.

## Seminar Room Fees:

Classrooms - accommodate 15-45 people

Nonprofit	\$100 per day/evening
Profit	\$125 per day/evening

## Management Fees:

Assistant Fee	\$15 per hour
Set-up Fee and Strike (where applicable)	\$60-\$100

## Equipment User/Additional Fees:

VCR/Monitor	\$50 for first day, \$25 per day thereafter
Slide Projector	\$30 for first day, \$20 per day thereafter
Coffee Urns	\$15 for first day, \$5 per day thereafter
Overhead Projector	\$25 for first day, \$15 per day thereafter
Photocopying available:	\$.10 a copy
Flipchart Paper	Provided by instructor

Flipchart stands, overhead projectors, screens, chalkboards, and chalk are provided in each classroom.

VA.R. Doc. No. R99-37; Filed January 18, 1999, 10:44 a.m.

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

<p><b>REGISTRAR'S NOTICE:</b> The State Air Pollution Control Board is claiming an exemption from 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 State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.</p>
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**Title of Regulation:** 9 VAC 5-80-10 et seq. **Regulations for the Control and Abatement of Air Pollution (Rev. C98) (repealing 9 VAC 5-80-30; adding 9 VAC 5-80-2000 through 9 VAC 5-80-2190).**

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

**Effective Date:** April 1, 1999.

#### Summary:

*The amendments restructure the numbering system for the nonattainment area permit regulation from a section (9 VAC 5-80-30) to an article (9 VAC Chapter 80, Part II, Article 9 (9 VAC 5-80-2000 et seq.)). Revising 9 VAC 5-80-30 (permits for major sources and major modifications located in nonattainment areas) is being done in order that it may be assigned an article number and be consistent in form and style with the remainder of the permit regulations contained in 9 VAC 5 Chapter 80 of the Regulations for the Control and Abatement of Air Pollution.*

**Agency Contact:** Copies of the regulation may be obtained from Alma Jenkins, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070. Questions on the regulation should be referred to Mary L. Major, Environmental Program Manager, Office of Regulatory

Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423.

PART II.  
OPERATING PERMITS PERMIT PROCEDURES.

Article 9.

Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas.

~~9 VAC 5-80-30. Permits major stationary sources and major modifications locating in nonattainment areas. (Repealed.)~~

~~A. 9 VAC 5-80-2000. Applicability.~~

~~4. A. The provisions of this section article apply to the construction or reconstruction of any major stationary source or major modification.~~

~~2. B. The provisions of this section article apply in nonattainment areas.~~

~~3. C. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this section article shall apply to the source or modification as though construction had not commenced on the source or modification.~~

~~4. D. Where a source is constructed or modified in contemporaneous increments which individually are not subject to approval under this section article and which are not part of a program of construction or modification in planned incremental phases approved by the board, all such increments shall be added together for determining the applicability of this section article. An incremental change is contemporaneous with the particular change only if it occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs.~~

~~5. E. Unless specified otherwise, the provisions of this section article are applicable to various sources as follows:~~

~~a. 1. Provisions referring to "sources," "new and/or modified sources" or "stationary sources" are applicable to the construction, reconstruction or modification of all major stationary sources and major modifications.~~

~~b. 2. Any emissions units not subject to the provisions of this section article may be subject to the provisions of 9 VAC 5-80-10 or Article 8 (9 VAC 5-80-1700 et seq.) of this chapter part.~~

~~B. 9 VAC 5-80-2010. Definitions.~~

~~4. A. As used in this section article, all words or 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.~~

~~2. B. For the purpose of this section article, 9 VAC 5-50-270 and any related use, the words or terms shall have the meanings given them in subdivision B-3 subsection C of this section.~~

~~3. C. Terms defined.~~

~~"Actual emissions" means: (1) the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subdivisions (2) a through (4) c of this definition.~~

~~(2) a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The board shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.~~

~~(3) b. The board may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(4) c. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.~~

~~"Administrator" means the Administrator of the U.S. Environmental Protection Agency (EPA) or his authorized representative.~~

~~"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally and state enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~(1) a. The applicable standards set forth in 40 CFR Parts 60 and 61;~~

~~(2) b. Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or~~

~~(3) c. The emissions rate specified as a federally and state enforceable permit condition, including those with a future compliance date.~~

~~"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.~~

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*"Building, structure, facility, or installation"* means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two-digit code) as described in the "Standard Industrial Classification Manual," as amended by the supplement (see 9 VAC 5-20-21).

*"Commence,"* as applied to construction of a major stationary source or major modification, means that the owner has all necessary preconstruction approvals or permits and either has:

- (1) a. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- (2) b. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction of the source, to be completed within a reasonable time.

*"Construction"* means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

*"Emissions unit"* means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the federal Clean Air Act.

*"Federally enforceable"* means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or this chapter, including operating permits issued under an EPA-approved program that is incorporated into the State Implementation Plan and expressly requires adherence to any permit issued under such program.

*"Fixed capital cost"* means the capital needed to provide all the depreciable components.

*"Fugitive emissions"* means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

*"Lowest achievable emission rate"* means for any source, the more stringent rate of emissions based on the following:

- (1) a. The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner of the proposed stationary source demonstrates that such limitations are not achievable; or
- (2) b. The most stringent emissions limitation which is achieved in practice by such class or category of

stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

## *"Major modification"*

(1) a. Means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the federal Clean Air Act.

(2) b. Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(3) c. A physical change or change in the method of operation shall not include:

- (a) (1) Routine maintenance, repair and replacement;
- (b) (2) Use of an alternative fuel or raw material by a stationary source which:

4. (a) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally and state enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or this chapter; or

2. (b) The source is approved to use under any permit issued under 40 CFR 52.21 or this chapter;

(c) (3) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally and state enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or this chapter.

## *"Major stationary source"*

(1) a. Means:

(a) (1) Any stationary source of air pollutants which emits, or has the potential to emit, (i) 100 tons per year or more of any pollutant subject to regulation under the federal Clean Air Act, or (ii) 50 tons per year or more of volatile organic compounds or nitrogen oxides in ozone nonattainment areas classified as serious in 9 VAC 5-20-204, or (iii) 25 tons per year or more of volatile organic compounds or nitrogen oxides in ozone nonattainment areas classified as severe in 9 VAC 5-20-204; or

(b) (2) Any physical change that would occur at a stationary source not qualifying under subdivision (1)(a) (1) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

~~(2)~~ b. A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

~~(3)~~ c. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this ~~section~~ article whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- ~~(a)~~ (1) Coal cleaning plants (with thermal dryers).
- ~~(b)~~ (2) Kraft pulp mills.
- ~~(c)~~ (3) Portland cement plants.
- ~~(d)~~ (4) Primary zinc smelters.
- ~~(e)~~ (5) Iron and steel mills.
- ~~(f)~~ (6) Primary aluminum ore reduction plants.
- ~~(g)~~ (7) Primary copper smelters.
- ~~(h)~~ (8) Municipal incinerators (or combinations of them) capable of charging more than 250 tons of refuse per day.
- ~~(i)~~ (9) Hydrofluoric acid plants.
- ~~(j)~~ (10) Sulfuric acid plants.
- ~~(k)~~ (11) Nitric acid plants.
- ~~(l)~~ (12) Petroleum refineries.
- ~~(m)~~ (13) Lime plants.
- ~~(n)~~ (14) Phosphate rock processing plants.
- ~~(o)~~ (15) Coke oven batteries.
- ~~(p)~~ (16) Sulfur recovery plants.
- ~~(q)~~ (17) Carbon black plants (furnace process).
- ~~(r)~~ (18) Primary lead smelters.
- ~~(s)~~ (19) Fuel conversion plants.
- ~~(t)~~ (20) Sintering plants.
- ~~(u)~~ (21) Secondary metal production plants.
- ~~(v)~~ (22) Chemical process plants.
- ~~(w)~~ (23) Fossil-fuel boilers (or combination of them) totaling more than 250 million British thermal units per hour heat input.
- ~~(x)~~ (24) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- ~~(y)~~ (25) Taconite ore processing plants.
- ~~(z)~~ (26) Glass fiber manufacturing plants.
- ~~(aa)~~ (27) Charcoal production plants.
- ~~(bb)~~ (28) Fossil fuel steam electric plants of more than 250 million British thermal units per hour heat input.

~~(cc)~~ (29) Any other stationary source category which, as of August 7, 1980, is being regulated under § 111 or § 112 of the federal Clean Air Act.

"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

"Net emissions increase"

~~(4)~~ a. Means the amount by which the sum of the following exceeds zero:

~~(a)~~ (1) Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

~~(b)~~ (2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

~~(2)~~ b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs. For sources located in ozone nonattainment areas classified as serious or severe in 9 VAC 5-20-204, an increase or decrease in actual emissions of volatile organic compounds or nitrogen oxides is contemporaneous with the increase from the particular change only if it occurs during a period of five consecutive calendar years which includes the calendar year in which the increase from the particular change occurs.

~~(3)~~ c. An increase or decrease in actual emissions is creditable only if:

~~(a)~~ (1) It occurs between the date five years before construction on the change specified in subdivision ~~(1)(a)~~ a (1) of this definition commences and the date that the increase specified in subdivision ~~(4)(a)~~ a (1) of this definition occurs; and

~~(b)~~ (2) The board has not relied on it in issuing a permit for the source pursuant to this chapter which permit is in effect when the increase in actual emissions from the particular change occurs.

~~(4)~~ d. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

~~(5)~~ e. A decrease in actual emission is creditable only to the extent that:

~~(a)~~ (1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

~~(b)~~ (2) It is federally and state enforceable at and after the time that actual construction on the particular change begins;

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~~(e)~~ (3) The board has not relied on it in issuing any permit pursuant to this chapter or the board has not relied on it in demonstrating attainment or reasonable further progress in the State Implementation Plan; and

~~(d)~~ (4) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

~~(6)~~ f. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"Nonattainment pollutant" means within a nonattainment area, the pollutant for which such area is designated nonattainment. For ozone nonattainment areas, the nonattainment pollutants shall be volatile organic compounds (including hydrocarbons) and nitrogen oxides.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally and state enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Qualifying pollutant" means with regard to a major stationary source, any pollutant emitted in such quantities or at such rate as to qualify the source as a major stationary source.

"Reasonable further progress" means the annual incremental reductions in emissions of a given air pollutant (including substantial reductions in the early years following approval or promulgation of a state implementation plan and regular reductions thereafter) which are sufficient in the judgment of the board to provide for attainment of the applicable ambient air quality standard within a specified nonattainment area by the attainment date prescribed in the State Implementation Plan for such area.

"Reconstruction" means when the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new stationary source. Any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of subdivisions ~~(4)~~ a through ~~(3)~~ below c of this definition. A reconstructed stationary source will be treated as a new stationary source for purposes of this section.

~~(4)~~ a. The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility.

~~(2)~~ b. The estimated life of the facility after the replacements compared to the life of a comparable entirely new facility.

~~(3)~~ c. The extent to which the components being replaced cause or contribute to the emissions from the facility.

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this ~~section~~ article, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

~~(4)~~ a. Ozone nonattainment areas classified as serious or severe in 9 VAC 5-20-204.

<u>Pollutant</u>	<u>Emissions Rate</u>
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	25 tpy
Sulfur Dioxide	40 tpy
Particulate Matter	25 tpy
Ozone	25 tpy of volatile organic compounds
Lead	0.6 tpy

~~(2)~~ b. Other nonattainment areas.

<u>Pollutant</u>	<u>Emissions Rate</u>
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter	25 tpy
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the federal Clean Air Act.

## **~~G.~~ 9 VAC 5-80-2020. General.**

~~4.~~ A. No owner or other person shall begin actual construction, reconstruction or modification of any major stationary source or major modification without first obtaining from the board a permit to construct and operate such source.

~~2.~~ B. No owner or other person shall relocate any emissions unit subject to the provisions of 9 VAC 5-20-160 without first obtaining from the board a permit to relocate the unit.

~~3.~~ C. The board may combine the requirements of and the permits for emissions units within a stationary source subject to ~~9 VAC 5-80-10, Article 8 Articles 6 (9 VAC 5-80-1100 et seq.) and 8 (9 VAC 5-80-1700 et seq.) of this chapter part and 9 VAC 5-80-30 this article~~ into one permit. Likewise the board may require that applications for permits for emissions units within a stationary source required by ~~9 VAC 5-80-10, Article 8 Articles 6 (9 VAC 5-80-1100 et seq.) and 8 (9 VAC 5-80-1700 et seq.) of this chapter part and 9 VAC 5-80-30 this article~~ be combined into one application.

**~~D.~~ 9 VAC 5-80-2030. Applications.**

~~4.~~ A. A single application is required identifying at a minimum each emissions point within the emissions unit subject to this ~~section~~ article. The application shall be submitted according to procedures approved by the board. However, where several emissions units are included in one project, a single application covering all units in the project may be submitted. A separate application is required for each location.

~~2.~~ B. For projects with phased development, a single application should be submitted covering the entire project.

~~3.~~ C. Any application form, report, or compliance certification submitted to the board shall be signed by a responsible official. A responsible official is defined as follows:

~~a.~~ 1. For a business entity such as a corporation, association or cooperative, a responsible official is either:

~~(1)~~ a. The president, secretary, treasurer, or a vice-president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business entity; or

~~(2)~~ b. A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.

~~b.~~ 2. For a partnership or sole proprietorship, a responsible official is a general partner or the proprietor, respectively.

~~c.~~ 3. For a municipality, state, federal, or other public agency, a responsible official is either a principal executive officer or ranking elected official. A principal

executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

~~4.~~ D. Any person signing a document under ~~subdivision D 3 above subsection C of this section~~ shall make the following certification:

"I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

~~5.~~ E. As required under § 10.1-1321.1 of the Virginia Air Pollution Control Law, applications shall not be deemed complete unless the applicant has provided a notice from the locality in which the source is located or is to be located that the site and operation of the source are consistent with all local ordinances adopted pursuant to Chapter 44 22 (§ ~~15.4-427~~ 15.2-2200 et seq.) of Title ~~15.4~~ 15.2 of the Code of Virginia.

**~~E.~~ 9 VAC 5-80-2040. Information required.**

~~4.~~ A. Each application for a permit shall include such information as may be required by the board to determine the effect of the proposed source on the ambient air quality and to determine compliance with the emission standards which are applicable. The information required shall include, but is not limited to the following:

~~a.~~ 1. That specified on applicable permit forms furnished by the board. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations. Completion of these forms serves as initial registration of new and modified sources.

~~b.~~ 2. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the source, including the submission of measured air quality data at the proposed site prior to construction, reconstruction or modification. Such measurements shall be accomplished using procedures acceptable to the board.

~~c.~~ 3. For major stationary sources, the location and registration number for all stationary sources owned or operated by the applicant (or by any entity controlling, controlled by, or under common control with the applicant) in the Commonwealth.

~~d.~~ 4. For major stationary sources, the analyses required by ~~subdivision J 2 of this section 9 VAC 5-80-2090 B~~ shall be provided by the applicant. Upon request, the board will advise an applicant of the reasonable geographic limitation on the areas to be subject to an

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analysis to determine the air quality impact at the proposed source.

~~2-~~ B. The above information and analysis shall be determined and presented according to procedures and using methods acceptable to the board.

## ~~F-~~ **9 VAC 5-80-2050. Standards/conditions for granting permits.**

No permit will be granted pursuant to this ~~section~~ *article* unless it is shown to the satisfaction of the board that the source will be designed, built and equipped to operated without causing a violation of the applicable provisions of these regulations and that the following standards and conditions have been met:

1. The source shall be designed, built and equipped to comply with standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and with emission standards prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.).

2. The source shall be designed, built and equipped to operate without preventing or interfering with the attainment or maintenance of any applicable ambient air quality standard and without causing or exacerbating a violation of any applicable ambient air quality standard.

3. The board determines that the following occurs:

a. By the time the source is to commence operation, sufficient offsetting emissions reductions shall have been obtained in accordance with ~~subsection M of this section~~ ~~9 VAC 5-80-2120~~ such that total allowable emissions of qualifying nonattainment pollutants from existing sources in the region, from new or modified sources which are not major emitting facilities, and from the proposed source will be sufficiently less than total emissions from existing sources, as determined in accordance with the requirements of this ~~section~~ *article*, prior to the application for such permit to construct or modify so as to represent (when considered together with any applicable control measures in the State Implementation Plan) reasonable further progress; or

b. In the case of a new or modified major stationary source which is located in a zone, within the nonattainment area, identified by the administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, that emissions of such pollutant resulting from the proposed new or modified major stationary source shall not cause or contribute to emissions levels which exceed the allowance permitted for such pollutant for such area from new or modified major stationary sources in the State Implementation Plan.

~~6-~~ Any emission reductions required as a precondition of the issuance of a permit under subdivision ~~F~~ 3 a or ~~F~~ 3 b of this section shall be state and federally enforceable before such permit may be issued.

4. The applicant shall demonstrate that all major stationary sources owned or operated by such applicant (or by any entity controlling, controlled by, or under common control with such applicant) in the Commonwealth are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under these regulations.

5. The administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of this ~~section~~ *article*.

6. The applicant shall demonstrate, through an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source, that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

## ~~G-~~ **9 VAC 5-80-2060. Action on permit application.**

~~4-~~ A. Within 30 days after receipt of an application, the board shall notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application shall be provided by the board in writing and shall include (i) a determination as to which provisions of this chapter are applicable, (ii) the identification of any deficiencies, and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board shall notify the applicant of any deficiencies in such information. The date of receipt of a complete application for processing under subdivision ~~G-2~~ ~~subsection B~~ of this section shall be the date on which the board received all required information.

~~2-~~ B. Processing time for a permit is normally 90 days following receipt of a complete application. Processing steps normally are as follows:

~~a-~~ 1. Completion of the preliminary review and analysis in accordance with ~~subsection J of this section~~ 9 VAC 5-80-2090 and the preliminary decision of the board.

~~b-~~ 2. Completion of the public participation requirements in accordance with ~~subsection H of this section~~ 9 VAC 5-80-2070.

~~c-~~ 3. Completion of the final review and analysis and the final decision of the board.

~~3-~~ C. The board normally will take action on all applications after completion of the review and analysis, or expiration of the public comment period (and consideration of comments from it) when required, unless more information is needed. The board shall notify the applicant in writing of its decision on the application, including its reasons, and shall also specify the applicable emission

limitations. These emission limitations are applicable during any emission testing conducted in accordance with ~~subsection H of this section~~ 9 VAC 5-80-2070.

4. ~~D.~~ The applicant may appeal the decision pursuant to ~~9 VAC 5-20-90 Part VIII (9 VAC 5-170-190 et seq.) of 9 VAC 5 Chapter 170.~~

5. ~~E.~~ Within five days after notification to the applicant pursuant to ~~subdivision G 3 subsection C~~ of this section, the notification and any comments received pursuant to the public comment period and public hearing shall be made available for public inspection at the same location as was the information in ~~subdivision H 6 a of this section~~ 9 VAC 5-80-2070 F 1.

**H. 9 VAC 5-80-2070. Public participation.**

4. ~~A.~~ No later than 30 days after receiving the initial determination notification required under ~~subdivision G 1 of this section~~ 9 VAC 5-80-2060 A, applicants shall notify the public about the proposed source as required in ~~subdivision H 2 subsection B~~ of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in ~~subdivision H 3 subsection C~~ of this section.

2. ~~B.~~ The public notice required under ~~subdivision H 4 subsection A~~ of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the name, location, and type of the source, and the time and place of the informational briefing.

3. ~~C.~~ The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board shall attend and provide information and answer questions on the permit application review process.

4. ~~D.~~ Upon determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in ~~subdivision H 2 subsection B~~ of this section and for providing the informational briefing as required in ~~subdivision H 3 subsection C~~ of this section.

5. ~~E.~~ Prior to the decision of the board, all permit applications will be subject to a public comment period of at least 30 days. In addition, at the end of the public comment period, a public hearing shall be held with notice in accordance with ~~subdivision H 6 subsection F~~ of this section.

6. ~~F.~~ For the public comment period and public hearing, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for public comment and the public hearing on the information available for public inspection under the provisions of ~~subdivision H 6 a 1 of this section~~ subsection. The notification shall be published at least 30 days prior to the day of the public hearing.

a. 1. Information on the permit application (exclusive of confidential information under ~~9 VAC 5-20-150~~ 9 VAC 5-170-60), as well as the preliminary review and analysis and preliminary decision of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

b. 2. A copy of the notice shall be sent to all local air pollution control agencies having State Implementation Plan responsibilities in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.

7. ~~G.~~ If appropriate, the board may provide a public briefing on its review of the permit application prior to the public comment period but no later than the day before the beginning of the public comment period. If the board provides a public briefing, the requirements of ~~subdivision H 6 subsection F of this section~~ concerning public notification shall be followed.

**I. 9 VAC 5-80-2080. Compliance determination and verification by performance testing.**

4. ~~A.~~ For stationary sources other than those specified in ~~subdivision I 2 subsection B~~ of this section, compliance with standards of performance shall be determined in accordance with the provisions of 9 VAC 5-50-20 and shall be verified by performance tests in accordance with the provisions of 9 VAC 5-50-30.

2. ~~B.~~ For stationary sources of hazardous air pollutants, compliance with emission standards shall be determined in accordance with the provisions of 9 VAC 5-60-20 and shall be verified by emission tests in accordance with the provisions of 9 VAC 5-60-30.

3. ~~C.~~ Testing required by ~~subdivisions I 1 and 2 subsections A and B~~ of this section shall be conducted within 60 days by the owner after achieving the maximum production rate at which the new or modified source will be operated, but not later than 180 days after initial startup of the source; and 60 days thereafter the board shall be provided by the owner with two or, upon request, more copies of a written report of the results of the tests.

4. ~~D.~~ For sources subject to the provisions of Article 5 ( 9 VAC 5-50-400 et seq.) of Part II of 9 VAC 5 Chapter 50 or Article 1 (9 VAC 5-60-60 et seq.) of Part I of 9 VAC 5 Chapter 60, the requirements of ~~subdivisions I 1 through 3 subsections A through C~~ of this section shall be met in all cases.

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~~5. E.~~ For sources other than those specified in ~~subdivision 1-4 subsection D~~ of this section, the requirements of ~~subdivisions 1-1 through 3 subsections A through C~~ of this section shall be met unless the board:

- ~~a.~~ 1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
- ~~b.~~ 2. Approves the use of an equivalent method;
- ~~c.~~ 3. Approves the use of an alternative method, the results of which the board has determined to be adequate for indicating whether a specific source is in compliance;
- ~~d.~~ 4. Waives the requirement for testing because, based upon a technical evaluation of the past performance of similar source types, using similar control methods, the board reasonably expects the new or modified source to perform in compliance with applicable standards; or
- ~~e.~~ 5. Waives the requirement for testing because the owner of the source has demonstrated by other means to the board's satisfaction that the source is in compliance with the applicable standard.
- ~~f.~~ 6. The provisions for the granting of waivers under ~~subdivision 1-5 subsection E~~ of this section are intended for use in determining the initial compliance status of a source, and the granting of a waiver does not obligate the board to do so for determining compliance once the source has been in operation for more than one year beyond the initial startup date.

~~J. 9 VAC 5-80-2090. Application review and analysis.~~

No permit shall be granted pursuant to this ~~section article~~ unless compliance with the standards in ~~subsection F of this section~~ 9 VAC 5-80-2050 is demonstrated to the satisfaction of the board by a review and analysis of the application performed on a source-by-source basis as specified below:

- 1. Applications shall be subject to a control technology review to determine if such source will be designed, built and equipped to comply with all applicable standards of performance prescribed under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and emission standards prescribed under 9 VAC 5 Chapter 60 (9 VAC 5-60-10 et seq.).
- 2. Applications shall be subject to an air quality analysis to determine the impact of qualifying pollutant emissions.

~~K. 9 VAC 5-80-2100. Circumvention.~~

Regardless of the exemptions provided in this ~~section article~~, no owner or other person shall circumvent the requirements of this ~~section article~~ by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.

~~L. 9 VAC 5-80-2110. Interstate pollution abatement.~~

4. A. The owner of each new or modified source, which may significantly contribute to levels of air pollution in excess of an ambient air quality standard in any quality control region outside the Commonwealth, shall provide written notice to all nearby states of the air pollution levels which may be affected by such source at least 60 days prior to the date of commencement of construction, reconstruction or modification.

2- B. Any state or political subdivision may petition the Administrator, EPA, for a finding that any new or modified source emits or would emit any air pollutant in amounts which will prevent attainment or maintenance of any ambient air quality standard or interfere with measures for the prevention of significant deterioration or the protection of visibility in the state implementation plan for such state. Within 60 days after receipt of such petition and after a public hearing, the Administrator, U.S. Environmental Protection Agency, will make such a finding or deny the petition.

3- C. Notwithstanding any permit granted pursuant to this ~~section article~~, no owner or other person shall commence construction, reconstruction or modification or begin operation of a source to which a finding has been made under the provisions of ~~subdivision 1-2 subsection B~~ of this section.

~~M. 9 VAC 5-80-2120. Offsets.~~

4- A. Owners shall comply with the offset requirements of this ~~section article~~ by obtaining emission reductions from the same source or other sources in the same nonattainment area, except that for ozone precursor pollutants the board may allow the owner to obtain such emission reductions in another nonattainment area if (i) the other area has an equal or higher nonattainment classification than the area in which the source is located and (ii) emissions from such other area contribute to a violation of the ambient air quality standard in the nonattainment area in which the source is located. By the time a new or modified source begins operation, such emission reductions shall (i) be in effect, (ii) be state and federally enforceable and (iii) assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the nonattainment area.

2- B. The (i) ratio of total emission reductions of volatile organic compounds to total increased emissions of volatile organic compounds or (ii) the ratio of total emission reductions of nitrogen oxides to total increased emissions of nitrogen oxides in nonattainment areas designated in 9 VAC 5-20-204 shall be at least the following:

- ~~a.~~ 1. Ozone nonattainment areas classified as marginal -- 1.1 to one.
- ~~b.~~ 2. Ozone nonattainment areas classified as moderate -- 1.15 to one.
- ~~c.~~ 3. Ozone nonattainment areas classified as serious -- 1.2 to one.

~~d.~~ 4. Ozone nonattainment areas classified as severe -- 1.3 to one.

~~3.~~ C. Emission reductions otherwise required by these regulations shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by these regulations shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of ~~subdivision M-4 subsection A~~ of this section.

4. D. The board shall allow an owner to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

a. 1. Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on November 15, 1990.

b. 2. The source demonstrates to the satisfaction of the board that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

e. 3. The source has obtained a written finding from the U.S. Department of Defense, U.S. Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

~~d.~~ 4. The owner will comply with an alternative measure, imposed by the board, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the board may impose an emissions fee to be paid to the board which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that nonattainment area during the previous three years. The board shall utilize the fees in a manner that maximizes the emissions reductions in that nonattainment area.

~~5.~~ E. For sources subject to the provisions of this ~~section~~ *article*, the baseline for determining credit for emissions reduction is the emissions limit under the applicable State Implementation Plan in the effect at the time the application to construct is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where:

a. 1. The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area; or

b. 2. The applicable State Implementation Plan does not contain an emissions limitation for that source or source category.

~~6.~~ F. Where the emissions limit under the applicable State Implementation Plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential.

~~7.~~ G. For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable State Implementation Plan for the type of fuel being burned at the time the application to construct is filed. If the owner of the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The board will ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.

~~8.~~ H. Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are permanent, quantifiable, and federally and state enforceable. In addition, the shutdown or curtailment is creditable only if it occurred on or after January 1, 1991.

~~9.~~ I. No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977).

~~10.~~ J. Where these regulations do not adequately address a particular issue, the provisions of Appendix S to 40 CFR Part 51 shall be followed to the extent that they do not conflict with this ~~subsection~~ *section*.

~~14.~~ K. Credit for an emissions reduction can be claimed to the extent that the board has not relied on it in issuing any permit under this chapter or has not relied on it in demonstrating attainment or reasonable further progress.

**~~9~~ VAC 5-80-2130. De minimis increases and stationary source modification alternatives for ozone nonattainment areas classified as serious or severe in 9 VAC 5-20-204.**

4. A. De minimis increases. Increased emissions of volatile organic compounds or nitrogen oxides resulting from any physical change in, or change in the method of operation of, a major stationary source located in an ozone nonattainment area classified as serious or severe in 9 VAC 5-20-204 shall be considered de minimis for purposes of determining the applicability of the permit requirements under this ~~section~~ *article* if the increase in net emissions of the same pollutant from such source is 25 tons or less when aggregated with all other net increases in emissions from the source over a period of five consecutive calendar years which includes the calendar year in which such increase occurred.

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~~2-~~ B. Modifications of major stationary sources emitting less than 100 tons per year of volatile organic compounds or nitrogen oxides.

~~a-~~ 1. Any physical change in, or change in the method of operation of, a major stationary source with a potential to emit of less than 100 tons per year of volatile organic compounds or nitrogen oxides which results in an increase in emissions of the same pollutant from any discrete operation, unit, or other pollutant emitting activity at that source that is not de minimis under ~~subdivision N-1 subsection A~~ of this section shall be considered a major modification under this ~~section~~ *article*. However, in applying emission standards under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) to the source, the requirement to apply best available control technology shall be substituted for the requirement to comply with the lowest achievable emission rate.

~~b-~~ 2. If the owner elects to offset the increase of volatile organic compounds or of nitrogen oxides by a greater reduction in emissions of the pollutant being increased from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, such increase shall not be considered a major modification under this ~~section~~ *article*.

~~3-~~ C. Modifications of major stationary sources emitting 100 tons per year or more of volatile organic compounds or nitrogen oxides.

~~a-~~ 1. Any physical change in, or change in the method of operation of, a major stationary source with a potential to emit 100 tons per year or more of volatile organic compounds or nitrogen oxides which results in an increase in emissions of the same pollutant from any discrete operation, unit, or other pollutant emitting activity at that source that is not de minimis under ~~subdivision N-1 subsection A~~ of this section shall be considered a major modification under this ~~section~~ *article*.

~~b-~~ 2. In applying emission standards under 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) ~~of these regulations~~ to the source, the requirement to apply best available control technology shall be substituted for the requirement to comply with the lowest achievable emission rate, if the owner elects to offset the increase by a greater reduction in emissions of the pollutant being increased from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to one.

## ~~Q-~~ 9 VAC 5-80-2140. Exception.

The provisions of this ~~section~~ *article* do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the source or modification and the source does not belong to any of the following categories:

1. Coal cleaning plants (with thermal dryers);

2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric acid plants;
10. Sulfuric acid plants;
11. Nitric acid plants;
12. Petroleum refineries;
13. Lime plants;
14. Phosphate rock processing plants;
15. Coke oven batteries;
16. Sulfur recovery plants;
17. Carbon black plants (furnace process);
18. Primary lead smelters;
19. Fuel conversion plants;
20. Sintering plants;
21. Secondary metal production plants;
22. Chemical process plants;
23. Fossil-fuel boilers (or combination of them) totaling more than 250 million British thermal units per hour heat input;
24. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
25. Taconite ore processing plants;
26. Glass fiber processing plants;
27. Charcoal production plants;
28. Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
29. Any other stationary source category which, as of August 7, 1980, is being regulated under § 111 or § 112 of the federal Clean Air Act ( 42 USC § 7401).

## ~~P-~~ 9 VAC 5-80-2150. Compliance with local zoning requirements.

The owner shall comply in all respects with any existing zoning ordinances and regulations in the locality in which the source is located or proposes to be located; provided, however, that such compliance does not relieve the board of its duty under ~~9 VAC 5-20-140 of these regulations~~ 9 VAC 5-170-170 and § 10.1-1307 E of the Virginia Air Pollution

Control Law to independently consider relevant facts and circumstances.

**~~Q~~ 9 VAC 5-80-2160. Reactivation and permanent shutdown.**

~~1~~. A. The reactivation of a stationary source is not subject to provisions of this ~~section~~ *article* unless a decision concerning shutdown has been made pursuant to the provisions of ~~subdivisions Q 2 through 4 subsections B through D~~ of this section or ~~9 VAC 5-80-40 P 5 9 VAC 5-80-950 C~~.

~~2~~. B. Upon a final decision by the board that a stationary source is shut down permanently, the board shall revoke the permit by written notification to the owner and remove the source from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the source shall not commence operation without a permit being issued under the applicable provisions of this chapter.

~~3~~. C. The final decision shall be rendered as follows:

~~a~~. 1. Upon a determination that the source has not operated for a year or more, the board shall provide written notification to the owner (i) of its tentative decision that the source is considered to be shut down permanently; (ii) that the decision shall become final if the owner fails to provide, within three months of the notice, written response to the board that the shutdown is not to be considered permanent; and (iii) that the owner has a right to a formal hearing on this issue before the board makes a final decision. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent and a projected date for restart-up of the source and shall include a request for a formal hearing if the owner wishes to exercise that right.

~~b~~. 2. If the board should find that the basis for the assertion is not sound or the projected restart-up date allows for an unreasonably long period of inoperation, the board shall hold a formal hearing on the issue if one is requested or, if no hearing is requested, the decision to consider the shutdown permanent shall become final.

~~4~~. D. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that a source is shutdown permanently prior to any final decision rendered under ~~subdivision Q 3 subsection C~~ of this section.

**~~R~~ 9 VAC 5-80-2170. Transfer of permits.**

~~1~~. A. No person shall transfer a permit from one location to another, or from one piece of equipment to another.

~~2~~. B. In the case of a transfer of ownership of a stationary source, the new owner shall abide by any current permit issued to the previous owner. The new owner shall notify the board of the change in ownership within 30 days of the transfer.

~~3~~. C. In the case of a name change of a stationary source, the owner shall abide by any current permit issued under the

previous source name. The owner shall notify the board of the change in source name within 30 days of the name change.

**~~S~~ 9 VAC 5-80-2180. Permit invalidation, revocation, and enforcement.**

~~1~~. A. A permit granted pursuant to this ~~section~~ *article* shall become invalid if a program of continuous construction, reconstruction or modification is not commenced within the latest of the following time frames:

~~a~~. 1. Eighteen months from the date the permit is granted.

~~b~~. 2. Nine months from the date of the issuance of the last permit or other authorization (other than permits granted pursuant to this ~~section~~ *article*) from any government entity.

~~c~~. 3. Nine months from the date of the last resolution of any litigation concerning any such permits or authorizations (including permits granted pursuant to this ~~section~~ *article*).

~~2~~. B. A permit granted pursuant to this ~~section~~ *article* shall become invalid if a program of construction, reconstruction or modification is discontinued for a period of 18 months or more or if a program of construction, reconstruction or modification is not completed within a reasonable time. This provision does not apply to the period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

~~3~~. C. The board may extend the periods prescribed in ~~subdivisions S 1 and 2 subsections A and B~~ of this section upon satisfactory demonstration that an extension is justified. Provided there is no substantive change to the application information, the review and analysis, and the decision of the board, such extensions may be granted without being subject to the requirements of ~~subsection H of this section 9 VAC 5-80-2070~~.

~~4~~. D. Any owner who constructs or operates a source or modification not in accordance (i) with the application submitted pursuant to this ~~section~~ *article* or (ii) with the terms and conditions of any permit to construct or operate, or any owner of a source or modification subject to this ~~section~~ *article* who commences construction or operation without applying for and receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this ~~subsection~~ *section*.

~~5~~. E. Permits issued under this ~~section~~ *article* shall be subject to such terms and conditions set forth in the permit as the board may deem necessary to ensure compliance with all requirements of the regulations.

~~6~~. F. The board may revoke any permit if the permittee:

~~a~~. 1. Knowingly makes material misstatements in the permit application or any amendments thereto;

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~~b.~~ 2. Fails to comply with the terms or conditions of the permit;

~~c.~~ 3. Fails to comply with any emission standards applicable to an emissions unit included in the permit;

~~d.~~ 4. Causes emissions from the stationary source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that an application is submitted; or

~~e.~~ 5. Fails to comply with the applicable provisions of this ~~section~~ *article*.

~~7.~~ G. The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit for any of the grounds for revocation contained in ~~subdivision S-6~~ *subsection F* of this section or for any other violations of these regulations.

~~8.~~ H. Violation of these regulations shall be grounds for revocation of permits issued under this ~~section~~ *article* and are subject to the civil charges, penalties and all other relief contained in ~~9 VAC 5 Chapter 20 (9 VAC 5-20-10 et seq.) Part V (9 VAC 5-170-120 et seq.) of 9 VAC 5 Chapter 170~~ and the Virginia Air Pollution Control Law (§ 10.1-1300 et seq. of the Code of Virginia).

~~9.~~ I. The board shall notify the applicant in writing of its decision, with its reasons, to change, suspend or revoke a permit or to render a permit invalid.

~~T.~~ **9 VAC 5-80-2190. Existence of permit no defense.**

The existence of a permit under this ~~section~~ *article* shall not constitute a defense to a violation of the Virginia Air Pollution Control Law (§ 10.1-1300 et seq.) or these regulations and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

VA.R. Doc. No. R99-84; Filed January 21, 1999; 12:53 p.m.

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# EMERGENCY REGULATIONS

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

Title of Regulation: 18 VAC 60-20-10 et seq. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-20 and 18 VAC 60-20-30).

Statutory Authority: §§ 54.1-2400, 54.1-2712.1, and 54.1-2726.1 et seq. of the Code of Virginia.

Effective Dates: January 21, 1999, through January 20, 2000.

Preamble:

The proposed emergency regulations are being promulgated to comply with statutory provisions of House Bill 1023 passed by the 1998 General Assembly. House Bill 1023 (Chapter 326) has an enactment clause requiring the Board of Dentistry to promulgate regulations to implement the act to be effective within 280 days of the enactment.

18 VAC 60-20-20, License renewal and reinstatement, establishes a renewal fee of \$15 for every person holding a restricted volunteer license as a dentist or a dental hygienist.

18 VAC 60-20-30, Other fees, establishes an application fee of \$25 for licensure as a restricted volunteer dentist or dental hygienist.

Agency Contact: Marcia J. Miller, Board of Dentistry, 6606 W. Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9906.

#### 18 VAC 60-20-20. License renewal and reinstatement.

A. Renewal fees. Every person holding an active or inactive license, a teacher's license, full-time faculty license, a *restricted volunteer license* or a temporary permit to practice dentistry or dental hygiene shall, on or before March 31, renew his license.

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.

3. *The fee for renewal of a restricted volunteer license shall be \$15.*

B. Penalty fees. Any person who does not return the completed form and fee by March 31 shall be required to pay an additional penalty fee of \$50 for dentists and \$35 for dental hygienists. The board shall renew a license if the renewal form, renewal fee, and penalty fee are received by the following April 30.

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 his 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 application, the renewal fee and the penalty fee of \$50 for dentists and \$35 for dental hygienists per month for each month or part of a month the 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 60-20-170 to deny said reinstatement, and that the applicant has paid all unpaid renewal fees and assessments.

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 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 application and fee of \$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 \$225.

B. Dental hygiene licensure application fees. The application fee for a dental hygiene license by examination, a license to teach dental hygiene, or a temporary permit as a dental hygienist shall be \$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.

D. Duplicate license. Licensees desiring a duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of \$10. 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. Examination. Each examination administered by the board shall be at a fee of \$25.

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# Emergency Regulations

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H. Endorsement license. License by endorsement issued in accordance with 18 VAC 60-20-80 for dental hygienists shall be at a fee of \$225.

I. *Restricted volunteer license. The application fee for licensure as a restricted volunteer dentist or dental hygienist issued in accordance with § 54.1-2712.1 or § 54.1-2726.1 shall be \$25.*

/s/ John W. Hasty, Director  
Department of Health Professions  
Date: October 23, 1998

/s/ Claude A. Allen  
Secretary of Health and Human Resources  
Date: November 12, 1998

/s/ James S. Gilmore, III  
Governor  
Date: January 19, 1999

VA.R. Doc. No. R99-82; Filed January 21, 1999, 9:40 a.m.

## BOARD OF MEDICINE

**Title of Regulation:** 18 VAC 85-40-10 et seq. **Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-10, 18 VAC 85-40-40, 18 VAC 85-40-50, 18 VAC 85-40-60, 18 VAC 85-40-70, and 18 VAC 85-40-80; adding 18 VAC 85-40-25, 18 VAC 85-40-45, and 18 VAC 85-40-65).**

**Statutory Authority:** §§ 54.1-2400 and 54.1-2900 et seq. of the Code of Virginia.

**Effective Dates:** January 21, 1999, through January 20, 2000.

### Preamble:

The emergency regulations are being promulgated to comply with statutory provisions of SB 665 passed by the 1998 General Assembly. Senate Bill 665 (Chapter 557) has an enactment clause requiring the Board of Medicine to promulgate regulations to implement the act to be effective within 280 days of the enactment.

18 VAC 85-40-10. A definition of an "accredited educational program" was added in order to specify the accrediting body for respiratory care programs recognized by the board.

18 VAC 85-40-25. A new section was added to require licensees to furnish current name and address within 30 days of any change and to specify that notices mailed by the board to the name and address on file shall be validly given.

18 VAC 85-40-40. Application requirements have been amended to state some of the current requirements that are found in other sections and to specify the documentation or verification necessary to become licensed as a respiratory care practitioner.

18 VAC 85-40-45. A new section is adopted to state the educational requirements as required by the statute. The requirements are those of the National Board for Respiratory

Care (NBRC) to sit for the entry level certification examination and to hold credentials as a CRTT or a RRT.

18 VAC 85-40-50. Amendments are adopted to clarify that an applicant who fails the national examination must meet the requirements of the NBRC for retaking that examination.

18 VAC 85-40-60. An amendment to the requirements for renewal of license will provide for evidence of at least 160 hours of active practice during the biennial renewal cycle, which is the minimal requirement for other licensed professions (such as occupational therapy or physical therapy) under the Board of Medicine.

18 VAC 85-40-65. The current regulation has no provision for reinstatement of an expired license regardless of length of expiration or lack of active practice. The new section will require the applicant for reinstatement of a license lapsed for more than two years to submit evidence of competency to practice – which may be active practice in another jurisdiction or hours of education.

18 VAC 85-40-70. An amendment is adopted to provide that active practice, as required for renewal of licensure, may include supervisory, administrative or consultative services related to the delivery of respiratory care.

18 VAC 85-40-80. The fee for late renewal of licensure was amended from \$10 to \$25 to be consistent with all other licensed professions under the Board of Medicine. Fees for reinstatement of a revoked license, for issuance of a duplicate license or a duplicate wall certificate were also added for consistency with other regulations and to recover costs incurred by the board in the performance of these activities.

**Agency Contact:** Warren K. Koontz, M.D., Board of Medicine, 6606 W. Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9908.

## PART I. GENERAL PROVISIONS.

### 18 VAC 85-40-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

Board

Qualified medical direction

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

*"Accredited educational program" means a program accredited by the Committee on Accreditation for Respiratory Care or any other agency approved by the NBRC for its entry level certification examination.*

*"Advisory board" means the Advisory Board on Respiratory Care to the Board of Medicine as specified in § 54.1-2956 of the Code of Virginia.*

"NBRC" means the National Board for Respiratory Care, Inc.

"Respiratory care practitioner" means a person as specified in § 54.1-2954 of the Code of Virginia.

**18 VAC 85-40-25. Current name and address.**

*Each licensee shall furnish the board his current name and address. All notices required by law or by these regulations to be mailed by the board to any such licensee shall be validly given when mailed to the latest address given by the licensee. Any change of name or address shall be furnished to the board within 30 days of such change.*

**PART II.**

**REQUIREMENTS FOR PRACTICE LICENSURE AS A LICENSED RESPIRATORY CARE PRACTITIONER.**

**18 VAC 85-40-40. General Application requirements.**

~~A. No person shall practice as a licensed respiratory care practitioner in the Commonwealth except as provided in this chapter.~~

~~B. All services rendered by a licensed respiratory care practitioner shall be performed only upon written or verbal orders from a qualified practitioner and under qualified medical direction.~~

*An applicant for licensure shall submit the following on forms provided by the board:*

- 1. A completed application and a fee as prescribed in 18 VAC 85-40-80.*
- 2. Verification of professional education in respiratory care as required in 18 VAC 85-40-45.*
- 3. Verification of professional activity as required on the application form.*
- 4. Documentation of passage of the national examination as required in 18 VAC 85-40-50.*
- 5. If licensed or certified in any other jurisdiction, documentation of practice as a respiratory care practitioner and verification that there has been no disciplinary action taken or pending in that jurisdiction.*

**18 VAC 85-40-45. Educational requirements.**

*An applicant for licensure shall:*

- 1. Be a graduate of an accredited educational program for respiratory care practitioners; or*
- 2. Hold current credentialing as a Certified Respiratory Therapy Technician (CRTT), a Certified Respiratory Therapist or a Registered Respiratory Therapist (RRT) from the NBRC.*

**18 VAC 85-40-50. Licensure Examination requirements.**

A. An applicant for a license to practice as a licensed respiratory care practitioner shall: ~~4.~~ submit to the board written evidence, verified by affidavit, that the applicant has

passed the NBRC entry level examination for respiratory care, or its equivalent;

~~2. Make application on forms supplied by the board and completed in every detail; and~~

~~3. Pay the application fee prescribed in 18 VAC 85-40-80 at the time the application is filed.~~

B. An applicant who fails to successfully pass the national examination shall meet any requirements of the NBRC for retaking the examination.

**PART III.**

**RENEWAL AND REINSTATEMENT.**

**18 VAC 85-40-60. Renewal of license.**

A. Every licensed respiratory care practitioner intending to continue his licensure shall biennially in each odd-numbered year in his birth month:

1. Register with the board for renewal of his license; and
2. Pay the prescribed renewal fee at the time he files for renewal; and
3. Indicate that he has practiced as a licensed respiratory care practitioner as prescribed in 18 VAC 85-40-70 for at least 160 hours during the biennial renewal cycle.

B. A respiratory care practitioner whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18 VAC 85-40-80.

**18 VAC 85-40-65. Reinstatement.**

A. In order to reinstate a license which has been lapsed for more than two years, a respiratory care practitioner shall file an application for reinstatement, pay the fee for reinstatement of his licensure as prescribed in 18 VAC 85-40-80, and submit to the board evidence of competency to practice.

B. A respiratory care practitioner whose licensure has been revoked by the board and who wishes to be reinstated shall make a new application to the board and payment of the fee for reinstatement of his licensure as prescribed in 18 VAC 85-40-80 pursuant to § 54.1-2921 of the Code of Virginia.

**PART III. IV.**

**SCOPE OF PRACTICE.**

**18 VAC 85-40-70. Individual responsibilities.**

A. Practice as a licensed respiratory care practitioner means, upon receipt of written or verbal orders from a qualified practitioner and under qualified medical direction, the evaluation, care and treatment of patients with deficiencies and abnormalities associated with the cardiopulmonary system. This practice shall include, but not be limited to, ventilatory assistance and support; the insertion of artificial airways without cutting tissue and the maintenance of such airways; the administration of medical

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# Emergency Regulations

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gases exclusive of general anesthesia; topical administration of pharmacological agents to the respiratory tract; humidification; and administration of aerosols. The practice of respiratory care shall include such functions shared with other health professionals as cardiopulmonary resuscitation; bronchopulmonary hygiene; respiratory rehabilitation; specific testing techniques required to assist in diagnosis, therapy and research; and invasive and noninvasive cardiopulmonary monitoring.

*B. Practice as a licensed respiratory care practitioner may include supervisory, educational, administrative, or consultative services related to the delivery of respiratory care.*

## PART IV. FEES.

### 18 VAC 85-40-80. Fees.

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be \$100.
2. The biennial fee for renewal of licensure shall be \$50, payable in each odd-numbered year in the license holder's birth month.
3. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$40 \$25 for each renewal cycle.
4. Lapsed license. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia, which has expired for a period of two years or more, shall be \$100 and must be submitted with an application for licensure reinstatement.
5. *The fee for reinstatement of a revoked license shall be \$500.*
6. *The fee for a duplicate license shall be \$10, and the fee for a duplicate wall certificate shall be \$25.*

/s/ John W. Hasty, Director  
Department of Health Professions  
Date: November 9, 1998

/s/ Claude A. Allen  
Secretary of Health and Human Resources  
Date: December 3, 1998

/s/ James S. Gilmore, III  
Governor  
Date: January 20, 1999

VA.R. Doc. No. R99-83; Filed January 21, 1999, 9:39 a.m.

## BOARD OF NURSING

**Title of Regulation:** 18 VAC 90-20-10 et seq. **Regulations of the Board of Nursing (amending 18 VAC 90-20-300; adding 18 VAC 90-20-420 through 18 VAC 90-20-460).**

**Statutory Authority:** §§ 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of the Code of Virginia.

**Effective Dates:** January 26, 1999, through January 25, 2000.

### Preamble:

The proposed emergency regulations are being promulgated to comply with statutory provisions of HB 1055 passed by the 1998 General Assembly. House Bill 1055 (Chapter 458) has an enactment clause requiring the Board of Nursing to promulgate regulations to implement the act to be effective within 280 days of the enactment.

18 VAC 90-20-300, Disciplinary provisions, adds a provision which includes in the list of actions constituting unprofessional conduct "delegating nursing tasks to an unlicensed person in violation of the provisions of 18 VAC 90-20-420."

18 VAC 90-20-420, Definitions, provides the definitions for words and terms used in this part of the regulations as necessary for clarity and compliance. Those are "delegation," "supervision," and "unlicensed person."

18 VAC 90-20-430, Criteria for delegation, establishes the requirements for a plan for delegation to be adopted by the entity responsible for client care, sets certain criteria which must be met in order for a nurse to delegate, states that the unlicensed person may not reassign the task or procedure, and establishes that delegation may occur only after an assessment has been performed.

18 VAC 90-20-440, Assessment required prior to delegation, establishes the requirements for an assessment and specifies those types of tasks which may be delegated to unlicensed persons.

18 VAC 90-20-450, Supervision of delegated tasks, establishes the factors by which the nurse determines the method and frequency of supervision required, sets conditions under which another registered nurse may supervise the nursing tasks if the delegating nurse is not present, specifies what such supervision shall include, and establishes that an on-going assessment is necessary to determine if delegation continues to be appropriate.

18 VAC 90-20-460, Nursing tasks which shall not be delegated, establishes that nursing tasks which shall not be delegated are those which are inappropriate for a specific, unlicensed person to perform on a specific patient after an assessment is conducted, and sets out certain nursing tasks which may not be delegated to any unlicensed person.

The emergency regulations promulgated by the board are essential to protect patients in the Commonwealth who, without their knowledge, may be receiving nursing treatment by persons who are not certified or licensed by the Board of

Nursing. In the interest of public health and safety, the General Assembly mandated the board to promulgate regulations establishing the conditions under which certain tasks or procedures could be delegated. In the words of the legislation, those tasks should not involve assessment, evaluation or nursing judgment and the unlicensed person should be appropriately trained for the specified tasks to be assigned. The registered nurse making the delegation is responsible for the supervision of the unlicensed person and retains responsibility and accountability for the delegation.

The emergency regulations were adopted by the board in order to provide the guidance and framework for such delegation by the registered nurses in Virginia.

Agency Contact: Nancy K. Durrett, Board of Nursing, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 692-9945.

## PART V. DISCIPLINARY PROVISIONS.

### **18 VAC 90-20-300. Disciplinary provisions.**

A. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee, upon proof that the licensee has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit means, but shall not be limited to:
  - a. Filing false credentials;
  - b. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or
  - c. Giving or receiving assistance in the taking of the licensing examination.
2. Unprofessional conduct means, but shall not be limited to:
  - a. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;
  - b. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;
  - c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
  - d. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;
  - e. Falsifying or otherwise altering patient or employer records;
  - f. Abusing, neglecting or abandoning patients or clients;

g. Practice of a clinical nurse specialist beyond that defined in 18 VAC 90-20-290; or

h. Representing oneself as or performing acts constituting the practice of a clinical nurse specialist unless so registered by the board; or

i. *Delegating nursing tasks to an unlicensed person in violation of the provisions of 18 VAC 90-20-420 et seq.*

B. Any sanction imposed on the registered nurse license of a clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.

## PART IX.

### DELEGATION OF NURSING TASKS AND PROCEDURES.

#### **18 VAC 90-20-420. Definitions.**

*“Delegation” means the authorization by a registered nurse to an unlicensed person to perform selected nursing tasks and procedures in accordance with 18 VAC 90-20-420 et seq.*

*“Supervision” means guidance or direction of a delegated nursing task or procedure by a qualified, registered nurse who provides periodic observation and evaluation of the performance of the task and who is accessible to the unlicensed person.*

*“Unlicensed person” means an appropriately trained individual, regardless of title, who receives compensation, who functions in a complementary or assistive role to the registered nurse in providing direct patient care or carrying out common nursing tasks and procedures, and who is responsible and accountable for the performance of such tasks and procedures.*

#### **18 VAC 90-20-430. Criteria for delegation.**

A. Delegation of nursing tasks and procedures shall only occur in accordance with the plan for delegation adopted by the entity responsible for client care. The delegation plan shall comply with provisions of this chapter and shall provide:

1. An assessment of the client population to be served;
2. Analysis and identification of nursing care needs and priorities;
3. Establishment of organizational standards to provide for sufficient supervision which assures nursing care to meet the needs of the clients;
4. Communication of the delegation plan to the staff;
5. Identification of the educational and training requirements for unlicensed persons and documentation of their competencies; and
6. Provision of resources for appropriate delegation in accordance with 18 VAC 90-20-420 et seq.

B. Delegation shall be made only if all of the following criteria are met:

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1. In the judgment of the delegating nurse, the task or procedure can be properly and safely performed by the unlicensed person and the delegation does not jeopardize the health, safety and welfare of the client.

2. The delegating nurse retains responsibility and accountability for nursing care of the client, including nursing assessment, planning, evaluation, documentation and supervision.

3. Delegated tasks and procedures are within the knowledge, area of responsibility and skills of the delegating nurse.

4. Delegated tasks and procedures are communicated on a client specific basis to an unlicensed person with clear, specific instructions for performance of activities, potential complications, and expected results.

5. The person to whom a nursing task has been delegated is clearly identified to the client as an unlicensed person by a name tag worn while giving client care, and by personal communication by the delegating nurse when necessary.

C. Delegated tasks and procedures may not be reassigned by unlicensed personnel.

D. Nursing tasks shall only be delegated after an assessment is performed according to provisions of 18 VAC 90-20-440.

## **18 VAC 90-20-440. Assessment required prior to delegation.**

Prior to delegation of nursing tasks and procedures, the delegating nurse shall make an assessment of the client and unlicensed person as follows:

1. The delegating nurse shall assess the clinical status and stability of the client's condition, shall determine the type, complexity and frequency of the nursing care needed and shall delegate only those tasks which:

- a. Do not require the exercise of independent nursing judgment;
- b. Do not require complex observations or critical decisions with respect to the nursing task or procedure;
- c. Frequently reoccur in the routine care of the client or group of clients;
- d. Do not require repeated performance of nursing assessments;
- e. Utilize a standard procedure in which the tasks or procedures can be performed according to exact, unchanging directions; and
- f. Have predictable results and for which the consequences of performing the task or procedures improperly are minimal and not life threatening.

2. The delegating nurse shall also assess the training, skills and experience of the unlicensed person and shall verify the competency of the unlicensed person in order to determine which tasks are appropriate for that unlicensed person and the method of supervision required.

## **18 VAC 90-20-450. Supervision of delegated tasks.**

A. The delegating nurse shall determine the method and frequency of supervision based on factors to include, but not be limited to:

1. The stability and condition of the client;
2. The experience and competency of the unlicensed person;
3. The nature of the tasks or procedures being delegated; and
4. The proximity and availability of the registered nurse to the unlicensed person when the nursing tasks will be performed.

B. In the event that the delegating nurse is not present, a registered nurse shall supervise all nursing tasks delegated to the unlicensed person, provided the registered nurse meets the requirements of subdivision 3 of subsection B of 18 VAC 90-20-430.

C. Supervision shall include but not be limited to:

1. Monitoring the performance of delegated tasks;
2. Evaluating the outcome for the client;
3. Ensuring appropriate documentation; and
4. Being accessible for consultation and intervention.

D. Based on an on-going assessment as described in 18 VAC 90-20-440, the registered nurse may determine that delegation of some or all of the tasks and procedures is no longer appropriate.

## **18 VAC 90-20-460. Nursing tasks which shall not be delegated.**

A. Nursing tasks which shall not be delegated are those which are inappropriate for a specific, unlicensed person to perform on a specific patient after an assessment is conducted as provided in 18 VAC 90-20-440.

B. Nursing tasks which may not be delegated to any unlicensed person are:

1. Activities involving nursing assessment, problem identification, and outcome evaluation which require independent nursing judgment;
2. Counseling or teaching except for activities related to promoting independence in personal care and daily living;
3. Coordination and management of care involving collaboration, consultation and referral;

4. *Emergency and nonemergency triage.*

5. *Administration of medications except as specifically permitted by § 54.1-3400 et seq. of the Code of Virginia (The Virginia Drug Control Act).*

/s/ John W. Hasty, Director  
Department of Health Professions  
Date: October 5, 1998

/s/ Claude A. Allen  
Secretary of Health and Human Resources  
Date: October 28, 1998

/s/ James S. Gilmore, III  
Governor  
Date: January 25, 1999

VA.R. Doc. No. R99-90; Filed January 26, 1999, 4:35 p.m.



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# FORMS

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## DEPARTMENT OF MINES, MINERALS AND ENERGY

**EDITOR'S NOTICE:** The following forms have been amended by the Department of Mines, Minerals and Energy. The forms are not being published due to the large number of pages. The forms are 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 25-130-10 et seq. Coal Surface Mining Reclamation Regulations.**

Application for Permit for Coal Surface Mining and Reclamation Operations and National Pollutant Discharge Elimination Systems (NPDES), DMLR-PT-034 (Rev. 4/94 8/98).

Application for Permit: Coal Surface Mining and Reclamation Operations, DMLR-PT-034D (Rev. 4/96 8/98).

~~Instruction Guide (included with DMLR-PT-034D).~~

Rainfall Monitoring Report, DMLR-PT-102 (Rev. 4/95 8/98).

Surface Water Monitoring Report, DMLR-PT-210 (Rev. 4/95 8/98).

~~Application for a Coal Surface Mining and Reclamation Permit: Blasting Plan Data (BLD-034D), DMLR-PT-034D, rev. 10/97 (This is a revised page 33 of the Instruction Guide to DMLR-PT-034D which was filed 4/96.)~~

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# GUIDANCE DOCUMENTS

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Chapter 11 of the 1997 Acts of Assembly requires annual publication in the *Virginia Register* of guidance document lists from state agencies covered by the Administrative Process Act (§ 9-6.14:1 et seq.) and the Virginia Register Act (§ 9-6.15 et seq.). A guidance document is defined as "...any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations..." Agencies are required to maintain a complete, current list of all guidance documents and make the full text of such documents available to the public.

Generally, the format for the guidance document list is: document number (if any), title of document, date issued or last revised, and citation of Virginia Administrative Code regulatory authority or Code of Virginia statutory authority. Questions concerning documents or requests for copies of documents should be directed to the contact person listed by the agency.

## DEPARTMENT OF EDUCATION

Copies of the following guidance documents may be obtained at no cost by contacting Dr. James E. Laws, Jr. at the Virginia Department of Education, P. O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540. For interpretive or implementation information, questions may also be directed to Dr. Laws. The documents may be viewed at the Department of Education during regular work days from 8:30 a.m. to 5 p.m. at 101 North 14th Street, 25th Floor, Richmond, VA.

### Guidance Documents:

#### Comprehensive Services

Comprehensive Services Act (CSA) for At Risk Youth and Families Implementation Manual, July 1997

#### Driving

Steps for Minors to Procure a Driver's License in Virginia, July 1997

Alcohol and Other Drugs and Driving, 1990

#### Family Life

Family Life Education: Special Education, 1991

#### Gifted

The Virginia Plan for the Gifted, 1996

#### Governor's Schools

Procedures for Initiating an Academic Year Governor's School, 1997

#### Graduation Requirements

Guidelines for Approval of Additional Graduation Requirements at the Local Level

Standards of Learning for Virginia Public Schools

Art  
English  
Family Life Education  
Board of Education Regulations for Family Life Education  
Foreign Languages  
Guidance  
Health  
History and Social Sciences  
Mathematics  
Science  
Media/Library Services  
Music  
Physical Education

#### Grievances

Procedures for Adjusting Grievances, June 1997

#### Health and Physical Fitness

Guidelines for the Administration of the Virginia Fitness Test, December 1992

Virginia Health Guidelines, August 1992

Guidelines for Specialized Health Care Procedures, March 1996

Model Guidelines for School Attendance for Children with Human Immunodeficiency Virus (HIV), 1990

HIV/AIDS Prevention Education Curriculum Guide, February 1992.

A Guide to Establishing and Maintaining School Health Advisory Boards, 1993.

A Model Survey: Healthy Schools Make Sense--Evaluating Your School Health Program, November 1993

Virginia School Health Guidelines, August 1992 (under revision for 1998)

Guidelines for Specialized Health Care Procedures, March 1996

Emergency First Aid Flip Chart for School Emergencies, August 1992

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# Guidance Documents

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## Licensure

The Virginia Recertification Manual, July 1990

Virginia Approved Preparation Programs for Instructional Personnel, July 1994

State-Approved Principal Preparation Programs, July 1, 1990

## Pledge of Allegiance

Guidelines on the Recitation of the Pledge of Allegiance, November 17, 1997

## Religious Activity

Guidelines Concerning Religious Activity in Public Schools, June 22, 1995

## Special Education

A Parent's Guide to Regulations Governing Special Education Programs for Children with Disabilities in Virginia, 1994

Comparison of Virginia Regulations Governing Special Education Programs and the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, August 1997

Individualized Education Programs: The Process, March 1995

Provision of Services to Students with Attention Deficit Hyperactivity Disorder, November 1991

Selection of Literacy Media for Students with Visual Impairments, March 1997

Suggestions and Examples on Transitioning from Services Under IDEA, Part H to Part B, May 1996

Program Guidelines for Students with Hearing Impairments in Virginia's Public Schools, March 1990

Program Guidelines for Audiological Services in Virginia's Public Schools, 1980

Program Guidelines for Students with Speech-Language Impairments, 1991

Handbook on Programming for Virginia Students with Serious Emotional Disturbance, May 1986

Guidelines for Educational Services for Students with Traumatic Brain Injury, 1992

Noncategorical Primary Special Education Program Guidelines for Students with Developmental Delay, December 1990

## Student Discipline and Safety

Student Conduct Policy Guidelines, June 1994

School Safety Audits: Protocol, Procedures, and Checklists, September 1997

Before You Suspend Students with Disabilities: Suggestions for Policies and Procedures, 1996

Guidelines for Teacher Removal of Disruptive Students from Class for Disruptive Behavior

## Student Records

Guidelines for the Management of the Student's Scholastic Record in Virginia Public Schools, September 1995

## Uniforms

Model Guidelines for the Wearing of Uniforms in Public Schools, May 23, 1996

## Miscellaneous

Handbook of Procedures and Forms for Requesting Federal Program Reimbursements Under Improving America's Schools Act (IASA) and Special Education (IDEA), September 1997

Training and Technical Assistance Center Handbook for State Reporting Requirements, January 1998

Procedures for Child Study Committees Operating in Virginia, November 1993

Description of Federal and State Early Childhood Programs Administered at the Virginia Department of Education, September 1997

Handbook for Occupational and Physical Therapy Services in the Public Schools of Virginia, March 1997.

Handbook for Homebound Service, January 1990

Planning and Evaluating School Psychological Services: Resource Guide for Practitioners, 1997

## Mediation

Mediation: An Interim Guidance Document, August 1997

State Assessment Policy and Accommodations Information for Students with Disabilities -- three documents:

- Guidelines for Testing Students with Disabilities in the Literacy Testing Program, November 1993
- Guidelines for Testing Students with Disabilities in the Virginia State Assessment Program, February 1997
- Guidelines for Participation of Students with Disabilities and Students with Limited English Proficiency in the Standards of Learning Assessment, October 1997

## Resolutions of the Board of Education

Subsequent to promulgating a regulation, additional questions may arise regarding the "intent" of the board

regarding a regulation or section of a regulation. The Board of Education may then adopt a resolution to explain to the public its "intent" regarding the regulation or section of a regulation.

## **VIRGINIA SMALL BUSINESS FINANCING AUTHORITY**

Copies of the following documents may be viewed during regular work days from 8:30 a.m. until 5 p.m. in the office of the Financial Services Division, 707 E. Main Street, 3rd Floor, Richmond, VA 23219. Copies may be obtained free of charge by contacting Barbara Carter at the same address, telephone (804) 371-8254, FAX (804) 225-3384 or e-mail [bcarter@dba.state.va.us](mailto:bcarter@dba.state.va.us).

Questions regarding interpretation or implementation of these documents may be directed to Patricia S. Thorne, Financial Services Division, 707 E. Main Street, 3rd Floor, Richmond, VA 23219, (804) 371-8208, FAX (804) 225-3384 or e-mail [pthorne@dba.state.va.us](mailto:pthorne@dba.state.va.us).

### **Guidance Documents:**

Virginia Private Activity Bond Allocation Guidelines 1998, revised December 1998, Chapter 50 (§§ 15.2-5000 through 15.2-5005) of Title 15.2 of the Code of Virginia

IDB/IDBFACTS/12/97, Virginia Small Business Financing Authority: Industrial Development Bonds, Tax-exempt Bonds and Taxable Bonds, revised January 1999, Chapter 28 (§§ 9-197 through 9-235 and 9-249.1) of the Code of Virginia

IDB/UMBFACTS/12/97, Virginia Small Business Financing Authority: Industrial Development Bonds, Umbrella Bond Program, revised January 1999, Chapter 28 (§§ 9-197 through 9-235 and 9-249.1) of the Code of Virginia

RLF/RLFFACTS/12/97, Virginia Small Business Financing Authority: Virginia Economic Development Revolving Loan Fund and Virginia Defense Conversion Revolving Loan Fund, revised January 1999, Chapter 28 (§§ 9-197 through 9-235 and 9-249.1) of the Code of Virginia

LGP/LGPFACTS/12/97, Virginia Small Business Financing Authority: Loan Guaranty Program, revised January 1999, Chapter 28 (§§ 9-197 through 9-235 and 9-249.1) of the Code of Virginia

CDC/CDCFACTS/12/97, Virginia Small Business Financing Authority: Child Day Care Financing Program: Child Day Center Loans and Family Home Provider Loans, December 1997, § 63.1-195 and Chapter 28 (§§ 9-197 through 9-235 and 9-249.1) of the Code of Virginia

VCAP/VCAPMAN/12/97, Virginia Small Business Financing Authority: Virginia Capital Access Program - Program Manual, December 1997, Chapter 28 (§§ 9-197 through 9-235 and 9-249.1) of the Code of Virginia

EGP/EGPFACTS/12/97, Virginia Small Business Financing Authority: Virginia Export Loan Guarantee Fund, December 1997, Chapter 28 (§§ 9-197 through 9-235 and 9-249.1) of the Code of Virginia

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# GENERAL NOTICES/ERRATA

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## STATE CORPORATION COMMISSION

### Bureau of Insurance

**EDITOR'S NOTE:** Form MB-1, Form MB-1 Instructions and Information, and the CPT and ICD-9CM Codes which are referenced in the following Administrative Letter are not being published. However, these documents are available for public inspection by contacting Althelia P. Battle, State Corporation Commission, Forms and Rates Section, Bureau of Insurance - Life and Health Division, P. O. Box 1157, Richmond, Virginia, telephone (804) 371-9495 or FAX (804) 371-9944, and at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219.

January 22, 1999

#### Administrative Letter 1999-1

**TO: ALL INSURERS LICENSED TO WRITE ACCIDENT AND SICKNESS INSURANCE IN VIRGINIA, AND ALL HEALTH SERVICES PLANS AND HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN VIRGINIA**

**RE: 4 VAC 5-190-10 et seq.: Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers - 1998 Reporting Period**

The attached instructions and forms are provided to assist companies in the preparation of the Annual Report of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers for the 1998 reporting period, pursuant to 14 VAC 5-190-10 et seq. and § 38.2-3419.1 of the Code of Virginia. The report must be in the format contained in Form MB-1, a copy of which is also attached to this letter. The completed Form MB-1 is due on or before May 1, 1999. **Lack of notice, lack of information, lack of means of producing the required data, or other such excuses will not be accepted for not filing a complete and accurate report in a timely manner.**

Companies should refer to 14 VAC 5-190-40 for an explanation of the circumstances under which a complete or an abbreviated report must be filed. This section also describes the circumstances under which a company may be exempt from filing a report. The total Virginia annual written premium for all accident and sickness policies or contracts referred to in this section of the administrative code is the amount reported to the Commission in the company's 1998 Annual Statement, and that amount must be used to determine the type of filing required.

Companies are reminded that it is not acceptable to submit more than one Form MB-1 for a single company. It is also unacceptable to consolidate information from different companies on one form. Each licensed company must submit a separate Form MB-1.

The instructions attached explain the type of information required to complete Form MB-1 and serve to highlight frequent errors and omissions, but it should be noted that these instructions are not complete. All sources of information, including 14 VAC 5-190-10 et seq., §§ 38.2-3408 through 38.2-3418.2 and § 38.2-4221 should be consulted in the preparation of this report.

Correspondence regarding this reporting requirement, including Form MB-1 filings, should be directed to Althelia P. Battle, Senior Insurance Market Examiner, Forms and Rates Section, Bureau of Insurance - Life and Health Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9495, FAX (804) 371-9944.

Companies are reminded that failure to submit a substantially complete and accurate report pursuant to the provisions of 14 VAC 5-190 et seq. by the due date may be considered a willful violation subject to a penalty as set forth in § 38.2-218 of the Code of Virginia.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES

### Notice of Application for Grant Funds Prerelease and Post-incarceration Services (PAPIS)

The Department of Criminal Justice Services is accepting applications for grant funds for prerelease and post-incarceration services for adult offenders. These services provide training and counseling which prepare adult offenders for reintegration into society after release from state prisons or local jails. The deadline for application is 5 p.m., Friday, April 2, 1999. Program guides and applications may be obtained by contacting Carol-Lee Raimo, Program Analyst, Department of Criminal Justice Services, telephone (804) 786-9652, FAX (804) 786-9656, or e-mail [craimo.dcjs@state.va.us](mailto:craimo.dcjs@state.va.us). Any public or private nonprofit transition services provider is invited to make application.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Notice of Public Comment for Muddy Creek TMDL

The Department of Environmental Quality and the Department of Conservation and Recreation seek written comments from interested persons on the draft Total Maximum Daily Load (TMDL) Report for fecal coliform bacteria on a 10.36 mile segment of Muddy Creek. This impaired segment is located in Rockingham County and extends from the headwaters of Muddy Creek to the confluence with Dry River. Muddy Creek is identified in Virginia's 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require the development and implementation of TMDLs for pollutants responsible for each

impaired water contained in Virginia's § 303(d) TMDL Priority List and Report.

The public comment period will end on Wednesday, March 17, 1999. Copies of the draft TMDL for fecal coliform bacteria on Muddy Creek can be requested from the person listed below. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Mr. Charles Martin, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240-0009, telephone (804) 698-4462, FAX (804) 698-4136, or e-mail [chmartin@deq.state.va.us](mailto:chmartin@deq.state.va.us).

## BOARD OF GAME AND INLAND FISHERIES

### Biennial Review of Wildlife Regulations

The Board of Game and Inland Fisheries will conduct its regular biennial review of regulations for game wildlife; hunting and trapping, including the length of seasons; bag limits and methods of take for game. The regulation review and revision will take place over two sequential board meetings, on March 4-5 and May 6-7, 1999. The March and May meetings are and will be announced under separate notices in the Calendar of Events section of the Virginia Register.

The regulations subject to review and for which amendments may be adopted are:

- 4 VAC 15-20. Definitions And Miscellaneous: In General.
- 4 VAC 15-30. Definitions And Miscellaneous: Importation, Possession, Sale, Etc., of Animals.
- 4 VAC 15-40. Game: In General.
- 4 VAC 15-50. Game: Bear.
- 4 VAC 15-60. Game: Beaver.
- 4 VAC 15-70. Game: Bobcat.
- 4 VAC 15-80. Game: Crow.
- 4 VAC 15-90. Game: Deer.
- 4 VAC 15-100. Game: Dove.
- 4 VAC 15-110. Game: Fox.
- 4 VAC 15-120. Game: Grouse.
- 4 VAC 15-130. Game: Mink.
- 4 VAC 15-140. Game: Muskrat.
- 4 VAC 15-160. Game: Opossum.
- 4 VAC 15-170. Game: Otter.
- 4 VAC 15-180. Game: Pheasant.
- 4 VAC 15-190. Game: Quail.
- 4 VAC 15-200. Game: Rabbits And Hares.
- 4 VAC 15-210. Game: Raccoon.
- 4 VAC 15-220. Game: Skunk.
- 4 VAC 15-230. Game: Squirrel.
- 4 VAC 15-240. Game: Turkey.
- 4 VAC 15-250. Game: Falconry.
- 4 VAC 15-260. Game: Waterfowl And Waterfowl Blinds.
- 4 VAC 15-270. Game: Firearms.
- 4 VAC 15-280. Game: Pelts And Furs.

- 4 VAC 15-290. Game: Permits.
- 4 VAC 15-300. Game: Weasel.
- 4 VAC 15-310. Game: Woodchuck.

The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia. It is required by § 9-6.14:22 to publish all proposed and final regulations.

Under board procedures, the regulatory actions occur over the two sequential board meetings. At the March 4-5 meeting, Department of Game and Inland Fisheries' staff will present recommendations for regulatory amendments, and the board will solicit and hear comments from the public in a public hearing. The board then intends to propose regulations or regulation amendments. Any proposed regulatory actions (or informative summaries) will be published in the Virginia Register, posted on the internet at [www.dgif.state.va.us](http://www.dgif.state.va.us), and advertised in newspapers. Adoption of any regulations or regulation amendments as final will take place at a subsequent board meeting to be held Monday and Tuesday, May 6-7, 1999. The May 6-7 meeting will be held in Richmond; the time and address will be announced in a later notice.

Under board procedures, the following opportunities for public involvement are being or will be provided:

- First public hearing. A public hearing will be held, as described above, at the March 4-5, 1999 board meeting. This is the first of the two sequential board meetings, and the one at which the board proposes regulatory actions.
- Second public hearing. A public hearing will be held at the May 5-6, 1999, board meeting. This is the second of the two board meetings, and the one at which the board adopts final regulations.
- Supplemental public hearings. More public hearings, or "public input meetings," to be held between the first and the second board meetings, may be ordered at the discretion of the board.
- Public comment period. A public comment period on any proposed regulatory actions will open at the time the board proposes such regulations at its March 4-5 meeting, and will run until May 6. However, in order to be assured that comments submitted are included in the board's briefing materials, the comments need to be received by the department no later than April 29, 1999. In order to be taken into consideration, comments submitted: (i) must be in writing; (ii) must be accompanied by the name, address and telephone number of the party offering the comments; (iii) should state the regulatory action desired; and (iv) should state the justification for the desired action. Comments submitted during the public comment period should be mailed to Phil Smith, Regulatory Coordinator,

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## General Notices/Errata

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Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230.

- Ongoing public comment. The department also receives and accepts comments on a continuous basis from members of the public, outside of the specified public comment period. The public comment period described above is an additional provision, to facilitate public involvement in specific proposed regulations.

### **VIRGINIA HEALTH PLANNING BOARD**

#### **Periodic Review of Regulations**

Pursuant to Executive Order Number Twenty-Five (1998), the Virginia Health Planning Board will review the regulations listed below to determine whether they should be terminated, amended or retained in their current form. The reviews of these regulations will be guided by the principles listed in Executive Order Twenty-Five. The regulations to be reviewed are:

1. Guidelines for Public Participation in Developing Regulations, 12 VAC 20-10
2. Regulations for Designating Health Planning Regions, 12 VAC 20-20

The board seeks public comment on the review of the above listed regulations regarding any pertinent issue relating to these regulations, including: (i) whether the regulations are effective in achieving their goals; (ii) whether the regulations are essential to protect the health, safety or welfare of citizens or for the economical performance of important governmental functions; (iii) whether there are less burdensome and less intrusive alternatives for achieving the purpose of the regulations; and (iv) whether the regulations are clearly written and easily understandable by affected persons.

Written and electronically submitted comments on the above listed regulations are welcome and will be accepted until 5 p.m., March 15, 1999. All comments should be addressed to Douglas R. Harris, Office of the State Health Commissioner, Virginia Department of Health, 1500 East Main Street, Suite 214, Richmond, Virginia 23219, e-mail [dharris@vdh.state.va.us](mailto:dharris@vdh.state.va.us), or FAX (804) 786-4616.

### **STATE BOARD OF HEALTH**

#### **Periodic Review of Regulations**

Pursuant to Executive Order Number Twenty-Five (1998), the State Board of Health will review the regulations listed below to determine whether they should be terminated, amended or retained in their current form. The reviews of these regulations will be guided by the principles listed in Executive Order Twenty-Five. The regulations to be reviewed include:

1. Public Participation Guidelines, 12 VAC 5-10
2. Rules and Regulations Governing Emergency Medical Services, 12 VAC 5-30
3. Regulations Governing Financial Assistance for Emergency Medical Services, 12 VAC 5-40
4. State Emergency Medical Services Plan, 12 VAC 5-60
5. Virginia Tumor Registry, 12 VAC 5-100
6. Notice and Description of Shellfish Area Condemnation, 12 VAC 5-130
7. Notices of Establishment and Description of Seasonally Condemned Areas at Marina Facilities, 12 VAC 5-140
8. Regulations Prohibiting the Taking of Fish for Human Consumption from the North Fork of the Holston River, 12 VAC 5-170
9. Rules and Regulations Governing Health Data Reporting, 12 VAC 5-215
10. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations, 12 VAC 5-220
11. State Medical Facilities Plan, General Provisions, 12 VAC 5-230
12. State Medical Facilities Plan, Miscellaneous Capital Expenditures, 12 VAC 5-350
13. Rules and Regulations Governing Restaurants, 12 VAC 5-420
14. Guidelines for the General Assembly Nursing Scholarships, 12 VAC 5-510
15. Regulations Governing the State Dental Scholarship Program, 12 VAC 5-520
16. Private Well Regulations, 12 VAC 5-630

The department and board seek public comment on the review of the above listed regulations regarding any pertinent issue relating to these regulations, including: (i) whether the regulations are effective in achieving their goals; (ii) whether the regulations are essential to protect the health, safety or welfare of citizens or for the economical performance of important governmental functions; (iii) whether there are less burdensome and less intrusive alternatives for achieving the purpose of the regulations; and (iv) whether the regulations are clearly written and easily understandable by affected persons.

Written and electronically submitted comments on any of the above listed regulations are welcome and will be accepted until 5 p.m., March 15, 1999. All comments should be addressed to Douglas R. Harris, Office of the State Health Commissioner, Virginia Department of Health, 1500 East Main Street, Suite 214, Richmond, Virginia 23219, e-mail [dharris@vdh.state.va.us](mailto:dharris@vdh.state.va.us), or FAX (804) 786-4616.

## STATE BOARD OF SOCIAL SERVICES

### Periodic Review of Regulations

Pursuant to Executive Order Number Twenty-five (98), the State Board 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 15-20-10 et seq., General Procedures and Information for Licensure

Contact: Kathryn Thomas, Program Development Supervisor, Division of Licensing Programs, telephone (804) 692-1793, FAX (804) 692-2370, e-mail [kjt7@dss.state.va.us](mailto:kjt7@dss.state.va.us)

22 VAC 40-11-10 et seq., Public Participation Guidelines  
Contact: Richard Martin, Regulatory Coordinator, Office of Planning and Policy, telephone (804) 692-1825, FAX (804) 692-1814, email [lrn2@dss.state.va.us](mailto:lrn2@dss.state.va.us)

22 VAC 40-80-10 et seq., General Procedures and Information for Licensure

Contact: Kathryn Thomas, Program Development Supervisor, Division of Licensing Programs, telephone (804) 692-1793, FAX (804) 692-2370, e-mail [kjt7@dss.state.va.us](mailto:kjt7@dss.state.va.us)

22 VAC 40-110-10 et seq., Minimum Standards for Licensed Family Day Homes

Contact: Karen H. Cullen, Human Services Program Consultant, Division of Licensing Programs, telephone (804) 692-1772, FAX (804) 692-2370, e-mail [khc2@dss.state.va.us](mailto:khc2@dss.state.va.us)

22 VAC 40-120-10 et seq., Minimum Standards for Licensed Family Day Care Systems

Contact: Karen H. Cullen, Human Services Program Consultant, Division of Licensing Programs, telephone (804) 692-1772, FAX (804) 692-2370, e-mail [khc2@dss.state.va.us](mailto:khc2@dss.state.va.us)

22 VAC 40-170-10 et seq., Voluntary Registration of Family Day Homes - Requirements for Contracting Organizations

Contact: Debra O'Neill, Human Services Program Consultant, Division of Licensing Programs, telephone (804) 692-1769, FAX (804) 692-2370, e-mail [dao2@dss.state.va.us](mailto:dao2@dss.state.va.us)

22 VAC 40-180-10 et seq., Voluntary Registration of Family Day Homes - Requirements for Providers

Contact: Karen H. Cullen, Human Services Program Consultant, Division of Licensing Programs, telephone (804) 692-1772, FAX (804) 692-2370, e-mail [khc2@dss.state.va.us](mailto:khc2@dss.state.va.us)

22 VAC 40-210-10 et seq. Foster Care - Assessing Client's Service Needs

Contact: Leslie Anderson, Foster Care Program Consultant, Division of Family Services, telephone (804) 692-1272, FAX (804) 692-1284, e-mail [lma2@dss.state.va.us](mailto:lma2@dss.state.va.us)

Written comments may be submitted until March 7, 1999, in care of the above listed contacts at 730 East Broad Street, Richmond, Virginia 23219-1849, by FAX to the above listed numbers, or by e-mail to the above listed addresses.

# Virginia Tax Bulletin

Virginia Department of Taxation

January 6, 1999

99-2

## INTEREST RATES FIRST QUARTER 1999

**Interest Rate Provisions of the IRS Restructuring Act:** Congress recently enacted the Internal Revenue Restructuring and Reform Act of 1998 (the "Restructuring Act") which included a provision that changed the manner in which the interest is computed on federal tax underpayments (assessments) and overpayments (refunds). Under the provisions of the Restructuring Act, the federal overpayment rate was increased for taxpayers (other than corporations) to equal the federal underpayment rate. However, the Restructuring Act had no impact on the federal interest rates applicable to corporations. Because Virginia's interest rates are tied to the federal rates, the interest rates on corporate overpayments (refunds) will be different than those for overpayments (refunds) of taxpayers other than corporations beginning January 1, 1999.

**Rates changed:** State and certain local interest rates are subject to change every quarter based on changes in federal interest rates established pursuant to I.R.C. § 6621. The federal rates for the first quarter of 1999 will be 7% for tax underpayments (assessments), 7% for tax overpayments (refunds) by taxpayers other than corporations, 6% for corporate tax overpayments (refunds), and 9% for "large corporate underpayments" as defined in I.R.C. § 6621(c). Code of Virginia § 58.1-15 provides that the underpayment rate for Virginia taxes will be 2% higher than the corresponding federal rates. Accordingly, the Virginia rates for the first quarter of 1999 will be 9% for tax underpayments (assessments), 7% for tax overpayments (refunds) for taxpayers other than corporations, 6% for corporate tax overpayments (refunds), and 11% for "large corporate underpayments."

### Rate for Addition to Tax for Underpayments of Estimated Tax

**Taxpayers whose taxable year ends on September 30, 1998:** For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estate and trusts), Form 760F (for farmers and fishermen), or Form 500C (for corporations), the fourth quarter 10% underpayment rate will apply through the due date of the return, January 15, 1999.

**Individuals whose taxable years ends on December 31, 1998:** Tax returns for the calendar year 1998 are due on May 3, 1999. For the purpose of computing the additional to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts) or Form 760F (for farmers and fishermen), the first quarter 9% underpayment rate will apply through the due date of the return, May 3, 1999.

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**Corporations with taxable years ending on December 31, 1998:** Tax returns for the calendar year 1998 are due on April 15, 1999. For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 500C, the first quarter 9% underpayment rate will apply through the due date of the return, April 15, 1999.

**Local Tax**

**Assessments:** Localities assessing interest on delinquent taxes pursuant to Code of Virginia § 58.1-3916 may impose interest at a rate not to exceed 10% for the first year of delinquency, and at a rate not to exceed 10% or the federal underpayment rate in effect for the applicable quarter, whichever is greater, for the second and subsequent years of delinquency. For the first quarter of 1999, the federal underpayment rate is 7%.

**Refunds:** Localities which have provided for refunds of erroneously assessed taxes may provide by ordinance that such refunds are repaid with interest at a rate which does not exceed the rate imposed by the locality for delinquent taxes.

**BPOL Refunds:** Effective January 1, 1997, interest on any refund will be paid at the same rate as assessments under Code of Virginia § 58.1-3916.

**Recent Interest Rates**

Accrual <u>Beginning</u>	Period <u>Through</u>	Non - Corporation Overpayment <u>(Refund)</u>	Corporation Overpayment <u>(Refund)</u>	Underpayment <u>(Assessment)</u>	Large Corporate <u>Underpayment</u>
1-Oct-89	31-Mar-91	10%	10%	11%	---
1-Apr-91	30-Jun-91	9%	9%	10%	---
1-Jul-91	31-Dec-91	9%	9%	12%	14%
1-Jan-92	31-Mar-92	8%	8%	11%	13%
1-Apr-92	30-Sep-92	7%	7%	10%	12%
1-Oct-92	30-Jun-94	6%	6%	9%	11%
1-Jul-94	30-Sep-94	7%	7%	10%	12%
1-Oct-94	31-Mar-95	8%	8%	11%	13%
1-Apr-95	30-Jun-95	9%	9%	12%	14%
1-Jul-95	31-Mar-96	8%	8%	11%	13%
1-Apr-96	30-Jun-96	7%	7%	10%	12%
1-Jul-96	31-Mar-98	8%	8%	11%	13%
1-Apr-98	31-Dec-98	7%	7%	10%	12%
1-Jan-99	31-Mar-99	7%	6%	9%	11%

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**For additional information:** Contact the Customer Services Section, Virginia Department of Taxation, P. O. Box 1115, Richmond, Virginia 23218-1115, or call the following numbers for additional information about interest rates and penalties.

Individual & Fiduciary Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8037
Withholding Tax	(804) 367-8037
Soft Drink Excise Tax	(804) 367-8098
Aircraft Sales & Use Tax	(804) 367-8098
Other Sales & Use Taxes	(804) 367-8037

## STATE WATER CONTROL BOARD

## VIRGINIA CODE COMMISSION

### Proposed Consent Special Order Town of Louisa

The State Water Control Board proposes to enter into a consent special order with the Town of Louisa to resolve violations of the State Water Control Law and regulations at the Town of Louisa's sewage treatment plant. Louisa discharges treated wastewater into Gold Mine Run under authority of a VPDES Permit. Since approximately January 1995, the Town of Louisa's sewage treatment plant has violated certain of its permit effluent limitations. Flows have also exceeded the plant's design capacity.

The proposed consent special order settles outstanding Notices of Violation and incorporates a schedule of compliance to conduct initial repair work on the town's collection system in order to reduce inflow and infiltration. Further, after receipt of funding the town is to initiate more extensive collection system repairs, construct a pump station and force main in order to connect the town's collection system to the Louisa regional sewage treatment plant, and close the town's sewage treatment plant in order to gain consistent compliance with all the permit requirements.

The board will receive written comments relating to the proposed consent special order until March 17, 1999. Comments should be addressed to Steven W. Hetrick, Department of Environmental Quality, Post Office Box 1129, Harrisonburg, Virginia 22801, and should refer to the consent special order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

### Proposed Consent Special Order Mechanicsville Concrete, Inc.

The State Water Control Board proposes to issue a consent special order to Mechanicsville Concrete, Inc., with regard to violations of the VPA permits for the Henrico and Goochland facilities. The proposed order requires Mechanicsville Concrete, Inc., to apply for a general permit for both facilities and to pay a \$7,500 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed consent special order until March 17, 1999. Comments should be addressed to Vernon Williams, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

### 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

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# CALENDAR OF EVENTS

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## 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

### BOARD FOR ACCOUNTANCY

† April 26, 1999 - 10 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 5W, Richmond,  
Virginia. 

The board will conduct routine business. A public comment period will be held at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

March 4, 1999 - 9 a.m. -- Open Meeting  
Department of Agriculture and Consumer Services,  
Washington Building, 1100 Bank Street, 2nd Floor, Board  
Room, Richmond, Virginia. 

A regular meeting to discuss Virginia agriculture and consumer protection issues. 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 Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 211, Richmond, VA 23218, telephone (804) 786-3535 or FAX (804) 371-7679.

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Virginia State Apple Board

† March 23, 1999 - 7 p.m. -- Open Meeting  
Fruit Hill Orchards, 766 Echo Lane, Winchester, Virginia. 

A meeting to review (i) past minutes, (ii) tax collections and (iii) changes and budget amendments of the 1999 General Assembly. The board will entertain public comments 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 Nancy L. Israel at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Nancy L. Israel, Program Director, Virginia State Apple Board, Washington Bldg., 1100 Bank St., Suite 1012, Richmond, VA 23219, telephone (804) 371-6104 or FAX (804) 371-7786.

### Virginia Aquaculture Advisory Board

February 18, 1999 - 10 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) 371-2945.

## Virginia Bright Flue-Cured Tobacco Board

**February 23, 1999 - 9:30 a.m.** -- Open Meeting  
Sheldon's Restaurant, Business Route 15 and 360, Keysville, Virginia. ♿

A meeting to consider funding proposals for research, promotion, and education projects pertaining to Virginia flue-cured tobacco, and to conduct other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs special accommodation in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** D. Stanley Duffer, Secretary, Virginia Bright Flue-Cured Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568 or FAX (804) 572-8234.

## Virginia Corn Board

**February 15, 1999 - 8 a.m.** -- Open Meeting  
Richmond Airport Hilton, 5501 Eubank Road, Sandston, Virginia. ♿

A meeting to discuss checkoff revenues and the financial status resulting from sales of the 1998 corn crop. The board will hear FY 1998-1999 project reports and receive FY 1999-2000 project proposals. Following all presentations, the group will make funding decisions for the fiscal year beginning on July 1, 1999. 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 Corn Board, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

## Virginia Cotton Board

**† March 9, 1999 - 9 a.m.** -- Open Meeting  
Tidewater Agricultural Research and Extension Center, Auditorium, 6321 Holland Road, Suffolk, Virginia. ♿

A meeting to consider funding proposals for research, promotion and education projects pertaining to Virginia cotton and to conduct any other business that may come before the board. In addition, the board will hear and is expected to approve minutes from the last meeting and the board's financial statement. 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 special accommodations in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** D. Stanley Duffer, Secretary, Virginia Cotton Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568 or FAX (804) 572-8234.

## Virginia Marine Products Board

**† March 10 1999 - 6 p.m.** -- Open Meeting  
Bill's Seafood House, Route 17 and Denbigh Boulevard, Grafton, Virginia. ♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Boulevard, Suite B, Newport News, VA 23608, telephone (757) 874-3474 or FAX (757) 886-0671.

## Virginia Peanut Board

**† March 12, 1999 - 10 a.m.** -- Open Meeting  
Tidewater Agricultural Research and Extension Center, 6231 Holland Road, Suffolk, Virginia. ♿

A meeting to review peanut research projects for possible funding in 1999. 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 Russell C. Schools at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Russell C. Schools, Program Director, Virginia Peanut Board, P.O. Box 356, Capron, VA 23829, telephone (804) 658-4573.

## Virginia Soybean Board

**March 3, 1999 - 8 a.m.** -- Open Meeting  
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia. ♿

A meeting to discuss checkoff revenues and the financial status resulting from sales of the 1998 soybean crop. The board will hear project reports for FY 1998-99 and project proposals for FY 1999-2000, and funding decisions will be made for the fiscal year beginning July

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# Calendar of Events

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1, 1999. 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.

## STATE AIR POLLUTION CONTROL BOARD

### Reproposed

† **March 17, 1999 - 10 a.m.** – Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
1st Floor, Training Room, Richmond, Virginia.

**March 18, 1999** - 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 Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-50-10 et seq. New and Modified Stationary Sources and 9 VAC 5-80-10 et seq. Permits for Stationary Sources (Revision YY)**. The regulations apply to the construction or reconstruction of new stationary sources or expansions (modifications) to existing ones. Exemptions are provided for smaller facilities. With some exceptions, the owner must obtain a permit from the agency prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as may be needed to enable the agency to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards and to assess the impact of the emissions from the facility on air quality. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review. The regulation provides a source-wide perspective to determine applicability based solely upon the emissions changes directly resultant from the physical or operational change. The regulation provides for the use of a plantwide applicability limit (PAL). Under this concept, a source owner could make physical or operational changes to emission units covered by the PAL without being subject to the major new source permit program as long as the overall emissions did not exceed the PAL. Concurrent construction, that is construction while waiting for the permit to be issued, is allowed in some cases. Under this arrangement the source owner would assume full liability should the permit not be issued. Provisions covering general permits are included. Procedures for making changes to permits are included. The regulation also allows consideration of additional factors for making Best Available Control Technology determinations for sources subject to minor new source review.

On December 8, 1997, the board published for public comment a proposal to amend its regulations concerning new and modified new source review. In response to that request, comments were submitted that resulted in several changes being made to the original proposal, primarily to meet EPA regulations and policy. Because of the substantive nature of these additional changes, the board is now republishing the proposal for public comment. The changes are enumerated below and derived from (i) comments made by the general public during the public comment period on the original proposal, (ii) comments made by EPA during the public comment period on the original proposal and during subsequent discussions and negotiations, and (iii) clarifications and other improvements noted by DEQ staff during subsequent reviews.

1. The changes to the regulation are being presented in strikethrough/italicized form using the current version as the base document in order to facilitate review of the proposal in light of the current regulation.
2. The definition of actual emissions has been revised to include the "actuals to future actuals" approach as an option to the "actual to potential" approach for new units as EPA has done in its major source new source review (NSR) reform proposal.
3. The definition of "significant" has been revised to exclude hazardous air pollutants as EPA has done in its major source NSR reform proposal.
4. The definition of "stationary source" has been revised to exclude nonroad engines.
5. Provisions have been added to allow implementation of the federal hazardous air pollutant new source review program (FHAPNSR) by incorporation by reference rather than trying to alter the text of the regulation to accommodate these program elements; it was very difficult to write text to implement this program given the differences and complexities of the various program elements. The FHAPNSR program includes the various preconstruction approval requirements found in 40 CFR Part 61 and 40 CFR Part 63 (including the § 112(g) requirements). The provisions covering public participation have been changed to require a public comment period only for permit applications requiring a case-by-case maximum available control technology determination under the FHAPNSR program. These changes are reflected in the definition of "federal hazardous air pollutant new source review program," 9 VAC 5-80-1120 H, and various other provisions throughout the new version.
6. The provisions concerning concurrent construction have been revised such that they are not applicable to (i) any stationary source or emissions unit subject to the major source NSR requirements for prevention of significant deterioration (PSD) or nonattainment areas, (ii) any stationary source for which a plantwide applicability limit is established, or (iii) any synthetic minor or other stationary source receiving a minor NSR permit that would establish terms and conditions that

would enable the source to avoid major source permit and other requirements. These changes are reflected in the definition of "synthetic minor" and 9 VAC 5-80-1130 D in the new version.

7. The provisions correcting the public participation requirements for major modifications that have been disapproved by EPA have been rewritten for clarity. These changes are reflected in the definition of "major modification" and 9 VAC 5-80-1170 D 2 in the new version.

8. The provisions concerning plantwide applicability limits (PAL) have been revised to incorporate the following provisions: (i) PALs may only be used for the entire stationary source not just a part, (ii) the definition of actual emissions from the current PSD regulations is used in lieu of the version used for the regulation at large, (iii) PALs may only be used to avoid permits for major source modifications unless the permit includes preapprovals (with appropriate terms and conditions) for the specific changes that would otherwise be subject to minor NSR. A minor NSR permit would be required for any changes not covered by the advance approvals. These changes are reflected in the definition of "plantwide applicability limit" and "plantwide applicability limit modification" and 9 VAC 5-80-1310 in the new version.

9. The exemptions related to solvent cleaning operations and various coating operations have been clarified such that they are limited to volatile organic compounds, as was the original intent. These changes are reflected in 9 VAC 5-80-1320 B 4 and B 6 through B19.

10. The exemption of stationary sources under 9 VAC 5-80-1320 C has been rewritten to exclude the facilities exempted under 9 VAC 5-80-1320 B from the calculation of potential to emit.

11. The shutdown (9 VAC 5-20-220) and certification (9 VAC 5-20-230) provisions have been removed as they have already been adopted as part of our amendments to the state operating permit regulation.

**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 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  
806 Westwood Office Park  
Fredericksburg, Virginia 22401  
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. March 18, 1999, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

**Contact:** Mary E. Major, Environmental Program Manager, Office of Air Regulatory 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 ☎

## ALCOHOLIC BEVERAGE CONTROL BOARD

**February 22, 1999 - 9:30 a.m.** -- Open Meeting

**March 8, 1999 - 9:30 a.m.** -- Open Meeting

**March 22, 1999 - 9:30 a.m.** -- Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ♿

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## Calendar of Events

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A meeting to receive reports from staff members, discuss activities, and discuss other matters not yet determined.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409 or FAX (804) 213-4442.

### **BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS**

**February 17, 1999 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

The Land Surveyor Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 

**February 24, 1999 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

The Landscape Architect Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 

**March 3, 1999 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

The Interior Designer Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 

**March 10, 1999 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the full board to conduct 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., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 

### **BOARD FOR ASBESTOS AND LEAD**

**February 23, 1999 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. 

A meeting to conduct routine business. Public comment will be received at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2176, FAX (804) 367-2475 or (804) 367-9753/TTY 

### **BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY**

**February 18, 1999 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A regular meeting to discuss general business. Public comment will be heard for 15 minutes prior to the beginning of the meeting.

**Contact:** Senita Booker, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TTY 

**† March 19, 1999 - 5 p.m.** -- Open Meeting  
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia.

The board will hold an issues forum at the annual SHAV conference.

**Contact:** Senita Booker, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad

St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9523 or (804) 662-7197/TTY ☎

## VIRGINIA AVIATION BOARD

**February 16, 1999 - 3 p.m.** -- Open Meeting  
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A workshop for the board. No formal actions will be taken. Individuals with disabilities should contact Margaret Fuller at least 10 days prior to the meeting if assistance is needed.

**Contact:** Margaret Fuller, Department of Aviation, 5702 Gulfstream Road, Richmond International Airport, VA 23250-2422, telephone (804) 236-3632 or (804) 236-3624/TTY ☎

**February 17, 1999 - 9 a.m.** -- Open Meeting  
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular bimonthly meeting of the board. Applications for state funding will be presented to the board and other matters of the Virginia aviation community will be discussed. Individuals with disabilities should contact Margaret Fuller at least 10 days prior to the meeting if assistance is needed.

**Contact:** Margaret Fuller, Department of Aviation, 5702 Gulfstream Road, Richmond International Airport, VA 23250-2422, telephone (804) 236-3632 or (804) 236-3624/TTY ☎

## COMPENSATION BOARD

**February 25, 1999 - 11 a.m.** -- Open Meeting  
202 North 9th Street, 10th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting.

**Contact:** Cindy Waddell, Administrative Assistant, Compensation Board, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-0786, FAX (804) 371-0235 or (804) 786-0786/TTY ☎

## BOARD FOR CONTRACTORS

† **February 24, 1999 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regularly scheduled meeting to address policy and procedural issues, review and render case decisions on matured complaints against licensees, and other matters which may require board action. The meeting is open to the public; however, a portion of the board's business may be discussed in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services

should contact the department so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Geralde W. Morgan, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785, FAX (804) 367-2474 or (804) 367-9753/TTY ☎

## BOARD OF CORRECTIONAL EDUCATION

**February 19, 1999 - 10 a.m.** -- Open Meeting  
Department of Correctional Education, James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to discuss general business.

**Contact:** Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314.

## BOARD OF CORRECTIONS

**February 16, 1999 - 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 full board.

**Contact:** Barbara Fellows, Administrative Assistant to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

**February 17, 1999 - 8:30 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Room 3065, Richmond, Virginia. ♿

A meeting of the Administration Committee to discuss administrative matters which may be presented to the full board.

**Contact:** Barbara Fellows, Administrative Assistant to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

**February 17, 1999 - 10 a.m.** -- Open Meeting  
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the full board to discuss matters which may be presented.

**Contact:** Barbara Fellows, Administrative Assistant to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

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# Calendar of Events

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## BOARD FOR COSMETOLOGY

**March 1, 1999 - 7 p.m.** -- Open Meeting  
New Horizons Regional Education Center, 520 Butler Farm Road, Building A, Media Room, Hampton, Virginia. (Interpreter for the deaf provided upon request)

**March 9, 1999 - 7 p.m.** -- Open Meeting  
Northern Virginia Community College, Alexandria Campus, 3001 North Beauregard Street, Alexandria, Virginia. (Interpreter for the deaf provided upon request)

**March 15, 1999 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4-West, Richmond, Virginia. (Interpreter for the deaf provided upon request)

**† March 22, 1999 - 7 p.m.** -- Open Meeting  
Virginia Tech, Donaldson-Brown Hotel and Conference Center, Blacksburg, Virginia. (Interpreter for the deaf provided upon request)

In accordance with 18 VAC 55-10-60 of the Board for Cosmetology Public Participation Guidelines, the board will hold an informational proceeding to seek public comments on the tasks of waxing and braiding to determine if these tasks should be regulated in any manner contrary to the manner in which they are currently regulated under the definition of cosmetology. The board will accept written comments until 5 p.m. on Friday, March 26, 1999. The board will review all public comments at their meeting on April 19, 1999.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TTY

## BOARD OF DENTISTRY

**† February 19, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

The Special Conference Committee will meet to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TTY

## DISABILITY SERVICES COUNCIL

**March 26, 1999 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf will be provided)

A meeting to review the Rehabilitative Services Incentive Fund (RSIF) grant proposals.

**Contact:** LaDonna Rogers, Administrative Staff Assistant, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7154/Voice/TTY, toll-free 1-800-552-5019 or 1-800-464-9950/TTY

## VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

**† February 16, 1999 - 11 a.m.** -- Open Meeting  
Virginia Economic Development Partnership, 901 East Byrd Street, West Tower, 19th Floor, Board Room, Richmond, Virginia.

A meeting of the Search Committee to focus on replacement of the executive director's position at the Virginia Economic Development Partnership.

**Contact:** Jean Powers, Executive Secretary for the Secretary of Commerce and Trade, 202 N. 9th St., Suite 723, Richmond, VA 23219, telephone (804) 786-7831 or FAX (804) 371-8112.

**† February 16, 1999 - 1:30 a.m.** -- Open Meeting  
Virginia Economic Development Partnership, 901 East Byrd Street, West Tower, 19th Floor, Board Room, Richmond, Virginia.

A meeting of the Retreat Committee to prepare an agenda for the Virginia Economic Development Partnership's Board of Directors strategic planning meeting.

**Contact:** Jean Powers, Executive Secretary for the Secretary of Commerce and Trade, 202 N. 9th St., Suite 723, Richmond, VA 23219, telephone (804) 786-7831 or FAX (804) 371-0250.

**† March 1, 1999 - 5 p.m.** -- Open Meeting

**† March 2, 1999** -- Open Meeting

**† March 3, 1999** -- Open Meeting

Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia.

A meeting to focus on matters pertinent to the Virginia Economic Development Partnership. The three-day meeting will end at noon on March 3.

**Contact:** Kim Ellett, Administrative Assistant, Virginia Economic Development Partnership, 901 E. Byrd St., Richmond, VA 23218, telephone (804) 371-8106 or FAX (804) 371-8112.

## BOARD OF EDUCATION

**† February 25, 1999 - 8 a.m.** -- Open Meeting  
Department of Education, James Monroe Building, 101 North 14th Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items on the agenda. The agenda is available upon request.

**Contact:** Dr. James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, Monroe Bldg., 101 N. 14th St., P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

**March 4, 1999 - 5:30 p.m.** -- Open Meeting  
**April 1, 1999 - 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.

## LOCAL EMERGENCY PLANNING COMMITTEE - GOOCHLAND COUNTY

† **March 1, 1999 - 7:30 p.m.** -- Open Meeting  
Luck Stone, Boscobel Plant, 481 Boscobel Road (across from Manakin-Sabot post office), Conference Room, Manakin, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

**Contact:** Stephen E. Grainer, Emergency Coordinator, P.O. Box 306, 2938 River Road West, Goochland Courthouse Complex, Goochland, VA 23063, telephone (804) 556-5304 or (804) 556-5317/TTY ☎

## DEPARTMENT OF ENVIRONMENTAL QUALITY

† **March 1, 1999 - 7 p.m.** -- Public Hearing  
Best Western Inn, Mountain View Conference Room, 820 East Madison Street, Covington, Virginia.

A public hearing to receive comments on the draft permit amendment for a new captive industrial landfill at Westvaco Bleached Board Division in Covington.

**Contact:** Mark A. Campbell, Office of Waste Permitting, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4125.

## Virginia Ground Water Protection Steering Committee

† **March 16, 1999 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ♿

A meeting to discuss ground water protections issues. Meeting minutes and agenda are available from Mary Ann Massie by request.

**Contact:** Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

## STATE EXECUTIVE COUNCIL

**February 26, 1999 - 9 a.m.** -- Open Meeting  
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level, Training Room 3, Richmond, Virginia.

The council provides for interagency programmatic and fiscal policies, oversees the administration of funds appropriated under the act, reviews and takes actions on issues brought by the State Management Team, and advises the Governor.

**Contact:** Alan G. Saunders, Director, State Executive Council, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9815 or FAX (804) 662-9831.

## VIRGINIA FIRE SERVICES BOARD

**February 25, 1999 - 7:30 p.m.** -- Public Hearing  
Doubletree Hotel, 1900 Pavilion Drive, Virginia Beach, Virginia.

A public hearing to discuss fire training and policies. The hearing is open to the public for comments and input. Comments will be heard at the beginning of the meeting.

**Contact:** Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

## BOARD OF FORESTRY

† **February 18, 1999 - 9 a.m.** -- Open Meeting  
Department of Forestry, Fontaine Research Park, 900 Natural Resources Drive, Board Room, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A facilitated session to determine goals and objectives of the board to be followed by a business meeting. Persons desiring interpreter services should contact the board five business days prior to the meeting so that arrangements can be made.

**Contact:** Donna S. Hoy, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or (804) 977-6555/TTY ☎

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# Calendar of Events

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## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**March 17, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. 

The Special Conference Committee will conduct informal hearings. No public comment will be received.

**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.

**† March 30, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 

The Legislative Committee will discuss legislative issues. There will be a 15 minute public comment period and a formal hearing following the meeting at 1 p.m.

**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.

## DEPARTMENT OF GAME AND INLAND FISHERIES

**February 16, 1999 - 7 p.m.** -- Open Meeting  
Smyth-Bland Regional Library, Copenhagen Meeting Room, 118 South Sheffey Street, Marion, Virginia.  (Interpreter for the deaf provided upon request) (Note: This is a change from the meeting information printed on the back of the DGIF 1999 Freshwater Fishing Regulations Digest.)

**February 17, 1999 - 7 p.m.** -- Open Meeting  
Department of Game and Inland Fisheries, Verona (Staunton) Regional Office, 4725 Lee Highway, Verona, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Department of Game and Inland Fisheries (DGIF) is hosting five public forums in February to discuss Virginia's freshwater resources and agency programs with anglers and other interested parties. Interested individuals are invited to join the DGIF staff to discuss these subjects. Public comments and suggestions received will be considered by staff as they refine current programs and develop new ones.

**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.

**† March 4, 1999 - 9 a.m.** -- Open Meeting

**† March 5, 1999 - 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 intends to propose changes in regulations for game wildlife, hunting and trapping. This is the regular biennial review for these regulations.

The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia. It is required by § 9-6.14:22 to publish all proposed and final regulations. Under board procedures, regulatory actions occur over two sequential board meetings. At the March 4-5 meeting, Department of Game and Inland Fisheries' staff will present recommendations for regulatory amendments, the board will solicit and hear comments from the public in a public hearing, and the board then intends to propose regulations or regulation amendments. Any proposed regulatory actions (or informative summaries) will then be published in the Virginia Register, posted on the Internet at [www.dgif.state.va.us](http://www.dgif.state.va.us), and advertised in newspapers.

Adoption of any regulations or regulation amendments as final will take place at the subsequent board meeting, to be held May 6-7, 1999. The May 6-7 meeting will be held in Richmond; the time and address will be announced in a later notice. Additional information on this review of regulations, including a list of the specific regulations subject to review and additional details on opportunities for public involvement, is available in a separate announcement submitted under "General Notices" in this issue of the Virginia Register.

General and administrative issues may be discussed by the board at the March 4-5 meeting. The board may hold an executive session beginning at 9 a.m. March 4. If the board completes its entire agenda on March 4, it may not convene on March 5.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA , telephone (804) 367-1000 or FAX (804) 367-2311.

## HAMMOND COMMISSION ON COMMUNITY SERVICES AND IN-PATIENT CARE

**† March 4, 1999 - 10 a.m.** -- Open Meeting  
Department of Social Services, 730 East Broad Street, Lower Level Training Rooms 2 and 3, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to focus on managed care. Mary Lou Sudders, Commissioner of the Department of Mental Health in Boston, Massachusetts, will be a guest presenter. Public comment will be received beginning at 10 a.m.

**Contact:** Fran M. Sadler, Administrative Assistant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1108 or (804) 37102509, or FAX (804) 692-1123.

## DEPARTMENT OF HEALTH

### AIDS Drug Advisory Committee

† **March 3, 1999 - 10:15 a.m.** -- Open Meeting  
Virginia Department of Health, Main Street Station, 1500  
East Main Street, Room 121, Richmond, Virginia. 

A regular quarterly meeting.

**Contact:** Ann Elam, Public Health Nurse Supervisor,  
Department of Health, P.O. Box 2448, Room 112,  
Richmond, VA 23218, telephone (804) 371-8294 or toll-free  
1-800-533-4148.

## BOARD OF HEALTH PROFESSIONS

† **February 16, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A meeting of the Enforcement Committee to review the enforcement process, current status of cases, and previous studies from 1990 and 1991. The committee will also interview the regulatory board's executive directors on the disciplinary process. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant,  
Department of Health Professions, 6606 W. Broad St., 4th  
Floor, Richmond, VA 23230-1717, telephone (804) 662-9910  
or (804) 662-7197/TTY 

† **February 16, 1999 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A meeting to review (i) the regulations for dietitians and nutritionists and practitioner self-referral, (ii) the status of legislation, (iii) the reports from health regulatory boards and (iv) the Enforcement Committee report. Public comment will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant,  
Department of Health Professions, 6606 W. Broad St., 4th  
Floor, Richmond, VA 23230-1717, telephone (804) 662-9910  
or (804) 662-7197/TTY 

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**February 16, 1999 - 8:30 a.m.** -- Open Meeting  
Martha Washington College, Fredericksburg, Virginia.   
(Interpreter for the deaf provided upon request)

Committee meetings followed by the council meeting at  
1 p.m.

**Contact:** Pamela H. Landrum, Administrative Staff  
Assistant, State Council of Higher Education, James Monroe  
Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219,  
telephone (804) 225-2602 or FAX (804) 371-7911.

† **March 24, 1999 - 8 a.m.** -- Open Meeting  
Location to be determined.

Committee meetings will begin at 8 a.m. The council  
meeting will begin at 1 p.m.

**Contact:** Pamela H. Landrum, Administrative Staff  
Assistant, State Council of Higher Education, James Monroe  
Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219,  
telephone (804) 225-2602 or FAX (804) 371-7911.

## VIRGINIA HIV COMMUNITY PLANNING COMMITTEE

† **March 5, 1999 - 8:30 a.m.** -- Open Meeting  
The Wyndham Garden Hotel at Richmond Airport, 4700  
South Laburnum Avenue, Richmond, Virginia. 

A bimonthly meeting to discuss the CDC and state HIV  
community planning process for 1999.

**Contact:** Elaine G. Martin, Coordinator, STD/AIDS  
Education, Information and Training, Department of Health,  
P.O. Box 2448, Room 112, Richmond, VA 23218, telephone  
(804) 786-0877 or FAX (804) 692-0100.

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

† **March 2, 1999 - 9 a.m.** -- Open Meeting

† **April 6, 1999 - 9 a.m.** -- Open Meeting  
Hopewell Community Center, 100 West City Point Road,  
Hopewell, Virginia.   
(Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting on  
emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator,  
300 N. Main St., Hopewell, VA 23860, telephone (804) 541-  
2298.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **February 24, 1999 - 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 the  
authority's 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

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# Calendar of Events

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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) 343-5540, FAX (804) 783-6701, toll-free 1-800-968-7837, or (804) 783-6705/TTY ☎

## COUNCIL ON INFORMATION MANAGEMENT

### Land Records Management Task Force

**February 17, 1999 - 9:30 a.m.** -- Open Meeting  
Location to be announced.

A regular business meeting.

**Contact:** Linda Hening, Administrative Staff Specialist, Council on Information Management, 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

† **March 10, 1999 - 9:30 a.m.** -- Open Meeting  
Dorey Recreation Center, 7200 Dorey Park Drive, 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 C (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 C program.

**Contact:** Nicole Rada, Part C 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

### Apprenticeship Council

† **February 17, 1999 - 10 a.m.** -- Open Meeting  
Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

An orientation for new Apprenticeship Council members.

**Contact:** Beverly Donati, Assistant Program Director, Apprenticeship Council, 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 ☎

**February 25, 1999 - 9:30 a.m.** -- Open Meeting  
Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Apprenticeship Council Subcommittee to discuss the council's goals and objectives.

**Contact:** Beverly 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 ☎

† **March 18, 1999 - 10 a.m.** -- Open Meeting  
Norfolk Technical Vocational Center, 1330 North Military Highway, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the council.

**Contact:** Beverly 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 ☎

## LIBRARY BOARD

**March 22, 1999 - 8 a.m.** -- Open Meeting  
Omni Hotel, 235 West Main Street, Charlottesville, Virginia. ♿

A meeting to discuss matters pertaining to The Library of Virginia and the Library Board.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594 or (804) 692-3976/TTY ☎

## LITTER CONTROL AND RECYCLING FUND ADVISORY BOARD

† **March 2, 1999 - 10 a.m.** -- Open Meeting  
701 East Franklin Street, Lower Level Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting to promote the control, prevention and elimination of litter from the Commonwealth and encourage recycling and advise the Director of the Department of Environmental Quality on other litter control and recycling matters.

**Contact:** Michael P. Murphy, Director, Environmental Enhancement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4003, FAX (804) 698-4319, (804) 698-4021/TTY ☎ or e-mail mpmurphy@deq.state.va.us.

## COMMISSION ON LOCAL GOVERNMENT

† **March 15, 1999 - 10:30 a.m.** -- Open Meeting  
Front Royal area; site to be determined.

Oral presentations regarding the Town of Front Royal - Warren County Voluntary Settlement Agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter 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 ☎

† **March 15, 1999 - 2 p.m.** -- Open Meeting  
Front Royal area; site to be determined.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 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 ☎

† **March 15, 1999 - 7 p.m.** -- Public Hearing  
Front Royal area; site to be determined.

A public hearing regarding the Town of Front Royal - Warren County Voluntary Settlement Agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter 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 ☎

## VIRGINIA MANUFACTURED HOUSING BOARD

† **February 18, 1999 - 10 a.m.** -- Open Meeting  
Department of Housing and Community Development, 501 North 2nd Street, The Jackson Center, 2nd Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular monthly meeting.

**Contact:** Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TTY ☎

## MARINE RESOURCES COMMISSION

**February 23, 1999 - 9:30 a.m.** -- Open Meeting  
**March 23, 1999 - 9:30 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 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide the following fishery management items at approximately noon: regulatory proposals and fishery management plans; fishery conservation issues; licensing; and shellfish leasing. Amendments to 4 VAC 20-720-10 et seq., Pertaining to Restrictions on Oyster Harvest, will be considered at the December 21 meeting only. 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.

**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 ☎

## BOARD OF MEDICAL ASSISTANCE SERVICES

**March 2, 1999 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting to discuss medical assistance services policy and to take action on issues pertinent to the board.

**Contact:** Leah D. Hamaker, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096 or FAX (804) 371-4981.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† **March 15, 1999 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting of the Pharmacy Liaison Committee to conduct general business.

**Contact:** Marianne Rollings, R.Ph., Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268.

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# Calendar of Events

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**March 19, 1999** -- 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 30-80-10 et seq. Methods and Standards for Establishing Payment Rates--Other Types of Care: Payment of Medicare Part A and Part B Deductible Coinsurance.** The purpose of this action is to propose that the Department of Medical Assistance's methodology for calculating coinsurance and deductibles for Medicare Part A and Part B be based on the Medicaid rate of reimbursement rather than the Medicare rate, as permitted by § 4714 of the Balanced Budget Act of 1997. The section of the state plan affected by this action is the Methods and Standards for Establishing Payment Rates-Other Types of Care, Supplement 2, Payment of Medicare Part A and Part B Deductible/Coinsurance (12 VAC 30-80-170).

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

Public comments may be submitted until March 19, 1999, to James Cohen, Manager, Client Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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**March 19, 1999** -- 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 30-120-10 et seq. Waivered Services (Part VI: Medallion II).** The purpose of this action is to adopt federal law changes related to enrollment periods within health maintenance organizations. These mandatory enrollment periods will improve the continuity of health care for individuals who are enrolled in these health maintenance organizations.

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

Public comments may be submitted until March 19, 1999, to Cheryl Roberts, Manager, Client Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

## BOARD OF MEDICINE

### Informal Conference Committee

† **March 4, 1999 - 9 a.m.** -- Open Meeting  
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

† **March 26, 1999 - 9 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, 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) 786-7693, FAX (804) 662-9517 or (804) 662-7197/TTY ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **March 12, 1999 - 9 a.m.** -- Open Meeting  
Southeastern Virginia Training Center, 2100 Steppingstone Square, Chesapeake, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the State Human Rights Committee to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

**Contact:** Theresa Evans, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-3988, FAX (804) 371-2308 or (804) 371-8977/TTY ☎

## STATE MILK COMMISSION

**February 17, 1999 - 10:30 a.m.** -- Open Meeting  
Department of Forestry, Natural Resources Drive, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting to (i) discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, and fiscal matters and (ii) 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., 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, FAX (804) 786-3779 or (804) 786-2013/TTY 

## GOVERNOR'S MINED LAND RECLAMATION ADVISORY COMMITTEE

† **February 18, 1999 - 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 recent Interstate Mining Compact Commission (IMCC) issues with the coal industry. Public comments will not be received.

**Contact:** Danny R. Brown, 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 (804) 523-8163.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Division of Mined Land Reclamation

† **February 17, 1999 - 1 p.m.** -- Open Meeting  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23 South, Conference Room 116, Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to give interested persons an opportunity to be heard in regard to the FY 99 Abandoned Mine Land Consolidated Grant Application to be submitted to the Office of Surface Mining.

**Contact:** Roger L. Williams, Abandoned Mine Land Manager, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8208, FAX (540) 523-8247 or toll-free 1-800-828-1120 (VA Relay Center)/TTY.

## VIRGINIA MUSEUM OF FINE ARTS

**February 16, 1999 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

A meeting of the Collections Committee to consider gift offers, purchase recommendation, and loans of art objects for referral to the full Board of Trustees for final approval. Curatorial collecting reports will continue.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**February 18, 1999 - 9:30 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, The Payne Room/Members' Suite, 4th Floor, Richmond, Virginia. 

A meeting of the Buildings and Grounds Committee to receive an update on CEO construction, maintenance reserve projects, and capital outlay projects.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**February 18, 1999 - 10 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Library Reading Room, Richmond, Virginia. 

A meeting of the Communications and Marketing Committee to continue discussions of current and proposed marketing strategies. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**February 18, 1999 - 10 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

A meeting of the Exhibitions Committee to review and discuss current and upcoming exhibitions. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**February 18, 1999 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 

A meeting of the Finance Committee to review the quarterly budget and discuss 1999-2000 budget allocations.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**February 18, 1999 - 12:30 p.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

A quarterly meeting of the Board of Trustees to receive staff and committee reports, review the budget, and approve art acquisitions.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

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# Calendar of Events

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**February 18, 1999 - 2:30 p.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 

A meeting of the Education and Programs Committee to continue discussions regarding the museum's educational uses of technology.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**February 18, 1999 - 2:30 p.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

A meeting of the Planning Committee for a strategic plan update.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

## BOARD OF NURSING

† **February 18, 1999 - 9 a.m.** -- Open Meeting  
† **February 22, 1999 - 9 a.m.** -- Open Meeting  
† **February 25, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences with licensees and certificate holders. Public comments 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 

## BOARD OF NURSING HOME ADMINISTRATORS

† **March 9, 1999 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the AIT Task Force Committee to develop forms/guidelines for the current training program.

**Contact:** Senita Booker, Administrative Staff Assistant, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY 

† **March 16, 1999 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting of the Legislative Committee to review home study courses for acceptance for continuing education credits and to review legislation for the year 2000.

**Contact:** Senita Booker, Administrative Staff Assistant, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY 

## VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

**February 17, 1999 - 1 p.m.** -- Open Meeting  
202 North Ninth Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Executive Committee will meet to discuss business and prepare for the February 18 board meeting.

**Contact:** Thomas Ariail, Business Manager, Virginia Board for People with Disabilities, 202 N. Ninth St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016/TTY , FAX (804) 786-1118 or toll-free 1-800-846-4464.

**February 18, 1999 - 9 a.m.** -- Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The full board will meet at 9 a.m. The Education, Community Living and Employment Committees will meet at 12:30 p.m. to discuss business and prepare for the afternoon business meeting. The board will reconvene at 2:45 p.m. to hold a public comment period. Consumers, family members, and service providers are encouraged to comment on the needs and issues facing people with disabilities in Virginia.

**Contact:** Thomas Ariail, Business Manager, Virginia Board for People with Disabilities, 202 N. Ninth St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118 or toll-free 1-800-846-4464.

## PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS COUNCIL

† **February 25, 1999 - 10 a.m.** -- Open Meeting  
Hampton Inn-Richmond Airport, 5300 Airport Square Lane, Dominion Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Steering Committee will begin at 10 a.m. The full council meeting will begin at 11 a.m. Public comment will be received at approximately 11 a.m.

**Contact:** Susan Jones, Program Operations Coordinator, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-8152, FAX (804) 225-3221 or toll-free 1-800-552-3962.

## BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

**February 18, 1999 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 1 and 2, Richmond, Virginia. 

The Credentials Committee will meet to review applicant credentials. Public comments will not be heard.

**Contact:** Evelyn B. 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.

† **February 18, 1999 - 11 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. 

An informal conference will be held pursuant to § 9-6.14:11 of the Code of Virginia. No public comment will be received.

**Contact:** Evelyn Brown, Executive Director, or Joyce Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912 or FAX (804) 662-9943.

**February 18, 1999 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 1 and 2, Richmond, Virginia. 

The Supervision Committee will meet to discuss supervision requirements. Public comments will not be heard.

**Contact:** Evelyn B. 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.

**February 18, 1999 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting of the Regulatory Committee to discuss issues pertaining to continuing education, jurisprudence exams and inactive status for all categories of licensure and certification, improving consistency among regulations, residency hours, client contact hours and competency areas for marriage and family therapy licensure, education requirements for substance abuse counselor certification and training requirements for supervisors. Public comment will be received at the beginning of the meeting.

**Contact:** Evelyn B. Brown, Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TTY 

**February 19, 1999 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting of the Examination Committee. Public comments will not be heard.

**Contact:** Evelyn B. 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.

**February 19, 1999 - 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, correspondence and any other matters under the jurisdiction of the board; and (iii) conduct regulatory review. Public comments will be received at the beginning of the meeting.

**Contact:** Evelyn B. 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.

## BOARD OF PSYCHOLOGY

**March 12, 1999 - 10:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting of the Examination Committee to review examinations to be administered April 14, 1999. Public comments will be received at the beginning of the meeting.

**Contact:** La Donna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

## VIRGINIA RACING COMMISSION

NOTE: CHANGE IN MEETING DATE

† **February 25, 1999 - 9:30 a.m.** -- Open Meeting  
Tyler Building, 1300 East Main Street, Courtroom B, Richmond, Virginia. 

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## Calendar of Events

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A monthly meeting of the commission including a segment for public participation and a report from Colonial Downs.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7400 or FAX (804) 966-7418.

### VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† **March 9, 1999 - 10 a.m.** -- Open Meeting  
Central Virginia Waste Management Authority, 2104 West Laburnum Avenue, Board Room, Richmond, Virginia.

A regular meeting to develop strategies to enhance the markets for recyclables. Meetings are dependent on a quorum of 10. Subcommittee meetings may be held prior to or after the general council meeting. Call Mike Murphy for details or e-mail [mpmurphy@deq.state.va.us](mailto:mpmurphy@deq.state.va.us).

**Contact:** Michael P. Murphy, Director, Environmental Enhancement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4003, FAX (804) 698-4319, (804) 698-4021/TTY ☎ or email [mpmurphy@deq.state.va.us](mailto:mpmurphy@deq.state.va.us).

### DEPARTMENT OF REHABILITATIVE SERVICES AND STATE REHABILITATION ADVISORY COUNCIL

**February 25, 1999 - 4 p.m.** -- Public Hearing  
Department of Motor Vehicles, 2300 West Broad Street, Cafeteria, Richmond, Virginia. ♿

**March 18, 1999 - 7 p.m.** -- Public Hearing  
Woodrow Wilson Rehabilitation Center, Watson Building, Dining Hall, Fishersville, Virginia. ♿

**March 25, 1999 - 4:30 p.m.** -- Public Hearing  
Devonshire Center, 2831 Graham Road, Auditorium, Falls Church, Virginia. ♿ (Use upper parking deck for accessibility)

**March 30, 1999 - 4 p.m.** -- Public Hearing  
Hampton Roads Planning District Commission, 723 Woodlake Drive, Regional Building, Chesapeake, Virginia. ♿

**April 7, 1999 - 4 p.m.** -- Public Hearing  
Southwest Virginia Higher Education Center, Virginia Highlands Community College, One Partnership Circle, Abingdon, Virginia. ♿

**April 8, 1999 - 4 p.m.** -- Public Hearing  
Virginia Western Community College, Student Center, Room 5101, Roanoke, Virginia. ♿

A meeting to invite public comment for use in the development of the FY 1999-2000 State Plan for Vocational Rehabilitation and Supported Employment. This notice is for the public hearings to be held across the state during the 1999 public comment period, which lasts until April 8, 1999. Interpreter services and real-

time captioning shall be available at each of the public hearings. Other accommodations may be requested through Gloria O'Neal. Input to the state plan may also be submitted by mail, telephone, FAX, or e-mail to Ms. O'Neal. Although April 8 is the deadline for inclusion in this year's state plan, consumer input to the department's planning efforts are welcome at any time.

**Contact:** Gloria O'Neal, Program Support Technician, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23288-0300, telephone (804) 662-7611, FAX (804) 662-7696, toll-free 1-800-552-5019, ext. 7611 or 1-800-464-9950, ext. 7611, or e-mail [onealgb@drs.state.va.us](mailto:onealgb@drs.state.va.us).

### VIRGINIA RESOURCES AUTHORITY

**March 9, 1999 - 9:30 a.m.** -- Open Meeting  
Virginia Resources Authority, Mutual Building, 909 East Main Street, Richmond, Virginia.

A regular meeting.

**Contact:** Robert W. Lauterberg, Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

### RICHMOND HOSPITAL AUTHORITY

† **February 26, 1999 - 11 a.m.** -- Open Meeting  
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor Classroom, Richmond, Virginia. ♿

A regular meeting of the Board of Commissioners to discuss nursing home operations and related matters.

**Contact:** Marilyn H. West, Chairman, Richmond Hospital Authority, 700 E. Main St., Suite 904, P.O. Box 548, Richmond, VA 23219-0548, telephone (804) 782-1938.

### VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **February 23, 1999 - 10 a.m.** -- Open Meeting  
Department of Business Assistance, 707 East Main Street, 3rd Floor, Main Board Room, Richmond, Virginia. ♿

A meeting of the Loan Committee to review applications for loans submitted to the authority for approval. The time will be moved to 8:30 a.m. if the VSBFA Board of Directors decides to combine meeting dates with the VSBFA Loan Committee.

**Contact:** Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, 707 E. Main St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-8254 or FAX (804) 225-3384.

## STATE BOARD OF SOCIAL SERVICES

**February 17, 1999 - 9 a.m.** -- Open Meeting  
Williamsburg Lodge and Conference Center, 310 South  
England Street, Williamsburg, Virginia. ♿

**February 18, 1999 - 9 a.m.** -- Open Meeting  
Department of Social Services, 730 East Broad Street,  
Richmond, Virginia. ♿

A work session and business meeting.

**Contact:** Pat Rengnerth, State Board Liaison, Department  
of Social Services, 730 E. Broad St., Richmond, VA 23219,  
telephone (804) 692-1826, FAX (804) 692-0319, toll-free 1-  
800-552-3431, or toll-free 1-800-552-7096/TTY ☎

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**April 16, 1999** - 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 repeal regulations entitled: **22 VAC  
40-50-10 et seq. Allowable Variance Policy.** The  
Allowable Variance Policy is no longer essential because  
it is a duplicative regulation. The policy has been  
incorporated into a promulgated regulation entitled  
General Procedures and Information for Licensure.

Statutory Authority: §§ 63.1-174, 63.1-194.2, and 63.1-202  
of the Code of Virginia.

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

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**April 16, 1999** - 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  
40-130-10 et seq. Minimum Standards for Licensed  
Child-Placing Agencies.** The proposed regulation  
establishes the minimum requirements for licensure to  
place children and conduct activities related to  
placement in foster care, in treatment foster care, in  
adoptive homes, or in independent living arrangements.

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

**Contact:** Doris Jenkins, Manager, Child Welfare Licensing  
Unit, Department of Social Services, 730 E. Broad St.,  
Richmond, VA 23219, telephone (804) 692-1773, FAX (804)  
692-2370, or e-mail dtj7@dss.state.va.us.

## COMMONWEALTH TRANSPORTATION BOARD

**February 17, 1999 - 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.

**February 18, 1999 - 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 comments will be  
received at the outset of the meeting on items on the  
meeting agenda for which the opportunity for public  
comments 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.

## TREASURY BOARD

† **February 18, 1999 - 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 FOR THE VISUALLY HANDICAPPED

† **April 20, 1999 - 1 p.m.** -- Open Meeting  
Department for the Visually Handicapped, 397 Azalea  
Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf  
provided upon request)

A regular quarterly meeting to receive information  
regarding department activities and operations, review  
expenditures from the board's institutional fund, and  
discuss other issues raised by board members.

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# Calendar of Events

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**Contact:** Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, FAX (804) 371-3351 or (804) 371-3140/TTY 

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Statewide Rehabilitation Council for the Blind

**March 13, 1999 - 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, FAX (804) 371-3351 or toll-free 1-800-622-2155.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**† April 15, 1999 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. 

A routine business meeting. A public comment period will be held at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

## LEGISLATIVE

### Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempted from publication in *The Virginia Register of Regulations*. You may call Legislative Information for information on standing committee meetings. The number is (804) 698-1500.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### February 15

Agriculture and Consumer Services, Department of  
- Virginia Corn Board

#### February 16

Aviation Board, Virginia  
Corrections, Board of  
- Correctional Services Committee  
† Economic Development Partnership, Virginia  
- Search Committee  
- Retreat Committee  
Game and Inland Fisheries, Department of  
† Health Professions, Board of  
- Enforcement Committee  
Higher Education for Virginia, State Council of  
Museum of Fine Arts, Virginia  
- Collections Committee

#### February 17

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers, and Landscape Architects,  
Board of  
- Land Surveyor Section  
Aviation Board, Virginia  
Corrections, Board of  
- Administration Committee  
Game and Inland Fisheries, Department of  
Information Management, Council on  
- Land Records Management Task Force  
† Labor and Industry, Department of  
- Apprenticeship Council  
Milk Commission, State  
† Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation  
People with Disabilities, Board for  
- Executive Committee  
Social Services, State Board of  
Transportation Board, Commonwealth

#### February 18

Agriculture and Consumer Services, Department of  
- Virginia Aquaculture Advisory Board  
Audiology and Speech-Language Pathology, Board for  
† Forestry, Board of  
† Governor's Mined Land Reclamation Advisory  
Committee  
† Manufactured Housing Board, Virginia  
Museum of Fine Arts, Virginia  
- Board of Trustees  
- Buildings and Grounds Committee  
- Communications and Marketing Committee  
- Education and Programs Committee  
- Exhibitions Committee  
- Finance Committee  
- Planning Committee  
† Nursing, Board of  
- Special Conference Committee

People with Disabilities, Board for  
† Professional Counselors, Marriage and Family  
Therapists and Substance Abuse Treatment  
Professionals, Board of Licensed  
- Credentials Committee  
- Regulatory Committee  
- Supervision Committee  
Social Services, State Board of  
Transportation Board, Commonwealth  
† Treasury Board

## February 19

Correctional Education, Board of  
† Dentistry, Board of  
- Special Conference Committee  
Professional Counselors, Marriage and Family  
Therapists and Substance Abuse Treatment  
Professionals, Board of Licensed  
- Examination Committee

## February 22

Alcoholic Beverage Control Board  
† Nursing, Board of

## February 23

Agriculture and Consumer Services, Department of  
- Virginia Bright Flue-Cured Tobacco Board  
Asbestos and Lead, Board for  
† Small Business Financing Authority, Virginia  
- Loan Committee  
Marine Resources Commission

## February 24

Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers, and Landscape Architects,  
Board of  
- Landscape Architect Section  
† Contractors, Board for  
† Housing Development Authority, Virginia  
- Board of Commissioners

## February 25

Compensation Board  
† Education Board of  
Labor and Industry, Department of  
- Virginia Apprenticeship Council  
† Nursing, Board of  
- Special Conference Committee  
† Protection and Advocacy for Individuals with Mental  
Illness Council  
- Steering Committee  
Racing Commission, Virginia

## February 26

Executive Council, State  
† Richmond Hospital Authority  
- Board of Commissioners

## March 1

Cosmetology, Board for  
† Economic Development Partnership, Virginia  
† Emergency Planning Committee, Local - Goochland  
County

## March 2

† Economic Development Partnership, Virginia  
† Hopewell Industrial Safety Council  
† Litter Control and Recycling Fund Advisory Board  
Medical Assistance Services, Board of

## March 3

Agriculture and Consumer Services, Department of  
- Virginia Soybean Board  
Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers, and Landscape Architects,  
Board of  
- Interior Designer Section  
† Economic Development Partnership, Virginia  
† Health, Department of  
- Virginia AIDS Drug Assistance Advisory Committee

## March 4

Agriculture and Consumer Services, Board of  
Emergency Planning Committee, Local - Chesterfield  
County  
† Game and Inland Fisheries, Board of  
† Hammond Commission on Community Services and  
In-Patient Care  
† Medicine, Board of  
- Informal Conference Committee

## March 5

† Game and Inland Fisheries, Board of  
† HIV Community Planning Committee

## March 8

Alcoholic Beverage Control Board

## March 9

† Agriculture and Consumer Services, Department of  
- Virginia Cotton Board  
† Nursing Home Administrators, Board of  
- AIT Task Force Committee  
† Recycling Markets Development Council, Virginia

## March 10

† Agriculture and Consumer Services, Department of  
- Virginia Marine Products Board  
Architects, Professional Engineers, Land Surveyors,  
Certified Interior Designers, and Landscape Architects,  
Board of  
† Interagency Coordinating Council, Virginia

## March 12

† Agriculture and Consumer Services, Department of  
- Virginia Peanut Board  
† Mental Health, Mental Retardation and Substance  
Abuse Treatment Services, Department of  
- State Human Rights Committee  
Psychology, Board of  
- Examination Committee

## March 13

Visually Handicapped, Department for the  
- Statewide Rehabilitation Council for the Blind

## March 15

Cosmetology, Board for

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# Calendar of Events

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- † Local Government, Commission on
- † Medical Assistance Services, Department of
  - Pharmacy Liaison Committee

## March 16

- † Environmental Quality, Department of
  - Virginia Ground Water Protection Steering Committee

## March 17

- Funeral Directors and Embalmers, Board of
  - Special Conference Committee

## March 18

- † Labor and Industry, Department of
  - Apprenticeship Council

## March 19

- † Audiology and Speech-Language Pathology, Board of
- † Nursing Home Administrators, Board of
  - Legislative/Regulatory Committee

## March 22

- Alcoholic Beverage Control Board
- † Cosmetology, Board for
- Library Board

## March 23

- † Agriculture and Consumer Services, Department of
  - Virginia State Apple Board
- Marine Resources Commission

## March 24

- † Higher Education for Virginia, State Council of

## March 26

- Disability Services Council
- † Medicine, Board of
  - Informal Conference Committee

## March 30

- † Funeral Directors and Embalmers, Board of
  - Legislative Committee

## April 1

- Emergency Planning Committee, Local - Chesterfield County

## April 6

- † Hopewell Industrial Safety Council

## April 15

- † Waterworks and Wastewater Works Operators, Board for

## April 20

- † Visually Handicapped, Board for the

## April 26

- † Accountancy, Board for

- Rehabilitative Services, Department of and Rehabilitation Advisory Council, State

## March 1

- † Environmental Quality, Department of

## March 15

- † Local Government, Commission

## March 17

- † Air Pollution Control Board, State

## March 18

- Rehabilitative Services, Department of and Rehabilitation Advisory Council, State

## March 25

- Rehabilitative Services, Department of and Rehabilitation Advisory Council, State

## March 30

- Rehabilitative Services, Department of and Rehabilitation Advisory Council, State

## April 7

- Rehabilitative Services, Department of and Rehabilitation Advisory Council, State

## April 8

- Rehabilitative Services, Department of and Rehabilitation Advisory Council, State

## PUBLIC HEARINGS

### February 25

- Fire Services Board, Virginia