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REGISTER OF REGULATIONS

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Virginia Code Commission

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VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. 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*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

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 Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house 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 body, 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 legislative body 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 objection 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 and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. 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 no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. 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 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 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. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

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PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

April 2015 through May 2016

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
31:16	March 18, 2015	April 6, 2015
31:17	April 1, 2015	April 20, 2015
31:18	April 15, 2015	May 4, 2015
31:19	April 29, 2015	May 18, 2015
31:20	May 13, 2015	June 1, 2015
31:21	May 27, 2015	June 15, 2015
31:22	June 10, 2015	June 29, 2015
31:23	June 24, 2015	July 13, 2015
31:24	July 8, 2015	July 27, 2015
31:25	July 22, 2015	August 10, 2015
31:26	August 5, 2015	August 24, 2015
32:1	August 19, 2015	September 7, 2015
32:2	September 2, 2015	September 21, 2015
32:3	September 16, 2015	October 5, 2015
32:4	September 30, 2015	October 19, 2015
32:5	October 14, 2015	November 2, 2015
32:6	October 28, 2015	November 16, 2015
32:7	November 11, 2015	November 30, 2015
32:8	November 24, 2015 (Tuesday)	December 14, 2015
32:9	December 9, 2015	December 28, 2015
32:10	December 21, 2015 (Monday)	January 11, 2016
32:11	January 6, 2016	January 25, 2016
32:12	January 20, 2016	February 8, 2016
32:13	February 3, 2016	February 22, 2016
32:14	February 17, 2016	March 7, 2016
32:15	March 2, 2016	March 21, 2016
32:16	March 16, 2016	April 4, 2016
32:17	March 30, 2016	April 18, 2016
32:18	April 13, 2016	May 2, 2016
32:19	April 27, 2016	May 16, 2016
32:20	May 11, 2016	May 30, 2016

*Filing deadlines are Wednesdays unless otherwise specified.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Emergency Regulation

Title of Regulation: **4VAC20-751. Pertaining to the Setting and Mesh Size of Gill Nets (amending 4VAC20-751-20).**

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: March 26, 2015, through April 2, 2015.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Preamble:

The amendments modify the dates that gill nets may be used.

4VAC20-751-20. Gill net mesh sizes, restricted areas, and season.

A. From January 1 through ~~March 25~~ April 1 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size between 3-3/4 inches and six inches within the restricted areas as set forth below, except that from January 16 through the end of February any legally licensed fisherman may place, set, or fish any gill net with a stretched mesh size from five inches to six inches within the restricted areas described in this subsection. From ~~March 26~~ April 2 through June 15 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size greater than six inches within the restricted areas set forth below, except as described in 4VAC20-252-135:

1. In James River, those tidal waters upstream of a line connecting Willoughby Spit and Old Point Comfort;
2. In Back River, those tidal waters upstream of a line connecting Factory Point and Plumtree Point;
3. In Poquoson River, those tidal waters upstream of a line connecting Marsh Point and Tue Point;
4. In York River, those tidal waters upstream of a line connecting Tue Point and Guinea Marshes;
5. In Mobjack Bay, those tidal waters upstream of a line connecting Guinea Marshes and New Point Comfort;
6. In Milford Haven, those tidal waters upstream of a line connecting Rigby Island and Sandy Point;

7. In Piankatank River, those tidal waters upstream of a line connecting Cherry Point and Stingray Point; and

8. In Rappahannock River, those tidal waters upstream of a line connecting Stingray Point to Windmill Point.

B. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish more than 8,400 feet of gill net.

C. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net in the Chesapeake Bay or in Virginia's portion of the Territorial Sea, that is made, set or fished in a tied-down manner, by connecting the net's head rope and foot rope with lines, which cause the net to form a pocket of webbing.

D. During the period June 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net with a stretched mesh greater than six inches in the Virginia portion of the Territorial Sea, south of a line connecting Smith Island Light and the three-mile limit line.

E. From June 1 through August 14, it shall be unlawful for any person to place any unattended small-mesh gill net within 500 yards of the mean low-water mark, on the ocean side of Northampton and Accomack Counties, north of a line, beginning at the southern most point of Smith Island and thence extending due east to the three-mile limit line.

F. It shall be unlawful for any person to use any agent to place, set, or fish any gill net within 500 yards of the mean low-water mark within the Assateague Island Small-Mesh Gill Net Area from August 15 through October 31. The commissioner, or his designee, may approve the use of an agent if the legally licensed person can document a significant hardship on the basis of health that impedes the retrieval of any gill nets within the Assateague Island Small-Mesh Gill Net Area.

VA.R. Doc. No. R15-4320; Filed March 26, 2015, 3:39 p.m.

Emergency Regulation

Title of Regulation: **4VAC20-252. Pertaining to the Taking of Striped Bass (amending 4VAC20-252-140).**

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: March 26, 2015, through April 2, 2015.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607,

Regulations

telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Preamble:

The amendments delay the start of the 2015 Chesapeake area 28-inch commercial striped bass maximum size limit from March 26 to April 2.

4VAC20-252-140. Commercial seasons, areas, and size limits.

Except as may be adjusted pursuant to 4VAC20-252-150, the open commercial striped bass fishing seasons, areas, and applicable size limits shall be as follows:

1. In the Chesapeake area, the open commercial season shall be from January 16 through December 31, inclusive. The minimum size limit shall be 18 inches total length during the periods of January 16 through December 31. The maximum size limit shall be 28 inches from ~~March 26~~ April 2 through June 15.
2. In the coastal area, the open commercial season shall be January 16 through December 31, inclusive, and the minimum size limit shall be 28 inches total length.

VA.R. Doc. No. R15-4322; Filed March 26, 2015, 4:25 p.m.

Emergency Regulation

Title of Regulation: 4VAC20-252. Pertaining to the Taking of Striped Bass (amending 4VAC20-252-60, 4VAC20-252-80).

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: March 30, 2015, through April 29, 2015.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Preamble:

The amendments establish the coastal area and Chesapeake area trophy-size striped bass minimum possession size limit of 36 inches total length.

4VAC20-252-60. Bay and Coastal Spring Trophy-size Striped Bass Recreational Fisheries.

A. The open season for the Bay Spring Trophy-size Striped Bass Recreational Fishery shall be May 1 through June 15, inclusive; ~~however, the season may be adjusted as set forth in subsection G of this section.~~

B. The area open for the Bay Spring Trophy-size ~~fishery~~ Striped Bass Recreational Fishery shall be the Chesapeake Bay and its tributaries, except the spawning reaches of the James, Pamunkey, Mattaponi, and Rappahannock Rivers.

C. The open season for the Coastal Spring Trophy-size Striped Bass Recreational Fishery shall be May 1 through May 15, inclusive; ~~however, the season may be adjusted as set forth in subsection G of this section.~~

D. The area open for the Coastal Spring Trophy-size Striped Bass Recreational Fishery is the coastal area as described in 4VAC20-252-20.

E. The minimum size limit for the fisheries described in this section shall be ~~32~~ 36 inches total length.

F. The possession limit for the fisheries described in this section shall be one fish per person.

~~G. The Bay and Coastal Spring Trophy size fisheries, combined with the fishery defined by 4VAC20-252-70, shall have a target take of 30,000 total fish coming from both the Virginia and Maryland portions of the Chesapeake Bay and any tributaries of the Chesapeake Bay and the Potomac River, and includes the area under the jurisdiction of the Potomac River Fisheries Commission. The season for this fishery shall be closed when it is determined that this total target has been reached.~~

~~H. G.~~ It shall be unlawful for any person, 16 years of age or older, participating in the Bay and Coastal Spring Trophy-size striped bass recreational fisheries to fail to obtain a Spring Recreational Striped Bass Trophy Permit from the commission prior to any participation, except when fishing from a legally licensed headboat or charter boat.

~~I. H.~~ It shall be unlawful for any spring recreational striped bass trophy permittee or any charter boat striped bass permittee to fail to report the take, harvest, or possession of any trophy-size striped bass, as described in subsection E of this section, on forms provided by the commission by the 15th day after the close of the Bay and Coastal Spring Trophy-size striped bass recreational fisheries. The report requirements shall be as follows:

1. Any spring recreational striped bass trophy permittees or charter boat striped bass permittees shall provide the permittee name, commission permit identification number, the date of any harvest, the water body where the trophy-size striped bass was caught, number of trophy-size striped bass kept or released, and the length of each trophy-size striped bass kept or released. Any weight information on any kept or released trophy-size striped bass may be provided voluntarily by the permittees.

2. Any spring recreational striped bass trophy permittees or charter boat striped bass permittees who did not participate in the Bay and Coastal Spring Trophy-size striped bass recreational seasons shall notify the commission of their lack of participation by the 15th day after the close of the Bay and Coastal Spring Trophy-size striped bass recreational seasons on forms provided by the commission.

~~J. I.~~ It shall be unlawful for any permittee, as described in 4VAC20-252-50 H and subsection ~~H. G.~~ of this section, to fail to report either the harvest of trophy-size striped bass or no harvest activity within 15 days of the closing of the Bay and Coastal Spring Trophy-size striped bass recreational seasons.

4VAC20-252-80. Bay Spring/Summer Striped Bass Recreational Fishery.

A. The open season for the Bay Spring/Summer Striped Bass Recreational Fishery shall be May 16 through June 15 inclusive.

B. The area open for this fishery shall be the Chesapeake Bay and its tributaries.

C. The minimum size limit for this fishery shall be 18 inches total length, and the maximum size limit for this fishery shall be 28 inches total length, except as provided in subsection E of this section.

D. The possession limit for this fishery shall be two fish per person.

E. The possession limit described in subsection D of this section may consist of one trophy-size striped bass ~~32~~ 36 inches or greater, which is subject to the provisions of subsections A, B, E, F, and G ~~and H~~ of 4VAC20-252-60.

V.A.R. Doc. No. R15-4324; Filed March 26, 2015, 4:51 p.m.

◆ ————— ◆

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **12VAC30-110. Eligibility and Appeals (amending 12VAC30-110-10, 12VAC30-110-20, 12VAC30-110-70, 12VAC30-110-80, 12VAC30-110-100, 12VAC30-110-110, 12VAC30-110-140, 12VAC30-110-160, 12VAC30-110-350; adding 12VAC30-110-285).**

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Date: May 6, 2015.

Agency Contact: Emily McClellan, Regulatory Supervisor, Department of Medical Assistance Services, Policy Division, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

Summary:

The amendments incorporate federally mandated changes derived from the Affordable Care Act and implemented in federal regulations (i) providing individuals with a choice to receive notices and information in electronic format or by regular mail and permitting changes in that choice; (ii) increasing the amount of time from three days to five days in which individuals will be considered to have received notices; (iii) mandating that the Department of Medical Assistance Services (DMAS) hearing officers have access to agency records required to formulate appeal decisions, and (iv) implementing other technical changes such as changing the name of the DMAS Division of Client Appeals to Appeals Division.

12VAC30-110-10. Definitions.

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

"Action" means a termination, suspension, or reduction of Medicaid eligibility or covered services. It also means (i) determinations by skilled nursing facilities and nursing facilities to transfer or discharge residents and (ii) adverse determinations made by a state with regard to the preadmission screening and annual resident review requirements of § 1919(e)(7) of the Social Security Act.

"Adverse determination" means a determination made in accordance with § 1919(b)(3)(F) or 1919(e)(7)(B) of the Social Security Act that the individual does not require the level of services provided by a nursing facility or that the individual does or does not require specialized services.

"Agency" means:

1. An agency ~~which~~ that, on the department's behalf, makes determinations regarding applications for benefits provided by the department; and
2. The department itself.

"Appellant" means (i) an applicant for or recipient of medical assistance benefits from the department who seeks to challenge an adverse action regarding his benefits or his eligibility for benefits and (ii) a nursing facility resident who seeks to challenge a transfer or discharge. Appellant also means an individual who seeks to challenge an adverse determination regarding services provided by a nursing facility.

"Date of action" means the intended date on which a termination, suspension, reduction, transfer, or discharge becomes effective. It also means the date of the determination made by a state with regard to the preadmission screening and annual resident review requirements of § 1919(e)(7) of the Social Security Act.

"Department" means the Department of Medical Assistance Services.

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"Division" means the department's Appeals Division of Client Appeals.

"Final decision" means a written determination by a hearing officer ~~which~~ that is binding on the department, unless modified on appeal or review.

"Hearing" means the evidentiary hearing described in this regulation, conducted by a hearing officer employed by the department.

"Representative" means an attorney or agent who has been authorized to represent an appellant pursuant to these regulations.

"Send" means to deliver by mail or in electronic format consistent with 42 CFR 431.201.

Article 2 The Appeal System

12VAC30-110-20. Appeals Division of Client Appeals.

~~The division maintains an appeals system for appellants to challenge adverse actions regarding services and benefits provided by the department. Appellants shall be entitled to a hearing before a hearing officer. See Subpart II of these regulations.~~

A. The division maintains an appeals system for appellants to challenge (i) actions, as defined in 42 CFR 431.201, regarding services and benefits provided by the department, and (ii) adverse determinations regarding services provided by a nursing facility in accordance with § 1919(b)(3)(F) or 1919(e)(7)(B). Appellants shall be entitled to a hearing before a hearing officer. See Subpart II (12VAC30-110-130 et seq.) of this chapter.

B. In accordance with 42 CFR 435.918, the agency makes electronic appeal correspondence available to applicants and recipients. Applicants and recipients may elect to receive appeal correspondence in electronic format or by regular mail and may change such election.

Article 4 Notice and Appeal Rights

12VAC30-110-70. Notification of adverse agency action.

The agency ~~which~~ that takes action or makes an ~~initial~~ adverse determination shall inform the applicant or recipient in a written notice:

1. What action or adverse determination the agency intends to take;
2. The reasons for the intended action or adverse determination;
3. The specific regulations that support or the change in law that requires the action or adverse determination;
4. The right to request an evidentiary hearing, and the methods and time limits for doing so;
5. The circumstances under which benefits are continued if a hearing is requested (see 12VAC30-110-100); and
6. The right to representation.

12VAC30-110-80. Advance notice.

When the agency plans to terminate, suspend, or reduce an individual's eligibility or covered services, the agency must ~~mail~~ send the notice described in 12VAC30-110-70 at least 10 days before the date of action, except as otherwise permitted by federal law.

12VAC30-110-100. Maintaining services.

A. If the agency ~~mails~~ sends the 10-day notice described in 12VAC30-110-80 and the appellant files his Request for Appeal before the date of action, his services shall not be terminated or reduced until the hearing officer issues a final decision unless it is determined at the hearing that the sole issue is one of federal or state law or policy and the appellant is promptly informed in writing that services are to be terminated or reduced pending the final decision.

B. If the agency's action is sustained on appeal, the agency may institute any available recovery procedures against the appellant to recoup the cost of any services furnished to the appellant, to the extent they were furnished solely by reason of subsection A of this section.

Article 5 Miscellaneous Provisions

12VAC30-110-110. Appeals Division records.

A. Removal of records. No person shall take from the division's custody any original record, paper, document, or exhibit ~~which~~ that has been certified to the division except as the Director of ~~Client~~ the Appeals Division authorizes, or as may be necessary to furnish or transmit copies for other official purposes.

B. Confidentiality of records. Information in the appellant's record can be released only to a properly designated representative or other ~~person(s)~~ person or persons named in a release of information authorization signed by an appellant, his guardian, or power of attorney.

C. Fees. The fees to be charged and collected for any copies will be in accordance with Virginia's Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) or other controlling law.

D. Waiver of fees. When copies are requested from records in the division's custody, the required fee shall be waived if the copies are requested in connection with an individual's own review or appeal.

12VAC30-110-140. Place of filing a Request for Appeal.

A Request for Appeal shall be ~~delivered or mailed~~ sent to the Appeals Division of Client Appeals.

12VAC30-110-160. Time limit for filing.

A Request for Appeal shall be filed within 30 days of the appellant's receipt of the notice of an ~~adverse~~ adverse action or adverse determination described in 12VAC30-110-70. It is presumed that appellants will receive the notice ~~three~~ five days after the agency mails the notice unless the appellant shows that he did not receive the notice within the five-day

period. A Request for Appeal on the grounds that an agency has not acted with reasonable promptness may be filed at any time until the agency has acted.

12VAC30-110-285. Appeals Division access to agency records.

A hearing officer shall have access to agency information necessary to issue a proper hearing decision that is sound and legally supportable, including information concerning state policies and regulations.

12VAC30-110-350. Dismissal of Request for Appeal.

A Request for Appeal may be dismissed if:

1. The appellant or his representative withdraws the request in writing; or
2. The appellant or his representative fails to appear at the scheduled hearing without good cause; and does not reply within 10 days after the hearing officer ~~mails~~ sends an inquiry as to whether the appellant wishes further action on the appeal.

VA.R. Doc. No. R15-4125; Filed March 23, 2015, 12:01 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 40 (2015)

Improving ABC Law Enforcement

Importance of the Initiative

Keeping Virginia families and communities safe is the highest responsibility of the Governor and state government. In performing that duty, we also have a responsibility to ensure that agencies charged with public safety have the training, resources and oversight they need to do their jobs professionally and in a way that promotes and protects the public trust.

Recent events involving special agents of the Virginia Department of Alcoholic Beverage Control (ABC) in Charlottesville have underscored longstanding concerns about the agency's Bureau of Law Enforcement and exposed the need for more extensive training and oversight. While we must await results from the investigations by Virginia State Police and the Office of the Commonwealth's Attorney in Charlottesville before drawing conclusions about that particular incident, it is not too soon to take proactive steps to improve ABC's Bureau of Law Enforcement.

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, I hereby direct the Secretary of Public Safety and Homeland Security, the Chief Operating Officer and the Commissioners of the Department of Alcoholic Beverage Control Board, in conjunction with the Department of Criminal Justice Services, to take the following immediate actions:

1. The ABC Board shall require the immediate retraining of all ABC special agents in the areas of use of force, cultural diversity, effective interaction with youth, and community policing, to be completed no later than September 1, 2015. This training shall be implemented and certified by the Department of Criminal Justice Services utilizing evidence-based training curricula and education practices that meet nationally-accepted standards.
2. Effective immediately, the ABC Bureau of Law Enforcement shall report directly to the Chief Operating Officer of the ABC, who is responsible for the day-to-day management of all ABC functions.
3. The Secretary of Public Safety and Homeland Security shall convene an expert review panel of representatives of local and campus law enforcement agencies and sheriff's offices, Commonwealth's Attorneys, the Governor's Policy Advisor on Law Enforcement for ABC, the Chief Operating Office of the ABC, the Director of the Department of Criminal Justice Services and such other individuals representing relevant stakeholder groups, as he may deem appropriate in order to review the agency's mission, structure, policies and training and make recommendations regarding any identified changes needed.

A report of the review panel shall be completed and presented to me no later than November 1, 2015.

4. The ABC Bureau of Law Enforcement shall immediately review, update or enter into appropriate Mutual Aid Agreements, or other Memoranda of Understanding, with local law enforcement agencies serving communities with state institutions of higher education, with the goal of improving collaboration, communication and delineation of expectations regarding enforcement activities performed by ABC special agents in these communities.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th Day of March, 2015.

/s/ Terence R. McAuliffe
Governor

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

March 10, 2015

Administrative Letter 2015-03

To: All Property and Casualty Insurers and Rate Service Organizations Licensed in Virginia

Re: Filing Procedures for Compliance with the Provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2015; Withdrawal of Administrative Letters 2002-15, 2004-06, 2006-03, and 2008-01

The purpose of Administrative Letter 2015-03 is to advise insurers of certain provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2015 amending and extending the Terrorism Risk Insurance Act of 2002 (the Act) by reauthorization (the Act), which may require insurers to submit a filing of policy language and applicable rates as a result of the Act. For further details related to the Act, please consult the Act itself.

Further, Administrative Letter 2015-03 brings forward relevant provisions of previously issued administrative letters to address filing-related requirements pertaining to coverage for terrorism risk in property and casualty insurance contracts. The previously issued administrative letters listed above are hereby withdrawn.

Background

Uncertainty in the markets for commercial lines property and casualty insurance coverage arose following the substantial loss of lives and property experienced on September 11, 2001. Soon after these tragic events, many reinsurers announced that they would no longer provide coverage for acts of terrorism in future reinsurance contracts. This led to a concerted effort on behalf of all interested parties to seek a federal backstop to facilitate the ability of the insurance industry to continue to provide coverage for these unpredictable and potentially catastrophic events. As a result, Congress enacted and the president signed into law in November 2002, the Terrorism Risk Insurance Act of 2002 (the Act). This Federal law provided a federal backstop for defined acts of terrorism and imposed certain obligations on insurers. The Act was extended for a two-year period covering Program Years 2006 and 2007, and for an additional seven years through December 31, 2014, with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007. The Act has now been extended again with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2015.

All insurers, as defined in the Act, are required by the Act to participate in the Terrorism Insurance Program and to make available coverage for insured losses, as defined in the Act, resulting from an act of terrorism, as defined in the Act, in all

of their property and casualty insurance policies, as defined in the Act. The Act further requires insurers to make available, in all property and casualty insurance policies, coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

Definition of Insured Loss(es)

The Act defines "insured loss" as any loss resulting from an act of terrorism (including an act of war in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if such loss—(A) occurs within the United States; or (B) occurs to an air carrier (as defined in section 40102 of title 49, United States Code), to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs, or at the premises of any United States mission.

Definition of Act of Terrorism

Section 102(1) defines an act of terrorism for purposes of the Act. Please note that the unmodified reference to "the Secretary" refers to the Secretary of the Treasury. The revised Section 102(1)(A) states, "The term 'act of terrorism' means any act that is certified by the Secretary, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—(i) to be an act of terrorism; (ii) to be a violent act or an act that is dangerous to—(I) human life; (II) property; or (III) infrastructure; (iii) to have resulted in damage within the United States, or outside the United States in the case of—(I) an air carrier or vessel described in paragraph (5)(B); or (II) the premises of a United States mission; and (iv) to have been committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion." Section 102(1)(B) states, "No act shall be certified by the Secretary as an act of terrorism if—(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or (ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed \$5,000,000." Section 102(1)(C) and (E) specify that the determinations are final and not subject to judicial review and that the Secretary of the Treasury cannot delegate the determination to anyone.

The policy form must include a definition of act(s) of terrorism. Section 102(1) defines an act of terrorism for purposes of the Act. In order to satisfy this filing requirement, insurers may reference the definition of "acts of terrorism" in the Act or restate the definition in the policy form. If the term "acts(s) of terrorism" is defined in the policy

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form, it is not necessary for the insurer to repeat the definition in endorsements used with the policy form.

Definition of Property and Casualty Insurance

For details regarding the lines of insurance to which the Act applies, please consult the Act and the Interim Guidance provided by the Department of the Treasury.

Certified and Non-Certified Acts of Terrorism

As a result of the definitions of "act of terrorism" and "insured loss" contained in the Act, there are essentially two distinct types of losses that a policyholder might face that result from terrorism. One type of loss is the insured loss that is defined within and covered by the provisions of the Act. For convenience, the term "certified loss" will be used to refer to losses resulting from certified acts of terrorism. The second type of loss is one that does not fit within the definition of insured loss as described in the Act. For convenience, the term "non-certified loss" will be used to refer to those losses resulting from acts of terrorism that are not certified.

Non-Certified Acts of Terrorism

If insurers elect to exclude non-certified acts of terrorism, the coverage form must define a non-certified act, which includes an act of terrorism that fails to be certified solely because it falls below the \$5,000,000 in Section 102(1) (B).

The Bureau will continue to approve certain limitations to coverage for non-certified acts of terrorism. For policies providing property insurance coverage, the following limitation applies with regard to exclusions of non-certified losses:

- Industry-wide insured losses must exceed \$25,000,000 for related incidents that occur within a 72 hour period;
- Exclusions applicable to non-certified acts of terrorism are not subject to this limitation if:
 1. The act involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 2. The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 3. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such material.

Note: The exemption in § 38.2-2102 B of the Code of Virginia does not apply to non-certified acts; therefore, the provisions of § 38.2-2105 of the Code of Virginia apply to ensuing fire losses for non-certified acts of terrorism.

For policies providing liability insurance coverage, the following limitations apply with regard to exclusions of non-certified losses:

- Industry-wide insured losses must exceed \$25,000,000 for related incidents that occur within a 72-hour period; or
- Fifty or more persons must sustain death or serious injury for related incidents that occur within a 72-hour period. For the purposes of such provisions, serious injury means:
 1. Physical injury that involves a substantial risk of death;
 2. Protracted and obvious physical disfigurement; or
 3. Protracted loss of or impairment of the function of a bodily member or organ.
- Exclusions applicable to non-certified acts of terrorism are not subject to the above limitations if:
 1. The act involves the use, release, or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
 2. The act is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 3. Pathogenic or poisonous biological or chemical materials are released, and it appears one purpose of terrorism was to release such materials.

Submission of Rates, Loss Cost Multipliers, and Policy Forms or Endorsements

Expedited Review Process – Forms, Endorsements

Since the provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2015 are already in effect, the Bureau is expediting the reviews of form filings submitted in response to the Act. Filers should use the SERFF system for submitting such filings. Filers should use the term "TRIA2015" in the product name field in SERFF to indicate a filing related to terrorism made in connection with the Terrorism Risk Insurance Program Reauthorization Act of 2015. An Expedited Filing Transmittal document is not required.

The 2015 Act is effective until December 31, 2020, unless extended by Congress. The expedited filing procedures described in this administrative letter shall take immediate effect and shall expire on April 13, 2015.

Coverage Forms, Endorsements

Except to the extent an insurer has authorized a rate service organization (RSO) to file forms on its behalf, insurers must file any policy forms or endorsements that they intend to use to cover or exclude certified losses on or before the date the forms or endorsements are effective. However, it is important

to note that for lines or sub-classifications of insurance exempted from form filing requirements by Virginia statutes or administrative orders, the forms or endorsements related to terrorism coverage for those lines or sub-classifications of insurance are also exempt from filing requirements. The requirements of the Act, however, are not affected by such exemptions and continue to apply.

Conditional Terrorism Exclusions

As a result of uncertainty associated with reauthorizations of the Act, insurers filed conditional terrorism exclusions that would be activated in the event the Act was not renewed or renewed on a basis that substantially affected the risk of the loss assumed by the insurer during the period that the policy was in effect. In response to those concerns, the Bureau approved conditional terrorism exclusions. These endorsements were required to provide the same limitations to coverage for non-certified acts of terrorism, which are described below, for any terrorism loss that occurred after the termination of the Act. Conditional terrorism exclusions applicable to claims made coverage required that claims made policies provide extended reporting provisions for the certified terrorism coverage that would be excluded if the Act was not re-enacted as provided by the Virginia claims made regulation. The conditional endorsements were required to clearly state that the terrorism exclusion would apply only if Congress failed to enact an extension of the Act or enacted changes to the Act that substantially affected the risk of loss that an insurer had assumed. Approved conditional endorsements may remain on file to ensure that they are available for any subsequent uncertainty related to the expiration of the Act. However, insurers and rate service organizations should review these endorsements to determine their continued appropriateness.

Exclusions Not Allowed in Virginia Coverage Forms

- Virginia laws and regulations prohibit the use of terrorism exclusions in personal and commercial automobile insurance and insurance covering owner-occupied dwellings.
- Workers' compensation coverage forms are subject to regulation by the Virginia Workers' Compensation Commission (WCC). Terrorism exclusions have not been approved by the WCC. Any questions pertaining to workers' compensation insurance coverage forms should be directed to the WCC.
- For property insurance policies that are subject to the provisions of Virginia's standard fire policy, as set forth in § 38.2-2105 of the Code of Virginia, coverage for ensuing fire losses is required. If, however, the insured does not purchase fire coverage for certified acts of terrorism, the provisions of § 38.2-2102 B of the Code of Virginia apply, and the insurer would be allowed to exclude the ensuing fire loss from certified acts of terrorism.

Rates, Loss Cost Multipliers – Other than Workers' Compensation

Rate and loss cost multiplier filings will be accepted on a file-and-use basis, in accordance with § 38.2-1906 of the Code of Virginia. If an insurer relies on an RSO for advisory loss costs and to file supplementary rate information on its behalf, no filing is required unless an insurer plans to use a different loss cost multiplier than is currently on file for coverage for certified losses. It is important to note that for lines or sub-classifications of insurance exempted from rate filing requirements by Virginia statutes or administrative orders, the rates related to terrorism coverage for those lines or sub-classifications of insurance are also exempt from filing requirements. The requirements of the Act are not affected by such exemptions and continue to apply.

Rates, Loss Cost Multipliers – Workers' Compensation

If an insurer relies on an RSO to file workers' compensation loss costs and related rating systems on its behalf, no filing is required unless the insurer plans to use a different loss cost multiplier than is currently on file. Refer to Administrative Letter 2010-05 for additional details regarding filing loss cost multipliers. Insurers electing to file independent workers' compensation rates for terrorism exposures that do not rely upon the approved loss costs filed on their behalf by the National Council on Compensation Insurance are subject to the 60-day prior filing requirements of § 38.2-1912 of the Code of Virginia and must include full actuarial support for their proposed rates.

Disclosure Notices – Filing Not Required

Insurers should not submit the federally required disclosure notices to the Bureau for review or approval. The federally required disclosure notices do not contain terms or conditions of coverage and are, therefore, not subject to form filing requirements.

Please feel free to contact the Property and Casualty Division of the Bureau of Insurance with your questions about Administrative Letter 2015-03.

Betty Branum, Principal Insurance Market Examiner,
betty.branum@scc.virginia.gov, (804) 371-9242

Melinda Willis, Principal Insurance Market Examiner,
melinda.willis@scc.virginia.gov, (804) 371-9667

Rebecca Nichols, Assistant Deputy Commissioner,
rebecca.nichols@scc.virginia.gov, (804) 371-9331

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

General Notices/Errata

Bureau of Insurance

March 12, 2015

Administrative Letter 2015-04

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: 14VAC5-190-10 et seq.: Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers - 2014 Reporting Period

The purpose of this Administrative Letter is to assist carriers in the preparation of the Annual Report of Cost and Utilization Data relating to Mandated Benefits and Providers required pursuant to 14VAC5-190-10 et seq. and § 38.2-3419.1 of the Code of Virginia, and to remind all affected carriers of the reporting requirements applicable to mandated benefits and providers for the 2014 reporting year.

The Virginia total annual written premiums for all accident and sickness policies or contracts referenced in the regulation is the amount reported to the Commission on the company's Annual Statement for the year ending December 31, 2014. This is the amount used to determine if a report is required. If the total annual written premium reported to Virginia for all accident and sickness lines is less than \$500,000 or the company is licensed to issue only credit accident and sickness insurance, the company is EXEMPT from filing any information and a report is not required.

A company may be required to file a COMPLETE report or an ABBREVIATED report if the total annual written premium reported to Virginia for all accident and sickness lines is at least \$500,000 (excluding credit only accident and sickness). Carriers should refer to 14VAC5-190-40 for an explanation of the circumstances under which a COMPLETE or an ABBREVIATED report must be filed.

Each affected carrier must submit a completed Form MB-1 to furnish the required information. It is not acceptable to submit more than one Form MB-1 for a single carrier or to consolidate information from different carriers on one form.

The completed Form MB-1 (cover sheet and sections) is due on or before May 1, 2015 and may be submitted electronically. The due date may not be extended for any reason, including the inability to file the reports electronically. The instructions, representative CPT and ICD-9-CM codes, and forms for the 2014 reporting period are available on the Bureau of Insurance's website at <http://www.scc.virginia.gov/boi/co/health/mandben.aspx>.

The instructions explain the type of information necessary to complete Form MB-1. All sources of information, including 14VAC5-190-10 et seq., §§ 38.2-3408 through 38.2-3418.17, as applicable, § 38.2-4221, and CPT and ICD-9-CM codes, should be consulted in the preparation of this report. Please

note that the CPT and ICD-9-CM codes are not intended to exhaust all medical codes that may be used in collecting data for Form MB-1, but are representative of some of the more common codes associated with the mandated benefits.

Effective July 1, 2014, provisions relating to the conversion of health insurance coverage under a group policy to an individual policy upon termination of eligibility, and the mandated offer of coverage for the treatment of morbid obesity in the individual and small group markets were repealed. Beginning with the 2014 reporting period, data pertaining to these mandates will no longer be collected.

Carriers are reminded that failure to submit a substantially complete and accurate report pursuant to the provisions of 14VAC5-190-10 et seq., by May 1, 2015, may be considered a violation subject to a penalty as set forth in § 38.2-218 of the Code of Virginia. Lack of notice, lack of information, lack of means of producing the required data, or other such reasons will not be accepted for not submitting a complete and accurate report in a timely manner.

Correspondence regarding reporting requirements should be directed to Mary Ann Mason, Principal Insurance Market Examiner, Forms Section, Bureau of Insurance, Life and Health Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9348, FAX (804) 371-9944, or email maryann.mason@scc.virginia.gov.

System related questions or problems should be directed to Andrew Iverson, Insurance Analyst, Bureau of Insurance, Automated Systems, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9851, FAX (804) 371-9516, or email andrew.iverson@scc.virginia.gov.

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

Bureau of Insurance

March 17, 2015

Administrative Letter 2015-05

To: All Companies Licensed to Write Fire and Fire in Combination with Other Coverages Including Policies Providing Homeowners Coverage, Coverage on Owner-Occupied Dwellings, and Coverage for Tenants; and Interested Parties

Re: Mandatory Notices; Withdrawal of Administrative Letters 1980-02, 1993-09, and 1999-04

Over the years, many statutes have been added to Title 38.2 of the Code of Virginia requiring certain insurers to provide notices to applicants and insureds to make them aware of the additional coverages available for their protection or to make them aware of certain rights they may have under their policies. This administrative letter compiles information provided in previous administrative letters about notices required by a number of these statutes and provides guidance

as to when and how such notices should be provided. Consequently, the following administrative letters are hereby withdrawn: 1980-02, 1993-09, and 1999-04.

The notices identified in this letter are not subject to approval by the Bureau of Insurance (Bureau), and should not be filed with the Bureau. Unless otherwise specified in the statute, insurers have flexibility as to the manner in which the notice is provided. For example, a stuffer may be used at the time a policy is mailed to an insured, or the notice may be prominently displayed on the application. However, the notice must not be ambiguous or obscure and must be given no later than at the time the new or renewal policy is delivered.¹

Except as noted below, the policies to which the notice requirements identified in this letter apply include all fire policies and fire policies in combination with other coverages, including but not limited to mobile home policies, dwelling fire policies, homeowners policies, renters policies, commercial fire policies, commercial package policies providing fire coverage, and master policies providing mortgage force-placed fire coverage that are issued in Virginia. The notice requirements addressed in this letter do not apply to surplus lines policies or mutual assessment fire policies, except that the notice required by § 38.2-305 of the Code of Virginia must be provided when issuing mutual assessment fire policies.

Important Information to Policyholders Notice

Subsection B of § 38.2-305 of the Code of Virginia requires that a specific notice be provided with each new or renewal insurance policy, contract, certificate, or evidence of coverage issued to a policyholder, covered person, or enrollee. This notice must read substantially the same as the notice in the Code. Examiners frequently find that this notice is not given when policies are renewed or when a renewal certificate is issued. The insurer should ensure that this notice is being given when required. This notice applies to all classes of insurance except those exempted in § 38.2-300 of the Code of Virginia, and except as specifically noted in subsection E of § 38.2-305 of the Code of Virginia.

Replacement Cost Coverage

Section 38.2-2118 of the Code of Virginia requires every insurer writing insurance policies on owner-occupied dwellings and appurtenant structures that have replacement cost provisions to provide to all applicants a notice (1) outlining the minimum coverage requirement necessary to make the replacement cost provision fully effective, and (2) the effect on a claim payment of not meeting the minimum coverage requirement.

Coverage for Water that Backs Up Through Sewers and Drains

Section 38.2-2120 of the Code of Virginia provides that any insurer who issues or delivers a homeowners insurance policy (including a tenant's personal property policy) as defined in § 38.2-130 of the Code of Virginia in the Commonwealth shall offer, as an option, coverage insuring against loss caused or resulting from water which backs up through sewers or drains. The notice must be given at the time a homeowner's policy is renewed as well as at the time a policy is initially delivered.

Building Ordinance or Law Coverage

Section 38.2-2124 of the Code of Virginia requires any insurer that issues a policy of fire insurance, or fire insurance in combination with other coverage, to provide a written offer of coverage for the repair or replacement of property in accordance with applicable ordinances or laws that regulate construction, repair, or demolition. This offer must be made with all new and renewal policies.

Flood Notice

Section 38.2-2125 of the Code of Virginia requires any insurer that issues a policy of fire insurance or fire insurance in combination with other coverage that excludes coverage for damage due to flood, surface water, waves, tidal water, or any other overflow of a body of water to provide written notice that explicitly states (1) that flood damage is excluded; (2) that information about flood insurance is available from the insurer, the insurance agent, or the National Flood Insurance Program; and (3) that contents coverage is available on the flood policy for an additional premium. This notice applies to new and renewal policies.

Insurance Credit Score Disclosure Notice

Any insurer issuing or delivering a homeowners or tenant policy that uses credit information contained in a consumer report for underwriting, tier placement, or rating an applicant or insured shall disclose, on the insurance application, at the time the application is taken, or at renewal if no previous notice has been given, the information required by § 38.2-2126 A 1 of the Code of Virginia.

Insurance Credit Score Adverse Action Notice

Subsection A 2 of § 38.2-2126 of the Code of Virginia requires insurers that take adverse actions, based in whole or in part, upon credit information to provide notice to applicants or insureds (on owner-occupied and tenant residential property policies) that the adverse action was based in whole or in part on credit. The notice must also either provide a statement of the primary factors or characteristics that were used as the basis for the adverse action, or notify the applicant or insured that he may request such information. For the purposes of § 38.2-2126 of the Code of Virginia, an adverse action is defined as a denial,

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nonrenewal or cancellation of, an increase in any charge for or refusal to apply a discount, or placement in less favorable tier, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with underwriting, tier placement, or rating. Adverse action includes, but is not limited to, circumstances where the applicant or insured (i) did not receive the insurer's most favorable rate, (ii) was not placed in the insurer's best tier, and (iii) when there are multiple insurers available within a group of insurers, the applicant or insured did not receive coverage with the group's most favorably priced insurer. In the case of renewals, the circumstances listed in (i), (ii), and (iii) are not adverse actions if, due to the insured's credit information, the insured is not receiving a less favorable rate, or placed in a less favorable tier or company than during the policy period immediately preceding the renewal policy.

Notice of Change in Deductible

[Section 38.2-2127](#) of the Code of Virginia requires an insurer to provide a written notice whenever it unilaterally changes the deductible on a policy written to insure an owner-occupied dwelling (homeowners and dwelling fire policies). The notice must (1) state that the deductible has changed and (2) explain how the new deductible will be applied. The law prohibits the insurer from changing the deductible except at renewal. Insurers should be aware that the law is not limited to changes in the deductible because of the territory or location of the property. For example, if the insurer unilaterally changes the deductible because of the insured's loss history, the notice must be given.

NOTE: Deductibles may only be unilaterally changed at renewal. Therefore, insurers are prohibited from changing a deductible unilaterally during the policy term, including the 90-day underwriting period once coverage is bound. Where the need arises to make a change in a deductible during the underwriting period, insurers must cancel the policy and offer to write with a different deductible. However, insurers may make changes, such as increasing deductibles or increasing limits, during the underwriting period if the insured agrees to such changes, or if the application, signed by the insured, advises the insured that the deductible may be changed.

Earthquake Notice

[Section 38.2-2129](#) of the Code of Virginia requires insurers issuing new or renewal policies of fire insurance, or fire insurance in combination with other insurance coverages, which exclude coverage for damage caused by earthquake, to provide a written notice that explicitly states, "earthquake coverage is excluded unless purchased by endorsement." This notice must state that information regarding such coverage is available from the insurer or the agent if earthquake coverage is otherwise available from the insurer. Insurers may use notices that unambiguously set forth the information required

by the law even if the language of the notice is not in the precise language that is quoted in the law.

Questions about this administrative letter should be directed to Joy Morton, MCM, Supervisor, P&C Market Conduct, telephone (804) 371-9540, or email joy.morton@scc.virginia.gov.

¹ Additional information may be found in the *Common Problems Found During Examinations Identified by the Property and Casualty Market Conduct and Consumer Services Sections* that is located at <http://scc.virginia.gov/boi/laws.aspx>.

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

Bureau of Insurance

March 17, 2015

Administrative Letter 2015-06

To: All Insurers Licensed to Write Motor Vehicle Policies and Interested Parties

Re: Mandatory Notices; Withdrawal of Administrative Letters 1977-13; 1991-09; and 1994-07

Over the years, many statutes have been added to Title 38.2 of the Code of Virginia requiring certain insurers to provide notices to applicants and insureds to make them aware of the additional coverages available for their protection or to make them aware of certain rights they may have under their policies. This administrative letter compiles information provided in previous administrative letters about notices required by a number of these statutes when issuing motor vehicle insurance policies and provides guidance as to when and how such notices should be provided. Consequently, the following administrative letters are hereby withdrawn: 1977-13; 1991-09; and 1994-07.

The notices identified in this letter are not subject to approval by the Bureau of Insurance (Bureau) and should not be filed with the Bureau. Unless otherwise specified in the statute, insurers have flexibility as to the manner in which the notice is provided. For example, when the statute requires a notice to be given on a new policy, a stuffer may be used at the time a policy is mailed to an insured, or the notice may be prominently displayed on the application. However, the notice must not be ambiguous or obscure and must be given not later than when the new policy is delivered.¹

Important Information to Policyholders Notice

Subsection B of [§ 38.2-305](#) of the Code of Virginia requires that a specific notice be provided with each new or renewal insurance policy, contract, certificate, or evidence of coverage issued to a policyholder, covered person, or enrollee. This notice must read substantially the same as the notice in the Code. Examiners frequently find that this notice is not given when policies are renewed or when a renewal certificate is

issued. Insurers should ensure that this notice is given when required. This notice applies to all classes of insurance except those exempted in § 38.2-305 of the Code of Virginia, and except as specifically noted in subsection E of § 38.2-305 of the Code of Virginia.

Offer of Medical Expense and Income Loss Coverages

Section 38.2-2202 of the Code of Virginia requires insurers (issuing policies in Virginia covering the ownership, maintenance, or use of a motor vehicle) to offer at least \$2000 in coverage for medical expense benefits and at least \$100 per week in income loss benefits. However, this does not preclude the offering of both higher and lower limits. In addition, if policies are renewed at medical expense limits lower than those offered during the preceding policy term, an adverse underwriting decision notice must be provided to the insured. No such notice is required if the insured requests lower limits in writing.

Subsection A of § 38.2-2202 of the Code of Virginia requires that insurers issuing original premium notices for insurance covering liability arising from the ownership, maintenance, or use of any motor vehicle include the IMPORTANT NOTICE provided in the statute with the premium notices. The notice can be on the front of the premium notice or can be enclosed with the premium notice. This notice does not have to be provided on renewal policies. The notice must be in boldface type and read exactly as stated in the statute. The Bureau often finds that this notice is not given when new policies are issued or that the notice is not worded as required by the statute. Insurers must offer a limit of \$2,000 in the notice and may offer higher and lower limits.

Notice that UM/UIM Limits May Be Reduced

Subsection B of § 38.2-2202 of the Code of Virginia requires insurers issuing original premium notices or new policies covering the ownership, maintenance, or use of a motor vehicles to provide notice that insureds may reduce their uninsured/underinsured motorist limits to limits less than the liability limits on the policy, within 20 days of the mailing of a new policy or original premium notice. The notice can be on the front of the premium notice or can be enclosed with the premium notice. It must be in boldface type and read exactly as stated in the statute. Once the 20 days has lapsed, no insurer is required to provide this notice on any subsequent premium notice, renewal policy, extension certificate, or other written evidence of coverage continuation.

Warning Concerning Cancellation of Motor Vehicle Liability Policy

Section 38.2-2210 of the Code of Virginia requires that a specific notice be printed on or attached to the first page of an automobile application form in boldface type. The Bureau frequently finds that this notice is not provided or is provided somewhere other than the first page of the application. Insurers should review their applications to ensure

compliance with all of the requirements of this section of the Code. This requirement only applies to applications for liability insurance on motor vehicles as defined in § 38.2-2212 of the Code of Virginia.

Insurance Credit Score Disclosure Notice

Any insurer issuing or delivering a policy of motor vehicle insurance, as defined in § 38.2-2212, that uses credit information contained in a consumer report for underwriting, tier placement, or rating an applicant or insured shall disclose, on the insurance application, at the time the application is taken, or at renewal if no previous notice has been given, the information required by Subdivision A 1 of § 38.2-2234 of the Code of Virginia.

Insurance Credit Score Adverse Action Notice

Subdivision A 2 of § 38.2-2234 of the Code of Virginia requires insurers that take adverse actions, based in whole or in part, upon credit information to provide notice to applicants or insureds (on policies of motor vehicle insurance, as defined in § 38.2-2212 of the Code of Virginia) that the adverse action was based in whole or in part on credit. The notice must also either provide a statement of the primary factors or characteristics that were used as the basis for the adverse action or notify the applicant or insured that he may request such information. For the purposes of § 38.2-2234 of the Code of Virginia, an adverse action is defined as a denial, nonrenewal or cancellation of, an increase in any charge for or refusal to apply a discount, or placement in a less favorable tier, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with underwriting, tier placement, or rating. Adverse action includes, but is not limited to, circumstances where the applicant or insured (i) did not receive the insurer's most favorable rate, (ii) was not placed in the insurer's best tier, and (iii) when there are multiple insurers available within a group of insurers, the applicant or insured did not receive coverage with the group's most favorably priced insurer. In the case of renewals, the circumstances listed in (i), (ii), and (iii) are not adverse actions if, due to the insured's credit information, the insured is not receiving a less favorable rate, or placed in a less favorable tier or company than during the policy period immediately preceding the renewal policy.

Offer of Rental Reimbursement Coverage

Section 38.2-2230 of the Code of Virginia requires that every insurer issuing a new or renewal policy of motor vehicle insurance, as defined in § 38.2-2212 of the Code of Virginia, which provides comprehensive or collision coverage, must offer, in writing, to the named insured the option of purchasing rental reimbursement coverage. This notice must be given by insurers writing motor vehicle policies insuring as the named insured one individual or a husband and wife who are residents of the same household and the vehicle is a

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private passenger type vehicle. Commercial policies endorsed to provide coverage for individuals must also provide this notice if the vehicle is a private passenger type vehicle.

Questions about this administrative letter should be directed to Joy Morton, MCM, Supervisor, P&C Market Conduct, telephone (804) 371-9540, or email joy.morton@scc.virginia.gov.

¹ Additional information may be found in the *Common Problems Found During Examinations Identified by the Property and Casualty Market Conduct and Consumer Services Sections* that is located at <http://scc.virginia.gov/boi/laws.aspx>.

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

DEPARTMENT OF ENVIRONMENTAL QUALITY

State Implementation Plan Revision - Definition of Volatile Organic Compound

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act. The Commonwealth intends to submit regulation amendments to the EPA as a revision to the SIP in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Regulations affected: The regulation of the board affected by this action is 9VAC5-10, General Definitions (Revision H13).

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP.

Public comment period: April 6, 2015, through May 6, 2015.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed below. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: Because the regulation amendments have been adopted by the board in accordance with the Administrative Process Act and have subsequently become effective, DEQ is accepting comment only on the issue cited above under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: The proposed revision will consist of amendments to an existing regulation concerning the definition of volatile organic compound (VOC). EPA has revised the definition of volatile organic compound (VOC) to add trans 1-chloro-3,3,3-trifluoroprop-1-ene (also known as Solstice™ 1233zd(E)) and 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf) to the list of compounds excluded from the definition of VOC on the basis that these compounds make a negligible contribution to tropospheric ozone formation. The state definition must now be revised accordingly.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law. It is planned to submit all provisions of the proposal as a revision to the Commonwealth of Virginia SIP.

How to comment: DEQ accepts written comments by email, FAX, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by the last day of the comment period. All comments, exhibits and documents received are part of the public record.

To review regulation documents: The proposal and any supporting documents are available on the DEQ Air Public Notices for Plans website at <http://www.deq.state.va.us/Programs/Air/PublicNotices/airplansandprograms.aspx>. The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 a.m. and 4:30 pm of each business day until the close of the public comment period at the following DEQ locations:

- 1) Main Street Office, 8th Floor, 629 East Main Street, Richmond, VA, telephone (804) 698-4070,
- 2) Southwest Regional Office, 355 Deadmore Street, Abingdon, VA, telephone (276) 676-4800,
- 3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Road, Roanoke, VA, telephone (540) 562-6700,
- 4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Road, Lynchburg, VA, telephone (434) 582-5120,
- 5) Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 574-7800,
- 6) Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, telephone (804) 527-5020,
- 7) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800, and
- 8) Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA, telephone (757) 518-2000.

Contact Information: Karen G. Sabasteanski, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, FAX (804) 698-4510, or email karen.sabasteanski@deq.virginia.gov.

Total Maximum Daily Load for Upper Roanoke River

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of an implementation plan (IP) for bacteria and sediment total maximum daily loads (TMDLs) on the main stem Upper Roanoke River and tributaries. The following is the name of the "impaired" stream, the length of the impaired segment and the reason for the impairment: Ore Branch, all, bacteria; Roanoke River, 29.56 miles, bacteria; Back Creek, 9.88 miles, bacteria; Mason Creek, 7.56 miles, bacteria; Mudlick Creek, 7.28 miles, bacteria; Murray Run, 3.22 miles, bacteria; Peters Creek, 7.14 miles, bacteria; Tinker Creek, 19.34 miles, bacteria; Carvin Creek, 5.36 miles, bacteria; Glade Creek, 12.59 miles, bacteria; Laymantown Creek, 2.07 miles, bacteria; Lick Run, 9.37 miles, bacteria; Roanoke River, 20.04 miles, sediment. These portions of the Roanoke River watershed are located in Bedford, Botetourt, Floyd, Franklin, Craig, Montgomery, and Roanoke Counties, Roanoke City, and Salem.

In addition, the DEQ seeks written and oral comments from interested persons on the development of a TMDL implementation plan for the North Fork and South Fork Roanoke Rivers and tributaries. These streams were listed as impaired on the Virginia's § 303(d) TMDL Priority List and Report due to violations of the state's water quality standard for bacteria. The following is the name of the "impaired" stream, the length of the impaired segment, and the reason for the impairment: North Fork Roanoke River, 16.09 miles, bacteria; Wilson Creek and unnamed tributary to Wilson Creek, 6.99 miles, bacteria; Bradshaw Creek, 10.36, bacteria; South Fork Roanoke River, 17.31 miles, bacteria; and Goose Creek, 2.30 miles, bacteria. These stream segments are located in Montgomery County, Roanoke County, or Floyd County.

The TMDL studies for these stream impairments were completed in February 2006, February 2006, and March 2004, and can be found, respectively, in the Bacteria TMDLs for Wilson Creek, Ore Branch and Roanoke River Watersheds, Virginia report (available at <http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/roankrvr/uroanec.pdf>), the Benthic TMDL Development for the Roanoke River, Virginia report (available at <http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/roankrvr/uroanbc.pdf>), and the Fecal Coliform Total Maximum Daily Load Development for Glade Creek, Tinker Creek, Carvin Creek, Laymantown Creek and Lick Run report (available at

<http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/roankrvr/tinkerfc.pdf>).

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts.

A public meeting will be held to discuss the draft implementation plan for the bacteria and sediment TMDLs on the main stem Upper Roanoke River, and tributaries that has been under development since June 2013. The public meeting will also kick off the development of an implementation plan focused on the North Fork Roanoke River, South Fork Roanoke River, and tributaries. At this meeting, the process by which an implementation plan was developed to restore water quality in the Upper Roanoke River watershed will be discussed, and citizens will learn how they can be part of the water quality improvement process. In addition, interested persons will have the opportunity to be involved in working groups to develop an implementation plan for the North Fork and South Fork Roanoke Rivers and tributaries.

The public meeting will be held at 6:30 p.m. on April 30, 2015, at the Meadowbrook Center, 267 Alleghany Spring Road, Shawsville, VA 24162.

DEQ accepts written comments by email, fax, or postal mail. The 30-day public comment period on the information presented at the meeting will end on June 1, 2015. Questions, information requests, and written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and be sent to Mary Dail, Virginia Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562.6725, or email mary.dail@deq.virginia.gov.

STATE BOARD OF HEALTH

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Health is conducting a periodic review and small business impact review of 12VAC5-381, Regulations for the Licensure of Home Care Organization. The review of this regulation will be guided by the principles in Executive Order 17 (2014), available at <http://dpb.virginia.gov/regs/EO17.pdf>.

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of

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important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins April 6, 2015, and ends April 28, 2015.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Susan Horn, Policy Analyst, 9960 Mayland Drive, Richmond, VA 23233, telephone (804) 367-2157, FAX (804) 527-4502, or email susan.horn@vdh.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

VIRGINIA LOTTERY

Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on March 17, 2015. The orders may be viewed at the Virginia Lottery, 900 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 201 North 9th Street, 2nd Floor, Richmond, Virginia.

Director's Order Number Six (15)

Virginia Lottery's "\$100,000 Home Changer Mega Power Promotion" Final Rules For Operation (effective April 7, 2015)

Director's Order Number Seven (15)

Virginia Lottery's "\$100,000 Home Changer Scratcher Promotion" Final Rules For Operation (effective April 7, 2015)

Director's Order Number Ten (15)

"Cash4life Retailer Incentive Promotion" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on May 3, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the incentive program, unless otherwise extended by the Director)

Director's Order Number Twelve (15)

Handy Mart Retailer Incentive Program Promotions – Virginia Lottery Program Requirements

Program 1: "\$100,000 Home Changer Free Item with Purchase"

Program 2: "Free Ticket Fridays"

Program 3: "June Out-of-Stock Contest"

(This Director's Order becomes effective on April 7, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program promotion, unless otherwise extended by the Director)

Director's Order Number Thirteen (15)

MACS Circle K Retailer Incentive Program Promotions – Virginia Lottery Program Requirements

Program 1: "Stretch Your Scratch Goal"

Program 2: "Free Ticket Fridays" Retailer Incentive Promotion

(This Director's Order becomes effective on April 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program promotion, unless otherwise extended by the Director)

Director's Order Number Fifteen (15)

Sunoco Retailer Incentive Program Promotions – Virginia Lottery Program Requirements

Program 1: "Stretch Your Scratch Goal"

Program 2: "Free Ticket Fridays"

Program 3: "Fuel 5000 Sign Up Scratch Giveaway"

(This Director's Order becomes effective on April 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Sixteen (15)

FasMart Retailer Incentive Program Promotions – Virginia Lottery Program Requirements

Program 1: "Fas Mart Free Ticket Fridays"

Program 2: "Fas Mart/Virginia Lottery Summer Jam Promotion"

(This Director's Order becomes effective on May 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Seventeen (15)

Virginia Lottery's "#Pickyourdecade Promotion" Final Rules for Operation (effective February 10, 2015)

Director's Order Number Nineteen (15)

Virginia's Instant Game Lottery 1493 "7-Eleven®" Final Rules For Game Operation (effective February 27, 2015)

Director's Order Number Twenty (15)

Virginia's Instant Game Lottery 1537 "Beginner's Luck" Final Rules For Game Operation (effective February 27, 2015)

Director's Order Number Twenty-One (15)

Virginia's Instant Game Lottery 1548 "Hit \$155,000!" Final Rules For Game Operation (effective February 27, 2015)

Director's Order Number Twenty-Two (15)

Virginia's Instant Game Lottery 1546 "Hit \$25,000!" Final Rules For Game Operation (effective February 27, 2015)

Director's Order Number Twenty-Three (15)

Virginia's Instant Game Lottery 1547 "Hit \$55,000!" Final Rules For Game Operation (effective February 27, 2015)

Director's Order Number Twenty-Four (15)

Virginia's Instant Game Lottery 1533 "Electric 8's" Final Rules For Game Operation (effective February 27, 2015)

Director's Order Number Twenty-Six (15)

Virginia's Computer-Generated Game Lottery "Cash 5" Final Rules For Game Operation (This Director's Order becomes effective on February 19, 2015, fully replaces any and all prior Virginia Lottery "Cash 5" game rules, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

Director's Order Number Twenty-Seven (15)

Virginia's Computer-Generated Game Lottery "Fastplay Bingo Blast" Final Rules For Game Operation (effective March 15, 2015)

Director's Order Number Twenty-Eight (15)

Virginia's Computer-Generated Game Lottery "Fastplay \$15,000 Jackpot" Final Rules For Game Operation (effective March 15, 2015)

Director's Order Number Twenty-Nine (15)

Virginia's Computer-Generated Game Lottery "Fastplay Getaway" Final Rules For Game Operation (effective March 15, 2015)

Director's Order Number Thirty (15)

Virginia's Computer-Generated Game Lottery "Fastplay Blackjack Cash" Final Rules For Game Operation (effective March 15, 2015)

Director's Order Number Thirty-Two (15)

Virginia's Computer-Generated Game Lottery Powerball® Final Rules For Game Operation (This Director's Order becomes effective February 19, 2015, fully replaces any and all prior Virginia Lottery "Powerball" game rules, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

Director's Order Number Thirty-Three (15)

Virginia Lottery's Hit It Big Time! Promotion Final Rules For Operation (effective March 10, 2015)

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the Virginia Waste Management Board is conducting a periodic review and small business impact review of 9VAC20-130, Solid Waste Planning and Recycling Regulations. The review of this regulation will be guided by the principles in Executive Order 17 (2014). <http://dpb.virginia.gov/regs/EO17.pdf>.

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins April 6, 2015, and ends April 27, 2015.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Melissa Porterfield, Office of Regulatory Affairs, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@deq.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

STATE WATER CONTROL BOARD

Proposed Consent Special Order for Celanese Acetate, LLC

An enforcement action has been proposed for Celanese Acetate, LLC for violations in Giles County, Virginia. The special order by consent addresses and resolves violations of environmental law and regulations. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Jerry Ford, Jr. will accept comments

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by email at jerry.ford@deq.virginia.gov, or postal mail at Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, from April 6, 2015, through May 6, 2015.

Proposed Enforcement Action for W.W. Realty Associates, LLC

An enforcement action has been proposed for W.W. Realty Associates, LLC for alleged violations of the State Water Control Law in Chesapeake, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Mr. Robin Schuhmann will accept comments by email at robin.schuhmann@deq.virginia.gov, FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from April 6, 2015, through May 6, 2015.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/connect/commonwealth-calendar>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.