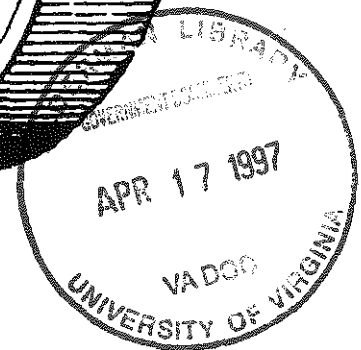
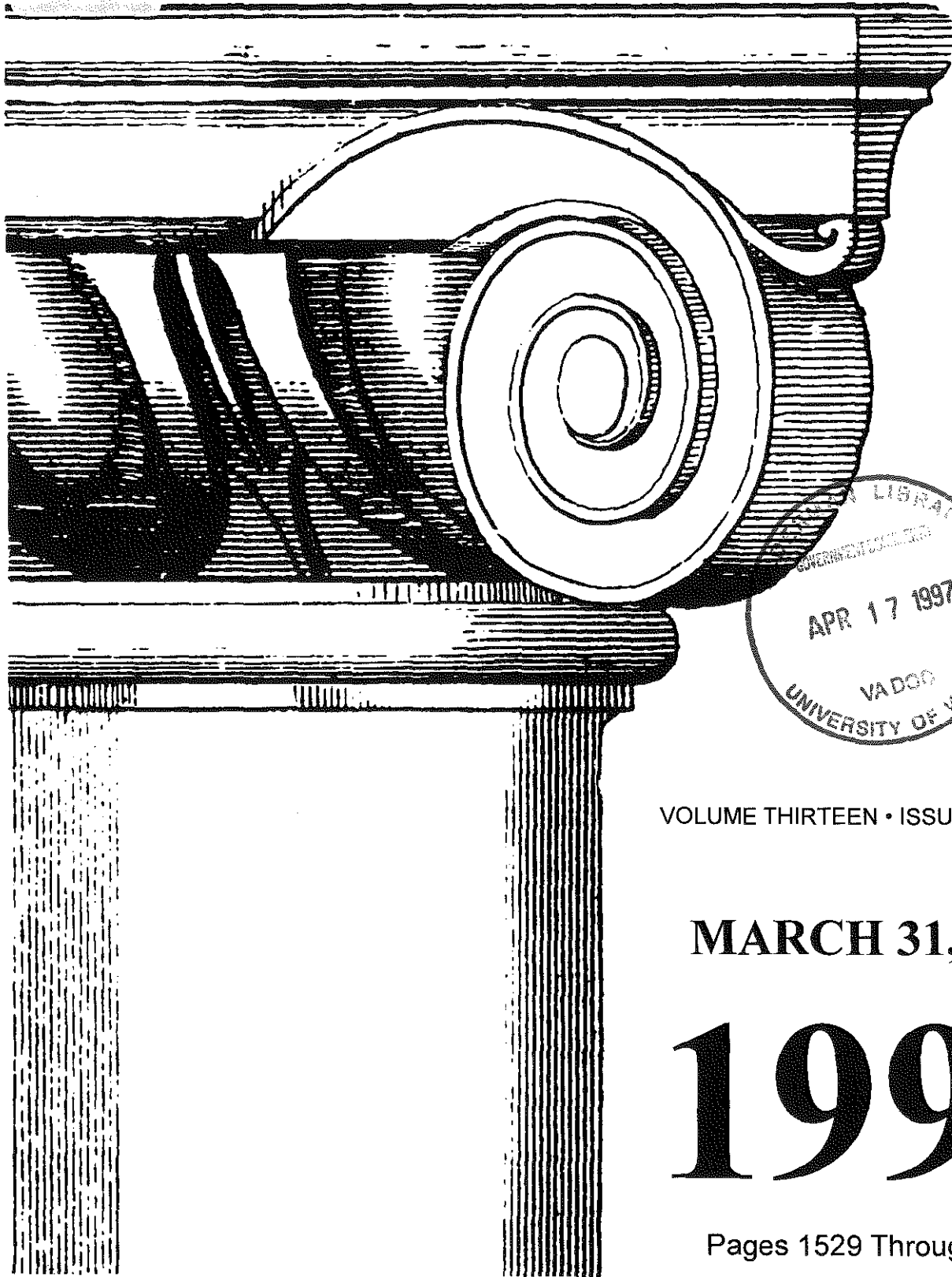


300  
5/R 26/13-14 c2

# THE VIRGINIA REGISTER

VA  
DOC

OF REGULATIONS



VOLUME THIRTEEN • ISSUE FOURTEEN

MARCH 31, 1997

# 1997

Pages 1529 Through 1628

# THE VIRGINIA REGISTER INFORMATION PAGE

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event

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

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

## EMERGENCY REGULATIONS

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

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

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

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

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

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

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

Staff of the Virginia Register: E. M. Miller, Jr., Acting Registrar of Regulations; Jane D. Chaffin, Deputy Registrar of Regulations.

---

# PUBLICATION DEADLINES AND SCHEDULES

---

March 1997 through December 1997

**Material Submitted  
By Noon Wednesday**

**Will Be Published On**

**Volume 13**

March 12, 1997

March 31, 1997

**INDEX 2 - Volume 13**

**April 1997**

March 26, 1997

April 14, 1997

April 9, 1997

April 28, 1997

April 23, 1997

May 12, 1997

May 7, 1997

May 26, 1997

May 21, 1997

June 9, 1997

June 4, 1997

June 23, 1997

**INDEX 3 - Volume 13**

**July 1997**

June 18, 1997

July 7, 1997

July 2, 1997

July 21, 1997

July 16, 1997

August 4, 1997

July 30, 1997

August 18, 1997

August 13, 1997

September 1, 1997

August 27, 1997

September 15, 1997

**FINAL INDEX - Volume 13**

**October 1997**

**Volume 14**

September 10, 1997

September 29, 1997

September 24, 1997

October 13, 1997

October 8, 1997

October 27, 1997

October 22, 1997

November 10, 1997

November 5, 1997

November 24, 1997

November 18, 1997 (Tuesday)

December 8, 1997

December 3, 1997

December 22, 1997

**INDEX 1 - Volume 14**

**January 1998**

---

# TABLE OF CONTENTS

---

## NOTICES OF INTENDED REGULATORY ACTION

|  |      |
|--|------|
| Board for Accountancy.....                           | 1531 |
| State Air Pollution Control Board .....              | 1531 |
| Department of Medical Assistance Services.....       | 1532 |
| Board of Medicine .....                              | 1533 |
| Board of Optometry.....                              | 1533 |
| Board of Pharmacy .....                              | 1534 |
| Department of Social Services (State Board of) ..... | 1534 |
| Board of Veterinary Medicine.....                    | 1534 |

## PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

|  |      |
|--|------|
| Department of Medical Assistance Services..... | 1535 |
|--|------|

## PROPOSED REGULATIONS

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

|   |      |
|---|------|
| Methods and Standards for Establishing Payment Rates--<br>Inpatient Hospital Care (amending 12 VAC 30-70-120 and 12<br>VAC 30-70-140; adding 12 VAC 30-70-141 through 12 VAC<br>30-70-145).....   | 1536 |
| Methods and Standards for Establishing Payment Rates for<br>Long-Term Care (amending 12 VAC 30-90-10, 12 VAC 30-<br>90-70, 12 VAC 30-90-131, 12 VAC 30-90-270, and 12 VAC<br>30-90-290; adding 12 VAC 30-90-271 through 12 VAC 30-90-<br>276, 12 VAC 30-90-350, 12 VAC 30-90-360 and 12 VAC 30-<br>90-370)..... | 1536 |

## FINAL REGULATIONS

### STATE AIR POLLUTION CONTROL BOARD

|   |      |
|---|------|
| Regulations for the Control and Abatement of Air Pollution.<br>.....  | 1557 |
| Applicability of and Compliance with Air Quality Standards;<br>New and Modified Sources (amending 9 VAC 5-50-400 and<br>9 VAC 5-50-410).....                            | 1557 |
| Applicability of and Compliance with Air Quality Standards;<br>Existing, New, and Modified Sources (amending 9 VAC 5-<br>60-60, 9 VAC 5-60-90, and 9 VAC 5-60-100)..... | 1557 |

### DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

|  |      |
|--|------|
| Rules and Regulations Governing the Use, Operation and<br>Maintenance of State-Owned Fleet Vehicles. (24 VAC 30-<br>180-10 et seq.)..... | 1567 |
|--|------|

### STATE WATER CONTROL BOARD

|   |      |
|---|------|
| Water Quality Standards (amending 9 VAC 25-260-30) .. | 1567 |
|---|------|

## STATE CORPORATION COMMISSION

### ADMINISTRATIVE LETTERS

|   |      |
|---|------|
| Insurance Activities Requiring Persons to Be Licensed.<br>(1997-1).....   | 1569 |
| 14 VAC 5-190-10 et seq.: Rules Governing the Reporting of<br>Cost and Utilization Data Relating to Mandated Benefits and<br>Mandated Providers - 1996 Reporting Period. (1997-3) .. | 1572 |

## MARINE RESOURCES COMMISSION

### FINAL REGULATIONS

|   |      |
|---|------|
| Pertaining to the Taking of Striped Bass (amending 4 VAC<br>20-252-20, 4 VAC 20-252-90, and 4 VAC 20-252-150; and<br>adding 4 VAC 20-252-55)..... | 1592 |
| Pertaining to Grey Trout (amending 4 VAC 20-380-30 and 4<br>VAC 20-380-60).....   | 1593 |
| Pertaining to the Marking and Minimum Mesh Size of Gill<br>Nets (amending 4 VAC 20-430-40).....   | 1593 |
| Pertaining to the Catching of Eels (amending 4 VAC 20-500-<br>50).....  | 1594 |
| Pertaining to Summer Flounder (amending 4 VAC 20-620-50<br>and 4 VAC 20-620-60).....  | 1594 |
| Pertaining to Scup (Porgy) (adding 4 VAC 20-910-45).....  | 1595 |
| Pertaining to Black Sea Bass. (4 VAC 20-950-10 et seq.)<br>.....  | 1595 |

## FORMS

### DEPARTMENT OF MINES, MINERALS AND ENERGY

|  |      |
|--|------|
| Virginia Gas and Oil Regulations. (4 VAC 25-150-10 et seq.)<br>..... | 1597 |
|--|------|

## GENERAL NOTICES/ERRATA

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

|   |      |
|---|------|
| Notice of Changes to the Virginia Medicaid Income Eligibility<br>Levels ..... | 1599 |
|---|------|

### BOARD OF GAME AND INLAND FISHERIES

|                           |      |
|---------------------------|------|
| Notice to the Public..... | 1602 |
|---------------------------|------|

---

# Table of Contents

---

## STATE WATER CONTROL BOARD

|  |      |
|--|------|
| Enforcement Action - Proposed Consent Special Order - C & M Oil Distributors, Inc. - Prillaman Chemical Corporation - Tarmac Mid-Atlantic, Inc. .... | 1600 |
| Enforcement Action - Proposed Consent Decree - District of Columbia - Lorton Reformatory Sewage Treatment Plant .....                                | 1600 |
| Enforcement Action - Proposed Consent Special Order - Town Of Luray .....  | 1601 |
| Enforcement Action - Proposed Consent Special Order - Westvaco Corporation, Westvaco Covington Mill.....   | 1601 |

## VIRGINIA CODE COMMISSION

|   |      |
|---|------|
| Notice to State Agencies .....  | 1601 |
| Forms for Filing Material on Dates for Publication in <i>The Virginia Register of Regulations</i> ..... | 1601 |

## ERRATA

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

|  |      |
|--|------|
| Virginia Statewide Fire Prevention Code. (13 VAC 50-51-10 et seq.) ..... | 1602 |
|--|------|

### DEPARTMENT OF MINES, MINERALS AND ENERGY

#### Virginia Gas and Oil Board

|   |      |
|---|------|
| Virginia Gas and Oil Board Regulations. (4 VAC 25-260-10 et seq.) ..... | 1602 |
|---|------|

## CALENDAR OF EVENTS

### EXECUTIVE

|   |      |
|---|------|
| Open Meetings and Public Hearings ..... | 1603 |
|---|------|

### INDEPENDENT

|   |      |
|---|------|
| Open Meetings and Public Hearings ..... | 1624 |
|---|------|

### LEGISLATIVE

|   |      |
|---|------|
| Open Meetings and Public Hearings ..... | 1624 |
|---|------|

### CHRONOLOGICAL LIST

|                      |      |
|----------------------|------|
| Open Meetings.....   | 1624 |
| Public Hearings..... | 1626 |

---

# NOTICES OF INTENDED REGULATORY ACTION

---

## Symbol Key

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

---

### BOARD FOR ACCOUNTANCY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to consider amending regulations entitled: **18 VAC 5-20-10 et seq. Board for Accountancy Regulations**. The purpose of the proposed action is to eliminate overly restrictive and unnecessary licensure requirements recommended by the board's committees under Executive Order 15(94), and to review all provisions of current regulations to implement the least burdensome alternatives. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

Public comments may be submitted until April 17, 1997, at 5 p.m.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474, or (804) 367-9753/TDD

VA.R. Doc. No. R97-323; Filed February 26, 1997, 11:39 a.m.

### STATE AIR POLLUTION CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40-10 et seq. Applicability of and Compliance with Air Quality Standards**. The purpose of the proposed action is to develop a regulation for existing municipal solid waste landfills that meets the requirements of Section 111(d) of the federal Clean Air Act, and 40 CFR Part 60 Subpart Cc of federal regulations.

**Public Meeting:** A public meeting will be held by the department in the Training Room, First Floor, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 10 a.m. on April 3, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Ad Hoc Advisory Group:** The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any

proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue must be submitted in accordance with the procedures described under the above procedures.

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

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

MSW landfills emit many substances of concern to the atmosphere: methane, carbon dioxide, and more than 100 nonmethane organic compounds (NMOCs), such as vinyl chloride, toluene, and benzene. Studies indicate that MSW landfill emissions can at certain levels have adverse effects on both public health and welfare. Failure to develop an adequate program to control MSW landfill emissions would therefore have adverse impacts on public health and welfare. For example, NMOCs contribute to ozone formation; some NMOCs are known or suspected carcinogens, or cause other noncancer health effects; NMOCs can cause an odor nuisance; methane emissions present a well-documented danger of fire and explosion, and contribute to global climate change as a major greenhouse gas.

Finally, failure to develop an adequate regulation will result in imposition of a federal program. Meeting the basic requirements of the law and its associated regulations will ensure that Virginia retains its rights to govern Virginia sources.

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

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being considered because it meets the stated purpose of the regulation: to bring the regulations into compliance with federal law and regulation.
2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being considered because it does not necessarily meet the stated purpose of the regulation. Further, alternative regulatory changes could also go beyond the stated purpose by imposing requirements that may not be consistent with federal statutory and regulatory requirements.

---

## Notices of Intended Regulatory Action

---

3. Take no action to amend the regulations. This option is not being considered because it would not accomplish the goals of federal statutory and regulatory requirements or the stated purpose of the regulation. Furthermore, not taking any action would lead to the imposition of a federal program on Virginia.

As provided in the public participation procedures of the State Air Pollution Control Board, the department will include, in the subsequent Notice of Intended Regulatory Action, a description of the above alternatives and a request for comments on other alternatives and the costs and benefits of the above alternatives or the other alternatives that the commenters may provide.

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

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

MSW landfill emissions are a "designated" pollutant under Section 111(d) of the Clean Air Act. Designated pollutants are pollutants which are not included on a list published under Section 108(a) of the Act ("criteria" pollutants), or Section 112(b)(1)(A) ("hazardous" pollutants), but for which standards of performance for new sources have been established under Section 111(b). When the U.S. Environmental Protection Agency (EPA) establishes a new source performance standard, states are required to develop standards for existing facilities based on EPA emission guidelines. Designated pollutant controls are critical for two reasons. First, only a limited number of air pollutants potentially harmful to human health are regulated at the federal level. Second, health risks from small exposures to designated air pollutants can be high, depending on the substances involved.

EPA has determined that MSW landfills should be regulated under Section 111 (New Source Performance Standards) of the Clean Air Act because:

1. MSW landfill emissions may be reasonably anticipated to contribute to the endangerment of public health and welfare.
2. The range of health and welfare effects and the range and uncertainties of estimated cancer risks do not warrant listing MSW landfill emissions as a hazardous pollutant under Section 112 of the Act.
3. Section 112 of the Act could not be used to address particular constituents or subgroups of emissions.
4. Section 111(d) of the Act would permit a more thorough evaluation of existing MSW landfills at the state level than would be feasible in a general rulemaking at the federal level.

The 1990 Clean Air Act amendments and its associated standards were promulgated because EPA determined that MSW landfill emissions cause or contribute significantly to air pollution which may reasonably be expected to endanger public health and welfare. The intended effect of the

standards and guidelines is to form a basis for state action to develop state regulations controlling MSW landfill emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

Regulating MSW landfill emissions for new sources under Section 111(b) of the Act (New Source Performance Standards) establishes MSW landfill emissions as a designated pollutant, and requires the EPA to promulgate guidelines under Section 111(d) for states to use in developing regulations to control pollutants from existing MSW landfills. Emissions guidelines for existing MSW landfills have been promulgated under Section 111(d) of the Act. In order for Section 111 to be effected, the specific guidelines are promulgated in the Code of Federal Regulations (CFR) (subpart Cc 40 CFR Part 60). State regulations must be at least as stringent as the guidelines.

The final rule published by EPA in the Federal Register of March 12, 1996 (61 FR 9905), applies to existing MSW landfills as follows. An existing MSW landfill is a landfill for which construction commenced prior to May 30, 1991. An existing MSW landfill may be active (currently accepting waste), or may be closed, (no longer accepting waste nor having available capacity for future waste deposition). The designated facility under the emissions guidelines is each existing MSW landfill that has accepted waste since November 8, 1987.

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

Public comments may be submitted until 4:30 p.m., April 4, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5492, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-296; Filed February 12, 1997, 10:38 a.m.

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **Health Insurance Program for Working Uninsured Individuals**. The purpose of the proposed action is to promulgate regulations for a new program to assist employees in financing health insurance for working uninsured individuals. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 30, 1997.

# Notices of Intended Regulatory Action

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

VA.R. Doc. No. R97-338; Filed March 11, 1997, 12:44 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care and Services (amending 12 VAC 30-50-100 and 12 VAC 30-50-140) and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-20, 12 VAC 30-60-25 and 12 VAC 30-60-60).** The purpose of the proposed action is to promulgate permanent regulations, essentially like the current emergency regulations, which provide for the required prior authorization of all inpatient hospital services before the Department of Medical Assistance Services will reimburse for such services. These permanent regulations will also permit the denial of claims for inpatient hospital services which have not met the appropriate prior authorization requirements. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

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

VA.R. Doc. No. R97-325; Filed February 26, 1997, 11:15 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services (amending 12 VAC 30-50-220 through 12 VAC 30-50-229, and 12 VAC 30-50-510) and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-140 through 12 VAC 30-60-149 and 12 VAC 30-130-540 through 12 VAC 30-130-590).** The purpose of the proposed action is to promulgate permanent regulations, substantially like the preceding emergency regulations, which provide for additional mental health and mental retardation services than those already covered in the state plan and to add several new substance abuse treatment services to the plan. Minor revisions and technical corrections in the original 1990 existing mental health/mental retardation services will also be proposed. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

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

VA.R. Doc. No. R97-324; Filed February 26, 1997, 11:15 a.m.

## BOARD OF MEDICINE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also consider less burdensome requirements for applicants seeking limited licensure and for those wanting to take the USMLE, Part III. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

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

VA.R. Doc. No. R97-309; Filed February 14, 1997, 2:09 p.m.

## BOARD OF OPTOMETRY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to consider amending regulations entitled: **18 VAC 105-20-10 et seq. Regulations of the Board of Optometry.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also consider amendments to alleviate the costs and time expended for course approval and recordkeeping for continuing education. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

**Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or FAX (804) 662-9943.



---

# Notices of Intended Regulatory Action

---

VA.R. Doc. No. R97-306; Filed February 14, 1997, 2:08 p.m.

## BOARD OF PHARMACY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20-10 et seq. Virginia Board of Pharmacy Regulations.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also consider amendments to update regulations to current pharmacy practices and technology. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 16, 1997.

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

VA.R. Doc. No. R97-308; Filed February 14, 1997, 2:08 p.m.

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-60-10 et seq. Standards and Regulations for Licensed Adult Day Care Centers.** The purpose of the proposed amendments is to amend the regulation for clarity and understandability and to bring it up to date with Code of Virginia mandates. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-194.1 of the Code of Virginia.

Public comments may be submitted until April 16, 1997.

**Contact:** Kathryn Thomas, Program Development Supervisor, Department of Social Services, 730 E. Broad St., 7th Floor, Richmond, VA 23219, telephone (804) 692-1793 or FAX (804) 692-2370.

VA.R. Doc. No. R97-326; Filed February 26, 1997, 11:07 a.m.

## BOARD OF VETERINARY MEDICINE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine

intends to consider amending regulations entitled: **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order 15(94). The board will also amend its regulations pursuant to § 54.1-3804 of the Code of Virginia as amended by the 1996 General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3804 of the Code of Virginia.

Public comments may be submitted until April 16, 1997.

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

VA.R. Doc. No. R97-307; Filed February 14, 1997, 2:08 p.m.

# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



## PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

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

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

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**May 30, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates for Inpatient Hospital Care**, and **12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care**, relating to specialized care services payment methodology. The purpose of this proposal is to implement the reimbursement changes recommended in the study of specialized care services as directed by the 1996 General Assembly. The remainder of the recommendations of the study will be implemented through a separate regulatory package. The purpose of the proposed changes in cost report filing requirements is to conform the Department of Medical Assistance Services' filing time frames to those recently instituted by the Health Care Financing Administration for Medicare cost reports. Some additional technical changes are being made to correct the names of specific divisions within the department.

Statutory Authority: § 32.1-325 of the Code of Virginia and Item 322(D)(2) of Chapter 912 of the 1996 Acts of Assembly.

Public comments may be submitted until May 30, 1997, to Scott Crawford, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

---

# PROPOSED REGULATIONS

---

For information concerning Proposed Regulations, see Information Page.

---

## Symbol Key

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

---

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-70-10 et seq. **Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care (amending 12 VAC 30-70-120 and 12 VAC 30-70-140; adding 12 VAC 30-70-141 through 12 VAC 30-70-145).**

12 VAC 30-90-10 et seq. **Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-10, 12 VAC 30-90-70, 12 VAC 30-90-131, 12 VAC 30-90-270, and 12 VAC 30-90-290; adding 12 VAC 30-90-271 through 12 VAC 30-90-276, 12 VAC 30-90-350, 12 VAC 30-90-360 and 12 VAC 30-90-370).**

Statutory Authority: § 32.1-325 of the Code of Virginia and Item 322(D)(2a) of Chapter 912 of the 1996 Acts of Assembly.

Public Hearing Date: N/A - Public comments may be submitted until May 30, 1997.

(See Calendar of Events section for additional information)

Basis and Authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in §§ 9-6.14:7.1 and 9-6.14:9.1 of the Administrative Process Act, for this agency's promulgation of proposed regulations subject to the Governor's review.

Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA. The emergency regulation became effective on December 2, 1997. The Code, at § 9-6.14:4.1(C) requires the agency to publish the Notice of Intended Regulatory Action within 60 days of the effective date of the emergency regulation if it intends to promulgate a permanent replacement regulation. The Notice of Intended Regulatory Action for this regulation was published in the Virginia Register on January 20, 1997.

Chapter 916 of the 1996 Virginia Acts of Assembly, in Item 332(D)(2), requires DMAS to conduct a study of the Specialized Care program and develop rates for specialized care services. Upon conclusion of the study, DMAS is directed to implement the rates as determined in the study. The General Assembly adjusted DMAS' appropriations for the 1996-1998 biennium to account for the savings anticipated from the implementation of the new rate methodology.

Purpose: The purpose of this proposal is to implement the reimbursement changes recommended in the study of specialized care services, as directed by the 1996 General Assembly. The remainder of the recommendations of the study will be implemented through a separate regulatory

package. The purpose of proposed changes in cost report filing requirements is to conform DMAS' filing timeframes to those recently instituted by the Health Care Financing Administration for Medicare cost reports. Some additional technical changes are being made to correct the names of specific divisions within the department.

Summary and Analysis: The sections of the State Plan affected by this action are Attachment 4.19A, Methods and Standards for Establishing Payment Rates for Inpatient Hospital Care (12 VAC 30-70-120); Attachment 4.19A Supplement 1, Hospital Appeals of Reimbursement Rates (12 VAC 30-70-140); Attachment 4.19D, Methods and Standards for Establishing Payment Rates for Long-Term Care (12 VAC 30-90-10); the Nursing Home Payment System (12 VAC 30-90-70 and 12 VAC 30-90-131); the Nursing Home Payment System Appendix I, Uniform Expense Classification (12 VAC 30-90-270); the Nursing Home Payment System Appendix III, Cost Reimbursement Limitations (12 VAC 30-90-290); Supplement 2 to Attachment 4.19D, Methods and Standards for Establishing Payment Rates for Specialized Care (12 VAC 30-90-350); Specialized Care Appendix I, Normalized Case Mix Index (12 VAC 30-90-360); and Specialized Care Appendix II, National RUG-III Categories and Weights (12 VAC 30-90-370).

On October 1, 1991, the Department of Medical Assistance Services (DMAS) implemented a new reimbursement system for nursing facilities based on patient care intensity and a new level of service called specialized care. Specialized care was described as care required by residents who have long-term health conditions which demand close medical supervision, 24-hour licensed nursing care, and specialized services or equipment. For payment purposes, services for specialized care residents were grouped into four categories: Comprehensive Rehabilitation, Complex Care, Ventilator Dependent, and AIDS.

The Specialized Care program was DMAS' response to the need for access to care and the appropriate provision of services to those Medicaid recipients who required more intensive resources than average nursing facility residents. The DMAS Nursing Home Manual states that Specialized Care includes residents "...who have needs that are so intensive or non-traditional that they cannot be adequately captured by a patient intensity rating system, e.g., ventilator dependent or AIDS patients."

While Medicaid reimbursement for services for general nursing facility residents historically has been based on allowable cost data, DMAS had no cost data available in 1991 for this newer type of resident who required more resources and was becoming more prevalent in nursing facilities. Therefore, when rates were initially established for the specialized care categories, the per diem rates were state-wide flat rates for each of the four categories.

Expenditures, utilization, and provider participation have increased dramatically since the inception of the Specialized

Care program in 1991. Program statistics are available from FY93 forward and show total expenditures increasing from \$3.6 million in FY93 to over \$21 million in FY96, an increase of 496% in three years. The number of recipients served in FY93 was 205. By FY96 the number of recipients served (579) was almost three times greater. The number of providers participating in the specialized care program was 10 in FY93 and by FY96 was 41, a fourfold increase in three years. During this time period, DMAS became increasingly concerned over the rapid expansion of expenditures, utilization, and provider participation. After careful analysis of the specialized care program, DMAS reported that the actual costs to providers of specialized care services appeared to be well below the flat rates that the providers were being reimbursed. Recommendations for reductions in the specialized care rates were submitted to the General Assembly. Hearings and discussions ensued between the legislature, DMAS and the provider community which resulted in the legislature mandating a formal study of the specialized care program.

**Specialized Care Study.** The study group that was organized to evaluate the specialized care program included DMAS staff, representatives from industry trade associations (including the Virginia Health Care Association and the Virginia Hospital and Healthcare Association), and supporting staff from the Center for Health Policy Studies, commissioned by DMAS. The study group produced a report providing a comprehensive review of the existing Specialized Care program. The report examines resident and provider criteria governing participation in the Specialized Care program, provides an overview of DMAS Utilization Review (UR) and Control guidelines and processes for specialized care providers, reviews Medicare and DMAS specialized care payment policies and issues for nursing facility services, and describes the new payment methodology developed for the Specialized Care program.

The report presents DMAS' recommendations for a collection of changes in the Specialized Care program. These recommendations include changes in specialized care categories and payment methodologies, and clarifications and changes in specialized care resident and provider criteria. These regulations address the recommendations for changes in specialized care categories and payment methodologies. Recommendations for changes in specialized care resident and provider criteria will be proposed through a separate policy and regulatory package.

First, DMAS recommends the elimination of the AIDS Care category. During site visits with specialized care providers, administrators and staff noted that their facilities serve very few people with AIDS (PWAs). The small number of PWAs who are served by specialized care providers typically qualify for the Complex Health Care category rather than for the AIDS Care category. In all of Virginia's nursing facilities that provide specialized care services, less than 1.0% of specialized care stays for both Fiscal Years 1995 and 1996 were for the AIDS Care category. In accordance with this recommendation, PWAs that qualify for the Complex Health Care Category will be served within that category.

Second, DMAS recommends the elimination of the current fixed per diem rate reimbursement structure for all categories

of specialized care. The existing structure will be replaced by a prospective reimbursement system with final cost settlement. This methodology is similar to that applied to regular nursing facility services under the current nursing home payment system. The new reimbursement system will determine a specific rate for each specialized care provider. Prospective ceilings will be the weighted average (weighted by days) of specialized care rates presently in effect, net of a statewide average amount based on audited 1994 cost data for capital and ancillary costs that have been adjusted for inflation. A separate ceiling and separate rates would be used for qualifying distinct part pediatric units.

The proposed payment methodology will have the following major differences from the current Nursing Home Payment System (NHPS) for regular nursing facility services. First, ancillary costs (such as x-ray, lab, etc.) will be paid on a pass-through basis. Second, the operating ceiling will be adjusted by nine geographical areas, instead of the three areas used in the current NHPS. Use of the nine geographical areas is consistent with the Medicare payment methodology for nursing facilities. Third, the nursing cost component will be adjusted using the Resource Utilization Groups, Version III (RUG-III) nursing-only index score, instead of the existing Patient Intensity Rating System (PIRS) scoring system. The RUG-III system is a patient classification system for nursing facility residents that divides individuals into distinct groups using information collected from the Minimum Data Set (MDS) assessment instrument.

**Cost Report Requirements.** Virginia regulations presently require that providers file Medicaid cost reports within 90 days of the provider's fiscal year end, and penalties are required if this filing deadline is not met. This requirement used to be consistent with that applicable to Medicare cost reports. Much of the same information is required by both cost reports, and indeed for some providers the Medicare cost report itself is a large portion of their filing for Virginia Medicaid. Therefore, coordination of filing timeframes is helpful to providers.

Effective for fiscal years ending after June 1, 1995, Medicare cost reports were not due until 150 days after fiscal year end. This change made it difficult for many providers to meet the Virginia deadline. DMAS has granted extensions to many providers, but wishes now to change the regulatory requirement so that providers will no longer have to request extensions. Providers who wish to will still be able to file cost reports at 90 days and have their settlement completed according to the previous timeframe.

**Technical Changes.** Several technical changes are being made to correct the name of a division within DMAS and replace it with the appropriate division, or simply to refer to DMAS without specifying a division.

**Issues:** This rule is advantageous because it results in cost savings to the Commonwealth without harming quality of patient care. This change to Specialized Care rates reduces overall expenditures for Specialized Care. However, the use of a more sophisticated method for measuring and paying for patient intensity prevents payment rates from falling below the reasonable cost of providing needed care. So, while reduced rates represent a disadvantage to the providers, the

## Proposed Regulations

disadvantage to the providers is minimized based on the agreements reached during the study.

The changes in the reporting requirements presents an advantage to the providers because the requirements will be consistent with the requirements for Medicare cost reports. This coordination of filing timeframes will allow the providers to use their Medicare cost reports also for Medicaid filing without having to request an extension. Conforming to the Medicare timelines does not represent a disadvantage to any of the other parties involved.

**Fiscal/Budget Impact:** During FY 1996, specialized care services were provided by 41 nursing facilities to 579 Medicaid recipients, and accounted for approximately \$21.6 million in expenditures. Most recipients are served under the Complex Health Care category, which accounted for 67% of all specialized care stays during FY 1996. The program demonstrated sharp growth in recipient utilization, provider participation, and expenditures between Fiscal Years 1993 and 1995, although the rate of growth slowed considerably in FY 1996.

Expenditures for the program are unevenly distributed among the participating facilities. For FY 1996, three of the 41 participating facilities accounted for one-third of the program expenditures. Specialized care also represents one of the most expensive services provided by Medicaid, on a per-individual basis. Residents with continuous specialized care stays account for annual expenditures of nearly \$150,000 per resident.

It is estimated that implementation of the reimbursement changes will result in \$5 to \$6 million (total funds) savings in calendar year 1997 (the first full year of implementation). This estimate is very approximate, because the case mix and service volume data necessary for an accurate estimate are not yet available. Changes in provider billing practices that were necessary to bring the program into compliance with federal requirements were implemented August 1, 1996. These changes reinforced the requirement that Medicaid must be considered the payor of last resort. It is estimated that these changes may yield another \$2 to \$3 million (total funds) savings per year. Therefore, the combined estimated savings, based on data currently available, is \$7 to \$9 million per year (total funds).

Based on the above estimates, and the different implementation dates of the two policy changes described above, the present estimate of fiscal impact, by state fiscal year, is as follows:

|          | GF            | NGF           | TOTAL         |
|----------|---------------|---------------|---------------|
| SFY 1997 | \$3.1 million | \$3.2 million | \$6.3 million |
| SFY 1998 | \$4.4 million | \$4.6 million | \$9.0 million |

There are no localities which are uniquely affected by these regulations as they apply statewide. The technical changes do not affect any of the parties involved.

**Department of Planning and Budget's Economic Impact Analysis:** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic

impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

**Summary of the proposed regulation.** This regulation implements several changes in the Specialized Care program. First, it eliminates the AIDS Care category and provides that those qualifying will remain in the Complex Health Care Category. Second, the rules replace the current fixed per diem rate reimbursement structure by a prospective reimbursement system with final cost settlements similar to that applied under the current nursing home payment system. Third, a change in the deadline for cost reports is made to conform more closely to Medicare cost report requirements. Other changes of a more technical nature are also made.

**Estimated Economic Impact.** Of the three significant changes mentioned in the previous section, the first and third can be expected to have relatively small, albeit positive, economic impacts. Since there are so few patients in the AIDS Care category, the cost of administering a separate prospective reimbursement system would probably be greater than any savings that would result. The change in the timing of the cost reports allows providers to take advantage of the many similarities in information requirements under the two programs. Medicare and Medicaid reports can be prepared together and over a somewhat longer period of time. According to DMAS, this does not impose any additional costs on the agency and, hence, has a net positive economic benefit.

### The Prospective Reimbursement Program

When the Department of Medical Assistance Services (DMAS) first implemented a reimbursement system for specialized care, there was little historical cost information on which to base the new rates. According to the study of the specialized care program that DMAS carried out last year, these rates were, for most providers, well in excess of actual costs.<sup>1</sup> This compensation in excess of costs might be expected to have three effects on the social costs of providing specialized care services. First, there will be a transfer of profits to the owners of facilities providing the care. While the increased profits to care providers does represent an increase in DMAS costs, the profits do not represent a cost to society but rather a transfer from one group (taxpayers) to another group (facility owners). Any program that reduces these profits will reduce DMAS expenditures but, in a strict economic accounting, does not represent a gain to society.

The second impact of excess compensation is a change in facility incentives to have patients classified as needing specialized care. If the rate of return on specialized care

<sup>1</sup> Department of Medical Assistance Services, *Specialized Care Study: Final Report*, November 1, 1996. See Table 1 on page iv.

services is higher than for other classifications of care, then facilities will have incentive to attract such patients and to make sure that as many patients as possible qualify for the classification. Although it is not known why the specialized care program experienced such dramatic growth since its inception, the increased incentive to bring patients into a more profitable program may be responsible for a significant portion of the growth. Again, if the services actually carried out are the same, then the only difference is a transfer in profits. However, some of the costs of specialized care over alternatives are a real use of resources that would otherwise be available for some other purpose. Any increase in nurse and physician care, specialized equipment or special facilities due to moving a patient from another classification into the specialized care program represents a real additional economic cost.

The third effect of excess compensation occurs in the long-run. An increase in profits accruing to certain types of facilities or professional specialties will induce an increase in the supply of that resource at some cost to society. If these increased costs are due to the structure of compensation in the program, then the added costs represent a waste of resources. Any reduction in artificially high incentives to invest in specialized care resources due to this regulation represents a net gain to society.

Unfortunately, the information needed to measure the magnitude of the latter two effects is not available. The DMAS study of specialized care does estimate the reduction in profits at a sample of facilities. Extended to a state-wide estimate, the total reduction in facility profits would have to be subtracted from the DMAS estimate of \$6.3 million in savings for FY1997. On the other hand, the new rate structure may be responsible for a reduction in the growth in the specialized care caseload. While difficult to measure with any certainty, the resulting savings should be added to the DMAS estimates to arrive at a figure of the economic benefit of the regulation. A similar argument applies to savings on the preparation of facilities for the purpose of offering specialized care services.

**Businesses and entities affected.** The 41 facilities currently participating in the specialized care program will feel the greatest impact of these regulations. On average, profits will fall due to a reduction in compensation rates.

**Localities particularly affected.** No localities will be disproportionately affected by these rules.

**Projected impact on employment.** There is not likely to be any impact on the level of employment in Virginia due to these regulations although some shift in jobs may occur.

**Effects on the use and value of private property.** The owners of private facilities offering specialized care will suffer a loss in the value of their ownership interest and the value of facilities used for specialized care will probably fall somewhat. This is not an economic cost but rather a reflection of reduced transfers of economic value to facility owners.

**Summary of Analysis.** This proposed regulation will likely result in a net economic gain for Virginia. The amount of the gain may be less than or greater than DMAS estimates due to a number of factors discussed in this report.

**Agency's Response to Department of Planning and Budget's Economic Impact Analysis:** The Agency has no objections to the Economic Impact Analysis prepared by the Department of Planning and Budget regarding the regulations concerning Specialized Care Services Payment Methodology.

**Summary:**

*This regulation implements several changes in the specialized care program. First, it eliminates the AIDS care category and provides that those qualifying will remain in the complex health care category. Second, the rules replace the current fixed per diem rate reimbursement structure by a prospective reimbursement system with final cost settlements, similar to that applied under the current nursing home payment system. Third, a change in the deadline for cost reports is made to conform more closely to Medicare cost report requirements. Other changes of a more technical nature are also made.*

**12 VAC 30-70-120. Nonenrolled providers.**

A. Hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the lesser of:

1. The DMAS average reimbursable inpatient cost-to-charge ratio, updated annually on September 30 of each year based on the most recent settled cost report, for enrolled hospitals less 5.0%. (The 5.0% is for the cost of additional manual processing of the claims.)

2. The DMAS average per diem, updated annually on September 30 of each year based on the most recent settled cost report, of enrolled hospitals excluding the state-owned teaching hospitals and disproportionate share adjustments.

B. Hospitals that are not enrolled shall submit claims using the required DMAS invoice formats. Such claims must be submitted within 12 months from date of services. A hospital is determined to regularly treat Virginia Medicaid recipients and shall be required by DMAS to enroll if it provides more than 500 days of care to Virginia Medicaid recipients during the hospitals' financial fiscal year. A hospital which is required by DMAS to enroll shall be reimbursed in accordance with the current Medicaid Prospective Payment System as described in 12 VAC 30-70-10 through 12 VAC 30-70-100. The hospital shall be placed in one of the DMAS peer groupings which most nearly reflects its licensed bed size and location (12 VAC 30-70-50 (4) A). These hospitals shall be required to maintain separate cost accounting records, and to file separate cost reports annually, utilizing the applicable Medicare cost reporting forms, (HCFA 2552 Series) and the Medicaid forms (MAP-783 Series).

C. A newly enrolled facility shall have an interim rate determined using the provider's most recent filed Medicare cost report or a pro forma cost report or detailed budget prepared by the provider and accepted by DMAS, which represents its anticipated allowable cost for the first cost reporting period of participation. For the first cost reporting period, the provider shall be limited to the lesser of its actual operating costs or its peer group ceiling. Subsequent rates

---

## Proposed Regulations

---

shall be determined in accordance with the current Medicaid Prospective Payment System as noted in subsection A.

D. Once a hospital has obtained the enrolled status, 500 days of care, the hospital must agree to become enrolled as required by DMAS to receive reimbursement. This status shall continue during the entire term of the provider's current Medicare certification and subsequent recertification or until mutually terminated with 30 days written notice by either party. The provider must maintain this enrolled status to receive reimbursement. If an enrolled provider elects to terminate the enrolled agreement, the nonenrolled reimbursement status will not be available to the hospital for future reimbursement, except for emergency care.

E. Prior approval must be received from the DMAS Health Services Review Division when a referral has been made for treatment to be received from a nonenrolled acute care facility (in-state or out-of-state), except in the case of an emergency or because medical resources or supplementary resources are more readily available in another state.

F. Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for the services on an individually, negotiated rate basis.

### PART II.

#### HOSPITAL APPEALS OF REIMBURSEMENT RATES.

~~42 VAC 30-70-140. Methods and standards for establishing payment rates in patient hospital care: Hospital appeals of reimbursement rates.~~

**§ 4. 12 VAC 30-70-140. Right to appeal and initial agency decision.**

A. Right to appeal. Any hospital seeking to appeal its prospective payment rate for operating costs related to inpatient care or other allowable costs shall submit a written request to the Department of Medical Assistance Services within 30 days of the date of the letter notifying the hospital of its prospective rate unless permitted to do otherwise under § ~~5-E~~ 12 VAC 30-70-144 E. The written request for appeal must contain the information specified in § ~~4-B~~ subsection B of this section. The department shall respond to the hospital's request for additional reimbursement within 30 days or after receipt of any additional documentation requested by the department, whichever is later. Such agency response shall be considered the initial agency determination.

B. Required information. Any request to appeal the prospective payment rate must specify: (i) the nature of the adjustment sought; (ii) the amount of the adjustment sought; and (iii) current and prospective cost containment efforts, if appropriate.

C. Nonappealable issues. The following issues will not be subject to appeal: (i) the organization of participating hospitals into peer groups according to location and bed size and the use of bed size and the urban/rural distinction as a generally adequate proxy for case mix and wage variations between hospitals in determining reimbursement for inpatient care; (ii) the use of Medicaid and applicable Medicare

Principles of Reimbursement to determine reimbursement of costs other than operating costs relating to the provision of inpatient care; (iii) the calculation of the initial group ceilings on allowable operating costs for inpatient care as of July 1, 1982; (iv) the use of the inflation factor identified in the State Plan as the prospective escalator; and (v) durational limitations set forth in the State Plan (the "twenty-one day rule").

D. The rate which may be appealed shall include costs which are for a single cost reporting period only.

E. The hospital shall bear the burden of proof throughout the administrative process.

**§ 2. 12 VAC 30-70-141. Administrative appeal of adverse initial agency determination.**

A. ~~General.~~ The administrative appeal of an adverse initial agency determination shall be made in accordance with the Virginia Administrative Process Act, § 9-6.14:11 through § 9-6.14:14 of the Code of Virginia, as set forth below.

B. The informal proceeding:

1. The hospital shall submit a written request to appeal an adverse initial agency determination in accordance with § 9-6.14:11 of the Code of Virginia within 15 days of the date of the letter transmitting the initial agency determination.

2. The request for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia shall include the following information:

- a. the adverse agency action appealed from;
- b. a detailed description of the factual data, argument or information the hospital will rely on to challenge the adverse agency decision.

3. The agency shall afford the hospital an opportunity for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia ~~within 45 days of the request.~~

4. The Director of the ~~Appeals Division of Provider Reimbursement~~ of the Department of Medical Assistance Services, or his a designee, shall preside over the informal conference. As hearing officer, the director, or his the designee, may request such additional documentation or information from the hospital or agency staff as may be necessary in order to render an opinion.

5. After the informal conference, the Director of the ~~Appeals Division of Provider Reimbursement~~, having considered the criteria for relief set forth in ~~§§ 4 and 5~~ 12 VAC 30-70-143 and 12 VAC 30-70-144, shall take any of the following actions:

- a. Notify the provider that its request for relief is denied setting forth the reasons for such denial; or
- b. Notify the provider that its appeal has merit and advise it of the agency action which will be taken; or
- c. Notify the provider that its request for relief will be granted in part and denied in part, setting forth the reasons for the denial in part and the agency action which will be taken to grant relief in part.

6. The decision of the informal hearing officer shall be rendered within ~~30~~ 90 days of the conclusion of the informal conference.

**§ 3. 12 VAC 30-70-142. The formal administrative hearing: procedures.**

A. The hospital shall submit its written request for a formal administrative hearing under § 9-6.14:12 of the Code of Virginia within 15 days of the date of the letter transmitting the adverse informal agency decision.

B. At least 21 days prior to the date scheduled for the formal hearing, the hospital shall provide the agency with:

1. Identification of the adverse agency action appealed from, and
2. A summary of the factual data, argument and proof the provider will rely on in connection with its case.

C. The agency shall afford the provider an opportunity for a formal administrative hearing within 45 days of the receipt of the request.

D. The Director of the Department of Medical Assistance Services, or his designee, shall preside over the hearing. Where a designee presides, he shall make recommended findings and a recommended decision to the director. In such instance, the provider shall have an opportunity to file exceptions to the proposed findings and conclusions. In no case shall the designee presiding over the formal administrative hearing be the same individual who presided over the informal appeal.

E. The Director of the Department of Medical Assistance Services shall make the final administrative decision in each case.

F. The decision of the agency shall be rendered within 60 days of the conclusion of the administrative hearing.

**§ 4 12 VAC 30-70-143. The formal administrative hearing: necessary demonstration of proof.**

A. The hospital shall bear the burden of proof in seeking relief from its prospective payment rate.

B. A hospital seeking additional reimbursement for operating costs relating to the provision of inpatient care shall demonstrate that its operating costs exceed the limitation on operating costs established for its peer group and set forth the reasons for such excess.

C. In determining whether to award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care, the Director of the Department of Medical Assistance Services shall consider the following:

1. Whether the hospital has demonstrated that its operating costs are generated by factors generally not shared by other hospitals in its peer group. Such factors may include, but are not limited to, the addition of new and necessary services, changes in case mix, extraordinary circumstances beyond the control of the hospital, and improvements imposed by licensing or accrediting standards.

2. Whether the hospital has taken every reasonable action to contain costs on a hospital-wide basis.

a. In making such a determination, the director or his designee may require that an appellant hospital provide quantitative data, which may be compared to similar data from other hospitals within that hospital's peer group or from other hospitals deemed by the director to be comparable. In making such comparisons, the director may develop operating or financial ratios which are indicators of performance quality in particular areas of hospital operation. A finding that the data or ratios or both of the appellant hospital fall within a range exhibited by the majority of comparable hospitals, may be construed by the director to be evidence that the hospital has taken every reasonable action to contain costs in that particular area. Where applicable, the director may require the hospital to submit to the agency the data it has developed for the *Virginia Department of Health (formerly Virginia Health Services Cost Review Commission Council)*. The director may use other data, standards or operating screens acceptable to him. The appellant hospital shall be afforded an opportunity to rebut ratios, standards or comparisons utilized by the director or his designee in accordance with this section.

b. Factors to be considered in determining effective cost containment may include the following:

- Average daily occupancy
- Average hourly wage
- FTE's per adjusted occupied bed
- Nursing salaries per adjusted patient day
- Average length of stay
- Average cost per surgical case
- Cost (salary/nonsalary) per ancillary procedure
- Average cost (food/nonfood) per meal served
- Average cost per pound of laundry
- Cost (salary/nonsalary) per pharmacy prescription
- Housekeeping cost per square foot
- Maintenance cost per square foot
- Medical records cost per admission
- Current ratio (current assets to current liabilities)
- Age of receivables
- Bad debt percentage
- Inventory turnover
- Measures of case mix

c. In addition, the director may consider the presence or absence of the following systems and procedures in determining effective cost containment in the hospital's operation.



# Proposed Regulations

- Flexible budgeting system
- Case mix management systems
- Cost accounting systems
- Materials management system
- Participation in group purchasing arrangements
- Productivity management systems
- Cash management programs and procedures
- Strategic planning and marketing
- Medical records systems
- Utilization/Peer review systems

d. Nothing in this provision shall be construed to require a hospital to demonstrate every factor set forth above or to preclude a hospital from demonstrating effective cost containment by using other factors.

The director or his designee may require that an onsite operational review of the hospital be conducted by the department or its designee.

3. Whether the hospital has demonstrated that the Medicaid prospective payment rate it receives to cover operating costs related to inpatient care is insufficient to provide care and service to conforms to applicable state and federal laws, regulations and quality and safety standards.<sup>1</sup>

D. In no event shall the Director of the Department of Medical Assistance Services award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care, unless the hospital demonstrates to the satisfaction of the director that the Medicaid rate it receives under the Medicaid prospective payment system is insufficient to ensure Medicaid recipients reasonable access to sufficient inpatient hospital services of adequate quality.<sup>2</sup>

<sup>1</sup> See 42 USC § 1396a(a)(13)(A). This provision reflects the Commonwealth's concern that she reimburse only those excess operating costs which are incurred because they are needed to provide adequate care. The Commonwealth recognizes that hospitals may choose to provide more than "just adequate" care and, as a consequence, incur higher costs. In this regard, the Commonwealth notes that "Medicaid programs do not guarantee that each recipient will receive that level of health care precisely tailored to his or her particular needs. Instead, the benefit provided through Medicaid is a particular package of health care services ... that package of services has the general aim of assuring that individuals will receive necessary medical care, but the benefit provided remains the individual services offered -- not 'adequate health care.'" *Alexander v. Choate*, - U.S. - decided January 9, 1985, 53 L.W., 4072, 4075.

<sup>2</sup> In *Mary Washington Hospital v. Fisher*, the court ruled that the Medicaid rate "must be adequate to ensure reasonable access". *Mary Washington Hospital v. Fisher*, at p. 18. The need to demonstrate that the Medicaid rate is inadequate to ensure recipients reasonable access derives directly from federal law and regulation. In its response to comments on the NPRM published September 30, 1981, HCFA points out Congressional intent regarding the access issue:

The report on H.R. 3982 states the expectation that payment levels for inpatient services will be adequate to assure that a sufficient number of facilities providing a sufficient level of services actively participate in the Medicaid program to enable all Medicaid beneficiaries to obtain quality inpatient services. This report further states that payments should be set at a level that ensures the active treatment of Medicaid patients in a majority of the hospitals in the state. 46 FR 47970.

In making such demonstration, the hospital shall show that

1. The current Medicaid prospective payment rate jeopardizes the long-term financial viability of the hospital. Financial jeopardy is presumed to exist if, by providing care to Medicaid recipients at the current Medicaid rate, the hospital can demonstrate that it is, in the aggregate, incurring a marginal loss.<sup>3</sup>

For purposes of this section, marginal loss is the amount by which total variable costs for each patient day exceed the Medicaid payment rate. In calculating marginal loss, the hospital shall compute variable costs at 60% of total inpatient operating costs and fixed costs at 40% of total inpatient operating costs; however, the director may accept a different ratio of fixed and variable operating costs if a hospital is able to demonstrate that a different ratio is appropriate for its particular institution.

Financial jeopardy may also exist if the hospital is incurring a marginal gain but can demonstrate that it has unique and compelling Medicaid costs, which if unreimbursed by Medicaid, would clearly jeopardize the hospital's long-term financial viability and,

2. The population served by the hospital seeking additional financial relief has no reasonable access to other inpatient hospitals. Reasonable access exists if most individuals served by the hospital seeking financial relief can receive inpatient hospital care within a 30 minutes travel time at a total per diem rate which is less to Department of Medical Assistance Services than the costs which would be incurred by DMAS per patient day were the appellant hospital granted relief.<sup>4</sup>

E. In determining whether to award additional reimbursement to a hospital for reimbursable costs which are other than operating costs related to the provision of inpatient care, the director shall consider Medicaid and applicable Medicare rules of reimbursement.

## §5. 12 VAC 30-70-144. Available relief.

A. Any relief granted under §§ 1-4 12 VAC 30-70-140 through 12 VAC 30-70-143 shall be for one cost reporting period only.

<sup>3</sup> The Commonwealth believes that Congressional intent is threatened in situations in which a hospital is incrementally harmed for each additional day a Medicaid patient is treated -- and therefore has good cause to consider withdrawal from the program -- and where no alternative is readily available to the patient, should withdrawal occur. Otherwise, although the rate being paid a hospital may be less than that paid by other payors -- indeed, less than average cost per day for all patients -- it nonetheless equals or exceeds the variable cost per day, and therefore benefits the hospital by offsetting some amount of fixed costs, which it would incur even if the bed occupied by the Medicaid patient were left empty.

It should be emphasized that application of this marginal loss or "incremental harm" concept is a device to assess the potential harm to a hospital continuing to treat Medicaid recipients, and not a mechanism for determining the additional payment due to a successful appellant. As discussed below, once a threat to access has been demonstrated, the Commonwealth may participate in the full average costs associated with the circumstances underlying the appeal.

<sup>4</sup> With regard to the thirty minute travel standard, this requirement is consistent with general health planning criteria regarding acceptable travel time for hospital care.

B. Relief for hospitals seeking additional reimbursement for operating costs incurred in the provision of inpatient care shall not exceed the difference between:

1. The cost per allowable Medicaid day arising specifically as a result of circumstances identified in accordance with §-4 12 VAC 30-70-143 (excluding plant and education costs and return on equity capital) and
2. The prospective operating costs per diem, identified in the Medicaid Cost Report and calculated by DMAS.<sup>5</sup>

C. Relief for hospitals seeking additional reimbursement for (i) costs considered as "pass-throughs" under the prospective payment system or (ii) costs incurred in providing care to a disproportionate number of Medicaid recipients or (iii) costs incurred in providing extensive neonatal care shall not exceed the difference between the payment made and the actual allowable cost incurred.

D. Any relief awarded under §§-4 12 VAC 30-70-140 through 12 VAC 30-70-143 shall be effective from the first day of the cost period for which the challenged rate was set. Cost periods for which relief will be afforded are those which begin on or after January 4, 1985. In no case shall this limitation apply to a hospital which noted an appeal of its prospective payment rate for a cost period prior to January 4, 1985.

E. All hospitals for which a cost period began or after January 4, 1985, but prior to the effective date of these regulations, shall be afforded an opportunity to be heard in accordance with these regulations if the request for appeal set forth in §-1A 12 VAC 30-70-140 A is filed within ninety 90 days of the effective date of these regulations.

**§-6. 12 VAC 30-70-145. Catastrophic occurrence.**

A. Nothing in §§-4 through-5 *this part* shall be construed to prevent a hospital from seeking additional reimbursement for allowable costs incurred as a consequence of a natural or other catastrophe. Such reimbursement will be paid for the cost period in which such costs were incurred and for cost periods beginning on or after July 1, 1982.

B. In order to receive relief under this section, a hospital shall demonstrate that the catastrophe met the following criteria:

1. One time occurrence;
2. Less than 12 months duration;
3. Could not have been reasonably predicted;
4. Not of an insurable nature;
5. Not covered by federal or state disaster relief;

6. Not a result of malpractice or negligence.

C. Any relief sought under this section must be calculable and auditable.

D. The agency shall pay any relief afforded under this section in a lump sum.

**12 VAC 30-90-10. Methods and standards for establishing payment rates for long-term care.**

The policy and the method to be used in establishing payment rates for nursing facilities listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs.

a- 1. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the Program so that eligible persons can receive the medical care and services included in the Plan to the extent these are available to the general population.

b- 2. Participation in the Program will be limited to providers of services who accept, as payment in full, the amounts so paid.

e- 3. Payment for care of service will not exceed the amounts indicated to be reimbursed in accord with the policy and the methods described in the Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.253(b)(2). The state agency has continuing access to data identifying the maximum charges allowed. Such data will be made available to the Secretary, HHS, of Health and Human Services upon request.

d- 4. Payments for services to nursing facilities shall be on the basis of reasonable cost in accordance with the standards and principles set forth in 42 CFR 447.252 as follows:

(4) a. A uniform annual cost report which itemizes allowable cost will be required to be filed within 90 150 days of each provider's fiscal year end.

(2) b. The determination of allowable costs will be in accordance with Medicare principles as established in the Provider Reimbursement Manual (PRM-15) except where otherwise noted in this Plan.

(3) c. Field audits will be conducted on the cost data submitted by the provider to verify the accuracy and reasonableness of such data. Audits will be conducted for each facility on a periodic basis as determined from internal desk audits and more often as required. Audit procedures are in conformance with SSA standards set forth in PRM-13-2. Internal desk audits are conducted annually within six months of receipt of a completed cost report from the provider.

(4) d. Reports of field audits are retained by the state agency for at least three years following submission of the report.

(5) e. Facilities are paid on a cost-related basis in accordance with the methodology described in the Plan.

<sup>5</sup> The Commonwealth recognizes that in cases where circumstances warrant relief beyond the existing payment rate, she may share in the cost associated with those circumstances. This is consistent with the existing policy, whereby payment is made on an average per diem basis. The Commonwealth will not reimburse more than her share of fixed costs. Any relief to an appellant hospital will be computed using patient days adjusted for the level of occupancy during the period under appeal. In no case will any additional payments made under this rule reflect lengths of stay which exceed the twenty-one day limit currently in effect.

## Proposed Regulations

(6) *f.* Modifications to the Plan for reimbursement will be submitted as Plan amendments.

(7) *g.* Covered cost will include such items as:

(a) (1) Cost of meeting certification standards.

(b) (2) Routine services which include items expense providers normally incur in the provision of services.

(c) (3) The cost of such services provided by related organizations except as modified in the payment system at 12 VAC 30-90-20 et seq.

(8) *h.* Bad debts, charity and courtesy allowances shall be excluded from allowable cost.

(9) *i.* Effective for facility cost reporting periods beginning on or after October 1, 1978, the reimbursable amount will be determined prospectively on a facility by facility basis, except that mental institutions and mental retardation facilities shall continue to be reimbursed retrospectively. The prospective rate will be based on the prior period's actual cost (as determined by an annual cost report and verified by audit as set forth in ~~subsection d (3) above subdivision 4 c of this section~~) plus an inflation factor. Payments will be made to facilities no less than monthly.

(10) *j.* The payment level calculated by the prospective rate will be adequate to reimburse in full such actual allowable costs that an economically and efficiently operated facility must incur. In addition, an incentive plan will be established as described in the payment system at 12 VAC 30-90-20 et seq.

(11) *k.* Upper limits for payment within the prospective payment system shall be as follow:

(a) (1) Allowable cost shall be determined in accordance with Medicare principles as defined in PRM-15, except as may be modified in this plan.

(b) (2) Reimbursement for operating costs will be limited to regional ceilings.

(c) (3) Reimbursement, in no instance, will exceed the charges for private patients receiving the same services. In accordance with § 1903(a)(2)(B) of the Social Security Act, nursing facility costs incurred in relation to training and competency evaluation of nurse aides will be considered as State administrative expenses and, as such, shall be exempted from this provision.

(12) *l.* In accordance with 42 CFR 447.205, an opportunity for public comment was permitted before final implementation of rate setting processes.

(13) *m.* A detailed description of the prospective reimbursement formula is attached for supporting detail.

(14) *n.* Item 398D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated

reimbursement of return on equity capital to proprietary providers.

e. 5. Reimbursement of nonenrolled long term care facilities.

(1) *a.* Nonenrolled providers of institutional long term care services shall be reimbursed based upon the average per diem cost, updated annually, reimbursed to enrolled nursing facility providers.

(2) *b.* Prior approval must be received from the DMAS for recipients to receive institutional services from nonenrolled long-term care facilities. Prior approval can only be granted:

(a) (1) When the nonenrolled long term care facility with an available bed is closer to the recipient's Virginia residence than the ~~closest~~ *closest* facility located in Virginia with an available bed, or

(b) (2) When long term care special services, such as intensive rehabilitation services, are not available in Virginia, or

(c) (3) If there are no available beds in Virginia facilities.

f. 6. Specialized care services. ~~Nothing in this regulation is intended to preclude DMAS from reimbursing for specialized care services, such as rehabilitation, ventilator dependent, and AIDS services. Specialized care services shall be provided to patients requiring, but not necessarily limited to, rehabilitation, complex healthcare, ventilator dependent and AIDS services. The payment methodology for specialized care services is contained in Attachment 4.19D Supplement 2 (12 VAC 30-90-350 et seq.)~~

(1) ~~Reimbursement for rehabilitation, complex healthcare, and ventilator dependent services shall be determined by using as the base period allowable per diem rate the FY 1990 average per diem rate of freestanding rehabilitation hospitals, inpatient rehabilitation units of acute care hospitals and long stay hospitals which are providing rehabilitation services, averaged with the per diem bids of nursing facilities proposing to provide such services and obtained during the same time period.~~

(2) ~~Reimbursement for services to individuals with AIDS shall be determined by using as the base period allowable per diem rate for FY 1989 skilled facility rate plus the estimated cost of additional services uniquely necessary to the care of AIDS patients. These additional services are nursing services, non nutritional supplies required for the care of AIDS patients, psychological services, and nutritional elements.~~

(3) ~~The rates will be updated on or about July 1 each year based on the previous 12 months historical inflation. The allowance for inflation shall be based on the percent of change in the moving average of the Skilled Nursing Facility Market Basket of Routine Service Cost (published quarterly), as developed by Data Resources, Incorporated, adjusted for Virginia, determined in the first quarter each year.~~

**12 VAC 30-90-70. Cost report submission.**

A. Cost reports are due not later than 90 150 days after the provider's fiscal year end. If a complete cost report is not received within 90 150 days after the end of the provider's fiscal year, it is considered delinquent. The cost report shall be deemed complete for the purpose of cost settlement when DMAS has received all of the following, with the exception that (note that if the audited financial statements required by subdivisions 3 a and 6 b of this subsection shall be considered timely filed if are received not later than 120 days after the provider's fiscal year end and all other items listed are received not later than 90 days after the provider's fiscal year end, the cost report shall be considered to have been filed at 90 days):

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. a. The provider's audited financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), a statement of cash flows, the auditor's report in which he expresses his opinion or, if circumstances require, disclaims an opinion based on generally accepted auditing standards, footnotes to the financial statements, and the management report. Multi-facility providers shall be governed by subdivision A 6 of this section;
- b. Schedule of restricted cash funds that identify the purpose of each fund and the amount;
- c. Schedule of investments by type (stock, bond, etc.), amount, and current market value;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule;
6. NFs which are part of a chain organization must also file:
  - a. Home office cost report;
  - b. Audited consolidated financial statements of the chain organization including the auditor's report in which he expresses his opinion or, if circumstances require, disclaims an opinion based on generally accepted auditing standards, the management report and footnotes to the financial statements;
  - c. The NFs financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of cash flows;
  - d. Schedule of restricted cash funds that identify the purpose of each fund and the amount;
  - e. Schedule of investments by type (stock, bond, etc.), amount, and current market value; and
7. Such other analytical information or supporting documentation that may be required by DMAS.

B. When cost reports are delinquent, the provider's interim rate shall be reduced by 20% the first month and an additional 20% of the original interim rate for each subsequent month the report has not been submitted. DMAS shall notify the provider of the schedule of reductions which shall start on the first day of the following month to zero. For example, for a September 30 fiscal year end, notification will be mailed in early January stating that payments will be reduced starting with the first payment in February on and after March 1.

C. After the overdue cost report is received, desk reviewed, and a new prospective rate established, the amounts withheld shall be computed and paid. If the provider fails to submit a complete cost report within 180 days after the fiscal year end, a penalty in the amount of 10% of the balance withheld shall be forfeited to DMAS.

**12 VAC 30-90-131. Conditions for appeal.**

An appeal shall not be heard until the following conditions are met:

1. Where appeals result from desk or field audit adjustments, the provider shall have received a notification of program reimbursement (NPR) in writing from the DMAS.
2. Any and all moneys due to DMAS shall be paid in full, unless a repayment plan has been agreed to by the Director of the Division of Cost Settlement and Audit DMAS.
3. All first level appeal requests shall be filed in writing with the DMAS within 90 business days following the date of a DMAS notice of program reimbursement that adjustments have been made to a specific cost report.

**APPENDIX I.**

**UNIFORM EXPENSE CLASSIFICATION.**

**12 VAC 30-90-270. Uniform Expense Classification (NHPS Appendix-I).**

~~I. Foreword.~~

~~The attached is~~ *This appendix describes* the classification of expenses applicable to the Nursing Facility Payment System.

Allowable expenses shall meet all of the following requirements: necessity, reasonableness, nonduplication, related to patient care, not exceeding the limits and/or ceilings established in the Payment System and meet applicable Medicare principles of reimbursement.

**II. 12 VAC 30-90-271. Direct patient care operating.**

**A. Nursing service expenses.**

1. Salary - nursing administration. Gross salary (includes sick pay, holiday pay, vacation pay, staff development pay and overtime pay) of all licensed nurses in supervisory positions defined as follows (Director of Nursing, Assistant Director of Nursing, nursing unit supervisors and patient care coordinators).
2. Salaries - RNs. Gross salary of registered nurses.

---

## Proposed Regulations

---

3. Salaries - LPNs. Gross salary of licensed practical nurses.
4. Salaries - Nurse Aides. Gross salary of certified nurse aides.
5. Nursing employee benefits. Benefits related to registered nurses, licensed practical nurses, certified nurse aides and nursing administration personnel as defined in A.4. above subdivision 1 of this subsection. See subdivision III 12 VAC 30-90-272 B for description of employee benefits.
6. Contract nursing services. Cost of registered nurses, licensed practical nurses, and certified nurse aides on a contract basis.
7. Supplies. Cost of supplies, including nursing and charting forms, medication and treatment records, physician order forms.
8. Professional fees. Medical director and pharmacy consultant fees.

### B. Minor medical and surgical supplies.

1. Salaries - medical supply. Gross salary of personnel responsible for procurement, inventory and distribution of minor medical and surgical supplies.
2. Medical supply employee benefits. Benefits related to medical supply personnel. See subdivision III 12 VAC 30-90-272 B for description of employee benefits.
3. Supplies. Cost of items for which a separate identifiable charge is not customarily made, including, but not limited to, colostomy bags; dressings; chux; rubbing alcohol; syringes; patient gowns; basins; bed pans; ice-bags and canes, crutches, walkers, wheel chairs, traction equipment and other durable medical equipment for multi-patient use.
4. Oxygen. Cost of oxygen for which a separate charge is not customarily made.
5. Nutrient/tube feedings. Cost of nutrients for tube feedings.
6. *Incontinence services. Cost of disposable and nondisposable incontinence supplies. The laundry supplies or purchased commercial laundry service for nondisposable incontinent services.*

C. Ancillary Service Cost. Allowable ancillary service costs represents gross salary and related employee benefits of those employees engaged in covered ancillary services to Medicaid recipients, cost of all supplies used by the respective ancillary service departments, cost of ancillary services performed on a contract basis by other than employees and all other costs allocated to the ancillary service cost centers in accordance with Medicare principles of reimbursement.

Following is a listing all covered ancillary services:

1. Radiology
2. Laboratory
3. Inhalation therapy

4. Physical therapy
5. Occupational therapy
6. Speech therapy
7. EKG
8. EEG
9. Medical supplies charged to patient

### III. 12 VAC 30-90-272. Indirect patient care operating costs.

#### A. Administrative and general.

1. Administrator/owner assistant administrator. Compensation of individuals responsible for administering the operations of the nursing facility. (See 12 VAC 30-90-50 and Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).
2. Other administrative and fiscal services. Gross salaries of all personnel in administrative, personnel, fiscal, billing and admitting, communications and purchasing departments.
3. Management fees. Cost of fees for providing necessary management services related to nursing facility operations. (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).
4. Professional fees - accounting. Fees paid to independent outside auditors and accountants.
5. Professional fees - legal. Fees paid to attorneys (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).
6. Professional fees - other. Fees, other than accounting or legal, for professional services related to nursing facility patient care.
7. Director's fees. Fees paid for attendance at scheduled meetings which serve as reimbursement for time, travel, and services provided. (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).
8. Membership fees. Fees related to membership in health care organizations which promote objectives in the providers' field of health care activities (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).
9. Advertising (classified). Cost of advertising to recruit new employees and yellow pages advertising.
10. Public relations. Cost of promotional expenses including brochures and other informational documents regarding the nursing facility.
11. Telephone. Cost of telephone service used by employees of the nursing facility.
12. Subscriptions. Cost of subscribing to newspapers, magazines, and periodicals.
13. Office supplies. Cost of supplies used in administrative departments (e.g., pencils, papers, erasers, staples).

## Proposed Regulations

14. Minor furniture and equipment. Cost of furniture and equipment which does not qualify as a capital asset.
  15. Printing and postage. Cost of reproducing documents which are reasonable, necessary and related to nursing facility patient care and cost of postage and freight charges.
  16. Travel. Cost of travel (airfare, auto mileage, lodging, meals, etc. by administrator or other authorized personnel on official nursing facility business). (See Appendix III (12 VAC 30-90-290 *et seq.*) for limitations).
  17. Auto. All costs of maintaining nursing facility vehicles, including gas, oil, tires, licenses, maintenance of such vehicles.
  18. License fees. Fees for licenses, including state, county, and local business licenses, and VHSCRC filing fees.
  19. Liability insurance. Cost of insuring the facility against liability claims.
  20. Interest. Other than mortgage and equipment.
  21. Amortization/start-up costs. Amortization of allowable Start-Up Costs (See 12 VAC 30-90-220).
  22. Amortization/organizational costs. Amortization of allowable organization costs (See 12 VAC 30-90-220).
- B. Employee benefits.
1. FICA (Social Security). Cost of employer's portion of Social Security Tax.
  2. State unemployment. State unemployment insurance costs.
  3. Federal unemployment. Federal unemployment insurance costs.
  4. Workers' compensation. Cost of workers' compensation insurance.
  5. Health insurance. Cost of employer's contribution to employee health insurance.
  6. Group life insurance. Cost of employer's contribution to employee group life insurance.
  7. Pension plan. Employer's cost of providing pension program for employees.
  8. Other employee benefits. Cost of awards and recognition ceremonies for recognition and incentive programs, disability insurance, child care, and other commonly offered employee benefits which are nondiscriminatory.
- C. Dietary expenses.
1. Salaries. Gross salary of kitchen personnel, including dietary supervisor, cooks, helpers and dishwashers.
  2. Supplies. Cost of items such as soap, detergent, napkins, paper cups, and straws.
  3. Dishes & *and* utensils. Cost of knives, forks, spoons, plates, cups, saucers, bowls and glasses.
  4. Consultants. Fees paid to consulting dietitians.
  5. Purchased services. Costs of dietary services performed on a contract basis.
  6. Food. Cost of raw food.
  7. Nutrient oral feedings. Cost of nutrients in oral feedings.
- D. Housekeeping expenses. (~~See 12 VAC 30-90-270~~)
1. Salaries. Gross salary of housekeeping personnel, including housekeepers, maids and janitors.
  2. Supplies. Cost of cleaners, soap, detergents, brooms, and lavatory supplies.
  3. Purchased services. Cost of housekeeping services performed on a contract basis.
- E. Laundry expenses.
1. Salaries. Gross salary of laundry personnel.
  2. Linen. Cost of sheets, blankets, and pillows.
  3. Supplies. Cost of such items as soap, detergent, starch and bleach.
  4. Purchased services. Cost of other services, including commercial laundry service.
- F. Maintenance and operation of plant. (~~See 12 VAC 30-90-270~~)
1. Salaries. Gross salary of personnel involved in operating and maintaining the physical plant, including maintenance men or plant engineer and security services.
  2. Supplies. Cost of supplies used in maintaining the physical plant, including light bulbs, nails, lumber, glass.
  3. Painting. Supplies and contract services.
  4. Gardening. Supplies and contract services.
  5. Heating. Cost of heating oil, natural gas, or coal.
  6. Electricity. Self-explanatory.
  7. Water, sewer, and trash removal. Self-explanatory.
  8. Purchased services. Cost of maintaining the physical plant, fixed equipment, movable equipment and furniture and fixtures on a contract basis.
  9. Repairs & *and* maintenance. Supplies and contract services involved with repairing the facility's capital assets.
- G. Medical records expenses.
1. Salaries - medical records. Gross salary of licensed medical records personnel and other department personnel.
  2. Utilization review. Fees paid to physicians attending utilization review committee meetings.
  3. Supplies. All supplies used in the department.

---

## Proposed Regulations

---

4. Purchased services. Medical records services provided on a contract basis.

H. Quality assurance services.

1. Salaries. Gross salary of personnel providing quality assessment and assurance activities.

2. Purchased services. Cost of quality assessment and assurance services provided on a contract basis.

3. Supplies. Cost of all supplies used in the department or activity.

I. Social service expenses.

1. Salaries. Salary of personnel providing medically-related social services. A facility with more than 120 beds must employ a full-time qualified social worker.

2. Purchased services. Cost of medically-related social services provided on a contract basis.

3. Supplies. Cost of all supplies used in the department.

J. Patient activity expenses.

1. Salaries. Gross salary of personnel providing recreational programs to patients, such as arts and crafts, church services and other social activities.

2. Supplies. Cost of items used in the activities program (i.e., games, art and craft supplies and puzzles).

3. Purchased service. Cost of services provided on a contract basis.

K. Educational activities expenses. (Other than NATCEPs costs, See 12 VAC 30-90-270)

1. Salaries. Gross salaries of training personnel.

2. Supplies. Cost of all supplies used in this activity.

3. Purchased services. Cost of training programs provided on a contract basis.

L. Other nursing Administrative costs.

1. Salaries - other nursing administration. Gross salaries of ward clerks and nursing administration support staff.

2. Subscriptions. Cost of subscribing to newspapers, magazines and periodicals.

3. Office supplies. Cost of supplies used in nursing administrative departments (e.g., pencils, papers, erasers, staples).

4. Purchased services. Cost of nursing administrative consultants, ward clerks, nursing administration support staff performed on a contract basis.

5. Advertising (classified). Cost of advertising to recruit all nursing service personnel.

M. Home office costs. Allowable operating costs incurred by a home office which are directly assigned to the nursing facility or pooled operating costs that are allocated to the nursing facility in accordance with 12 VAC 30-90-240.

### IV- 12 VAC 30-90-273. Plant costs.

A. Interest.

1. Building interest. Interest paid or accrued on notes, mortgages and other loans, the proceeds of which were used to purchase the nursing facility's real property. (See 12 VAC 30-90-30 for Limitations).

2. Equipment interest. Interest paid or accrued on notes, chattel mortgages and other loans, the proceeds of which were used to purchase the nursing facility's equipment. (See 12 VAC 30-90-30 for Limitations).

B. Depreciation (12 VAC 30-90-50).

1. Building depreciation. Depreciation on the nursing facility's building.

2. Building improvement depreciation. Depreciation on major additions or improvements to the nursing facility (i.e., new laundry or dining room).

3. Land improvement depreciation. Depreciation of improvements made to the land occupied by the facility (i.e., paving, landscaping).

4. Fixed and movable equipment depreciation. Depreciation on capital assets classified as fixed and movable equipment in compliance with American Hospital Association Guidelines.

5. Leasehold improvement depreciation. Depreciation on major additions or improvements to building or plant where the facility is leased and the costs are incurred by the lessee (tenant).

6. Automobile depreciation. Depreciation of those vehicles utilized solely for facility/patient services.

C. Lease/rental.

1. Building rental. Rental amounts paid by the provider on all rented or leased real property (land and building).

2. Equipment rental. Rental amounts paid by the provider on leased or rented furniture and equipment.

D. Taxes.

1. Property taxes. Amount of taxes paid on the facility's property, plant and equipment.

E. Insurance.

1. Property insurance. Cost of fire and casualty insurance on buildings and equipment.

2. Mortgage insurance. Premiums required by the lending institution, if the lending institution is made a direct beneficiary and if premiums meet Medicare principles of reimbursement criteria for allowability.

F. Amortization - deferred financing costs. Amortization of deferred financing costs (those costs directly incident to obtaining financing of allowable capital costs related to patient care services such as legal fees; guarantee fees; service fees; feasibility studies; loan points; printing and engraving costs; rating agency fees). These deferred

financing costs should be capitalized and amortized over the life of the mortgage.

G. Home office capital costs. Allowable plant costs incurred by a home office which are directly identified to the nursing facility or pooled capital costs that are allocated to the nursing facility in accordance with 12 VAC 30-90-240.

**V. 12 VAC 30-90-274. Nonallowable expenses. Nonallowable expenses include but are not limited to the following:**

A. Barber and beautician. Direct and indirect operating and capital costs related to the provision of beauty and barber services to patients.

B. Personal items. Cost of personal items, such as cigarettes, toothpaste, and shaving cream sold to patients.

C. Vending machines. Cost of items sold to employees and patients including candy bars and soft drinks.

D. Television/telephones. Cost of television sets and telephones used in patient rooms.

E. Gift shop. Direct and indirect operating and capital cost related to the provision of operating a gift shop.

F. Insurance - officers. Cost of life insurance on officers, owners and key employees where the provider is a direct or indirect beneficiary.

G. Income taxes. Taxes on net income levied or expected to be levied by any governmental entity.

H. Contributions. Amounts donated to charitable or other organizations which have no direct effect on patient care.

I. Deductions from revenue. Accounts receivable written off as bad debts, charity, courtesy, or from contractual agreements are nonallowable expenses.

J. Advertising. The cost of advertisements in magazines, newspapers, trade publications, radio, and television and certain home office expenses as defined in PRM-15.

K. Cafeteria. Cost of meals to other than patients.

L. Pharmacy. Cost of all prescribed legend and nonlegend drugs.

M. Medical supplies. Cost of medical supplies to other than patients.

N. Plant costs. All plant costs not available for nursing facility patient care related activities are nonreimbursable plant costs.

**VI. 12 VAC 30-90-275. Nurse Aide Training and Competency Evaluation Programs (NATCEPs) costs.**

**A. Facility-based NATCEPs costs.**

1. Salary - staff development. Gross salary of personnel conducting the nurse aide training and competency evaluation programs.

2. Employee benefits. Benefits related to personnel conducting the nurse aide training and competency evaluation programs. See subdivision III 12 VAC 30-90-272 B for description of employee benefits.

3. Contract services. Cost of state qualified nurse aide instructors paid on a contract basis.

4. Supplies. Cost of supplies used in conducting NATCEPs (e.g., pencils, papers, erasers, staples, textbooks and other required course materials).

5. License fees. Cost of nurse aide registry application fees and competency evaluation testing fees paid by the NFs in behalf of the certified nurse aides.

6. Housekeeping expenses. Housekeeping expense as defined in ~~subdivision III 12 VAC 30-90-272 D above~~, for NFs which dedicate space in the facility to NATCEPs activities ~~one hundred percent (100%)~~. Housekeeping expenses shall be allocated to the NATCEPs operations in accordance with Medicare Principles of Reimbursement.

7. Maintenance and operation of plant. Maintenance and operation of plant as defined in ~~subdivision III 12 VAC 30-90-272 F above~~, for NFs which dedicate space in the facility to NATCEPs activities ~~one hundred percent (100%)~~.

Maintenance and operation of plant expense shall be allocated to the NATCEPs operations in accordance with Medicare Principles of Reimbursement.

8. Other direct expenses. Any other direct costs associated with the operation of the NATCEPs. There shall be no allocation of indirect patient care operating costs as defined in ~~subdivision III 12 VAC 30-90-272~~, except housekeeping and maintenance and operation of plant expenses.

**B. Nonfacility-based NATCEPs costs.**

1. Contract services. Cost of training and competency evaluation of nurse aides paid to an outside state approved nurse aide education program.

2. Supplies. Cost of supplies of textbooks and other required course materials provided during the nurse aide education programs by the NF.

3. License fees. Cost of nurse aide registry application fees and competency evaluation testing fee paid by the NF on behalf of the certified nurse aides.

4. Travel. Cost for transportation provided to the nurse aides to the training or competency evaluation testing site.

**VII. 12 VAC 30-90-276. Criminal records background checks.**

Included in the Uniform Expense Classifications is the cost of obtaining criminal records checks from the Central Criminal Records Exchange for all persons hired for compensated employment after July 1, 1993.



---

# Proposed Regulations

---

## APPENDIX III. COST REIMBURSEMENT LIMITATIONS.

### 12 VAC 30-90-290. Cost reimbursement limitations.

A. Foreword. ~~The attached information~~ *This appendix* outlines operating, NATCEPs and plant cost limitations that are not referenced in previous sections of these regulations.

All of the operating cost limitations are further subject to the applicable operating ceilings.

#### B. Directors' fees.

1. Although Medicaid does not require a board of directors (Medicare requires only an annual stockholders' meeting), the Program will recognize reasonable costs for directors' meetings related to patient care.

2. It is not the intent of DMAS to reimburse a facility for the conduct of business related to owner's investments, nor is it the intent of the Program to recognize such costs in a closely held corporation where one person owns all stock, maintains all control, and approves all decisions.

3. To receive reimbursement for directors' meetings, the written minutes must reflect the name of the facility for which the meeting is called, the content and purpose of the meeting, members in attendance, the time the meeting began and ended, and the date. If multiple facilities are discussed during a meeting, total allowable director fees, as limited herein, shall be pro-rated between such facilities.

4. Bona fide directors may be paid an hourly rate of \$125 up to a maximum of four hours per month. These fees include reimbursement for time, travel, and services performed.

5. Compensation to owner/administrators who also serve as directors, shall include any and director's fees paid, subject to the above referenced limit those set forth in these regulations.

#### C. Membership fees.

1. These allowable costs will be restricted to membership in health care organizations and appropriate professional societies which promote objectives in the provider's field of health care activities.

2. Membership fees in health care organizations and appropriate professional societies will be allowed for the administrator, owner, and home office personnel.

3. Comparisons will be made with other providers to determine reasonableness of the number of organizations to which the provider will be reimbursed for such membership and the claimed costs, if deemed necessary.

#### D. Management fees.

1. External management services shall only be reimbursed if they are necessary, cost effective, and non-duplicative of existing NF internal management services.

2. Costs to the provider, based upon a percentage of net and/or gross revenues or other variations thereof, shall not be an acceptable basis for reimbursement. If allowed, management fees must be reasonable and based upon rates related to services provided.

3. Management fees paid to a related party may be recognized by the Program as the owner's compensation subject to administrator compensation guidelines.

4. A management fees service agreements exists when the contractor provides nonduplicative personnel, equipment, services, and supervision.

5. A consulting service agreement exists when the contractor provides nonduplicative supervisory or management services only.

6. Limits will be based upon comparisons with other similar size facilities and/or other DMAS guidelines and information.

Effective for all providers' cost reporting periods ending on or after October 1, 1990, a per patient day ceiling for all full service management service costs shall be established. The ceiling limitation for cost reporting periods ending on or after October 1, 1990, through December 31, 1990, shall be the median per patient day cost as determined from information contained in the most recent cost reports for all providers with fiscal years ending through December 31, 1989. These limits will be adjusted annually by a Consumer Price Index effective January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

E. Pharmacy consultants fees. Costs will be allowed to the extent they are reasonable and necessary.

F. Physical therapy fees (for outside services). Limits are based upon current PRM-15 guidelines.

G. Inhalation therapy fees (for outside services). Limits are based upon current PRM-15 guidelines.

H. Medical directors' fees. Costs will be allowed up to the established limit per year to the extent that such fees are determined to be reasonable and proper. This limit will be escalated annually by the CPI-U January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually. The following limitations apply to the time periods as indicated:

Jan. 1, 1988 - Dec. 31, 1988     \$6,204

Jan. 1, 1989 - Dec. 31, 1989     \$6,625

I. Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

# Proposed Regulations

**J. Personal automobile.**

1. Use of personal automobiles when related to patient care will be reimbursed at the maximum of the allowable IRS mileage rate when travel is documented.
2. Flat rates for use of personal automobiles will not be reimbursed.

**K. Seminar expenses.**

These expenses will be treated as allowable costs, if the following criteria are met:

1. Seminar must be related to patient care activities, rather than promoting the interest of the owner or organization.
2. Expenses must be supported by:
  - a. Seminar brochure,
  - b. Receipts for room, board, travel, registration, and educational material.
3. Only the cost of two persons per facility will be accepted as an allowable cost for seminars which involve room, board, and travel.

**L. Legal retainer fees.** DMAS will recognize legal retainer fees if such fees do not exceed the following:

| BED SIZE  | LIMITATIONS     |
|-----------|-----------------|
| 0 - 50    | \$100 per month |
| 51 - 100  | \$150 per month |
| 101 - 200 | \$200 per month |
| 201 - 300 | \$300 per month |
| 301 - 400 | \$400 per month |

The expense to be allowed by DMAS shall be supported by an invoice and evidence of payment.

**M. Architect fees.** Architect fees will be limited to the amounts and standards as published by the Virginia Department of General Services.

**N. Administrator/owner compensation.**

**DMAS ADMINISTRATOR/OWNER COMPENSATION SCHEDULE**

JANUARY 1, 1989 - DECEMBER 31, 1989

| BED SIZE  | NORMAL ALLOWABLE FOR ONE ADMINISTRATOR | MAXIMUM FOR 2 OR MORE ADMINISTRATORS |
|-----------|--|--------------------------------------|
| 1 - 75    | 32,708                                 | 49,063                               |
| 76 - 100  | 35,470                                 | 53,201                               |
| 101 - 125 | 40,788                                 | 61,181                               |
| 126 - 150 | 46,107                                 | 69,160                               |
| 151 - 175 | 51,623                                 | 77,436                               |
| 176 - 200 | 56,946                                 | 85,415                               |
| 201 - 225 | 60,936                                 | 91,399                               |
| 226 - 250 | 64,924                                 | 97,388                               |
| 251 - 275 | 68,915                                 | 103,370                              |
| 276 - 300 | 72,906                                 | 108,375                              |
| 301 - 325 | 76,894                                 | 115,344                              |
| 326 - 350 | 80,885                                 | 121,330                              |

|            |        |         |
|------------|--------|---------|
| 351 - 375  | 84,929 | 127,394 |
| 376 & over | 89,175 | 133,763 |

These limits will be escalated annually by the CPI-U effective January 1 of each calendar year to be effective for all provider's cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

*O. Kinetic therapy.* For specialized care reimbursement effective December 1, 1996, a limitation per patient day on kinetic therapy shall be established. This limit shall be reviewed annually by January 1 of each calendar year, and revised if appropriate, to be effective for all providers' cost reporting periods ending on or after that date. The limit will be published and distributed to providers annually. It shall be:

December 1, 1996 - December 31, 1997    \$102 per day

**PART IV.  
SPECIALIZED CARE SERVICES.**

**12 VAC 30-90-350. Specialized care services.**

Specialized care services provided in conformance with 12 VAC 30-60-40 E and H (Attachment 3.1 C, § 2.0(c)(5) and (8)) and 12 VAC 30-60-320 and 12 VAC 30-60-340 (Supplement 1 to Attachment 3.1 C, Parts II and III) shall be reimbursed under the following methodology. The nursing facilities that provide adult specialized care for the categories of Ventilator Dependent Care, Comprehensive Rehabilitation Care, and Complex Health Care will be placed in one group for rate determination. The nursing facilities that provide pediatric specialized care in a dedicated pediatric unit of eight beds or more will be placed in a second group for rate determination.

1. *Routine operating cost.* Routine operating cost shall be defined as in 12 VAC 30-90-271 and 12 VAC 30-90-272 of the Nursing Home Payment System (NHPS) Appendix I (§2.1 A and B, and §3.1). To calculate the routine operating cost reimbursement rate, routine operating cost shall be converted to a per diem amount by dividing it by actual patient days.

2. *Allowable cost identification and cost reimbursement limitations.* The provisions of Article 3 (12 VAC 30-90-50 et seq.) of Part II of this chapter and of Appendix III (12 VAC 30-90-290) of Part III of this chapter shall apply to specialized care cost and reimbursement.

3. *Routine operating cost rates.* Each facility shall be reimbursed a prospective rate for routine operating costs. This rate will be the lesser of the facility-specific prospective routine operating ceiling, or the facility-specific prospective routine operating cost per day plus an efficiency incentive. This efficiency incentive shall be calculated by the same method as in 12 VAC 30-90-41.

4. *Facility-specific prospective routine operating ceiling.* Each nursing facility's prospective routine operating ceiling shall be calculated as:

a. *Statewide ceiling.* The statewide routine operating ceiling shall be the weighted average (weighted by 1994 days) of specialized care rates in effect on July

---

## Proposed Regulations

---

1, 1996, reduced by statewide weighted average ancillary and capital cost per day amounts based on audited 1994 cost data from the 12 facilities whose 1994 FY specialized care costs were audited during 1996. This routine operating ceiling amount shall be adjusted for inflation by the percentage of change in the moving average of the Virginia specific Skilled Nursing Facility Market Basket of Routine Service Costs, as developed by DRI/McGraw-Hill, using the second quarter 1996 DRI table. The respective statewide operating ceilings will be adjusted each quarter in which the provider's most recent fiscal year ends, by adjusting the most recent interim ceiling by 100% of historical inflation and 50% of forecasted inflation to the end of the provider's next fiscal year.

b. The portion of the statewide routine operating ceiling relating to nursing salaries (as determined by the 1994 audited cost report data, or 67.22%) will be wage adjusted using a normalized wage index. The normalized wage index shall be the wage index applicable to the individual provider's geographic location under Medicare rules of reimbursement for skilled nursing facilities, divided by the statewide average of such wage indices across the state. This normalization of wage indices shall be updated January 1, after each time the Health Care Financing Administration (HCFA) publishes wage indices for skilled nursing facilities. Updated normalization shall be effective for fiscal years starting on and after the January 1 for which the normalization is calculated.

c. The percentage of the statewide routine operating ceiling relating to the nursing labor and nonlabor costs (as determined by the 1994 audited cost report data or 71.05%) will be adjusted by the nursing facility's specialized care average Resource Utilization Groups, Version III (RUG-III) Nursing-Only Normalized Case Mix Index (NCMI). The NCMI for each nursing facility will be based on all specialized care patient days rendered during the six-month period prior to that in which the ceiling applies (see subdivision 6 below).

5. Normalized case mix index (NCMI). Case mix shall be measured by RUG-III nursing-only index scores based on Minimum Data Set (MDS) data. The RUG-III nursing-only weights developed at the national level by the Health Care Financing Administration (HCFA) (see Appendix II (12 VAC 30-90-370) of this part) shall be used to calculate a facility-specific case mix index (CMI). The facility-specific CMI, divided by the statewide CMI shall be the facility's NCMI. The steps in the calculation are as follows:

a. The facility-specific CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all patient days in the facility during the six months prior to the six-month period to which the NCMI shall be applied to the facility's routine operating cost and ceiling.

b. The statewide CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all specialized

care patient days in all Specialized Care Nursing facilities in the state during the six months prior to the six-month period to which the NCMI shall be applied. A new statewide CMI shall be calculated for each six-month period for which a provider-specific rate must be set.

c. The facility-specific NCMI for purposes of this rate calculation shall be the facility-specific CMI from (a) above divided by the statewide CMI from (b) above.

d. Each facility's NCMI shall be updated semiannually, at the start and the midpoint of the facility's fiscal year.

e. Patient days for which the lowest RUG-III weight is imputed, as provided in subdivision 14 c of this section, shall not be included in the calculation of the NCMI.

6. Facility-specific prospective routine operating base cost per day: The facility-specific routine operating cost per day to be used in the calculation of the routine operating rate and the efficiency incentive shall be the actual routine cost per day from the most recent fiscal year's cost report, adjusted (using DRI-Virginia inflation factors) by 50% of historical inflation and 50% of the forecasted inflation, and adjusted for case mix as described below:

a. An NCMI rate adjustment shall be applied to each facility's prospective routine nursing labor and nonlabor operating base cost per day for each semiannual period of the facility's fiscal year.

b. The NCMI calculated for the second semiannual period of the previous fiscal year shall be divided by the average of that (previous) fiscal year's two semiannual NCMI's to yield an "NCMI cost rate adjustment" to the prospective nursing labor and nonlabor operating cost base rate in the first semiannual period of the subsequent fiscal year.

c. The NCMI determined in the first semiannual period of the subsequent fiscal year shall be divided by the average of the previous fiscal year's two semiannual NCMI's to determine the NCMI cost rate adjustment to the prospective nursing labor and nonlabor operating base cost per day in the second semiannual period of the subsequent fiscal year.

See Appendix I (12 VAC 30-90-360) of this part for an illustration of how the NCMI is used to adjust routine operating cost ceilings and semiannual NCMI adjustments to the prospective routine operating base cost rates.

7. Interim rates. Interim rates, for processing claims during the year, shall be calculated from the most recent settled cost report and Minimum Data Set (MDS) data available at the time the interim rates must be set, except that failure to submit cost and MDS data timely may result in adjustment to interim rates as provided elsewhere.

8. Ancillary costs. Specialized care ancillary costs will be paid on a pass-through basis for those Medicaid

specialized care patients who do not have Medicare or any other sufficient third-party insurance coverage. Ancillary costs will be reimbursed as follows:

a. All covered ancillary services, except kinetic therapy devices, will be reimbursed for reasonable costs as defined in the current NHPS. See NHPS Appendix III (12 VAC 30-90-290) of Part III of this chapter for the cost reimbursement limitations.

b. Kinetic therapy devices will have a limit per day (based on 1994 audited cost report data inflated to the rate period). See Appendix III (12 VAC 30-90-290) of Part III of this chapter for the cost reimbursement limitations.

c. Kinetic therapy devices will be reimbursed only if a resident is being treated for wounds that meet specialized care Complex Health Care Category wound care criteria. Residents receiving this wound care must require kinetic bed therapy (that is, low air loss mattresses, fluidized beds, and/or rotating/turning beds) and require treatment for a grade (stage) IV decubitus, a large surgical wound that cannot be closed, or second to third degree burns covering more than 10% of the body.

9. Covered ancillary services are defined as follows: laboratory, X-ray, medical supplies (e.g., infusion pumps, incontinence supplies), physical therapy, occupational therapy, speech therapy, inhalation therapy, IV therapy, enteral feedings, and kinetic therapy. The following are not specialized care ancillary services and are excluded from specialized care reimbursement: physician services, psychologist services, total parenteral nutrition (TPN), and drugs. These services must be separately billed to DMAS. An interim rate for the covered ancillary services will be determined (using data from the most recent settled cost report) by dividing allowable ancillary costs by the number of patient days for the same cost reporting period. The interim rate will be retroactively cost settled based on the specialized care nursing facility cost reporting period.

10. Capital costs (excluding pediatric specialized care units). Capital cost reimbursement shall be in accordance with the current NHPS, except that the 95% (85% if applicable) occupancy requirement shall not be separately applied to specialized care. Capital cost related to specialized care patients will be cost settled on the respective nursing facility's cost reporting period. In this cost settlement the 95% (85% if applicable) occupancy requirement shall be applied to all the nursing facility's licensed nursing facility beds inclusive of specialized care. An occupancy requirement of 70% shall be applied to distinct part pediatric specialized care units.

11. Nurse aide training and competency evaluation programs and competency evaluation programs (NATCEP) costs. NATCEPS costs will be paid on a pass-through basis in accordance with the current NHPS.

12. Pediatric routine operating cost rate. For pediatric specialized care in a distinct part pediatric specialized care unit, one routine operating cost ceiling will be developed. The routine operating cost ceiling will be computed as follows:

a. The Complex Health Care Payment Rate effective July 1, 1996, and updated for inflation, will be reduced by (i) the weighted average capital cost per day developed from the 1994 audit data and (ii) the weighted average ancillary cost per day from the 1994 audit data updated for inflation in the same manner as described in subdivision 4 a of this subsection.

b. The state-wide operating ceiling shall be adjusted for each nursing facility in the same manner as described in subdivisions 4 and 5 of this section.

c. The final routine operating cost reimbursement rate shall be computed as described for other than pediatric units in subdivision 3 of this section.

13. Pediatric unit capital cost. Pediatric unit capital costs will be reimbursed in accordance with the current NHPS, except that the occupancy requirement shall be 70% rather than 95% or 85%. An interim capital rate will be calculated from the latest cost report and retrospectively cost settled on the respective specialized care provider's cost reporting period.

14. MDS data submission. MDS data relating to specialized care patients must be submitted to the department in a submission separate from that which applies to all nursing facility patients.

a. Within 30 days of the end of each month, each specialized care nursing facility shall submit to the department, separately from its submission of MDS data for all patients, a copy of each MDS Version 2.0 which has been completed in the month for a Medicaid specialized care patient in the nursing facility. This shall include (i) the MDS required within 14 days of admission to the nursing facility (if the patient is admitted as a specialized care patient), (ii) the one required by the department upon admission to specialized care, (iii) the one required within 12 months of the most recent full assessment, and (iv) the one required whenever there is a significant change of status.

b. In addition to the monthly data submission required in (a) above, the same categories of MDS data required in (a) above shall be submitted for all patients receiving specialized care from January 1, 1996, through December 31, 1996, and shall be due February 28, 1997.

c. If a provider does not submit a complete MDS record for any patient within the required timeframe, the department shall assume that the RUG-III weight for that patient, for any time period for which a complete record is not provided, is the lowest RUG-III weight in use for specialized care patients. A complete MDS record is one that is complete for

# Proposed Regulations

purposes of transmission and acceptance by the Health Care Financing Administration.

15. Case mix measures in the initial semiannual periods. In any semiannual periods for which calculations in Appendix I (12 VAC 30-90-360) of this part requires an NCMI from a semiannual period beginning before January 1996, the case mix used shall be the case mix applicable to the first semiannual period beginning after January 1, 1996, that is a semiannual period in the respective provider's fiscal period. For example, December year-end providers' rates applicable to the month of December 1996, would normally require (in Appendix I) an NCMI from July to December 1995, and one from January to June 1996, to calculate a rate for July to December 1996. However, because this calculation requires an NCMI from a period before January 1996, the NCMI's that shall be used will be those applicable to the next semiannual period. The NCMI from January to June 1996, and from July to December 1996, shall be applied to December 1996, as well as to January to June 1997. Similarly, a provider with a March year end would have its rate in December 1996, through March 1997, calculated based on an NCMI from April through September 1996, and October 1996, through March 1997.

16. Cost reports of specialized care providers are due not later than 150 days after the end of the provider's fiscal year. Except for this provision, the requirements of Articles 5 and 6 (12 VAC 30-90-70 and 12 VAC 30-90-80) of the NHPS shall apply.

## APPENDIX I. NORMALIZED CASE MIX INDEX.

### 12 VAC 30-90-360. Normalized Case Mix Index (NCMI).

A. This appendix illustrates how a specialized care provider's Normalized Case Mix Index (NCMI) is used to adjust the prospective routine operating cost base rate and prospective operating ceiling.

#### B. Assumptions.

1. The nursing facility's fiscal years are December 31, 1996 and December 31, 1997.
2. The average allowable routine nursing labor and nonlabor base rate for December 31, 1996 is \$205.
3. The average allowable indirect patient care operating base rate for December 31, 1996 is \$90.
4. The allowance for inflation is 3.0% for the fiscal year end beginning January 1, 1997.
5. The nursing facility's statewide ceiling for the fiscal year end beginning January 1, 1997 is \$300.
6. The nursing facility's normalized HCFA nursing wage index is 1.0941 for the fiscal year end beginning January 1, 1997.
7. The nursing facility's semiannual normalized NCMI's are as follows:

|                            |        |
|----------------------------|--------|
| 1996 First Semiannual NCMI | 1.2000 |
|----------------------------|--------|

|                             |        |
|-----------------------------|--------|
| 1996 Second Semiannual NCMI | 1.2400 |
| 1997 First Semiannual NCMI  | 1.2600 |

#### C. Calculation of nursing facility's operating ceiling.

##### 1. Period January 1, 1997 through June 30, 1997.

|   |                                     |          |
|---|-------------------------------------|----------|
| FYE 1997 Statewide ceiling                  |                                     | \$300    |
| Nursing Labor Component                     | 67.22%                              | \$201.66 |
| Percentage                                  |                                     |          |
| Normalized Wage Index                       | x 1.0941                            |          |
| Adjusted Nursing Labor Ceiling Component    |                                     | \$220.64 |
| Nursing Nonlabor Ceiling Component          |                                     | \$ 11.49 |
| Adjusted Nursing Labor and Nonlabor Ceiling |                                     | \$232.13 |
| FYE 1996 Second Semiannual NCMI             | x 1.2400                            | \$287.84 |
| Indirect Patient Care Ceiling Component     | (\$300.00 - 201.66 - 11.49) + 86.85 |          |
| Total Facility Operating Ceiling            |                                     | \$374.69 |

##### 2. Period July 1, 1997 through December 31, 1997.

|  |          |          |
|--|----------|----------|
| Adjusted Nursing Labor and Nonlabor Ceiling per subdivision 1 of this subsection |          | \$232.13 |
| FYE 1997 First Semiannual NCMI   | x 1.2600 | \$292.46 |
| Indirect Patient Care Ceiling Component  | + 86.85  |          |
| Total Facility Operating Ceiling   |          | \$379.33 |

#### D. Calculation of nursing facility's prospective operating cost rate.

##### 1. Prospective operating cost base rate.

|   |        |          |
|---|--------|----------|
| FYE 1996 Nursing Labor and Nonlabor Operating Base Rate |        | \$205    |
| Allowance for Inflation - FYE 1997                      | x 1.03 |          |
| Prospective Nursing Labor and Nonlabor Cost Rate        |        | \$211.15 |
| FYE 1996 Indirect Patient Care Operating Base Rate      |        | \$ 90.00 |
| Allowance for Inflation - FYE 1997                      | x 1.03 |          |
| Prospective Indirect Patient Care Operating Cost Rate   |        | 92.70    |

##### 2. Calculation of FYE 1996 Average NCMI.

|                               |  |        |
|-------------------------------|--|--------|
| First Semiannual Period NCMI  |  | 1.2000 |
| Second Semiannual Period NCMI |  | 1.2400 |
| Average FYE 1996 NCMI         |  | 1.2200 |

# Proposed Regulations

### 3. Calculation of FYE 1997 NCMI Rate Adjustments.

a. Rate adjustment for the period January 1, 1997 through June 30, 1997.

|   |               |                 |
|---|---------------|-----------------|
| 1996 Second Semiannual NCMI   |               | 1.2400          |
| 1996 Average NCMI (from subdivision 2 of this subsection)   |               | 1.2200          |
| Calculation:  | 1.2400/1.2200 |                 |
| Rate Adjustment Factor  | 1.0164        |                 |
| Prospective Nursing Labor and Nonlabor Operating Cost Base Rate (from subdivision 1 of this subsection) |               | 211.15          |
|   | x 1.0164      | 214.61          |
| Prospective Indirect Patient Care Operating Cost Rate (from subdivision 1 of this subsection)           | + 92.70       |                 |
| <b>Total Prospective Operating Cost Rate</b>  |               | <b>\$307.31</b> |

b. Rate Adjustment for the Period July 1, 1997 through December 31, 1997.

|  |               |                 |
|--|---------------|-----------------|
| 1997 First Semiannual NCMI   |               | 1.2600          |
| 1996 Average NCMI (From subdivision 2 of this subsection)  |               | 1.2200          |
| Calculation:   | 1.2600/1.2200 |                 |
| Rate Adjustment Factor   | 1.0328        |                 |
| Prospective Nursing Labor and Nonlabor Operating Cost Rate (From subdivision 1 of this subsection) |               | \$211.15        |
| Rate Adjustment Factor   | x 1.0328      |                 |
| Prospective Indirect Patient Care Operating Cost Rate (from subdivision 1 of this subsection)      | + 92.70       |                 |
| <b>Total Prospective Operating Cost Rate</b>   |               | <b>\$310.78</b> |

D. In this illustration the nursing facility's operating reimbursement rate for FYE 1997 would be as follows:

1. For the period January 1, 1997, through June 30, 1997, the operating reimbursement rate would be \$307.31 since the prospective operating cost rate is lower than the nursing facility's NCMI adjusted ceiling of \$374.69 (from subdivision C 1 of this section)

2. For the period July 1, 1997, through December 31, 1997, the operating reimbursement rate would be \$310.78 since the prospective operating cost rate is lower than the nursing facility's NCMI adjusted ceiling of \$379.33 (from subdivision C 2 of this section)

### APPENDIX II.

#### NATIONAL RUG-III CATEGORIES AND WEIGHTS.

12 VAC 30-90-370. National RUG-III categories and weights.

| RUG III Group Name | RUG Code | Group | Nursing Weight | Only |
|--------------------|----------|-------|----------------|------|
| Rehabilitation     | RVC      |       | 1.79           |      |
|                    | RVB      |       | 1.18           |      |
|                    | RVA      |       | 0.82           |      |
|                    | RHD      |       | 1.93           |      |
|                    | RHC      |       | 1.50           |      |
|                    | RHB      |       | 1.31           |      |
|                    | RHA      |       | 1.06           |      |
|                    | RMC      |       | 2.09           |      |
|                    | RMB      |       | 1.38           |      |
|                    | RMA      |       | 1.25           |      |
|                    | RLB      |       | 1.36           |      |
|                    | RLA      |       | 1.14           |      |
| Extensive Services | SE3      |       | 3.97           |      |
|                    | SE2      |       | 2.65           |      |
|                    | SE1      |       | 1.78           |      |
| Special Care       | SSC      |       | 1.61           |      |
|                    | SSB      |       | 1.47           |      |
|                    | SSA      |       | 1.28           |      |
| Clinically Complex | CD2      |       | 1.46           |      |
|                    | CD1      |       | 1.37           |      |
|                    | CC2      |       | 1.19           |      |
|                    | CC1      |       | 1.16           |      |
|                    | CB2      |       | 1.08           |      |
|                    | CB1      |       | 0.94           |      |
|                    | CA2      |       | 0.76           |      |
|                    | CA1      |       | 0.67           |      |
| Impaired Cognition | IB2      |       | 0.88           |      |
|                    | IB1      |       | 0.80           |      |
|                    | IA2      |       | 0.60           |      |
|                    | IA1      |       | 0.49           |      |
| Behavior Problems  | BB2      |       | 0.87           |      |
|                    | BB1      |       | 0.78           |      |
|                    | BA2      |       | 0.58           |      |
|                    | BA1      |       | 0.41           |      |
| Physical Functions | PE2      |       | 1.19           |      |
|                    | PE1      |       | 1.13           |      |
|                    | PD2      |       | 1.01           |      |
|                    | PD1      |       | 1.00           |      |
|                    | PC2      |       | 0.86           |      |
|                    | PC1      |       | 0.77           |      |
|                    | PB2      |       | 0.68           |      |
|                    | PB1      |       | 0.66           |      |
|                    | PA2      |       | 0.52           |      |
| PA1                |          | 0.39  |                |      |

---

# Proposed Regulations

---

DOCUMENTS INCORPORATED BY REFERENCE

PRM-15, Provider Reimbursement Manual, 6/96

PRM-13, Medicare Intermediary Manual, HCFA Publication  
13, 5/96

VA.R. Doc. No. R97-342; Filed March 12, 1997, 10:46 a.m.

# FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

## Symbol Key

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

## STATE AIR POLLUTION CONTROL BOARD

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

**Title of Regulation:** Regulations for the Control and Abatement of Air Pollution.

9 VAC 5-50-10 et seq. Applicability of and Compliance with Air Quality Standards; New and Modified Sources (amending 9 VAC 5-50-400 and 9 VAC 5-50-410).

9 VAC 5-60-10 et seq. Applicability of and Compliance with Air Quality Standards; Existing, New, and Modified Sources (amending 9 VAC 5-60-60, 9 VAC 5-60-90, and 9 VAC 5-60-100).

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

**Effective Date:** May 1, 1997.

### Summary:

The amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 1996. The following is a list of the federal regulations that are currently incorporated into the regulations by reference for which a new edition has been published.

1. Incorporation of 1 NSPS by reference into the regulations as follows:

Subpart WWW - Municipal Solid Waste Landfills (40 CFR 60.750 through 40 CFR 60.759).

2. Incorporation of 20 national emission standards for hazardous air pollutants for source categories (MACT) by reference into the regulations as follows:

a. Subpart N - Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 CFR 63.340 through 40 CFR 63.347).

b. Subpart O - Ethylene Oxide Commercial Sterilization and Fumigation Operations (40 CFR 63.360 through 40 CFR 63.367)

c. Subpart Q - Industrial Process Cooling Towers (40 CFR 63.400 through 40 CFR 63.406).

d. Subpart R - Gasoline Distribution (Stage I) (40 CFR 63.420 through 40 CFR 63.429).

e. Subpart T - Halogenated Solvent Cleaning (40 CFR 63.460 through 40 CFR 63.469).

f. Subpart W - Epoxy Resins Production and Non-Nylon Polyamides Production (40 CFR 63.520 through 40 CFR 63.527).

g. Subpart X - Secondary Lead Smelters (40 CFR 63.541 through 40 CFR 63.550).

h. Subpart Y - Marine Vessel Loading and Unloading Operations (40 CFR 63.560 through 40 CFR 63.567).

i. Subpart CC - Petroleum Refineries (40 CFR 63.640 through 40 CFR 63.654).

j. Subpart DD - Off-Site Waste and Recovery Operations (40 CFR 63.680 through 40 CFR 63.697).

k. Subpart EE - Magnetic Tape Manufacturing Operations (40 CFR 63.701 through 40 CFR 63.708).

l. Subpart GG - Aerospace Manufacturing and Rework (40 CFR 63.740 through 40 CFR 63.752).

m. Subpart II - Shipbuilding and Ship Repair (40 CFR 63.780 through 40 CFR 63.788).

n. Subpart JJ - Wood Furniture Manufacturing Operations (40 CFR 63.800 through 40 CFR 63.819).

o. Subpart KK - Printing and Publishing Industry (40 CFR 63.820 through 40 CFR 63.831).

p. Subpart OO - Tanks - Level 1 (40 CFR 63.900 through 40 CFR 63.907).

q. Subpart PP - Containers (40 CFR 63.920 through 40 CFR 63.928).

r. Subpart QQ - Surface Impoundments (40 CFR 63.940 through 40 CFR 63.948).

s. Subpart RR - Individual Drain Systems (40 CFR 63.960 through 40 CFR 63.928).

t. Subpart VV - Oil-Water Separators and Organic-Water Separators (40 CFR 63.1040 through 40 CFR 63.1049).

**Agency Contact:** Copies of the regulation may be obtained from Alma Jenkins, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4070.

### 9 VAC 5-50-400. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR 60) designated in 9 VAC 5-50-410 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in 9 VAC 5-50-420. The complete text of the subparts in 9 VAC



---

# Final Regulations

---

5-50-410 incorporated herein by reference is contained in 40 CFR 60. The 40 CFR section numbers appearing under each subpart in 9 VAC 5-50-410 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~1994~~) (1996) in effect July 1, 1994 1996. In making reference to the Code of Federal Regulations, 40 CFR Part 60 means Part 60 of Title 40 of the Code of Federal Regulations; 40 CFR 60.1 means § 60.1 in Part 60 of Title 40 of the Code of Federal Regulations.

## 9 VAC 5-50-410. Designated standards of performance.

### Subpart A - General Provisions.

40 CFR 60.1, 40 CFR 60.2, 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11, 40 CFR 60.13 through 40 CFR 60.15, 40 CFR 60.18 (applicability, definitions, notification and record keeping, performance tests, compliance, monitoring requirements, modification, reconstruction, and general control device requirements)

### Subpart B - Not applicable.

### Subpart C - Not applicable.

### Subpart D - Fossil-Fuel Fired Steam Generators for which Construction is Commenced after August 17, 1971.

40 CFR 60.40 through 40 CFR 60.46 (fossil-fuel fired steam generating units of more than 250 million Btu per hour heat input rate, and fossil-fuel fired and wood-residue fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

### Subpart Da - Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.

40 CFR 60.40a through 40 CFR 60.49a (electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel); electric utility combined cycle gas turbines capable of combusting more than 250 million Btu per hour heat input in the steam generator)

### Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40b through 40 CFR 60.49b (industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

### Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40c through 60.48c (industrial-commercial-institutional steam generating units which have a heat input capacity of 100 million Btu per hour or less, but greater than or equal to 10 million Btu per hour)

### Subpart E - Incinerators.

40 CFR 60.50 through 40 CFR 60.54 (incinerator units of more than 50 tons per day charging rate)

### Subpart Ea - Municipal Waste Combustors.

40 CFR 60.50a through 60.59a (municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

### Subpart F - Portland Cement Plants.

40 CFR 60.60 through 40 CFR 60.64 (kilns, clinker coolers, raw mill systems, finish mill systems, raw mill dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

### Subpart G - Nitric Acid Plants.

40 CFR 60.70 through 40 CFR 60.74 (nitric acid production units)

### Subpart H - Sulfuric Acid Plants.

40 CFR 60.80 through 40 CFR 60.85 (sulfuric acid production units)

### Subpart I - Hot Mix Asphalt Facilities.

40 CFR 60.90 through 40 CFR 60.93 (dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems)

### Subpart J - Petroleum Refineries.

40 CFR 60.100 through 40 CFR 60.106 (fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

### Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced after June 11, 1973, and Prior to May 19, 1978.

40 CFR 60.110 through 40 CFR 60.113 (storage vessels with a capacity greater than 40,000 gallons)

### Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced after May 18, 1978, and prior to July 23, 1984.

40 CFR 60.110a through 40 CFR 60.115a (storage vessels with a capacity greater than 40,000 gallons)

### Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

40 CFR 60.110b through 40 CFR 60.117b (storage vessels with capacity greater than or equal to 10,566 gallons)

### Subpart L - Secondary Lead Smelters.

40 CFR 60.120 through 40 CFR 60.123 (pot furnaces of more than 550 lb pound charging capacity, blast (cupola) furnaces and reverberatory furnaces)

## Subpart M - Secondary Brass and Bronze Production Plants.

40 CFR 60.130 through 40 CFR 60.133 (reverberatory and electric furnaces of 2205 pound or greater production capacity and blast (cupola) furnaces of 550 pounds per hour or greater production capacity)

## Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced after June 11, 1973.

40 CFR 60.140 through 40 CFR 60.144 (basic oxygen process furnaces)

## Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced after January 20, 1983.

40 CFR 60.140a through 40 CFR 60.145a (facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs)

## Subpart O - Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154 (incinerators that combust wastes containing more than 10% sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than 2205 pounds per day municipal sewage sludge (dry basis))

## Subpart P - Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166 (dryers, roasters, smelting furnaces, and copper converters)

## Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176 (roasters and sintering machines)

## Subpart R - Primary Lead Smelters

40 CFR 60.180 through 40 CFR 60.186 (sintering machines, sintering machine discharge ends, blast furnaces, dross reverberatory furnaces, electric smelting furnaces and converters)

## Subpart S - Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195 (potroom groups and anode bake plants)

## Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.204 (reactors, filters, evaporators, and hot wells)

## Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214 (evaporators, hot wells, acid sumps, and cooling tanks)

## Subpart V - Phosphate Fertilizer Industry: Diammonium phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224 (reactors, granulators, dryers, coolers, screens, and mills)

## Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234 (mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate)

## Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.244 (storage or curing piles, conveyors, elevators, screens and mills)

## Subpart Y - Coal Preparation Plants.

40 CFR 60.250 through 40 CFR 60.254 (plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and coal transfer and loading systems)

## Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266 (electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

## Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276 (electric arc furnaces and dust-handling systems that produce carbon, alloy or specialty steels)

## Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a (electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems that produce carbon, alloy, or specialty steels)

## Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285 (digester systems, brown stock washer systems, multiple effect evaporator systems, black liquor oxidation systems, recovery furnaces, smelt dissolving tanks, lime kilns, condensate strippers and kraft pulping operations)

## Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296 (glass melting furnaces)

## Subpart DD - Grain Elevators.

40 CFR 60.300 through 40 CFR 60.304 (grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers, and all grain handling operations)

---

# Final Regulations

---

## Subpart EE - Surface Coating of Metal Furniture.

40 CFR 60.310 through 40 CFR 60.316 (metal furniture surface coating operations in which organic coatings are applied)

## Subpart FF - (Reserved)

## Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335 (stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

## Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344 (each rotary lime kiln)

## Subparts II through JJ - (Reserved)

## Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374 (lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

## Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386 (each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart)

## Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397 (prime coat operations, guide coat operations, and top-coat operations)

## Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404 (phosphate rock plants which have a maximum plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorous production)

## Subpart OO - (Reserved)

## Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424 (ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactum by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

## Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435 (publication rotogravure printing presses, except proof presses)

## Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447 (pressure sensitive tape and label material coating lines)

## Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456 (surface coating operations in large appliance coating lines)

## Subpart TT - Metal Coil Surface Coating.

40 CFR 60.460 through 40 CFR 60.466 (metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

## Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.

40 CFR 60.470 through 40 CFR 60.474 (each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

## Subpart VV - Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry.

40 CFR 60.480 through 40 CFR 60.489 (all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

## Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496 (beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

## Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506 (total of all loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks)

## Subparts YY through ZZ - (Reserved)

## Subpart AAA - New Residential Wood Heaters.

40 CFR 60.530 through 40 CFR 60.539b (wood heaters)

## Subpart BBB - Rubber Tire Manufacturing Industry.

40 CFR 60.540 through 40 CFR 60.548 (each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

## Subpart CCC - (Reserved)

## Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

40 CFR 60.560 through 40 CFR 60.566 (For polypropylene and polyethylene manufacturing using a continuous process that emits continuously or intermittently: all equipment used in the manufacture of these polymers. For polystyrene manufacturing using a continuous process that emits continuously: each material recovery section. For poly(ethylene terephthalate) manufacturing using a continuous process that emits continuously: each polymerization reaction section; if dimethyl terephthalate is used in the process, each material recovery section is also an affected facility; if terephthalic acid is used in the process, each raw materials preparation section is also an affected facility. For VOC emissions from equipment leaks: each group of fugitive emissions equipment within any process unit, excluding poly(ethylene terephthalate) manufacture.)

## Subpart EEE - (Reserved)

## Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585 (each rotogravure printing line used to print or coat flexible vinyl or urethane products)

## Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

40 CFR 60.590 through 40 CFR 60.593 (each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

## Subpart HHH - Synthetic Fiber Production Facilities.

40 CFR 60.600 through 40 CFR 60.604 (each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

## Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

40 CFR 60.610 through 40 CFR 60.618 (each air oxidation reactor not discharging its vent stream into a recovery system and each combination of an air oxidation reactor or two or more air oxidation reactors and the recovery system into which the vent streams are discharged)

## Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625 (facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning dryers, washers, filters, stills, and settling tanks)

## Subpart KKK - Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

40 CFR 60.630 through 40 CFR 60.636 (each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

## Subpart LLL - Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

40 CFR 60.640 through 40 CFR 60.648 (facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

## Subpart MMM - (Reserved)

## Subpart NNN - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

40 CFR 60.660 through 40 CFR 60.668 (each distillation unit not discharging its vent stream into a recovery system, each combination of a distillation unit or of two or more units and the recovery system into which their vent streams are discharged)

## Subpart OOO - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676 (facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station)

## Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685 (each rotary spin wool fiberglass insulation manufacturing line)

## Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.

40 CFR 60.690 through 40 CFR 60.699 (individual drain systems, oil-water separators, and aggregate facilities in petroleum refineries)

## Subpart RRR - Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.

40 CFR 60.700 through 40 CFR 60.708 (each reactor process not discharging its vent stream into a recovery system, each combination of a reactor process and the recovery system into which its vent stream is discharged, and each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged)

---

# Final Regulations

---

## Subpart SSS - Magnetic Tape Coating Facilities.

40 CFR 60.710 through 40 CFR 60.718 (each coating operation and each piece of coating mix preparation equipment)

## Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

40 CFR 60.720 through 40 CFR 60.726 (each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

## Subpart UUU - Calciners and Dryers in Mineral Industries.

40 CFR 60.730 through 40 CFR 60.737 (each calciner and dryer at a mineral processing plant)

## Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.

40 CFR 60.740 through 40 CFR 60.748 (each coating operation and any onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of supporting substrates)

## Subpart WWW - Municipal Solid Waste Landfills.

40 CFR 60.750 through 40 CFR 60.759 (municipal solid waste landfills for the containment of household and RCRA Subtitle D wastes)

## Appendix A - Test methods.

Method 1 - Sample and velocity traverses for stationary sources.

Method 1A - Sample and velocity traverses for stationary sources with small stacks or ducts.

Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

Method 2A - Direct measurement of gas volume through pipes and small ducts.

Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

Method 2C - Determination of stack gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

Method 2D - Measurement of gas volumetric flow rates in small pipes and ducts.

Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

Method 4 - Determination of moisture content in stack gases.

Method 5 - Determination of particulate emissions from stationary sources.

Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

Method 5B - Determination of nonsulfuric acid particulate matter from stationary sources.

Method 5C - (Reserved)

Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

Method 5F - Determination of nonsulfate particulate matter from stationary sources.

Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

Method 5H - Determination of particulate emissions from wood heaters from a stack location.

Method 6 - Determination of sulfur dioxide emissions from stationary sources.

Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

Method 7 - Determination of nitrogen oxide emissions from stationary sources.

Method 7A - Determination of nitrogen oxide emissions from stationary sources -- ion chromatographic method.

Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

Method 7C - Determination of nitrogen oxide emissions from stationary sources -- alkaline-permanganate/colorimetric method.

Method 7D - Determination of nitrogen oxide emissions from stationary sources -- alkaline-permanganate/ion colorimetric method.

Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).

Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

Method 9 - Visual determination of the opacity of emissions from stationary sources.

Alternate Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

Method 10 - Determination of carbon monoxide emissions from stationary sources.

Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries.

Method 10B - Determination of carbon monoxide emissions from stationary sources.

Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

Method 12 - Determination of inorganic lead emissions from stationary sources.

Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

Method 15A - Determination of total reduced sulfur emissions from sulfur recovery plants in petroleum refineries.

Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

Method 16B - Determination of total reduced sulfur emissions from stationary sources.

Method 17 - Determination of particulate emissions from stationary sources (instack filtration method).

Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates.

Method 20 - Determination of nitrogen oxides, sulfur dioxide, and diluent emissions from stationary gas turbines.

Method 21 - Determination of volatile organic compounds leaks.

Method 22 - Visual determination of fugitive emissions from material processing sources and smoke emissions from flares.

Method 23 - Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources.

Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

Method 26 - Determination of hydrogen chloride emissions from stationary sources.

Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

Method 28 - Certification and auditing of wood heaters.

Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

## Appendix B - Performance specifications.

Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitrogen oxides continuous emission monitoring systems in stationary sources.

Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 4A - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring system in stationary sources.

Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

Performance Specification 7 - Specifications and test procedures for hydrogen sulfide continuous emission monitoring systems in stationary sources.

## Appendix C - Determination of Emission Rate Change.

## Appendix D - Required Emission Inventory Information

## Appendix E - (Reserved)

## Appendix F - Quality Assurance Procedures.

Procedure 1 - quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

## Appendix G - (Not applicable)

## Appendix H - (Reserved)

---

# Final Regulations

---

Appendix I - Removable label and owner's manual.

## 9 VAC 5-60-60. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61) designated in 9 VAC 5-60-70 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in 9 VAC 5-60-80. The complete text of the subparts in 9 VAC 5-60-70 incorporated herein by reference is contained in 40 CFR 61. The 40 CFR section numbers appearing under each Subpart in 9 VAC 5-60-70 identify the specific provisions of the Subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (1994) 1996 in effect July 1, 1994 1996. In making reference to the Code of Federal Regulations, 40 CFR Part 61 means Part 61 of Title 40 of the Code of Federal Regulations; 40 CFR 61.01 means § 61.01 in Part 61 of Title 40 of the Code of Federal Regulations.

## 9 VAC 5-60-90. General.

The Environmental Protection Agency (EPA) National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63) designated in 9 VAC 5-60-100 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in 9 VAC 5-60-110. The complete text of the subparts in 9 VAC 5-60-100 incorporated herein by reference is contained in 40 CFR Part 63. The 40 CFR section numbers appearing under each subpart in 9 VAC 5-60-100 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (1994) (1996) in effect July 1, 1994 1996. In making reference to the Code of Federal Regulations, 40 CFR Part 63 means Part 63 of Title 40 of the Code of Federal Regulations; 40 CFR 63.1 means § 63.1 in Part 63 of Title 40 of the Code of Federal Regulations.

## 9 VAC 5-60-100. Designated emission standards.

### Subpart A - General Provisions.

40 CFR 63.1 through 63.11, 63.14 through 63.15 (applicability, definitions, units and abbreviations, prohibited activities and circumvention, construction and reconstruction, compliance with standards and maintenance requirements, performance testing requirements, monitoring requirements, notification requirements, recordkeeping and reporting requirements, control device requirements, incorporations by reference, availability of information and confidentiality)

Subpart B - Not applicable.

Subpart C - Not applicable.

Subpart D - Not applicable.

Subpart E - Not applicable.

Subpart F - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

40 CFR 63.100 through 63.106 (chemical manufacturing process units that manufacture as a primary product one

or more of a listed chemical; use as a reactant or manufacture as a product, by-product, or co-product, one or more of a listed organic hazardous air pollutant; and are located at a plant site that is a major source as defined in § 112 of the federal Clean Air Act)

Subpart G - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

40 CFR 63.110 through 40 CFR 63.152 (all process vents, storage vessels, transfer operations, and wastewater streams within a source subject to subpart F, 40 CFR 63.100 through 63.106)

Subpart H - Organic Hazardous Air Pollutants for Equipment Leaks.

40 CFR 60.160 through 40 CFR 60.182 (pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or systems that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR Part 63)

Subpart I - Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

40 CFR 63.190 through 40 CFR 63.192 (emissions of designated organic hazardous air pollutants from processes specified in this subpart that are located at a plant site that is a major source as defined in § 112 of the federal Clean Air Act)

Subpart J - Reserved.

Subpart K - Reserved.

Subpart L - Coke Oven Batteries.

40 CFR 63.300 through 40 CFR 63.313 (existing by-product coke oven batteries at a coke plant, and existing nonrecovery coke oven batteries located at a coke plant)

Subpart M - Perchloroethylene Dry Cleaning Facilities.

40 CFR 63.320 through 40 CFR 63.325 (each dry cleaning facility that uses perchloroethylene)

Subpart N - Reserved. *Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks*

40 CFR 63.340 through 40 CFR 63.347 (each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing)

Subpart O - Reserved. *Ethylene Oxide Commercial Sterilization and Fumigation Operations.*

40 CFR 63.360 through 40 CFR 63.367 (sterilization sources using ethylene oxide in sterilization or fumigation operations)

# Final Regulations

Subpart P - Reserved.

Subpart Q - ~~Reserved~~. *Industrial Process Cooling Towers.*

40 CFR 63.400 through 40 CFR 63.406 (industrial process cooling towers that are operated with chromium-based water treatment chemicals)

Subpart R - ~~Reserved~~. *Gasoline Distribution Facilities.*

40 CFR 63.420 through 40 CFR 63.429 (bulk gasoline terminals and pipeline breakout stations)

Subpart S - Reserved.

Subpart T - ~~Reserved~~. *Halogenated Solvent Cleaning.*

40 CFR 63.460 through 40 CFR 63.469 (each individual batch vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machine that uses any solvent containing methylene chloride, perchlorethylene, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, or chloroform)

Subpart U - Reserved.

Subpart V - Reserved.

Subpart W - ~~Reserved~~. *Epoxy Resins Production and Non-Nylon Polyamides Production.*

40 CFR 63.520 through 40 CFR 63.527 (manufacturers of basic liquid epoxy resins and wet strength resins)

Subpart X - ~~Reserved~~. *Secondary Lead Smelting.*

40 CFR 63.541 through 40 CFR 63.550 (at all secondary lead smelters: blast, reveratory, rotary, and electric smelting furnaces; refining kettles; agglomerating furnaces; dryers; process fugitive sources; and fugitive dust sources)

Subpart Y - ~~Reserved~~. *Marine Tank Vessel Tank Loading Operations.*

40 CFR 63.560 through 40 CFR 63.567 (marine tank vessel unloading operations at petroleum refineries)

Subpart Z - Reserved.

Subpart AA - Reserved.

Subpart BB - Reserved.

Subpart CC - *Petroleum Refineries.*

40 CFR 63.640 through 40 CFR 63.654 (storage tanks, equipment leaks, process vents, and wastewater collection and treatment systems at petroleum refineries)

Subpart DD - *Off-Site Waste and Recovery Operations.*

40 CFR 63.680 through 40 CFR 63.697 (operations that treat, store, recycle, and dispose of waste received from other operations that produce waste or recoverable materials as part of their manufacturing processes)

Subpart EE - *Magnetic Tape Manufacturing Operations.*

40 CFR 63.701 through 40 CFR 63.708 (manufacturers of magnetic tape)

Subpart FF - Reserved.

Subpart GG - *Aerospace Manufacturing and Rework Facilities.*

40 CFR 63.740 through 40 CFR 63.752 (facilities engaged in the manufacture or rework of commercial, civil, or military aerospace vehicles or components)

Subpart HH - Reserved.

Subpart II - *Shipbuilding and Ship Repair (Surface Coating).*

40 CFR 63.780 through 40 CFR 63.788 (shipbuilding and ship repair operations)

Subpart JJ - *Wood Furniture Manufacturing Operations.*

40 CFR 63.800 through 40 CFR 63.819 (finishing materials, adhesives, and strippable spray booth coatings; storage, transfer, and application of coatings and solvents)

Subpart KK - *Printing and Publishing Industry.*

40 CFR 63.820 through 40 CFR 63.831 (publication rotogravure, product and packaging rotogravure, and wide-web printing processes)

Subpart LL - Reserved.

Subpart MM - Reserved.

Subpart NN - Reserved.

Subpart OO - *Tanks - Level 1.*

40 CFR 63.900 through 40 CFR 63.907 (for off-site waste and recovery operations, fixed-roof tanks)

Subpart PP - *Containers.*

40 CFR 63.920 through 40 CFR 63.928 (for off-site waste and recovery operations, containers)

Subpart QQ - *Surface Impoundments.*

40 CFR 63.940 through 40 CFR 63.948 (for off-site waste and recovery operations, surface impoundment covers and vents)

Subpart RR - *Individual Drain Systems.*

40 CFR 63.960 through 40 CFR 63.966 (for off-site waste and recovery operations, inspection and maintenance of individual drain systems)

Subpart SS - Reserved.

Subpart TT - Reserved.

Subpart UU - Reserved.

Subpart VV - *Oil-Water Separators and Organic-Water Separators.*

40 CFR 63.1040 through 40 CFR 63.1049 (for off-site waste and recovery operations, oil-water separators and organic-water separator roofs and vents)

Subpart WW - Reserved.



---

# Final Regulations

---

Subpart XX - Reserved.

Subpart YY - Reserved.

Subpart ZZ - Reserved.

## Appendix A - Test methods.

Method 301 - Field validation of pollutant measurement methods from various waste media.

Method 303 - Determination of visible emissions from by-product coke oven batteries.

Method 303A - Determination of visible emissions from nonrecovery coke oven batteries.

Method 304A - Determination of biodegradation rates of organic compounds (vent option).

Method 304B - Determination of biodegradation rates of organic compounds (scrubber option).

Method 305 - Measurement of emission potential of individual volatile organic compounds in waste.

## Appendix B - Sources Defined for Early Reduction Provisions.

Appendix C - Determination of the Fraction Biodegraded ( $F_{bio}$ ) in a Biological Treatment Unit.



## COMMONWEALTH of VIRGINIA

E. M. MILLER, JR.  
ACTING REGISTRAR OF REGULATIONS  
  
JANE D. CHAFFIN  
DEPUTY REGISTRAR

VIRGINIA CODE COMMISSION  
General Assembly Building

910 CAPITOL STREET  
RICHMOND, VIRGINIA 23219  
(804) 786-3591  
FAX (804) 862-0625

March 21, 1997

Mr. Thomas L. Hopkins, Director  
Department of Environmental Quality  
P.O. Box 10009  
Richmond, Virginia 23240

Dear Mr. Hopkins:

This letter acknowledges receipt of 9 VAC 5-50-400 and 9 VAC 5-50-410, Applicability of and Compliance with Air Quality Standards; New and Modified Sources and 9 VAC 5-60-60, 9 VAC 5-60-90, and 9 VAC 5-60-100, Applicability of and Compliance with Air Quality Standards; Existing, New, and Modified Sources, from the State Air Pollution Control Board.

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

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr. /yc".

E. M. Miller, Jr.  
Acting Registrar of Regulations

VA.R. Doc. No. R97-332; Filed March 4, 1997, 11:56 a.m.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

**REGISTRAR'S NOTICE:** The following regulation was filed by description with the Registrar of Regulations in accordance with § 2.3 of the Virginia Code Commission Regulations Implementing the Virginia Register Act. Section 2.3 of the Virginia Code Commission Regulations allows the Registrar to authorize the filing of a regulatory document by description in lieu of filing the entire text pursuant to criteria identified in that section.

**Title of Regulation:** 24 VAC 30-180-10 et seq. Rules and Regulations Governing Vehicle Use the Use, Operation and Maintenance of State-Owned Fleet Vehicles.

**Statutory Authority:** § 33.1-407 of the Code of Virginia.

**Effective Date:** April 30, 1997.

**Exemptions Claimed:**

*This regulation is exempt from the Administrative Process Act pursuant to § 9-6.14:4.1 C 2 of the Code of Virginia, which excludes from Article 2 of the Administrative Process Act regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. Subdivision 2 a of § 2.3 of the Virginia Code Commission Regulations allows regulations concerning public officers and employees to be filed by description subject to the authorization of the Registrar of Regulations. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.*

**Description:**

*The Division of Fleet Management's Rules and Regulations Governing the Use, Operation and Maintenance of State-Owned Fleet Vehicles establishes the policies and procedures concerning assignment, recordkeeping, and use of fleet vehicles. The regulation was revised to update telephone numbers in regions which received new area codes.*

VA.R. Doc. No. R97-341; Filed March 10, 1997, 9:47 a.m.

## STATE WATER CONTROL BOARD

**EDITOR'S NOTICE:** At the State Water Control Board's December 12, 1996, meeting, the board took action on 9 VAC 25-260-30 C 3 a, 9 VAC 25-260-30 C 3 b, 9 VAC 25-260-30 C 3 c, 9 VAC 25-260-30 C 3 d, and 9 VAC 25-260-30 C 3 e. These sections were proposed in 10:10 VA.R. 2602-2604 February 7, 1994. The board deleted proposed 9 VAC 25-260-30 C 3 c; adopted 9 VAC 25-260-30 C 3 e; and deferred action on 9 VAC 25-260-30 C 3 a, 9 VAC 25-260 C 3 b, and 9 VAC 25-260-30 C 3 d.

**Title of Regulation:** 9 VAC 25-260-10 et seq. Water Quality Jards (amending 9 VAC 25-260-30).

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

**Effective Date:** April 30, 1997.

**Summary:**

*The State Water Control Board amended the state's Antidegradation Policy (9 VAC 25-260-30), part of the Water Quality Standards, by designating one surface water for special protection as an Exceptional Water under 9 VAC 25-260-30 C 3. The exceptional water designated was the segment of North Creek located within the Glenwood Ranger District of the Jefferson National Forest in Botetourt County.*

*The Exceptional Waters category of the Antidegradation Policy, which allows the board to designate for added protection waters which display exceptional environmental settings and either exceptional recreational opportunities or exceptional aquatic communities, was established by the board effective May 20, 1992, in response to an Environmental Protection Agency (EPA) requirement. No waters had previously been designated under this category.*

*Four other waters had also been under consideration. The board denied designation of the proposed Crooked Creek designation because of staff field observations that the creek did not exhibit the required eligibility criterion of an exceptional environmental setting. The board deferred action on the nominations for the Moormans River, Stewarts Creek and Whitetop Laurel Creek (subdivisions a, b, and d respectively in the proposed text, which was published in 10:10 VA.R. 2604 February 7, 1994).*

*Upon designation of North Creek as an Exceptional Water, the quality of the water will be maintained and protected by not allowing any degradation except on a very short term basis. No new, additional or increased discharge of sewage, industrial wastes or other pollution will be allowed into the designated water.*

**Summary of Public Comment and Agency Response:** A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

**Agency Contact:** Copies of the regulation may be obtained from Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113.

**9 VAC 25-260-30. Antidegradation policy.**

A. Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

B. Waters whose existing quality is better than the established standards as of the date on which such standards become effective will be maintained at the existing quality; provided that the board has the power to authorize any project or development, which would constitute a new or an increased loading of pollutants to high quality water, when it has been affirmatively demonstrated that a change is necessary to provide important economic or social

# Final Regulations

development in the area in which the waters are located. Present and anticipated use of such waters will be preserved and protected.

1. A new or increased discharge is defined as a newly constructed facility or an existing facility which requests a significant increase in its loading of one or more of the constituents listed in 9 VAC 25-260-140 B.

2. In considering whether a possible significant change in water quality is necessary to provide important economic or social development, the board will provide notice and opportunity for a public hearing so that interested persons will have an opportunity to present information and the board will satisfy the requirement of intergovernmental coordination as part of the Commonwealth's continuing planning process.

3. Upon a finding that such change is justifiable, the change nevertheless, must not result in violation of those water quality characteristics necessary to attain the water quality goals in 9 VAC 25-260-20 A of protection and propagation of fish, shellfish, and wildlife, and recreation in and on the water. Further, if a change is considered justifiable, it must not result in any significant loss of marketability or recreational use of fish, shellfish or other marine resources, and all practical measures should be taken to eliminate or minimize the impact on water quality.

4. When degradation or lower water quality is allowed, the board shall assure that there shall be achieved the highest statutory and regulatory requirements applicable to all new and existing point sources to the water body and all cost-effective and reasonable best management practices for nonpoint source control which are under the jurisdiction of the board.

5. Any determinations concerning thermal discharge limitations made under [ Section § ] 316(a) of the Clean Water Act (33 USC § 1251) will be considered to be in compliance with the antidegradation policy.

C. Surface waters, or portions of these, which provide exceptional environmental settings and exceptional aquatic communities or exceptional recreational opportunities may be designated and protected as described in ~~9 VAC 25-260-30-C 1, 2 and 3~~ *this subsection*.

1. Designation procedures. Designations shall be adopted in accordance with the provisions of the Administrative Process Act and the board's public participation guidelines. As part of the process, the board shall, when considering regulatory action to designate any waters under this section, take all reasonable steps to notify potentially impacted parties, including local governments, of the board's intent and the estimated impacts of any possible designation.

2. Implementation procedures.

a. The quality of waters designated in ~~9 VAC 25-260-30-C-3 subdivision 3~~ *of this subsection* shall be maintained and protected to prevent permanent or long-term degradation or impairment.

b. No new, additional, or increased discharge of sewage, industrial wastes or other pollution into waters designated in ~~9 VAC 25-260-30-C-3 subdivision 3~~ *of this subsection*.

c. Nonpermitted activities causing temporary sources of pollution, which are under the jurisdiction of the board, may be allowed in waters designated in ~~9 VAC 25-260-30-C-3 subdivision 3~~ *of this subsection* even if degradation may be expected to temporarily occur as long as after a minimal period of time the waters are returned or restored to conditions equal to or better than those existing just prior to the temporary source of pollution.

3. ~~Reserved for Future Designations of waters defined in 9 VAC 25-260-30-C. Surface waters designated under this subsection C are as follows:~~

a. [(Reserved.)]

b. [(Reserved.)]

[ ~~e. Crooked Creek in Carroll County from its headwaters to the Route 712/713 intersection on both Crooked Creek and East Creek.~~ ]

[ ~~d. c.~~ ] [(Reserved.)]

[ ~~e. d.~~ ] *North Creek in Botetourt County from the first bridge above the United States Forest Service North Creek Camping Area to its headwaters.*

VA.R. Doc. No. R97-343; Filed March 12, 1997, 10:46 a.m.

# STATE CORPORATION COMMISSION

## BUREAU OF INSURANCE

March 10, 1997

Administrative Letter 1997-1

**TO: ALL INSURANCE COMPANIES, HEALTH SERVICES PLANS, AND HEALTH MAINTENANCE ORGANIZATIONS LICENSED IN VIRGINIA**

**RE: INSURANCE ACTIVITIES REQUIRING PERSONS TO BE LICENSED**

**Note: This Administrative Letter is intended to replace Administrative Letter 1982-11, dated May 27, 1982**

The Bureau of Insurance receives a great many inquiries regarding what activities require agents/agencies to be licensed in Virginia and what activities are and are not permitted for those who are not licensed as insurance agents in Virginia. Because Administrative Letter 1982-11 appears not to be readily accessible for agents and agencies, in particular, I am sending this new administrative letter to all insurers with the request that they provide copies of it to their appointed agents in Virginia. I am also requesting that such insurers include a copy of this administrative letter in materials provided to newly appointed agents in Virginia from this point forward. Bureau of Insurance staff will review whether companies have carried out this request during regular and special market conduct examinations, and as part of consumer complaint and agent investigations conducted by the Bureau. Finally, I am sending copies of this administrative letter to the various agents associations in Virginia, with the request that they, too, attempt to disseminate this information to their members.

### WHO NEEDS TO BE LICENSED?

The analysis begins with § 38.2-1822 of the Code of Virginia, as amended, which states, in subsection A:

A. No person shall act, and no insurer or licensed agent shall knowingly permit a person to act, in this Commonwealth as an agent of an insurer licensed to transact the business of insurance in this Commonwealth without first obtaining a license in a manner and in a form prescribed by the Commission. As used in this section, "act as an agent" means soliciting, negotiating, procuring, or effecting contracts of insurance or annuity on behalf of an insurer licensed in this Commonwealth or receiving or sharing, directly or indirectly, any commission or other valuable consideration arising therefrom. No person shall submit business to any joint underwriting association or any plan established under this title for the equitable distribution of risks among insurers unless the person holds a valid license to transact the class of insurance involved. (underlining added)

It has consistently been the Bureau's position that the above section clearly requires any person or entity that solicits, negotiates, procures, or effects contracts of insurance or annuity in Virginia on behalf of an insurer licensed in Virginia to hold a valid insurance agent's license

in Virginia. We also consistently maintain that any entity, be it an insurer, agency or agent, that receives a commission from an insurer, directly or indirectly (whether characterized as an "override," "fee," or otherwise), arising from the sale of a contract of insurance or annuity, even if there was no active "soliciting, negotiating, procuring, or effecting" by that entity, must be licensed and appointed in Virginia. It should be noted that the word "or", not the word "and" appears immediately before the word "receiving" in the statute quoted above. This means, to us, that satisfying either of the two criteria defining the term "act as an agent" will suffice. We have, over the years, noted that a number of insurers and agencies, especially large agencies located outside of Virginia, but that recruit agents to sell for them in Virginia, do not appear to be aware of this licensing requirement. The Bureau has initiated disciplinary proceedings against such agencies and insurers where it could be demonstrated that the above law had been violated.

The more common question, however, appears to be the extent to which individuals who are not licensed insurance agents, but who are employed by a licensed insurance agency, may participate in the transaction of insurance matters.

Perhaps if we establish the authority and responsibility of a person who is licensed as an insurance agent, the limitations of what may be done by a person who is not licensed as an insurance agent will become clear.

As stated in the statute quoted above, anyone who "solicits, negotiates, procures, or effects" contracts of insurance or annuity must be licensed as an agent. The Bureau's position with regard to the meaning of each of these terms is as follows:

- To "solicit" is to appeal for something; to ask for the purpose of receiving.

*This term implies approaching an individual with a request that he do a particular thing, such as to apply for an insurance contract. If one is asking or suggesting to people that they apply for a particular kind of insurance or insurance from a particular company, and if the person doing the soliciting is doing so in relation to his or her job, that person is likely to fall within the definition of "soliciting."*

- To "negotiate" is to transact business; to bargain with another respecting a purchase and sale; to communicate or confer with another so as to arrive at the settlement of some matter.

*This term implies the discussion and settling of terms and conditions of a business transaction, such as the terms, conditions, benefit amounts, and rates of an insurance contract. If one is discussing the potential purchase of insurance in other than the most general terms, one is likely to fall within the definition of "negotiating," if not the definition of "soliciting."*

- To "procure" is to initiate a proceeding; to cause a thing to be done; to instigate; to bring about, effect, or cause.

# State Corporation Commission

***This term implies the obtaining of an insurance contract or offer to contract for a client from an insurance company, whether directly or indirectly.***

- To "effect" is to do; to produce or to make; to put into force; to consummate the insurance process.

***This term implies putting insurance coverage in effect, such as "binding" an insurance contract or issuing a binding or conditional receipt for an insurance application.***

When an insurance company is issued a license to transact business in Virginia, the insurer is, in theory, authorized to solicit, negotiate, procure, and effect contracts of insurance. Insurers generally appoint individuals, partnerships, limited liability companies, or corporations to act as their agents in carrying out these functions. This authority (appointment) creates an agent-principal relationship in which an act by an agent becomes, in general terms, binding upon the insurer. This agent-principal relationship is created by an agreement between the insurer and the agent. The Bureau is made aware of this relationship by the process of the insurer filing a notification of appointment. The Bureau records the appointment, provided that the appointed agent holds a valid license for the type of appointment being recorded. The Bureau will then issue to the agent an "Acknowledgment of Appointment" (currently in the form of a wallet-sized card) and will also notify the appointing insurer when the appointment has been recorded (currently in the form of a computer-produced list of appointments processed for each insurer on a daily basis, and sent to each insurer for each day during which appointments are processed for that insurer). Although there are some minor variations, especially when a licensed agent first begins to represent an insurer, it is with the Acknowledgment of Appointment that the agent is fully authorized to solicit, negotiate, procure, and effect insurance on behalf of the appointing insurer in Virginia.

Public interest is involved in the competent and trustworthy transaction of insurance. The proper analysis of a client's exposure to risks and the recommendation of appropriate insurance to cover that exposure are of paramount importance. Pursuant to statutory requirements, individuals must be licensed as insurance agents prior to soliciting, negotiating, procuring, or effecting contracts of insurance or annuity. In most cases, depending on the kinds of insurance they propose to transact, individuals must complete a precensing study course and pass an examination demonstrating sufficient knowledge of the classes of insurance that will be involved in the transactions. Further, again with certain exemptions, licensed insurance agents must continue to demonstrate such knowledge by completing continuing education requirements on a biennial basis.

In contrast to licensed agents, unlicensed persons have not established that they have either the **required knowledge of insurance** (by having completed the precensing study course, examination, and continuing education requirements) or the **authority to solicit, negotiate, procure, or effect** contracts of insurance or annuity (by having obtained the appropriate license).

An unlicensed person may discuss, in general, insurance matters regarding both coverage and rates. If, however, such discussion develops into an explanation of options (negotiation), then insurance knowledge is necessary and licensure is required. The matter should be turned over immediately to a licensed agent. A licensed agent is not prohibited from using an unlicensed person in a clerical capacity under his or her direct supervision, nor does the Code of Virginia prohibit the unlicensed person from receiving or passing on to the agent for his or her attention any insurance inquiries or requests of a particular nature. **Later in this administrative letter you will find a chart showing some examples of insurance activities in which an unlicensed person may or may not engage.**

It is, admittedly, difficult to specify all acts that may be done legally by a person who is not a licensed agent. Where there is any doubt regarding the activities of an unlicensed person, the following question should be asked:

***Does the action involve the areas of soliciting, negotiating, procuring, or effecting contracts of insurance or annuity as those terms are described in this letter?***

If the answer is "Yes," the matter should be handled by a licensed insurance agent. If the answer is not clear, additional guidance should be sought by appropriate legal advisors, or the matter should be handled by a licensed insurance agent.

A license authorizes an agent to solicit, negotiate, procure, and effect certain types of insurance. If an agent exceeds his authority, he is in violation of Virginia law. Insurers and agents are advised to review § 38.2-1833 of the Code of Virginia which states, in part, that "every licensed agent may solicit applications for insurance for any one or more of the classes of insurance for which he is licensed...." Therefore, it is not only the agent's responsibility to make sure that he is properly licensed for the classes of insurance he is selling, but it is also the responsibility of the insurer to verify that an agent is properly licensed before appointing that agent. This should include not only verification that the agent holds a valid and current Virginia license, but that the agent holds the **appropriate** Virginia license. If an insurer accepts an application from an agent, issues a policy, and subsequently learns that the agent is not licensed for the class of insurance involved in the transaction, the insurer has violated Virginia law.

The Bureau urges insurers to stop asking agents to provide copies of their licenses as proof of current licensing in Virginia, as this is not valid proof of current status. Remember that, unlike other states, agents' licenses in Virginia are perpetual, so asking to see a license is not going to provide current information. Instead, insurers should require an agent to provide a recent Letter of Certification issued by the Bureau. This letter shows the agent's current name, residence address, licenses held and the date of issue for each, and the agent's current continuing education compliance status, if applicable. This information is far more reliable than a copy of a license that may have been issued many years ago.

# State Corporation Commission

If an insurer fails to submit to the Bureau a notification of appointment of an agent who has solicited, negotiated, procured, or effected a contract of insurance on the insurer's behalf, within 30 days of the date of execution of the first insurance application submitted by that agent, the insurer is in violation of Virginia law. If an agent continues to solicit, negotiate, procure, or effect contracts of insurance on behalf of an insurer beyond a period 45 days after the date of execution of the first insurance application submitted to that insurer by the agent, where the agent has not received an Acknowledgment of Appointment card from the Bureau, the agent is in violation of Virginia law. If the insurer continues to accept such applications, the insurer, too, is in violation of Virginia law. Finally, if an agent or insurer allows (whether purposefully or unwittingly) an unlicensed person to "act as an agent" in this Commonwealth, the agent or insurer (or both) are in violation of Virginia law.

The following chart provides some examples of what the Bureau believes are acceptable activities for those who do not hold licenses, and examples of activities that are not acceptable. This list is by no means intended to be all-inclusive, and, obviously, there are lines that may be crossed in what is categorized as acceptable activities that will render the activities unacceptable. As with anything else, a reasonable and common sense standard needs to be applied to each situation. Perhaps, however, the following chart will provide at least some guidance:

### AN UNLICENSED PERSON

| <u>May</u>   | <u>May Not</u>  |
|--|---|
| <ul style="list-style-type: none"> <li>• Assist with completion of applications</li> <li>• Quote rates as general information</li> <li>• Receive requests for coverage for transmittal to a licensed agent</li> <li>• Receive payments for coverage (receipt must show agent or company for which payment is received)</li> <li>• Arrange appointments for licensed agent</li> <li>• Be compensated on a "unit of time or work" basis</li> </ul> | <ul style="list-style-type: none"> <li>• Counsel or advise what coverage to buy</li> <li>• Urge or advise insuring with any particular insurance company</li> <li>• Indicate that requested coverage is or will be bound or issued</li> <li>• Solicit additional business when receiving payment</li> <li>• Solicit sales for an agent over the phone or otherwise</li> <li>• Be compensated on a commission basis, i.e. contingent upon the sale of an insurance contract, percentage of premium generated, or the amount of commission earned.</li> </ul> |

### OTHER UNLICENSED PERSONS

No insurance company should accept, or act upon, any request for coverage submitted by a person purporting to be the agent making the request or application for coverage

(other than a person seeking to buy coverage on himself or on property of his own or his employer) without first ascertaining that such person is properly licensed for the class of insurance involved in the transaction. No agent or agency should accept a request for such coverage without ascertaining that such person is properly licensed for the class of insurance that is involved in the transaction. Section 38.2-1812 of the Code of Virginia, as amended, specifies that no insurance company shall pay commission to an agent unless the person is a duly appointed agent of the insurance company (except agents who produce residual market coverage) and was, at the time of the transaction giving rise to the commission, a validly licensed (and appointed, if appointment is called for) agent in Virginia for the class of insurance involved. No agent or agency should split or share a commission with any person not also licensed for the same class of insurance involved in the transactions.

We would urge insurers to require verification of current licensure of an agent or agency prior to appointing that agent or agency. We suggest that a Virginia resident agent be required to furnish to the insurer a current (no more than 90 days old) CERTIFICATION from the Bureau. A certification is a more valid means of proof of licensure than is a copy of the agent's original license, because a certification indicates the agent's or agency's CURRENT status, including continuing education compliance.

### "ENROLLERS"

The following explains the Bureau's position on whether those who "enroll" individuals under a group master insurance policy (including all types of credit insurance) are required to be licensed as agents. It is clear that the person who sells the group master contract must be a licensed and appointed agent, but the licensing requirement is not as clear for the person whose responsibility it is to enroll people under the existing group contract.

1. If all the person is doing is enrolling an employee or customer under a group master policy for which the "enroller" receives no commission, the person does not need to be licensed. This position is based upon the statutory language found in § 38.2-1822, which was quoted earlier in this administrative letter. The key phrase here is that the term "act as an agent" includes soliciting, negotiating, procuring, or effecting contracts of insurance, and the certificate issued to an individual obtaining coverage under a group contract is not considered to be a contract of insurance.
2. However, if the person doing the enrolling receives a commission for enrolling employees or customers under the group contract, the employee must be licensed. This position is also based upon the language in § 38.2-1822, which further provides that the phrase "act as an agent" applies where the person is "receiving or sharing, directly or indirectly, any commission or other valuable consideration..." (underlining added). In addition, § 38.2-1812 provides that:

No insurer shall pay directly or indirectly any commission or other valuable consideration to any person for services as an agent...within this Commonwealth

# State Corporation Commission

unless the person is then a duly appointed agent of such insurer and, at the time of the transaction out of which arose the right to such commission or other valuable consideration, held a valid license as an agent...for the class of insurance involved. No person other than a duly licensed and appointed agent...may accept any such commission or other valuable consideration unless such person, at the time of the transaction out of which arose the right to such commission or other valuable consideration, held a valid license as an agent...for the class of insurance involved. (underlining added)

The Bureau has taken the position that if the commission or valuable consideration is tied to the enrollment, i.e. the enroller is paid a certain percentage of the premium for each individual enrolled, we would require the enroller to be licensed. If the enroller is simply paid a salary, and one of the job duties is enrolling, the enroller need not be licensed. If the enroller is given a bonus, and the bonus can be tied to the number of enrollments or the premium volume resulting from the enrollments, we would consider this to be commission and the enroller would need to be licensed. Obviously, we cannot address each and every potential situation, but the above should provide sufficient guidance.

3. With regard to a store, bank or dealership providing its customers with the opportunity to purchase credit insurance coverage, our position would be similar. If the store, bank or dealership is being paid a commission, it would need to be licensed as an agency. There is, however, an exception provided in § 38.2-3733.A of the Code of Virginia, which states:

A portion of the premium for credit life insurance or credit accident and sickness insurance may be allowed by the insurer to a creditor for providing and servicing such insurance.

## HOME OFFICE EMPLOYEES OR CONTRACTORS

The last subject that we want to address is what activities may or may not be performed by home office employees (or those contracted to perform such services). Virginia law contains no general exemption from licensing requirements just because a person is a home office employee. The only exceptions to this can be found in the chapters of Title 38.2 dealing with health services plans (§ 38.2-4224), health maintenance organizations (§ 38.2-4313), legal services plans (§ 38.2-4415), and dental or optometric services plans (§ 38.2-4519). For example, § 38.2-4224 provides as follows:

Subscription contracts may be solicited only through health agents or life and health insurance agents licensed in accordance with Chapter 18 of this title. Home office salaried officers whose principal duties and responsibilities do not include negotiation or solicitation of subscription contracts shall not be required to be licensed. (underlining added)

Accordingly, other employees of the entities authorized under Chapters 42, 43, and 45 who solicit, negotiate, procure, or effect contracts of insurance MUST be licensed as agents. Further, home office salaried officers whose principal duties and responsibilities DO include negotiation or solicitation of contracts of insurance must be properly licensed.

It must be noted, however, that THERE ARE NO SIMILAR EXEMPTIONS IN TITLE 38.2 APPLICABLE TO ANY OTHER TYPES OF CARRIERS.

Therefore, with the exceptions noted above, the basic premise is substantially the same as outlined earlier in this administrative letter. Whether the individual involved is an officer, employee, independent contractor, telephone solicitor, or the like, if the person is either soliciting, negotiating, procuring, or effecting contracts of insurance (including additional coverage on existing contracts), and/or is receiving direct or indirect commission or other valuable consideration, the person must be licensed as an agent.

We take the position that those who, on behalf of an insurer, are making or receiving telephone calls or sending or receiving telefaxes, or utilizing the Internet, must, if they fall within the parameters set forth in this administrative letter, be properly licensed and appointed in Virginia, regardless of whether they reside in Virginia.

It is our hope that the contents of this administrative letter will provide useful information to the insurers, agent, and agencies who receive it. Questions regarding the content of this letter should be directed to the Bureau's Agents Licensing Section at (804) 371-9631.

/s/ Alfred W. Gross  
Commissioner of Insurance

V.A.R. Doc. No. R97-340; Filed March 11, 1997, 3:52 p.m.

\*\*\*\*\*

March 3, 1997

ADMINISTRATIVE LETTER 1997-3

**TO: All Insurers, Health Services Plans, and Health Maintenance Organizations Licensed to write accident and sickness insurance in Virginia**

**RE: 14 VAC 5-190-10 et seq.: Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers - 1996 Reporting Period**

The attached instructions are provided to assist companies in the preparation of the Annual Report of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers for the 1996 reporting period, pursuant to 14 VAC 5-190-10 et seq. and § 38.2-3419.1 of the Code of Virginia. The report must be in the format contained in Form MB-1, a copy of which is also attached to this letter. Please note that this form has been modified this year for compatibility with the Bureau's software. The completed Form MB-1 is due on or before May 1, 1997. **Lack of notice, lack of information, lack of means of producing the required data, or other**

such excuses will not be accepted for not filing a complete and accurate report in a timely manner.

Companies should refer to 14 VAC 5-190-40 for an explanation of the circumstances under which a full (complete) or an abbreviated report must be filed. This section also describes the circumstances under which a company may be exempt from filing a report.

Companies are reminded that it is not acceptable to submit more than one Form MB-1 for a single company. It is also unacceptable to consolidate information from different companies on one form. Each licensed company must submit a separate Form MB-1.

The instructions attached explain the type of information required to complete the MB-1 form and serve to highlight frequent errors and omissions, but it should be noted that these instructions are not complete. All sources of information, including 14 VAC 5-190-10 et seq., §§ 38.2-3408 through 38.2-3418.1:1, and § 38.2-4221 should be consulted in the preparation of this report. **The instructions also include some information previously included as footnotes in prior versions of Form MB-1.**

Correspondence regarding this reporting requirement, including Form MB-1 filings, should be directed to:

Althelia P. Battle  
Senior Insurance Market Examiner  
Forms and Rates Section  
Bureau of Insurance - Life and Health Division  
P.O. Box 1157  
Richmond, VA 23218  
Telephone: (804) 371-9495  
FAX: (804) 371-9944

Companies are reminded that failure to submit a substantially complete and accurate report pursuant to the provisions of 14 VAC 5-190-10 et seq. by the due date may be considered a willful violation subject to a penalty as set forth in § 38.2-218 of the Code of Virginia.

/s/ Alfred W. Gross  
Commissioner of Insurance

Attachments: Form MB-1  
Form MB-1 Instructions and Information  
CPT and ICD-9CM Codes



Form MB-1

Annual Report of Cost and Utilization Data Relating to Mandated Benefits and  
Mandated Providers Pursuant to Section 38.2-3419.1 of the Code of Virginia

Cover Sheet

NAIC #:

Group NAIC #:

Reporting Year:

Company Name:

Group Name:

Mailing Address:

Contact:

Title:

Direct Phone #:

Mailing Address:

Total Premium for all Accident and Sickness Lines:

Total Premiums on Applicable Policies and Contracts:

Report Type (Abbreviated or Complete):

Part A: Claim Information - Benefits

| Enter the basis on which claim data presented throughout this report was collected (either "Paid" or "Incurred"): |                                    |                             |                           |                                  |  |   |                                       |   |
|---|------------------------------------|-----------------------------|---------------------------|----------------------------------|--|---|---------------------------------------|---|
| VA Code Section   | Description                        | a<br>Number<br>of<br>Visits | b<br>Number<br>of<br>Days | c<br>Total<br>Claims<br>Payments | d<br>Number of<br>Contracts/<br>Certificates | e<br>Claim Cost<br>Per Contract/<br>Certificate | f<br>Annual<br>Administrative<br>Cost | g<br>Percent of<br>Total Health<br>Claims |
| <b>INDIVIDUAL</b>   | <b>Total claims paid/incurred:</b> |                             |                           |                                  |  |   |                                       |   |
| 38.2-3409   | Dependent Children (Handicapped)   |                             |                           |                                  |  |   |                                       |   |
| 38.2-3410   | Doctor to Include Dentist          |                             |                           |                                  |  |   |                                       |   |
| 38.2-3411   | Newborn Children                   |                             |                           |                                  |  |   |                                       |   |
| 38.2-3412.1   | Mental / Emotional / Nervous       |                             |                           |                                  |  |   |                                       |   |
|   | Inpatient                          |                             |                           |                                  |  |   |                                       |   |
|   | Partial Hospital                   |                             |                           |                                  |  |   |                                       |   |
| 38.2-3412.1   | Alcohol and Drug Dependence        |                             |                           |                                  |  |   |                                       |   |
|   | Inpatient                          |                             |                           |                                  |  |   |                                       |   |
|   | Partial Hospital                   |                             |                           |                                  |  |   |                                       |   |
| 38.2-3418   | Pregnancy from Rape / Incest       |                             |                           |                                  |  |   |                                       |   |
| 38.2-3418.1   | Mammography                        |                             |                           |                                  |  |   |                                       |   |
| 38.2-3411.1   | Child Health Supervision           |                             |                           |                                  |  |   |                                       |   |
| 38.2-3418.1:1   | Bone Marrow Transplants            |                             |                           |                                  |  |   |                                       |   |
| 38.2-3418.2   | Bones and Joints                   |                             |                           |                                  |  |   |                                       |   |

Part A: Claim Information - Benefits

| Enter the basis on which claim data presented throughout this report was collected (either "Paid" or "Incurred"): |                                    |                  |                |                       |                                  |                                     |                            |                                |
|---|------------------------------------|------------------|----------------|-----------------------|----------------------------------|-------------------------------------|----------------------------|--------------------------------|
|   |                                    | a                | b              | c                     | d                                | e                                   | f                          | g                              |
| VA Code Section   | Description                        | Number of Visits | Number of Days | Total Claims Payments | Number of Contracts/Certificates | Claim Cost Per Contract/Certificate | Annual Administrative Cost | Percent of Total Health Claims |
| <b>GROUP</b>  | <b>Total claims paid/incurred:</b> |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3409   | Dependent Children (Handicapped)   |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3410   | Doctor to Include Dentist          |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3411   | Newborn Children                   |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3412.1   | Mental / Emotional / Nervous       |                  |                |                       |                                  |                                     |                            |                                |
|   | Inpatient                          |                  |                |                       |                                  |                                     |                            |                                |
|   | Partial Hospital                   |                  |                |                       |                                  |                                     |                            |                                |
|   | Outpatient                         |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3412.1   | Alcohol and Drug Dependence        |                  |                |                       |                                  |                                     |                            |                                |
|   | Inpatient                          |                  |                |                       |                                  |                                     |                            |                                |
|   | Partial Hospital                   |                  |                |                       |                                  |                                     |                            |                                |
|   | Outpatient                         |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3414   | Obstetrical Services               |                  |                |                       |                                  |                                     |                            |                                |
|   | Normal Pregnancy                   |                  |                |                       |                                  |                                     |                            |                                |
|   | All Other                          |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3418   | Pregnancy from Rape / Incest       |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3418.1   | Mammography                        |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3411.1   | Child Health Supervision           |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3418.1:1   | Bone Marrow Transplants            |                  |                |                       |                                  |                                     |                            |                                |
| 38.2-3418.2   | Bones and Joints                   |                  |                |                       |                                  |                                     |                            |                                |

Part B: Claim Information - Providers

| VA Code Sections<br>38.2-3408 & 38.2-4221 | a<br>Number<br>of<br>Visits | b<br>Total<br>Claims<br>Payments | c<br>Cost<br>Per<br>Visit | d<br>Number of<br>Contracts/<br>Certificates | e<br>Claim Cost<br>Per Contract/<br>Certificate | f<br>Annual<br>Administrative<br>Cost | g<br>Percent of<br>Total Health<br>Claims |
|---|-----------------------------|----------------------------------|---------------------------|--|---|---------------------------------------|---|
| <b>INDIVIDUAL</b>                         |                             |                                  |                           |  |   |                                       |   |
| Chiropractor                              |                             |                                  |                           |  |   |                                       |   |
| Optometrist                               |                             |                                  |                           |  |   |                                       |   |
| Optician                                  |                             |                                  |                           |  |   |                                       |   |
| Psychologist                              |                             |                                  |                           |  |   |                                       |   |
| Clinical Social Worker                    |                             |                                  |                           |  |   |                                       |   |
| Podiatrist                                |                             |                                  |                           |  |   |                                       |   |
| Professional Counselor                    |                             |                                  |                           |  |   |                                       |   |
| Physical Therapist                        |                             |                                  |                           |  |   |                                       |   |
| Clinical Nurse Specialist                 |                             |                                  |                           |  |   |                                       |   |
| Audiologist                               |                             |                                  |                           |  |   |                                       |   |
| Speech Pathologist                        |                             |                                  |                           |  |   |                                       |   |

Part B: Claim Information - Providers

| VA Code Sections<br>38.2-3408 & 38.2-4221 | a<br>Number<br>of<br>Visits | b<br>Total<br>Claims<br>Payments | c<br>Cost<br>Per<br>Visit | d<br>Number of<br>Contracts/<br>Certificates | e<br>Claim Cost<br>Per Contract/<br>Certificate | f<br>Annual<br>Administrative<br>Cost | g<br>Percent of<br>Total Health<br>Claims |
|---|-----------------------------|----------------------------------|---------------------------|--|---|---------------------------------------|---|
| <b>GROUP</b>                              |                             |                                  |                           |  |   |                                       |   |
| Chiropractor                              |                             |                                  |                           |  |   |                                       |   |
| Optometrist                               |                             |                                  |                           |  |   |                                       |   |
| Optician                                  |                             |                                  |                           |  |   |                                       |   |
| Psychologist                              |                             |                                  |                           |  |   |                                       |   |
| Clinical Social Worker                    |                             |                                  |                           |  |   |                                       |   |
| Podiatrist                                |                             |                                  |                           |  |   |                                       |   |
| Professional Counselor                    |                             |                                  |                           |  |   |                                       |   |
| Physical Therapist                        |                             |                                  |                           |  |   |                                       |   |
| Clinical Nurse Specialist                 |                             |                                  |                           |  |   |                                       |   |
| Audiologist                               |                             |                                  |                           |  |   |                                       |   |
| Speech Pathologist                        |                             |                                  |                           |  |   |                                       |   |

Part C: Premium Information

|  | VA Code<br>Section | Individual Policy |        | Group Certificates |        |
|--|--------------------|-------------------|--------|--------------------|--------|
|  |                    | Single            | Family | Single             | Family |
| <b>Standard Policy:</b>                        |                    |                   |        |                    |        |
| Deductible                                     |                    |                   |        |                    |        |
| Co-Insurance Percentage Paid by Insurer        |                    |                   |        |                    |        |
| Individual/Employee Out-of-Pocket Maximum      |                    |                   |        |                    |        |
| Annual Premium                                 |                    |                   |        |                    |        |
| <b>Premium Attributable to Each Mandate:</b>   |                    |                   |        |                    |        |
| Dependent Children (Handicapped)               | 38.2-3409          |                   |        |                    |        |
| Doctor to Include Dentist                      | 38.2-3410          |                   |        |                    |        |
| Newborn Children                               | 38.2-3411          |                   |        |                    |        |
| Mental/Emotional/Nervous (Mental Disabilities) | 38.2-3412.1        |                   |        |                    |        |
| Inpatient                                      |                    |                   |        |                    |        |
| Partial Hospitalization                        |                    |                   |        |                    |        |
| Outpatient                                     |                    |                   |        |                    |        |
| Alcohol and Drug Dependence                    | 38.2-3412.1        |                   |        |                    |        |
| Inpatient                                      |                    |                   |        |                    |        |
| Partial Hospitalization                        |                    |                   |        |                    |        |
| Outpatient                                     |                    |                   |        |                    |        |
| Obstetrical Services                           | 38.2-3414          |                   |        |                    |        |
| Normal Pregnancy                               |                    |                   |        |                    |        |
| All Other                                      |                    |                   |        |                    |        |
| Pregnancy from Rape or Incest                  | 38.2-3418          |                   |        |                    |        |
| Mammography                                    | 38.2-3418.1        |                   |        |                    |        |
| Bone Marrow Transplants                        | 38.2-3418.1:1      |                   |        |                    |        |
| Bones and Joints                               | 38.2-3418.2        |                   |        |                    |        |
| Child Health Supervision                       | 38.2-3411.1        |                   |        |                    |        |
| Chiropractor                                   | 38.2-3408/4221     |                   |        |                    |        |
| Optometrist                                    | 38.2-3408/4221     |                   |        |                    |        |
| Optician                                       | 38.2-3408/4221     |                   |        |                    |        |
| Psychologist                                   | 38.2-3408/4221     |                   |        |                    |        |

Part C: Premium Information

|  | VA Code<br>Section | Individual Policy |        | Group Certificates |        |
|--|--------------------|-------------------|--------|--------------------|--------|
|  |                    | Single            | Family | Single             | Family |
| Clinical Social Worker   | 38.2-3408/4221     |                   |        |                    |        |
| Podiatrist   | 38.2-3408/4221     |                   |        |                    |        |
| Professional Counselor   | 38.2-3408/4221     |                   |        |                    |        |
| Physical Therapist   | 38.2-3408/4221     |                   |        |                    |        |
| Clinical Nurse Specialist  | 38.2-3408/4221     |                   |        |                    |        |
| Audiologist  | 38.2-3408/4221     |                   |        |                    |        |
| Speech Pathologist   | 38.2-3408/4221     |                   |        |                    |        |
| <b>Number of Contracts/Certificates:</b>   |                    |                   |        |                    |        |
| Issued or Renewed  |                    |                   |        |                    |        |
| In Force   |                    |                   |        |                    |        |
| <b>Annual Premium for Individual Standard Policy (30 year old male in Richmond):</b> |                    |                   |        |                    |        |
| Without Mandates   |                    |                   |        |                    |        |
| With Mandates  |                    |                   |        |                    |        |
| <b>Average Dollar Amount for Converting Group to Individual:</b>                     |                    |                   |        |                    |        |
| Covered in Policy or Certificate   |                    |                   |        |                    |        |
| Onetime Charge   |                    |                   |        |                    |        |

Part D: Utilization and Expenditures for Selected Procedures by Provider Type

| Procedure Code / Provider Type                                      | Number of Visits | Claims Payments | Cost Per Visit |
|---|------------------|-----------------|----------------|
| <b>1. 99203 - Office Visit, Intermediate Service to New Patient</b> |                  |                 |                |
| Chiropractor  |                  |                 |                |
| Clinical Social Worker  |                  |                 |                |
| Physical Therapist  |                  |                 |                |
| Podiatrist  |                  |                 |                |
| Professional Counselor  |                  |                 |                |
| Psychologist  |                  |                 |                |
| Physician   |                  |                 |                |
| <b>2. 90844 - Medical Psychotherapy, 45 to 50 Minute Session</b>    |                  |                 |                |
| Clinical Nurse Specialist   |                  |                 |                |
| Clinical Social Worker  |                  |                 |                |
| Professional Counselor  |                  |                 |                |
| Psychiatrist  |                  |                 |                |
| Psychologist  |                  |                 |                |
| Physician   |                  |                 |                |
| <b>3. 90853 - Group Medical Psychotherapy</b>                       |                  |                 |                |
| Clinical Nurse Specialist   |                  |                 |                |
| Clinical Social Worker  |                  |                 |                |
| Professional Counselor  |                  |                 |                |
| Psychiatrist  |                  |                 |                |
| Psychologist  |                  |                 |                |
| Physician   |                  |                 |                |



Part D: Utilization and Expenditures for Selected Procedures by Provider Type

| Procedure Code / Provider Type   | Number of Visits | Claims Payments | Cost Per Visit |
|--|------------------|-----------------|----------------|
| <b>4. 92507 - Speech, Language or Hearing Therapy; Individual</b>                    |                  |                 |                |
| Audiologist  |                  |                 |                |
| Clinical Social Worker   |                  |                 |                |
| Physical Therapist   |                  |                 |                |
| Professional Counselor   |                  |                 |                |
| Speech Pathologist   |                  |                 |                |
| Physician  |                  |                 |                |
| <b>5. 97110 - Physical Medicine Treatment, each 15 minutes, Therapeutic Exercise</b> |                  |                 |                |
| Chiropractor   |                  |                 |                |
| Physical Therapist   |                  |                 |                |
| Physician  |                  |                 |                |
| Podiatrist   |                  |                 |                |
| Speech Pathologist   |                  |                 |                |
| <b>6. 97124 - Physical Medicine Treatment, Massage</b>                               | 1                |                 |                |
| Chiropractor   |                  |                 |                |
| Physical Therapist   |                  |                 |                |
| Physician  |                  |                 |                |
| Podiatrist   |                  |                 |                |

Part D: Utilization and Expenditures for Selected Procedures by Provider Type

| Procedure Code / Provider Type   | Number of Visits | Claims Payments | Cost Per Visit |
|--|------------------|-----------------|----------------|
| <b>7. 97035 - Physical Medicine Treatment, Ultrasound, each 15 minutes</b>                     |                  |                 |                |
| Chiropractor   |                  |                 |                |
| Physical Therapist   |                  |                 |                |
| Physician  |                  |                 |                |
| Podiatrist   |                  |                 |                |
| <b>8. 92352 - Fitting of Spectacle Prosthesis for Aphakia, monofocal</b>                       |                  |                 |                |
| Ophthalmologist  |                  |                 |                |
| Optician   |                  |                 |                |
| Optometrist  |                  |                 |                |
| Physician  |                  |                 |                |
| <b>9. 11750 - Excision of Nail and Nail Matrix, Partial or Complete, for Permanent Removal</b> |                  |                 |                |
| Physician  |                  |                 |                |
| Podiatrist   |                  |                 |                |

---

# State Corporation Commission

---

## Form MB-1 Instructions and Information

### Cover Sheet:

The figure entered for **Total Premium for all Accident and Sickness Lines** should be consistent with the total accident and sickness premium written in Virginia for all accident and sickness lines including credit accident and sickness, disability income, and all others, whether subject to §§ 38.2-3408 or 38.2-4221 and §§ 38.2-3409 through 38.2-3419 of the Code of Virginia or not, **as reported in the Company's Annual Statement for the reporting period.** This figure should not be adjusted.

The figure entered for **Total Premiums on Applicable Policies and Contracts** should be the total accident and sickness premiums written in Virginia on applicable policies and contracts, as defined in 14 VAC 5-190-30 that are subject to §§ 38.2-3408 or 38.2-4221 and §§ 38.2-3409 through 38.2-3419 for the reporting period. Written premium on applicable policies *only* should be included. Policies situated outside of Virginia, and policies situated in Virginia, but not subject to Mandated Benefits as provided in § 38.2-3408 or § 38.2-4221 and § 38.2-3409 through § 38.2-3419 are not considered applicable policies.

**Report Type (Abbreviated or Complete)** - the company must determine eligibility to file an abbreviated report under 14 VAC 5-190-40 C or a complete report for this reporting period. Companies submitting an abbreviated report must submit the cover sheet of Form MB-1 *as well as* the information required by 14 VAC 5-190-40 D.

### Part A: Claim Information - Benefits

Part A requires disclosure of specific claim data for each mandated benefit and mandated offer for both individual and group business. Carriers are reminded that the basis on which claim data is presented, either "Paid" or "Incurred" must always be completed. This is entered at the top of the form, and the basis must be consistent throughout the report.

Total claims paid/incurred for individual contracts and group certificates refers to all claims paid or incurred under the types of policies subject to the reporting requirements. This figure should not be the total of claim payments entered in column c, rather a total of all claims paid or incurred under the applicable contracts or certificates. This number has been omitted by several carriers reporting previously. The Bureau can not compile the information reported without this number. **It is imperative that this number be entered.**

**Columns a and b - "Number of Visits" or "Number of Days"** refers to the number of provider and physician visits, and the number of inpatient or partial hospital days, as applicable. The numbers reported should be consistent with the type of service rendered. For example, number of days (column b) should not be reported unless the claim dollars being reported were paid or incurred for inpatient or partial hospitalization.

Claims reported for § 38.2-3409, Handicapped Dependent Children should include only those claims paid or incurred as a result of a continuation of coverage because of the criteria provided in this section of the Code of Virginia.

Claims reported for § 38.2-3410, Doctor to Include Dentist, should include only claims for treatment normally provided by a physician, but which were provided by a dentist. Claims for normal or routine dental services should not be reported.

**Column c - Total Claims Payments** - companies should enter the total of claims paid or incurred for the mandate.

**Column d - Number of Contracts**

Individual business - companies should report the number of individual **contracts** in force in Virginia which contain the benefits and providers listed. The number of contracts should be consistent throughout column d, except in the case of mandated offers, which may be less.

Group business - companies should report the number of group **certificates** in force in Virginia which contain the benefits and providers listed, not the number of group contracts. This number should also be consistent except for mandated offers, which may be less.

**Column e - Claim Cost Per Contract/Certificate.** This figure is computed by dividing the amount entered in column c by the figure entered in column d. **It is no longer necessary for reporting companies to enter this figure.** The Bureau's software will compute this figure automatically.

**Column f - Annual Administrative Cost** should only include 1996 administrative costs (not start-up costs, unless those costs were incurred during the reporting period).

**Column g - Percent of Total Health Claims** is the claims paid or incurred for this benefit as a percentage of the total amount of health claims paid or incurred subject to this reporting requirement. **It is no longer necessary for reporting companies to enter this figure.** The Bureau's software will compute this figure automatically.

### Part B: Claim Information - Providers

In determining the cost of each mandate, it is expected that claim and other actuarial data will be used. A listing of the CPT-4 and ICD-9CM Codes which should be used in collecting the required data is attached for your convenience.

**Column a - Number of Visits** is the number of visits to the provider group for which claims were paid or incurred.

**Column b - Total Claims Payments** is the total dollar amount of claims paid to the provider group.

**Column c - Cost Per Visit** is computed by dividing the amount entered in column b by the figure entered in column a. **It is no longer necessary for reporting companies to enter this figure.** The Bureau's software will compute this figure automatically.

**Column d - Number of Contracts**

Individual business - report the number of individual **contracts** subject to this reporting requirement.

Group business - report the number of group **certificates** subject to this reporting requirement.

**Column e - Claim Cost Per Contract/Certificate** - (both group and individual business) is the amount entered in column b divided by the figure entered in column d. **It is no longer necessary for reporting companies to enter this figure.** The Bureau's software will compute this figure automatically.

**Column f - Annual Administrative Cost** should only include 1996 administrative costs (not start-up costs, unless those costs were incurred during the reporting period).

**Column g - Percent of Total Health Claims** is the claims paid or incurred for services administered by each provider type as a percentage of the total amount of health claims paid or incurred subject to this reporting requirement. **It is no longer necessary for reporting companies to enter this figure.** The Bureau's software will compute this figure automatically.

## Part C: Premium Information

### Standard Policy

Use what you consider to be your standard individual policy and/or group certificate to complete the deductible amount, the coinsurance paid by the insurer, and the individual/employee out-of-pocket maximum. These amounts should be entered under the heading of Individual Policy and/or Group certificates, as applicable, in the **unshaded** blocks.

For your standard health insurance policy in Virginia, provide the total **annual premium** that would be charged per unit of coverage assuming inclusion of all of the benefits and providers listed. A separate annual premium should be provided for Individual policies and Group certificates, both single and family.

### Premium Attributable to Each Mandate

Provide the portion (dollar amount) of the annual premium for each policy that is attributable to each mandated benefit, offer and provider. If the company does not have a "Family" rating category, coverage for two adults and two children is to be used when calculating the required family premium figures.

Please indicate where coverage under your policy exceeds Virginia mandates. It is understood that companies do not usually rate each benefit and provider separately. **However, for the purpose of this report it is required that a dollar figure be assigned to each benefit and provider based on the company's actual claim experience, such as that disclosed in Parts A and B, and other relevant actuarial information.**

### Number of Contracts/Certificates

Provide the number of individual policies and/or group certificates *issued or renewed* by the Company in Virginia during the reporting period in the appropriate fields under each heading.

Provide the number of individual policies and/or group certificates *in force* for the company in Virginia as of the last

day of the reporting period in the appropriate fields under each heading.

### Annual Premium for Individual Standard Policy (30 year old male in Richmond)

Enter the annual premium for an individual policy with no mandated benefits or mandated providers for a 30 year old male in the Richmond area in your standard premium class in the appropriate line. Enter the cost for a policy for the same individual with present mandates in the appropriate line. (Assume coverage including \$250 deductible, \$1,000 stop-loss limit, 80% co-insurance factor, and \$250,000 policy maximum.) If you do not issue a policy of this type, provide the premium for a 30 year old male in your standard premium class for the policy that you offer that is most similar to the one described and summarize the differences from the described policy in a separate form. The premium for a policy "with mandates" should include all mandated benefits, offers, and providers.

### Average Dollar Amount for Converting Group to Individual

Companies should provide information concerning the cost of converting group coverage to an individual policy. Information should be provided only as relevant to your company's practices.

If the company adds an amount to the annual premium of a **group policy or certificate** to cover the cost of conversion to an individual policy, provide the average dollar amount per certificate under the "group certificate" heading in the fields for single and family coverages, as appropriate.

If the cost of conversion is instead covered in the annual premium of the **individual policy**, provide the average dollar amount attributable to the conversion requirement under the heading "Individual Policy" in the fields for single or family coverages, as appropriate.

If the cost of conversion is instead covered by a **one-time charge** made to the group policyholder for each conversion, provide the average dollar amount under the heading "Group Certificates" in the fields for single or family coverages, as appropriate.

## Part D - Utilization and Expenditures for Selected Procedures by Provider Type

Selected Procedure Codes are listed in Part D to obtain information about utilization and costs for specific types of services. Please identify expenditures and visits for the Procedure Codes indicated. Other claims should not be included in this Part. Individual and group data must be combined for this part of the report.

Claim data should be reported by procedure code and provider type. "Physician" refers to medical doctors.

Data should only reflect paid claims. Unpaid claims should not be included.

**It is no longer necessary to report the Cost Per Visit.** The Bureau's software will compute this figure automatically.

---

# State Corporation Commission

---

## General

Information provided on Form MB-1 should only reflect the experience of policies or contracts delivered or issued for delivery in the Commonwealth of Virginia and subject to Virginia mandated benefit, mandated offer and provider statutes.

Note the addition of data to be reported for **Coverage of Procedures Involving Bones and Joints**, § 38.2-3418.2. This is the first reporting year for this information. Refer to Administrative Letter 1996-16, dated December 4, 1996.

**Companies should not enter information in the shaded fields.**

# State Corporation Commission

|  |   |   |
|--|---|---|
| <p>A.</p> <p style="text-align: center;">CPT and ICD-9CM Codes</p> <p style="text-align: center;">Va. Code Section 38.2-3410: Doctor to Include Dentist<br/>(Medical services legally rendered by dentists and covered<br/>under contracts other than dental)</p> <p>ICD Codes</p> <p>520-529 Diseases of oral cavity, salivary glands and<br/>jaws</p> <p style="text-align: center;">Va. Code Section 38.2-3411: Newborn Children<br/>(children less than 32 days old)</p> <p>ICD Codes</p> <p>740-759 Congenital anomalies</p> <p>760-763 Maternal causes of perinatal morbidity and<br/>mortality</p> <p>764-779 Other conditions originating in the perinatal<br/>period</p> <p>CPT Codes</p> <p>99295 Initial NICU care, per day, for the evaluation<br/>and management of a critically ill neonate or<br/>infant</p> <p>99296 Subsequent NICU care, per day, for the<br/>evaluation and management of a critically ill<br/>and unstable neonate or infant</p> <p>99297 Subsequent NICU care, per day, for the<br/>evaluation and management of a critically ill<br/>though stable neonate or infant</p> <p>99431 History and examination of the normal<br/>newborn infant, initiation of diagnostic and<br/>treatment programs and preparation of<br/>hospital records</p> <p>99432 Normal newborn care in other than hospital or<br/>birthing room setting, including physical<br/>examination of baby and conference(s) with<br/>parent(s)</p> <p>99433 Subsequent hospital care, for the evaluation<br/>and management of a normal newborn, per<br/>day</p> <p>99440 Newborn resuscitation: provision of positive<br/>pressure ventilation and/or chest<br/>compressions in the presence of acute<br/>inadequate ventilation and/or cardiac output</p> <p style="text-align: center;">Va. Code Section 38.2-3412.1: Mental/Emotional/Nervous<br/>Disorders<br/>(must use UB-82 place-of-service codes from Section B of<br/>this Appendix to differentiate between inpatient, partial<br/>hospitalization, and outpatient claims where necessary)</p> <p>ICD Codes</p> <p>290, 293-294 Organic Psychotic Conditions</p> <p>295-299 Other psychoses</p> | <p>300-302,</p> <p>306-316</p> <p>317-319</p> <p>CPT Codes</p> <p>99221-<br/>99223</p> <p>99231-<br/>99233</p> <p>99238</p> <p>99241-<br/>99255</p> <p>99261-<br/>99263</p> <p>90801</p> <p>90820</p> <p>90825</p> <p>96100</p> <p>90835</p> <p>90841</p> <p>90842</p> <p>90843</p> <p>90844</p> <p>90845</p> <p>90846</p> <p>90847</p> | <p>Neurotic disorders, personality disorders,<br/>sexual deviations, other non-psychotic<br/>mental disorders</p> <p>Mental retardation</p> <p>Initial hospital care, per day, for the<br/>evaluation and management of a patient</p> <p>Subsequent hospital care, per day, for the<br/>evaluation and management of a patient</p> <p>Hospital discharge day management; 30<br/>minutes or less</p> <p>Initial consultation for psychiatric evaluation<br/>of a patient includes examination of a patient<br/>and exchange of information with primary<br/>physician and other informants such as<br/>nurses or family members, and preparation of<br/>report.</p> <p>Follow up consultation for psychiatric<br/>evaluation of a patient</p> <p>Psychiatric diagnostic interview examination<br/>including history, mental status, or disposition</p> <p>Interactive medical psychiatric diagnostic<br/>interview examination</p> <p>Psychiatric evaluation of hospital records,<br/>other psychiatric reports, psychometric and/or<br/>projective tests, and other accumulated data<br/>for medical diagnostic purposes</p> <p>Psychological testing (includes<br/>psychodiagnostic assessment of personality,<br/>psychopathology, emotionality, intellectual<br/>abilities, e.g. WAIS-R, Rorschach, MMPI)<br/>with interpretation and report, per hour</p> <p>Narcosynthesis for psychiatric diagnostic and<br/>therapeutic purposes</p> <p>Individual medical psychotherapy by a<br/>physician, with continuing medical diagnostic<br/>evaluation, and drug management when<br/>indicated, including insight oriented, behavior<br/>modifying or supportive psychotherapy; (face<br/>to face with the patient); time unspecified</p> <p>approximately 75 to 80 minutes (90841)</p> <p>approximately 20 to 30 minutes (90841)</p> <p>approximately 45 to 50 minutes (90841)</p> <p>Medical psychoanalysis</p> <p>Family medical psychotherapy (without the<br/>patient present)</p> <p>Family medical psychotherapy (conjoint<br/>psychotherapy) by a physician, with<br/>continuing medical diagnostic evaluation, and<br/>drug management when indicated</p> |
|--|---|---|

# State Corporation Commission

|  |   |
|--|---|
| <p>90849 Multiple family group medical psychotherapy by a physician, with continuing medical diagnostic evaluation, and drug management when indicated</p> <p>90853 Group medical psychotherapy by a physician, with continuing medical diagnostic evaluation and drug management when indicated</p> <p>90855 Interactive individual medical psychotherapy</p> <p>90857 Interactive group medical psychotherapy</p> <p>90862 Pharmacologic management, including prescription, use, and review of medication with no more than minimal medical psychotherapy</p> <p>Other Psychiatric Therapy</p> <p>90870 Electroconvulsive therapy, single seizure</p> <p>90871 Multiple seizures, per day</p> <p>90880 Medical hypnotherapy</p> <p>90882 Environmental intervention for medical management purposes on a psychiatric patient's behalf with agencies, employers, or institutions</p> <p>90887 Interpretation or explanation of results of psychiatric, other medical examinations and procedures, or other accumulated data to family or other responsible persons, or advising them to assist patient</p> <p>90889 Preparation of report of patient's psychiatric status, history, treatment, or progress (other than for legal or consultative purposes) for other physicians, agencies, or insurance carriers</p> <p>Other Procedures</p> <p>90899 Unlisted psychiatric service or procedure</p> <p>Va. Code Section 38.2-3412.1: Alcohol and Drug Dependence</p> <p>ICD Codes</p> <p>291 Alcoholic Psychoses</p> <p>303 Alcohol dependence syndrome</p> <p>292 Drug Psychoses</p> <p>304 Drug dependence</p> <p>305 Nondependent abuse of drugs</p> <p>CPT Codes</p> <p>Same as listed above for Mental/Emotional/Nervous Disorders, but for above listed conditions.</p> <p>Va. Code Section 38.2-3414: Obstetrical Services</p> <p>Normal Delivery, Care in Pregnancy, Labor and Delivery</p> <p>ICD Codes</p> | <p>650</p> <p>CPT Codes</p> <p>Any codes in the maternity care and delivery range of 59000-59899 associated with ICD Code 650 listed above</p> <p>All Other Obstetrical Services</p> <p>ICD Codes</p> <p>630-677, Complications of pregnancy, childbirth, and the puerperium</p> <p>CPT Codes</p> <p>Incision, Excision, Introduction, and Repair</p> <p>59000 Amniocentesis, any method</p> <p>59012 Cordocentesis (intrauterine), any method</p> <p>59015 Chorionic villus sampling, any method</p> <p>59020 Fetal contraction stress test</p> <p>59025 Fetal non-stress test</p> <p>59030 Fetal scalp blood sampling</p> <p>59050 Fetal monitoring during labor by consulting physician (i.e., non-attending physician) with written report (separate procedure); supervision and interpretation</p> <p>59100 Hysterotomy, abdominal (e.g., for hydatidiform mole, abortion)</p> <p>59120 Surgical treatment of ectopic pregnancy; tubal or ovarian, requiring salpingectomy and/or oophorectomy, abdominal or vaginal approach</p> <p>59121 tubal or ovarian, without salpingectomy and/or oophorectomy (59120)</p> <p>59130 abdominal pregnancy (59120)</p> <p>59135 interstitial, uterine pregnancy requiring total hysterectomy (59120)</p> <p>59136 interstitial, uterine pregnancy with partial resection of uterus (59120)</p> <p>59140 cervical, with evacuation (59120)</p> <p>59150 Laparoscopic treatment of ectopic pregnancy; without salpingectomy and/or oophorectomy</p> <p>59151 with salpingectomy and/or oophorectomy (59150)</p> <p>59160 Curettage, postpartum (separate procedure)</p> <p>59200 Insertion of cervical dilator (e.g., laminaria, prostaglandin)</p> |
|--|---|

# State Corporation Commission

|             |   |       |  |
|-------------|---|-------|--|
|             | (separate procedure)  | 59852 | with hysterotomy (failed intra-amniotic injection) (59850)   |
| 59300       | Episiotomy or vaginal repair, by other than attending physician   |       | Other Procedures   |
| 59320       | Cerclage or cervix, during pregnancy; vaginal   | 59870 | Uterine evacuation and curettage for hydatidiform mole   |
| 59325       | abdominal (59320)   |       |  |
| 59350       | Hysterorrhaphy of ruptured uterus   | 59899 | Unlisted procedure, maternity care and delivery  |
|             | Vaginal Delivery, Antepartum and Postpartum Care  |       | Anesthesia   |
| 59400       | Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care                               | 00850 | Cesarean section   |
|             |   | 00855 | Cesarean hysterectomy  |
| 59409       | Vaginal delivery only (with or without episiotomy and/or forceps)   | 00857 | Continuous epidural analgesia, for labor and cesarean section  |
| 59410       | including postpartum care (59409)   |       | Va. Code Section 38.2-3418: Pregnancy from Rape/Incest   |
| 59412       | External cephalic version, with or without tocolysis  |       | Same Codes as Obstetrical Services/Any Other Appropriate in cases where coverage is provided solely due to the provisions of § 38.2-3418 of the Code of Virginia |
| 59414       | Delivery of placenta (separate procedure)   |       | Va. Code Section 38.2-3418.1: Mammography  |
| 59425       | Antepartum care only; 4-6 visits  |       | CPT Codes  |
| 59426       | 7 or more visits (59425)  | 76092 | Screening Mammography, bilateral (two view film study of each breast)  |
| 59430       | Postpartum care only (separate procedure)   |       | Va. Code Section 38.2-3411.1: Child Health Supervision, Services (Well Baby Care)  |
|             | Cesarean Delivery   |       | CPT Codes  |
| 59510       | Routine obstetric care including antepartum care, cesarean delivery, and postpartum care  |       | 90700 Immunization, active; diphtheria, tetanus toxoids, and acellular pertussis vaccine (DTaP)  |
| 59514       | Cesarean delivery only  |       | 90701 Diphtheria and tetanus toxoids and pertussis vaccine (DTP)   |
| 59515       | including postpartum care (59514)   |       | 90702 Diphtheria and tetanus toxoids (DT)  |
| 59525       | Subtotal or total hysterectomy after cesarean delivery (list in addition to 59510 or 59515)   |       | 90703 Tetanus toxoid   |
|             | Abortion  |       | 90704 Mumps virus vaccine, live  |
| 99201-99233 | Medical treatment of spontaneous complete abortion, any trimester   |       | 90705 Measles virus vaccine, live, attenuated  |
| 59812       | Treatment of incomplete abortion, any trimester, completed surgically   |       | 90706 Rubella virus vaccine, live  |
| 59820       | Treatment of missed abortion, completed surgically; first trimester   |       | 90707 Measles, mumps and rubella virus vaccine, live   |
| 59821       | second trimester (59820)  |       | 90708 Measles, and rubella virus vaccine, live   |
| 59830       | Treatment of septic abortion, completed surgically  |       | 90709 Rubella and mumps virus vaccine, live  |
| 59840       | Induced abortion, by dilation and curettage   |       | 90710 Measles, mumps, rubella, and varicella vaccine   |
| 59841       | Induced abortion, by dilation and evacuation  |       | 90711 Diphtheria, tetanus toxoids, and pertussis (DTP) and injectable poliomyelitis vaccine  |
| 59850       | Induced abortion, by one or more intra-amniotic injections (amniocentesis-injections), including hospital admission and visits, delivery of fetus and secundines; |       | 90712 Poliovirus vaccine, live, oral (any type (s))  |
| 59851       | with dilation and curettage and/or evacuation (59850)   |       | 90716 Varicella (chicken pox) vaccine  |



# State Corporation Commission

|   |  |   |   |
|---|--|---|---|
| 90720   | Diphtheria, tetanus toxoids, and pertussis (DTP) and Hemophilus influenza B (HIB) vaccine  | 38241   | autologous  |
| 90737   | Hemophilus influenza B   | 86950   | Leukocyte transfusion   |
| New Patient   |  | The Bureau is aware that because of the changing and unique nature of treatment involving this diagnosis and treatment procedures, reporting only those claim costs associated with these codes will lead to significant under reporting. Accordingly, if one of the ICD Codes <u>and</u> any of the CPT codes shown above are utilized, the insurer should report <u>all</u> claim costs incurred within thirty (30) days prior to the CPT Coded procedure as well as <u>all</u> claim costs incurred within ninety (90) days following the CPT Coded procedure. |   |
| 99381   | Initial preventive medicine evaluation and management of an individual including a comprehensive history, a comprehensive examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of appropriate laboratory/diagnostic procedures, new patient; infant (age under 1 year)          | Va. Code Section 38.2-3418.2: Procedures Involving Bones and Joints   |   |
| 99382   | early childhood (age 1 through 4 years) (99381)  | ICD Codes   |   |
| 99383   | late childhood (age 5 through 11 years) (99381)  | 524.6 - 524.69  | Temporomandibular Joint Disorders   |
| Established Patient   |  | 719 - 719.6, 719.9  | Other and Unspecified Disorders of Joint  |
| 99391   | Periodic preventive medicine reevaluation and management of an individual including a comprehensive history, comprehensive examination, counseling/anticipatory guidance/risk factor reduction interventions, and the ordering of appropriate laboratory/diagnostic procedures, established patient; infant (age under 1 year) | 719.8   | Other Specified Disorders of Joint  |
| 99392   | early childhood (age 1 through 4 years) (99391)  | CPT Codes   |   |
| 99393   | late childhood (age 5 through 11 years) (99391)  | 20605   | Intermediate joint, bursa or ganglion cyst (e.g., temporomandibular, acromioclavicular, wrist, elbow or ankle, olecranon bursa) |
| 96110   | Developmental testing; limited (e.g. Developmental Screening Test II, Early Language Milestone Screen), with interpretation and report   | 21010   | Arthrotomy, temporomandibular joint   |
| 81000   | Urinalysis, by dip stick or tablet reagent for bilirubin, glucose, hemoglobin, ketones, leukocytes, nitrite, pH, protein, specific gravity, urobilinogen, any number of these constituents; non-automated, with microscopy   | 21050   | Condylectomy, temporomandibular joint (separate procedure)  |
| 84030   | Phenylalanine (PKU), blood   | 21060   | Meniscectomy, partial or complete, temporomandibular joint (separate procedure)   |
| 86580   | Tuberculosis, intradermal  | 21070   | Coronoidectomy (separate procedure)   |
| 86585   | Tuberculosis, tine test  | 21116   | Injection procedure for temporomandibular joint arthrography  |
| Va. Code Section 38.2-3418.1.1: Bone Marrow Transplants (applies to Breast Cancer Only) |  | 21125   | Augmentation, mandibular body or angle; prosthetic material   |
| ICD Codes   |  | 21127   | With bond graft, onlay or interpositional (includes obtaining autograft)  |
| 174 through 174.9 - female breast   |  | 21141   | Reconstruction midface. LeFort I  |
| 175 through 175.9 - male breast   |  | 21145   | single piece, segment movement in any direction, requiring bone grafts  |
| CPT Codes   |  | 21146   | two pieces, segment movement in any direction, requiring bone grafts  |
| 36520   | Therapeutic apheresis (plasma and/or cell exchange)  | 21147   | three or more pieces, segment movement in any direction, requiring bone grafts  |
|   |  | 21150   | Reconstruction midface, LeFort II; anterior intrusion   |
|   |  | 21151   | any direction, requiring bone grafts  |
|   |  | 21193   | Reconstruction of mandibular rami, horizontal, vertical, "C", or "L" osteotomy; without bone graft                              |
|   |  | 21194   | With bone graft (includes obtaining graft)  |

# State Corporation Commission

|       |  |              |   |
|-------|--|--------------|---|
| 21195 | Reconstruction of mandibular rami and/or body, sagittal split; without internal rigid fixation.                                      | 70330        | Bilateral   |
|       |  | 70332        | Temporomandibular joint arthrography, radiological supervision and interpretation |
| 21196 | With internal rigid fixation   |              |   |
| 21198 | Osteotomy, mandible, segmental   | 70336        | Magnetic resonance (e.g., proton) imaging, temporomandibular joint                |
| 21206 | Osteotomy, maxilla, segmental (e.g., Wassmund or Schuchard)  | 70486        | Computerized axial tomography, maxillofacial area; without contrast material(s)   |
| 21208 | Osteoplasty, facial bones; augmentation (autograft, allograft, or prosthetic implant)  | 70487        | With contrast material(s)   |
| 21209 | Reduction  | 70488        | Without contrast material, followed by contrast material(s) and further sections  |
| 21210 | Graft, bone; nasal, maxillary or malar areas (includes obtaining graft)  | B.           | Uniform Billing Code Numbers (UB-82)  |
| 21215 | Mandible (includes obtaining graft)  |              | PLACE OF SERVICE CODES  |
| 21240 | Arthroplasty, temporomandibular joint, with or without autograft (includes obtaining graft)  | Field Values | Report As:  |
| 21242 | Arthroplasty, temporomandibular joint, with allograft  | 10           | Hospital, inpatient   |
| 21243 | Arthroplasty, temporomandibular joint, with prosthetic joint replacement   | 1S           | Hospital, affiliated hospice  |
| 21244 | Reconstruction of mandible, extraoral, with transosteal bone plate (e.g., mandibular staple bone plate)                              | 1Z           | Rehabilitation hospital, inpatient  |
| 21245 | Reconstruction of mandible or maxilla, subperiosteal implant; partial  | 20           | Hospital, outpatient  |
| 21246 | Complete   | 2F           | Hospital-based ambulatory surgical facility                                       |
| 21247 | Reconstruction of mandibular condyle with bone and cartilage autografts (includes obtaining grafts) (e.g. for hemifacial microsomia) | 2S           | Hospital, outpatient hospice services   |
| 21480 | Closed treatment of temporomandibular dislocation; initial or subsequent   | 2Z           | Rehabilitation hospital, outpatient   |
| 21485 | Complicated (e.g., recurrent requiring intermaxillary fixation or splinting), initial or subsequent                                  | 30           | Provider's office   |
| 21490 | Open treatment of temporomandibular dislocation  | 3S           | Hospital, office  |
| 29800 | Arthroscopy, temporomandibular joint, diagnostic, with or without synovial biopsy (separate procedure)                               | 40           | Patient's home  |
| 29804 | Arthroscopy, temporomandibular joint, surgical   | 4S           | Hospice (Home hospice services)   |
| 69535 | Resection temporal bone, external approach (For middle fossa approach, see 69950-69970)  | 51           | Psychiatric facility, inpatient   |
| 70100 | Radiologic examination, mandible; partial, less than four views  | 52           | Psychiatric facility, outpatient  |
| 70110 | Complete, minimum for four views   | 53           | Psychiatric day-care facility   |
| 70328 | Radiologic examination, temporomandibular joint, open and closed mouth; unilateral   | 54           | Psychiatric night-care facility   |
|       |  | 55           | Residential substance abuse treatment facility                                    |
|       |  | 56           | Outpatient substance abuse treatment facility                                     |
|       |  | 60           | Independent clinical laboratory   |
|       |  | 70           | Nursing home  |
|       |  | 80           | Skilled nursing facility/extended care facility                                   |
|       |  | 90           | Ambulance; ground   |
|       |  | 9A           | Ambulance; air  |
|       |  | 9C           | Ambulance; sea  |
|       |  | 00           | Other unlisted licensed facility  |

VA.R. Doc. No. R97-339; Filed March 11, 1997, 3:52 p.m.

# MARINE RESOURCES COMMISSION

## MARINE RESOURCES COMMISSION

**NOTICE:** Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating certain regulations. However, the Commission is required to publish the full text of final regulations.

**Title of Regulation:** 4 VAC 20-252-10 et seq. Pertaining to the Taking of Striped Bass (amending 4 VAC 20-252-20, 4 VAC 20-252-90, and 4 VAC 20-252-150; and adding 4 VAC 20-252-55).

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

**Effective Date:** March 1, 1997.

### Preamble:

*This regulation establishes a limited commercial and recreational fishery for striped bass in Virginia. The provisions of this regulation are intended to comply with all federal and interstate requirements for fishing for striped bass. This regulation also authorizes the aquaculture of striped bass and hybrid striped bass and sets forth the conditions required for their culture.*

*This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This action amends 4 VAC 20-252-10 et seq., which was promulgated on November 26, 1996, and was effective December 6, 1996. The effective date of this amendment is March 1, 1997.*

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

### **4 VAC-20-252-20. Definitions.**

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

*"Chesapeake Bay and its tributaries"* means all tidal waters of the Chesapeake Bay and its tributaries within Virginia, westward of the shoreward boundary of the Territorial Sea, excluding the coastal area as defined by this section, and excluding the Potomac River tributaries as defined by this section.

*"Coastal area"* means the area that includes Virginia's portion of the Territorial Sea, plus all of the creeks, bays, inlets, and tributaries on the seaside of Accomack County, Northampton County (including areas east of the causeway from Fisherman Island to the mainland), and the City of Virginia Beach (including federal areas and state parks, fronting on the Atlantic Ocean and east and south of the point where the shoreward boundary of the Territorial Sea joins the mainland at Cape Henry).

*"Commission"* means the Marine Resources Commission.

*"Commercial fishing"* or *"fishing commercially"* or *"commercial fishery"* means fishing by any person where the catch is for sale, barter, trade, or any commercial purpose, or

is intended for sale, barter, trade, or any commercial purpose.

*"Potomac River tributaries"* means all the tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond thence upstream to the District of Columbia boundary.

*"Recreational fishing"* or *"fishing recreationally"* or *"recreational fishery"* means fishing by any person, whether licensed or exempted from license, where the catch is not for sale, barter, trade, or any commercial purpose, or is not intended for sale, barter, trade, or any commercial purpose.

*"Spawning reaches"* means sections within the spawning rivers as follows:

1. James River from a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point.
2. Pamunkey River from the Route 33 Bridge at West Point upstream to a line connecting Liberty Hall and the opposite shore.
3. Mattaponi River from the Route 33 Bridge at West Point upstream to the Route 360 bridge at Aylett.
4. Rappahannock River from the Route 360 Bridge at Tappahannock upstream to the Route 3—bridge at Fredericksburg 1 Falmouth Bridge.

*"Striped bass"* means any fish of the species *Morone saxatilis*, including any hybrid of the species *Morone saxatilis*.

### **4 VAC 20-252-55. Recreational harvest quota.**

*The total allowable level of all recreational harvest of striped bass for all open seasons and for all legal gear shall be 1,701,748 pounds of whole fish. At such time as the total recreational harvest of striped bass is projected to reach 1,701,748 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for recreational purposes.*

### **4 VAC-20-252-90. Bay Fall striped bass recreational fishery.**

A. The open season for the Bay Fall striped bass recreational fishery shall be October 4 through December 31, 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.

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

### **4 VAC-20-252-150. Commercial harvest quota.**

A. All harvests of striped bass by gill net, pound net, haul seine, fyke net, and commercial hook and line shall be used in arriving at the total allowable level of commercial harvest.

B. The total allowable level of all commercial harvest of striped bass for all open seasons and for all legal gear shall

# Marine Resources Commission

be ~~4,384,000~~ 1,701,748 pounds of whole fish. At such time as the total commercial harvest of striped bass is projected to reach ~~4,384,000~~ 1,701,748 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for commercial purposes. Such cessation of landing and possession of striped bass shall apply to all gears, even in the event some specific gear quotas may not have been reached. At such time as the harvest by any specific gear is projected to reach the total allowable level of commercial striped bass harvest for that gear, as set forth in subsections C, D, E, F, and G of this section, and announced as such, it shall be unlawful for any person to land or possess striped bass caught by that gear.

C. The total allowable level of commercial striped bass harvest by gill net shall be 68.6% of the total allowable sum of pounds of whole fish set forth in subsection B of this section.

D. The total allowable level of commercial striped bass harvest by pound net shall be 24.5% of the total allowable sum of pounds of whole fish set forth in subsection B of this section.

E. The total allowable level of commercial striped bass harvest by haul seine shall be 2.94% of the total allowable sum of pounds of whole fish set forth in subsection B of this section.

F. The total allowable level of commercial striped bass harvest by fyke net shall be 1.96% of the total allowable sum of pounds of whole fish set forth in subsection B of this section.

G. The total allowable level of commercial striped bass harvest by hook and line shall be 2.0% of the total allowable sum of pounds of whole fish set forth in subsection B of this section.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-336; Filed February 28, 1997, 5:05 p.m.

\*\*\*\*\*

**Title of Regulation:** 4 VAC 20-380-10 et seq. Pertaining to Grey Trout (amending 4 VAC 20-380-30 and 4 VAC 20-380-60).

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

**Effective Date:** March 1, 1997.

**Preamble:**

*This regulation establishes limitations on the commercial and recreational harvest of grey trout in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of grey trout. The limitations include minimum size limits, gear restrictions and season limits for the commercial fishery and minimum size and possession limits for the recreational fishery. This regulation is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia. This regulation amends previous 4 VAC 20-380-10 et seq. which was adopted on August 27, 1996, and made effective*

September 1, 1996. The effective date of the amendments is March 1, 1997.

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

**4 VAC 20-380-30. Minimum size limits.**

A. For any person fishing with pound net or haul seine there shall be no minimum size limit on grey trout.

B. It shall be unlawful for any person fishing with gill nets to possess any grey trout less than 12 inches in length.

C. It shall be unlawful for any trawl boat to land any grey trout in Virginia that are less than 12 inches in length.

D. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand line to possess any grey trout less than 44 12 inches in length.

E. It shall be unlawful for any person using any gear type not specified in subsection A, B, C or D of this section to possess any grey trout less than nine inches in length.

F. During a closed season it shall be unlawful for any person using any gear type which is regulated by a closed season to possess any grey trout less than 12 inches in length.

G. Length is measured in a straight line from the tip of the nose to the tip of the tail.

**4 VAC 20-380-60. Possession limit.**

It shall be unlawful for any person fishing with hook-and-line, rod-and-reel or hand line to possess more than 44 *four* grey trout. When fishing from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 44 *four*. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any grey trout taken after the possession limit has been reached shall be returned to the water immediately.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-334; Filed February 28, 1997, 5:05 p.m.

\*\*\*\*\*

**Title of Regulation:** 4 VAC 20-430-10 et seq. Pertaining to the Marking and Minimum Mesh Size of Gill Nets (amending 4 VAC 20-430-40).

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

**Effective Date:** February 26, 1997.

**Preamble:**

*This regulation establishes marking requirements for gill nets to increase their visibility and identification and establishes a minimum mesh size for gill nets to aid in*

---

# Marine Resources Commission

---

*the conservation of fish stocks. This regulation is promulgated pursuant to authority contained in § 28.2-201 of the Code of Virginia. This regulation amends 4 VAC 20-430-10 et seq., which was adopted June 27, 1995, and made effective July 1, 1995. The effective date of this amendment is February 26, 1997.*

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

#### **4 VAC 20-430-40. Upriver white perch and striped bass fishery exemption.**

During the period December 1 to the last day of February, inclusive, through March 15, it shall be unlawful for any person to place, set or fish any gill net, used for the taking of white perch or striped bass in the areas designated below, and that is not marked as described by either 4 VAC 20-430-20 or 4 VAC 20-430-30, or in the following manner:

1. Both ends of each gill net shall be marked by a floating buoy of at least 3-1/2 inches in diameter.
2. Both end-marker buoys shall be of blaze-orange color.
3. Areas designated.
  - a. James River. Upstream from a line connecting College Creek and Hog Point.
  - b. York River. Upstream from a line connecting the southernmost point of the northern headland of Poropotank Bay and Croaker Landing.
  - c. Rappahannock River. Upstream from a line connecting Greenvale Creek and Weeks Creek.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-330; Filed February 26, 1997, 12:05 p.m.

\*\*\*\*\*

**Title of Regulation:** 4 VAC 20-500-10 et seq. Pertaining to the Catching of Eels (amending 4 VAC 20-500-50).

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

**Effective Date:** March 1, 1997.

**Preamble:**

*This regulation establishes a minimum mesh size and escape panels for eel pots, and prohibits the taking of eelers except for research and aquaculture purposes. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. This regulation amends 4 VAC 20-500-10 et seq. which was adopted December 17, 1996, and made effective January 1, 1997. The effective date of this amendment is March 1, 1997.*

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine

Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

#### **4 VAC 20-500-50. Minimum mesh size.**

A. It shall be unlawful for any person to place, set or fish any eel pot in Virginia tidal waters which has a mesh less than 1/2-inch by 1/2-inch.

B. ~~After January 1, 1994,~~ It shall be unlawful for any person to place, set or fish any 1/2-inch by 1/2-inch mesh rectangular or square eel pot unless such pot contains at least ~~two~~ one unrestricted 4-inch by 4-inch escape panels ~~panel~~ consisting of 1/2-inch by 1-inch mesh, ~~one panel located in the lower side and one panel in the upper portion of the pot;~~ . In addition, it shall be unlawful for any person to place, set or fish any 1/2-inch by 1/2-inch mesh cylindrical eel pot unless such pot contains at least one unrestricted 4-inch square escape panel of 1/2-inch by 1-inch mesh ~~located in the rear portion of the pot.~~

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-331; Filed February 28, 1997, 5:05 p.m.

\*\*\*\*\*

**Title of Regulation:** 4 VAC 20-620-10 et seq. Pertaining to Summer Flounder (amending 4 VAC 20-620-50 and 4 VAC 20-620-60).

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

**Effective Date:** March 1, 1997.

**Preamble:**

*This regulation establishes limitations on the commercial and recreational harvest of Summer Flounder in order to reduce the fishing mortality rate and to rebuild the severely depleted stock of Summer Flounder. The limitations include a commercial harvest quota and possession limits, minimum size limits, and a recreational possession and season limit. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia, and amends 4 VAC 20-620-10 et seq., which was promulgated on September 24, 1996, and made effective October 3, 1996. The effective date of the amendments is March 1, 1997.*

**Agency Contact:** Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

#### **4 VAC 20-620-50. Minimum size limits.**

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be ~~43~~ 14 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to, hook-and-line, rod-and-reel, spear and gig, shall be ~~44~~ 14½ inches, total length.

C. Length shall be measured in a straight line from tip of nose to tip of tail.

# Marine Resources Commission

D. It shall be unlawful for any person to catch and retain possession of any Summer Flounder smaller than the designated minimum size limit.

#### 4 VAC 20-620-60. Possession limit.

A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, spear, gig or other recreational gear, or with commercial hook-and-line, to possess more than eight 10 Summer Flounder. When fishing is from a boat, or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by eight 10. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any Summer Flounder taken after the possession limit has been reached shall be returned to the water immediately.

B. Possession of any quantity of Summer Flounder which exceeds the possession limit described in subsection A of this section shall be presumed to be for commercial purposes.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-333; Filed February 28, 1997, 5:05 p.m.

\*\*\*\*\*

Title of Regulation: 4 VAC 20-910-10 et seq. Pertaining to Scup (Porgy) (adding 4 VAC 20-910-45).

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

Effective Date: March 1, 1997.

#### Preamble:

*This regulation establishes minimum size limits, gear restrictions, and quotas for the harvest of scup (porgy). This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. The effective date of this amendment is March 1, 1997.*

Agency Contact: Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

#### 4 VAC 20-910-45. Possession limits and harvest quotas.

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 30,000 pounds of scup; except when it is projected and announced that 85% of the coastwide quota for this period has been landed, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 1,000 pounds of scup.

B. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 12,000 pounds of scup except when it is announced that the coastwide quota for this period has been reached.

C. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to 4,158 pounds.

D. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

E. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-237; Filed February 28, 1997, 5:05 p.m.

\*\*\*\*\*

Title of Regulation: 4 VAC 20-950-10 et seq. Pertaining to Black Sea Bass.

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

Effective Date: March 1, 1997.

#### Preamble:

*This regulation establishes minimum size limits, gear restrictions, and quotas for the harvest of black sea bass. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia. The effective date of this regulation is March 1, 1997.*

Agency Contact: Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

#### CHAPTER 950.

#### PERTAINING TO BLACK SEA BASS.

#### 4 VAC 20-950-10. Purpose.

*The purposes of this regulation are to (i) reduce fishing mortality in the black sea bass fishery to assure that overfishing does not occur, (ii) increase the spawning stock biomass, and (iii) improve the yield from the fishery.*

#### 4 VAC 20-950-20. Definitions.

*The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.*

*"Black sea bass" means any fish of the species Centropristis striata.*

#### 4 VAC 20-950-30. Minimum size limit.

*A. The minimum size limit of black sea bass shall be nine inches, total length.*

---

## Marine Resources Commission

---

B. It shall be unlawful for any person to possess any black sea bass smaller than nine inches, total length.

C. It shall be unlawful for any person to sell, trade, or barter, or offer to sell, trade, or barter any black sea bass less than nine inches, total length.

D. Total length shall be measured in a straight line from tip of nose to tip of tail.

#### 4 VAC 20-950-40. Gear restrictions.

It shall be unlawful for any person to place, set, or fish any fish pot in Virginia tidal waters for the purposes of harvesting black sea bass or to possess or to land in Virginia black sea bass harvested by fish pots which are not constructed as follows:

1. With an escape vent of two inches diameter circular dimension, 1.5 inches square dimension, or 1-1/8 inches by 5-3/4 inches rectangular dimension.
2. With hinges and fasteners on one side panel or door made of the following materials:
  - a. Untreated hemp, jute, or cotton string of 3/16 inches or less diameter;
  - b. Magnesium alloy, timed float releases (pop-up devices), or similar magnesium alloy fasteners; or
  - c. Ungalvanized or uncoated iron wire of 0.094 inches or less in diameter.

#### 4 VAC 20-950-50. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

VA.R. Doc. No. R97-335; Filed February 28, 1997, 5:05 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

EDITOR'S NOTICE: The following form has been issued by the Department of Mines, Minerals and Energy. Copies of the form may be obtained from Cheryl Cashman, Department of Mines, Minerals and Energy, Ninth Street Office Building, 202 North 9th Street, Richmond, VA 23219, telephone (804) 692-3200.

Title of Regulation: 4 VAC 25-150-10 et seq. Virginia Gas and Oil Regulations.

Notice of Right to Object: DGO-GO-21, issued 10/96.



Commonwealth of Virginia
Department of Mines, Minerals and Energy
Division of Gas and Oil
P.O. Box 1416
Abingdon, VA 24212
Telephone: (540) 676-5423

NOTICE OF RIGHT TO OBJECT

On \_\_\_\_\_ day of \_\_\_\_\_ month of \_\_\_\_\_ year \_\_\_\_\_ (Name of Company) applied for a permit from the Virginia Department of Mines, Minerals and Energy, Division of Gas and Oil, to conduct gas and oil operations for well/pipeline number \_\_\_\_\_. The activities proposed to be permitted are described in the enclosed Notice of Application for a permit.

We are required to give you notice of this application, and you have certain rights. You have 15 days from the day you receive this notice to do one of the following:

1. You may sign and return the attached waiver form if you wish to waive the time and any right you may have to object to the permit application. The Virginia Gas and Oil Act gives you the option to waive these rights in writing. (You may submit this waiver to the Division of Gas and Oil, 230 Charwood Drive, Post Office Box 1416, Abingdon, VA 24212, Telephone (540) 676-5423, Fax (540) 676-5459.)

2. You may file an objection to the issuance of this permit. The types of objections which may be raised are listed in Section 45.1-361.35 of the Virginia Gas and Oil Act. A copy of this code section is attached hereto for your review.

If you wish to object to this permit application, then you must file your objections, including your reasons why, within 15 days of receipt of this letter. You must file any objections with the Director of the Division of Gas and Oil at the address given above. If statutorily allowed objections in accordance with the Virginia Gas and Oil Act, Section 45.1-361.35, are submitted to the Division of Gas and Oil, then the Division will hold an informal fact-finding hearing concerning them. You will be notified if a hearing is scheduled.

3. You may take no action. This will cause you to waive any rights you may have to object to the permit application.

I affirm that this notice and waiver form is being sent to you on behalf of \_\_\_\_\_ (Company) on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Permit Applicant

WAIVER

TO: (Commonwealth of Virginia, Department of Mines, Minerals & Energy, Division of Gas and Oil) (230 Charwood Drive, P. O. Box 1416, Abingdon, VA 24212)

I acknowledge receipt of the notice that \_\_\_\_\_ Company has applied to the Commonwealth of Virginia, Department of Mines, Minerals and Energy, Division of Gas and Oil, for a permit to conduct gas and/or oil operations for well/pipeline number \_\_\_\_\_. I hereby waive my fifteen day right, if any, to object to the permit application.

I understand that the Division of Gas and Oil may rely on this waiver in reaching a decision on the permit application.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_



## SECTION 45.1-361.35 - OBJECTIONS TO PERMITS; HEARINGS

## TO BE ATTACHED TO WAIVER FORM

A. Objections to new or modification permits may be filed with the Director by those having standing as set out in Section 45.1-361.30. Such objections shall be filed within fifteen days of the objecting party's receipt of the notice required by Section 45.1-361.30. Persons objecting to a permit must state the reasons for their objections.

B. The only objections to permits or permit modifications which may be raised by surface owners are:

1. The operations plan for soil erosion and sediment control is not adequate or not effective;
2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata; and
3. The permitted work will constitute a hazard to the safety of any person.

C. The only objections to permits or permit modifications which may be raised by royalty owners are whether the proposed well work:

1. Directly impinges upon the royalty owner's gas and oil interests; or
2. Threatens to violate the objecting royalty owner's property or statutory rights aside from his contractual rights; and
3. Would not adequately prevent the escape of the Commonwealth's gas and oil resources or provide for the accurate measurement of gas and oil production and delivery to the first point of sale.

D. Objections to permits or permit modifications may be raised by coal owners or operators pursuant to the provisions of Sections 45.1-361.11 and 45.1-361.12.

E. The only objections to permits or permit modifications which may be raised by mineral owners are those which could be raised by a coal owner under Section 45.1-361.11 provided the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question.

F. The only objections to permits or permit modifications which may be raised by gas storage field operators are those in which the gas storage operator affirmatively proves that the proposed well work will adversely affect the operation of his State Corporation Commission certificated gas storage field; however, nothing in this subsection shall be construed to preclude the owner of nonstorage strata from the drilling of wells for the purpose of producing oil or gas from any stratum above or below the storage stratum.

G. The Director shall have no jurisdiction to hear objections with respect to any matter subject to the jurisdiction of the Board as set out in Article 2 (§ 45.1-361.13 et seq.) of this chapter. Such objections shall be referred to the Board in a manner prescribed by the Director.

H. The Director shall fix a time and place for an informal fact finding hearing concerning such objections. The hearing shall not be scheduled for less than twenty nor more than thirty days after the objection is filed. The Director shall prepare a notice of the hearing, stating all objections and by whom made, and send a copy of such notice by certified mail, return receipt requested, at least ten days prior to the hearing date, to the permit applicant and to every person with standing to object as prescribed by Section 45.1-361.30.

I. At the hearing, should the parties fail to come to an agreement, the Director shall proceed to decide the objection pursuant to those provisions of the Administrative Process Act (Section 9-6.14:1 et seq.) relating to informal fact-finding procedures.

Form DGO-GO-21  
10/96

# GENERAL NOTICES/ERRATA

### Symbol Key

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

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### † Notice of Changes to the Virginia Medicaid Income Eligibility Levels

The Department of Medical Assistance Services hereby publishes notice of changes to the Virginia Medicaid Income Eligibility Levels as defined in Attachment 2.6 A Supplement 1 of the State Plan for Medical Assistance (12 VAC 30-40-220). These changes are effective April 1, 1997.

Section 430.12 of the Code of Federal Regulations requires that state plans for medical assistance be kept up to date with federal requirements, as in the new Federal Poverty Income Guidelines. The Health Care Financing Administration (HCFA) published its 1997 guidelines in the Federal Register (Vol. 62, No. 46, page 10856) on March 10, 1997.

Sections 1902(l), 1902(l)(1)(D), 1902(m), and 1905(s) of the Social Security Act require states to base Medicaid eligibility on percentages of the Federal Poverty Income Guidelines for certain categories of eligible individuals. The Federal Register notice provided updated guidelines which are effective on the date of the register publication.

This notice identifies those categories of eligible individuals whose eligibility must be based on a percentage of the Federal Poverty Income Guidelines, and the percentages required.

|                     |  |      |
|---------------------|--|------|
| 1902(a)(10)(E)(iii) | Special Low Income Medicare Beneficiaries  | 120% |
| 1902(l)             | Pregnant Women and Children Under Age 6  | 133% |
| 1902(l)(1)(D)       | Children born after 9/30/83 who have attained age 6 but have not attained age 19 | 100% |
| 1902(m)             | Qualified Medicare Beneficiaries   | 100% |
| 1905(s)             | Qualified Disabled and Working Individuals                                       | 200% |

Each year when the annual Federal Poverty Income Guidelines (FPIGs) are published, states must revise the financial eligibility income standards for the affected categories. The standards must be effective no later than April 1 each year.

| Family Size | Income Level           |                        |                        |                        |
|-------------|------------------------|------------------------|------------------------|------------------------|
|             | Based on 100% of FPIGs | Based on 120% of FPIGs | Based on 133% of FPIGs | Based on 200% of FPIGs |
| 1           | \$7,890                | \$9,468                | \$10,494               | \$15,780               |
| 2           | \$10,610               | \$12,732               | \$14,111               | \$21,220               |
| 3           | \$13,330               | \$15,996               | \$17,729               | \$26,660               |
| 4           | \$16,050               | \$19,260               | \$21,347               | \$32,100               |
| 5           | \$18,770               | \$22,524               | \$24,964               | \$37,540               |

## BOARD OF GAME AND INLAND FISHERIES

### Notice to the Public

The Board of Game and Inland Fisheries is conducting its regular biennial review of regulations for game, nonreptilian terrestrial and avian nongame wildlife, hunting and trapping, including the length of seasons, bag limits and methods of take for game. The regulation review and revision takes place over two sequential board meetings being held March 20-21 and May 5-6, 1997. The regulations subject to review and for which amendments may be adopted are:

- 4 VAC 15-20. Definitions And Miscellaneous: In General.
- 4 VAC 15-30. Definitions And Miscellaneous: Importation, Possession, Sale, Etc., of Animals.
- 4 VAC 15-40. Game: In General.
- 4 VAC 15-50. Game: Bear.
- 4 VAC 15-60. Game: Beaver.
- 4 VAC 15-70. Game: Bobcat.
- 4 VAC 15-80. Game: Crow.
- 4 VAC 15-90. Game: Deer.
- 4 VAC 15-100. Game: Dove.
- 4 VAC 15-110. Game: Fox.
- 4 VAC 15-120. Game: Grouse.
- 4 VAC 15-130. Game: Mink.
- 4 VAC 15-140. Game: Muskrat.
- 4 VAC 15-150. Game: Nutria.
- 4 VAC 15-160. Game: Opossum.
- 4 VAC 15-170. Game: Otter.
- 4 VAC 15-180. Game: Pheasant.
- 4 VAC 15-190. Game: Quail.

---

## General Notices/Errata

---

- 4 VAC 15-200. Game: Rabbits and Hares.
- 4 VAC 15-210. Game: Raccoon.
- 4 VAC 15-220. Game: Skunk.
- 4 VAC 15-230. Game: Squirrel.
- 4 VAC 15-240. Game: Turkey.
- 4 VAC 15-250. Game: Falconry.
- 4 VAC 15-260. Game: Waterfowl and Waterfowl Blinds.
- 4 VAC 15-270. Game: Firearms.
- 4 VAC 15-280. Game: Pelts and Furs.
- 4 VAC 15-290. Game: Permits.
- 4 VAC 15-300. Game: Weasel.
- 4 VAC 15-310. Game: Woodchuck.

The Board of Game and Inland Fisheries is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia) and Executive Order Number Thirteen (94) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia. It is required by § 9-6.14:22 to publish all proposed and final regulations.

Under board procedures, regulatory actions occur over two sequential board meetings. At the March 20 - 21 meeting, Department of Game and Inland Fisheries' staff will present recommendations for regulatory amendments, and the board will solicit and hear comments from the public in a public hearing. The board then intends to propose regulations or regulation amendments. Any proposed regulatory actions (or informative summaries) will then be published in the Virginia Register and advertised in newspapers. Adoption of any regulations or regulation amendments as final will take place at a subsequent board meeting to be held in Richmond on May 5 - 6, 1997.

Under board procedures, the following opportunities for public involvement are being or will be provided:

**First public hearing.** A public hearing will be held, as described above, at the March 20 - 21, 1997, board meeting. This is the first of the two sequential meetings and the one at which, under its procedures, the board proposes regulatory actions.

**Second public hearing.** A public hearing will be held at the May board meeting. This is the second of the two board meetings, and the one at which the board adopts final regulations.

**Supplemental public hearings.** More public hearings or "public input meetings," to be held between the first and the second board meetings, may be ordered at the discretion of the board. If, at the March 20 - 21 board meeting, the board orders that supplemental public hearings be held, the dates, times, and locations will be published at a later date.

**Public comment period.** A public comment period on any proposed regulatory actions will open at the time the board proposes such regulations at its March 20 - 21 meeting, and will run until May 5 or the second board meeting. However, in order to be assured that comments submitted are included in the board's briefing materials, the comments must be received by the department no later than April 28, 1997, or seven days prior the second board meeting. In order to be taken into consideration,

comments submitted: (i) must be in writing; (ii) must be accompanied by the name, address, and telephone number of the party offering the comments; (iii) should state the regulatory action desired; and (iv) should state the justification for the desired action. Comments submitted during the public comment period should be mailed to: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230.

Ongoing public comment. The department also receives and accepts comments on a continuous basis from members of the public, outside of the specified public comment period. The public comment period described above is an additional provision, to facilitate public involvement in specific proposed regulations.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

### STATE WATER CONTROL BOARD

**† Enforcement Action  
Proposed Consent Special Order  
C & M Oil Distributors, Inc.  
Prillaman Chemical Corporation  
Tarmac Mid-Atlantic, Inc.**

The State Water Control Board proposes to take enforcement actions against C & M Oil Distributors, Inc. in Norfolk, Virginia, Prillaman Chemical Corporation in Suffolk, Virginia, and Tarmac Mid-Atlantic, Inc., in Norfolk, Virginia. The enforcement actions will be Consent Special Orders that will require the facilities to come into compliance with appropriate Virginia laws and regulations. The order for C & M Oil Distributors, Inc. contains a civil charge of \$12,000 and the order for Tarmac Mid-Atlantic, Inc. contains a civil charge of \$3,000.

The Department of Environmental Quality will receive written comments relating to the board's proposed Consent Special Orders until April 30, 1997. Comments should be addressed to David S. Gussman, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia 23462, and should refer to the specific Consent Special Order. The proposed orders may be examined at the above address and copies of the orders may be obtained in person or by mail.

**† Enforcement Action  
Proposed Consent Decree  
District of Columbia  
Lorton Reformatory Sewage Treatment Plant**

The State Water Control Board proposes to execute a Consent Decree to be entered by the Circuit Court of Fairfax County with the District of Columbia (District) regarding the Lorton Reformatory Sewage Treatment Plant (Lorton STP) and sewage collection system located in Fairfax County, Virginia.

The Lorton STP is subject to VPDES Permit No. VA0030163. The Consent Decree provides, among other things, that the District comply with its permit and applicable orders issued by the board, complete rehabilitation and repairs to the STP and sewage collection system by July 1, 1998, eliminate overflows from the STP and collection system, provide for line cleaning equipment and monitors at the facility, and implement specified operational changes. The District has agreed that the decree be entered by the court and to payment of a \$175,000 civil penalty with \$150,000 suspended pending the District's compliance with certain terms of the decree.

Pursuant to 9 VAC 25-30-500, on behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the decree through April 30, 1997. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Woodbridge, Virginia 22193. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to examine or to obtain a copy of the Consent Decree.

### **Enforcement Action Proposed Consent Special Order Town Of Luray**

The State Water Control Board proposes to take an enforcement action against the Town of Luray. The town has agreed to the terms of a Consent Special Order to address violations of the State Water Control Law and regulations at its wastewater treatment facility and a violation arising out of a sewer line blockage and the resulting unpermitted discharge of wastewater to an unnamed tributary of Hawksbill Creek. The Town of Luray undertook corrective action to correct the unpermitted discharge and violations at the treatment facility. Under the terms of the order, the town agrees to continue its work to control the nutrient balance at the treatment facility, to issue a pretreatment permit to an industrial user of the facility, and to take action to identify and correct major sources of inflow and infiltration into the town's wastewater treatment system. The order further specifies effluent limitations and monitoring requirements.

Finally, the order provides for payment of a civil charge in voluntary settlement of these violations. The civil charge shall be suspended contingent upon the Town of Luray maintaining substantial compliance with this order and its VPDES permit until December 31, 1998.

The board will receive written comments relating to the proposed Consent Special Order until April 16, 1997. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, Post Office Box 1129, Harrisonburg, Virginia 22801, and should refer to the Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

### **Enforcement Action Proposed Consent Special Order Westvaco Corporation, Westvaco Covington Mill**

The State Water Control Board and the Department of Environmental Quality propose to issue a Consent Special Order to the Westvaco Corporation for its Covington Mill. The order will require Westvaco to perform extensive technology substitution involving wastewater treatment improvements and pollution prevention projects in lieu of completing the heat reduction project required in VPDES Permit No. VA0003646 issued June 6, 1994.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed action until April 16, 1997. Comments should be addressed to James F. Smith, West Central Regional Office, Department of Environmental Quality, 3019 Peters Creek Road, N.W., Roanoke, VA 24019, or FAX 540-562-6725, and should refer to Westvaco.

The proposed order may be examined at the Department of Environmental Quality, Office of Enforcement, 629 East Main Street, P.O. Box 10009, Richmond, VA 23240-0009 or at the Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, N.W., Roanoke, VA 24019. Copies of the orders and amendments may be obtained in person or by mail from these offices.

## **VIRGINIA CODE COMMISSION**

### **Notice to State Agencies**

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

### **Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations***

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

---

## General Notices/Errata

---

### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS  
- RR08

## ERRATA

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: 13 VAC 50-51-10 et seq. Virginia  
Statewide Fire Prevention Code.

Publication: 13:12 VA.R. 1338-1344 March 3, 1997.

Correction to Final Regulation:

Page 1341, 13 VAC 50-51-80, catchline, unstrike  
"BNFPC Section F-109.0 Fire Investigations"

Page 1341, 13 VAC 50-51-80, catchline, strike  
"Reserved"

Page 1341, 13 VAC 5-51-80, line 3, after "[ Change  
subsection F-109.1 to read " insert "Delete Section F-  
109.0]"

### DEPARTMENT OF MINES, MINERALS AND ENERGY

#### Virginia Gas and Oil Board

Title of Regulation: 4 VAC 25-260-10 et seq. Virginia Gas  
and Oil Board Regulations.

Publication: 13:12 VA.R. 1286-1297 March 3, 1997.

Correction to Proposed Regulation:

Page 1286, change public hearing date to April 15, 1997  
- 10 a.m.

# CALENDAR OF EVENTS

## Symbol Key

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

♿ Location accessible to handicapped

☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD FOR ACCOUNTANCY

**April 16, 1997 - 9 a.m.** -- Open Meeting

**April 22, 1997 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review. This is a work session for the Regulatory Review Committee which consists of three members. No other business will be discussed. All meetings are subject to cancellation. The time of the meeting is subject to change. Call the board 24 hours prior to the meeting. No public comment period will be held. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

**April 21, 1997 - 10 a.m.** -- CANCELLED

NOTE: CHANGE IN MEETING TIME

**April 22, 1997 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review, committee reports, disciplinary cases, and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-

4917, telephone (804) 367-8590, F AX (804) 367-2474 or (804) 367-9753/TDD ☎

### DEPARTMENT FOR THE AGING

† **April 10, 1997 - 10 a.m.** -- Public Hearing

General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A public hearing to receive comments on a proposed plan to allocate state funds to Area Agencies on Aging to provide case management services.

**Contact:** Kathy Vesley, Deputy Commissioner, Department for the Aging, 700 East Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎ or toll-free 1-800-552-3402.

### GOVERNOR'S ADVISORY BOARD ON AGING

† **April 21, 1997 - Noon** -- Open Meeting

† **April 22, 1997 - 8 a.m.** -- Open Meeting

Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to conduct board business.

**Contact:** Kimlah Hyatt, Staff to the Board, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2801, FAX (804) 371-8381, toll-free 1-800-552-3402, or (804) 225-2271/TDD ☎

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia Horse Industry Board

**April 15, 1997 - 10 a.m.** -- Open Meeting

Virginia Cooperative Extension--Charlottesville/Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia.♿

---

## Calendar of Events

---

A meeting to review grant proposals for the current fiscal year and to discuss the status of marketing plans and projects. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 786-5842 or FAX (804) 371-7788.

### Virginia Sweet Potato Board

† April 17, 1997 - 2:30 p.m. -- Open Meeting  
Eastern Shore Agricultural Center, 33446 Research Drive, Painter, Virginia. (Interpreter for the deaf provided upon request)

A meeting to approve minutes of the last meeting and hear the financial status of the board. The meeting will include discussion of the board's annual budget; status reports of programs regarding promotion, research and education; and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** J. William Mapp, Program Manager, Virginia Sweet Potato Board, P.O. Box 26, Onley, VA 22418, telephone (757) 787-5867 or FAX (757) 787-1041.

### Virginia Winegrowers Advisory Board

April 9, 1997 - 10 a.m. -- Open Meeting  
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Virginia. ☎

The annual meeting of the board to conduct regular board business including committee reports, and to hear budget requests from individuals seeking grants for the 97-98 funding year. The board will entertain public comment after the grant proposals have been given and before the board votes on the proposal. Any person who needs any accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least 10 days before the meeting date so that suitable arrangements can be made.

**Contact:** Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 786-0481.

### STATE AIR POLLUTION CONTROL BOARD

April 4, 1997 -- Written comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to adopt regulations entitled: **9 VAC 5-500-10 et seq. Exclusionary General Permit for Federal Operating Permit Program.** The proposed general permit provides a legally enforceable mechanism for major sources subject to the federal operating permit program (Article 1 of 9 VAC 5 Chapter 80) to be excluded from the program provided they maintain their actual annual emissions at a level that is 75% of the major source, potential to emit applicability thresholds for the federal operating permit program. The regulation does not require any owner to apply for coverage under the general permit but provides the opportunity for an owner to apply for coverage if the stationary source meets the 75% of the threshold criteria and all other requirements of the regulation.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the proposed general permit.

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

**Location of Proposal:** The proposal and any other supporting documents may be examined by the public at the department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the Department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

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

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

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

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

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

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

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

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

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

**Contact:** Robert A. Mann, Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510, toll-free 1-800-592-5492, or (804) 698-4021/TDD ☎

† **April 24, 1997 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board.

**Contact:** Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

## ALCOHOLIC BEVERAGE CONTROL BOARD

**March 31, 1997 - 9:30 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports from and activities of staff members.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

## VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

† **April 15, 1997 - 1 p.m.** -- Open Meeting

**May 6, 1997 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☎

A meeting to (i) conduct routine business, (ii) receive a committee report recommending regulation revisions, and (iii) consider proposing amendments to the Lead-Based Paint Activities Regulations. The board will also hear a report from the Department of Professional and Occupational Regulation staff concerning the comment received on the Virginia Asbestos Licensing Program Regulations in response to a Notice of Intended Regulatory Action published in the Virginia Register on February 3, 1997. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

## AUCTIONEERS BOARD

† **April 16, 1997 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

## BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **April 18, 1997 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A Legislative Committee meeting to discuss changes to regulations. Public comment will not be received.

**Contact:** Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9943 or (804) 662-7197/TDD ☎



---

## Calendar of Events

---

### VIRGINIA AVIATION BOARD

† April 22, 1997 - 3 p.m. -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

A workshop for the board. No formal actions will be  
taken. Individuals with disabilities should contact Cindy  
Waddell 10 days prior to the meeting if assistance is  
needed.

**Contact:** Cindy Waddell, Department of Aviation, 5702  
Gulfstream Road, Richmond International Airport, Sandston,  
VA 23250-2422, telephone (804) 236-3625 or (804) 236-  
3624/TDD

† April 23, 1997 - 9 a.m. -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

A regular bimonthly meeting of the board. Applications  
for state funding will be presented to the board and other  
matters of interest to the Virginia aviation community will  
be discussed. Individuals with disabilities should contact  
Cindy Waddell 10 days prior to the meeting if assistance  
is needed.

**Contact:** Cindy Waddell, Department of Aviation, 5702  
Gulfstream Road, Sandston, Richmond International Airport,  
Sandston, VA 23250-2422, telephone (804) 236-3625 or  
(804) 236-3624/TDD

### BOARD FOR BARBERS

April 14, 1997 - 10 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. Persons desiring to  
participate in the meeting and requiring special  
accommodations or interpreter services should contact  
the department at least two weeks prior to the meeting  
so that suitable arrangements can be made. The  
department fully complies with the Americans with  
Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department  
of Professional and Occupational Regulation, 3600 W. Broad  
St., Richmond, VA 23230, telephone (804) 367-8509, FAX  
(804) 367-2475 or (804) 367-9753/TDD

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

#### Northern Area Review Committee

† April 8, 1997 - 10 a.m. -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East  
Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area  
programs for the Northern Area. Persons interested in  
observing should call the Chesapeake Bay Local  
Assistance Department to verify meeting time, location  
and schedule. No comments from the public will be  
entertained at the meeting; however, written comments  
are welcome.

**Contact:** Carolyn J. Elliott, Executive Secretary,  
Chesapeake Bay Local Assistance Department, 805 E. Broad  
St., Suite 701, Richmond, VA 23219, telephone (804) 225-  
3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

#### Southern Area Review Committee

† April 8, 1997 - 2 p.m. -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East  
Broad Street, Suite 701, Richmond, Virginia. (Interpreter for  
the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area  
programs for the Southern Area. Persons interested in  
observing should call the Chesapeake Bay Local  
Assistance Department to verify meeting time, location  
and schedule. No comments from the public will be  
entertained at the meeting; however, written comments  
are welcome.

**Contact:** Carolyn J. Elliott, Executive Secretary,  
Chesapeake Bay Local Assistance Department, 805 E. Broad  
St., Suite 701, Richmond, VA 23219, telephone (804) 225-  
3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

### COMPENSATION BOARD

April 24, 1997 - 11 a.m. -- Open Meeting  
Ninth Street Office Building, 202 North Ninth Street, 9th Floor,  
Room 913/913A, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A routine business meeting.

**Contact:** Bruce W. Haynes, Executive Secretary, P.O. Box  
710, Richmond, VA 23218-0710, telephone (804) 786-0786,  
FAX (804) 371-0235, or (804) 786-0786/TDD

### COMMONWEALTH COMPETITION COUNCIL

† April 14, 1997 - 10 a.m. -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate  
Room A, Richmond, Virginia. (Interpreter for the deaf  
provided upon request)

A meeting to discuss the employee stock ownership  
plan.

**Contact:** Peggy Robertson, Commonwealth Competition  
Council, James Monroe Bldg., 101 N. 14th St., 5th Floor,  
P.O. Box 1475, Richmond, VA 23218-1475, telephone (804)  
786-0240 or FAX (804) 786-1594.

## DEPARTMENT OF CONSERVATION AND RECREATION

### Falls of the James Scenic River Advisory Board

April 3, 1997 - Noon -- Open Meeting

May 1, 1997 - Noon -- Open Meeting

† June 5, 1997 - Noon -- Open Meeting

City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A meeting to review river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

### Rappahannock Scenic River Advisory Board

† May 21, 1997 - 7 p.m. -- Open Meeting

Virginia Deli, 101 William Street, Fredericksburg, Virginia..

A meeting to review river issues.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

### Virginia State Parks Foundation

April 3, 1997 - 10 a.m. -- Open Meeting

Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia.

A business meeting and election of officers of the Board of Directors.

**Contact:** Leon E. App, Agency Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or FAX (804) 786-6141.

### BOARD FOR CONTRACTORS

† April 9, 1997 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled meeting of the board to (i) address policy and procedural issues; (ii) review and render decisions on applications for contractor licenses/certificates; and (iii) review and render case decisions on matured complaints against licensees/certificants. The meeting is open to the public; however, a portion of the board's business may be discussed in executive session. The department fully

complies with the Americans with Disabilities Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Geralde W. Morgan.

**Contact:** Geralde W. Morgan, Senior Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-2417, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

### Disciplinary Committee

April 1, 1997 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to review board member reports and summaries from informal fact-finding conferences held pursuant to the Administrative Process Act, and to review consent order offers in lieu of further disciplinary proceedings. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Michelle N. Couch, Legal Assistant, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

### BOARD FOR COSMETOLOGY

April 7, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8509, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

### BOARD OF DENTISTRY

† April 4, 1997 - 8 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A legislative/regulatory meeting to discuss amendments to regulations pursuant to changes in the Code of Virginia made during the 1997 General Assembly session. This is a public meeting and public comment will be taken at the beginning of the meeting.

---

## Calendar of Events

---

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

† **April 11, 1997 - 9 a.m.** -- Open Meeting

† **April 18, 1997 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A meeting of the informal conference committee to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

### Advertising Committee

† **April 4, 1997 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss disciplinary cases on advertising. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

### Continuing Education Committee

† **April 4, 1997 - 2:30 p.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss (i) disciplinary action for noncompliance of continuing education requirements; (ii) medical exemptions from continuing education; and (iii) letters requesting approval for college courses. This is a public meeting and public comment will be taken at the beginning of the meeting.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**April 1, 1997 - 7 p.m.** -- Public Hearing  
Rural Retreat High School, Rural Retreat, Virginia.

**April 8, 1997 - 7 p.m.** -- Public Hearing  
Robert E. Lee High School, 1200 North Coalter Street, Staunton, Virginia.

**April 9, 1997 - 7 p.m.** -- Public Hearing  
Landstown Middle School, 2204 Recreation Drive, Virginia Beach, Virginia.

**April 15, 1997 - 7 p.m.** -- Public Hearing  
Highland Springs High School, 15 South Oak Avenue, Highland Springs, Virginia.

**April 16, 1997 - 7 p.m.** -- Public Hearing  
Loudoun County High School, 340 North Maple Avenue, Leesburg, Virginia.

**May 17, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to repeal regulations entitled: **8 VAC 20-130-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia** and adopt regulations entitled: **8 VAC 20-131-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia**. The proposed regulations establish standards for accreditation of public schools to ensure an effective educational program is maintained in Virginia's public schools. Registration for those wishing to speak at a public hearing begins at 6:30 p.m. Speakers are requested to limit their remarks to three minutes each. In the event of a large number of persons signing up to speak, the hearing chairman may request that the time limit for each speaker be shortened to less than three minutes. A written copy of remarks is requested, but not required.

Statutory Authority: §§ 22.1-16, 22.1-19 and 22.1-353.13:3 of the Code of Virginia.

**Contact:** Charles W. Finley, Policy Analyst, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2092, toll-free 1-800-292-3820, or e-mail cfinley@pen.k12.va.us

## DEPARTMENT OF ENVIRONMENTAL QUALITY

† **April 9, 1997 - 9 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A meeting of the grant review panel to rank the FY97 Virginia Coastal Resources Management Program Grant Proposals.

**Contact:** Laura McKay, Manager, Coastal Resources Management Program, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4323 or FAX (804) 698-4319 or (804) 698-4021/TDD ☎

## VIRGINIA FIRE SERVICES BOARD

† April 18, 1997 - 9 a.m. -- Open Meeting  
Gloucester Volunteer Fire Department, 6595 Main Street,  
Gloucester, Virginia.

A meeting to discuss training and policies. The meeting is open to the public for comments and input.

**Contact:** Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

## Fire/EMS Education and Training Committee

† April 17, 1997 - 10:30 a.m. -- Open Meeting  
Gloucester Volunteer Fire Department, 6595 Main Street,  
Gloucester, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

**Contact:** Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

## Fire Prevention and Control Committee

† April 17, 1997 - 8:30 a.m. -- Open Meeting  
Gloucester Volunteer Fire Department, 6595 Main Street,  
Gloucester, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

**Contact:** Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

## Legislative/Liaison Committee

† April 17, 1997 - 2 p.m. -- Open Meeting  
Gloucester Volunteer Fire Department, 6595 Main Street,  
Gloucester, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

**Contact:** Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

## Residential Sprinkler Committee

† April 16, 1997 - 2 p.m. -- Open Meeting  
Gloucester Volunteer Fire Department, 6595 Main Street,  
Gloucester, Virginia.

A meeting to discuss residential sprinklers. The meeting is open to the public for comments and input.

**Contact:** Michael Cline, Acting Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

## BOARD OF FORESTRY

† April 21, 1997 - 1 p.m. -- Open Meeting  
Sheldon's Motor Court, Highway 15, Route 2, Box 189,  
Keysville, Virginia. (Interpreter for the deaf provided upon request)

A tour of forest products facilities.

**Contact:** Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or (804) 977-6555/TDD

† April 22, 1997 - 8:30 a.m. -- Open Meeting  
Sheldon's Motor Court, Highway 15, Route 2, Box 189,  
Keysville, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting.

**Contact:** Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or (804) 977-6555/TDD

## BOARD OF GAME AND INLAND FISHERIES

† March 31, 1997 - 7 p.m. -- Public Hearing  
Wakefield 4-H Education Center, State Route 620, Airfield Park, Wakefield, Virginia. (Interpreter for the deaf provided upon request)

† March 31, 1997 - 7 p.m. -- Public Hearing  
Northside High School, 6758 Northside High School Road, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

† March 31, 1997 - 7 p.m. -- Public Hearing  
Wytheville Community College, Main Street, Exit 73, Wytheville, Virginia. (Interpreter for the deaf provided upon request)

† March 31, 1997 - 7 p.m. -- Public Hearing  
Performing Arts Center, Charlottesville High School, 1400 Melbourne Road, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

† April 1, 1997 - 7 p.m. -- Public Hearing  
Powell Valley High School, Highway 23 Bypass, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)

† April 1, 1997 - 7 p.m. -- Public Hearing  
Rappahannock Community College, Lecture Hall, Warsaw Campus, Warsaw, Virginia. (Interpreter for the deaf provided upon request)

† April 1, 1997 - 7 p.m. -- Public Hearing  
Peter Muhlenburg Middle School, Cafeteria/Auditorium, Susan Avenue (between Route 11 and I-81), Woodstock, Virginia. (Interpreter for the deaf provided upon request)

---

## Calendar of Events

---

† April 1, 1997 - 7 p.m. -- Public Hearing  
Prince Edward County High School, Route 5, Farmville,  
Virginia. (Interpreter for the deaf provided upon request)

† April 1, 1997 - 7 p.m. -- Public Hearing  
Henrico Government Center, 4301 East Parham Road,  
Richmond, Virginia. (Interpreter for the deaf provided upon  
request)

† April 2, 1997 - 7 p.m. -- Public Hearing  
Virginia Beach Recreation Center, 4500 First Court Road,  
Virginia Beach, Virginia. (Interpreter for the deaf provided  
upon request)

† April 2, 1997 - 7 p.m. -- Public Hearing  
Buffalo Gap High School, Auditorium, Route 42 (4.4 miles  
south of Churchville), Buffalo Gap, Virginia. (Interpreter for  
the deaf provided upon request)

† April 2, 1997 - 7 p.m. -- Public Hearing  
Lee Hill Community Center, 1 HCC Drive, Fredericksburg,  
Virginia. (Interpreter for the deaf provided upon request)

† April 3, 1997 - 7 p.m. -- Public Hearing  
Halifax County High School, High School Circle, South  
Boston, Virginia. (Interpreter for the deaf provided upon  
request)

† April 3, 1997 - 7 p.m. -- Public Hearing  
NRA Building, 11250 Waples Mills Road, Fairfax County,  
Virginia. (Interpreter for the deaf provided upon request)

† April 5, 1997 - 7 p.m. -- Public Hearing  
Durant Center, 1605 Cameron Street (Metro Stop 1-1/2  
blocks away), Alexandria, Virginia. (Interpreter for the deaf  
provided upon request)

The department is holding a series of 15 public hearings for the purpose of receiving the public's comments regarding proposed changes to regulations for game; nonreptilian, terrestrial and avian nongame wildlife; hunting; trapping; and permitting, including the length of seasons, bag limits and methods of take for game. The proposals to be addressed are those regulations or regulation amendments which the Board of Game and Inland Fisheries proposed at its March 20-21, 1997, meeting.

The public input meeting series is being held prior to the May 5-6, 1997, board meetings, at which the board intends to adopt final regulations or regulation amendments. The 15 public input meetings are supplemental public hearings to the hearings which occur at both the March 20-21 and May 5-6, 1997, board meetings. Comments regarding the proposed regulations which are received at the 15 public input meetings will be summarized and reported to the board for its consideration at its May 5-6, 1997, meeting, prior to its taking final action on the proposed regulations.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

May 5, 1997 - Time to be announced -- Open Meeting  
May 6, 1997 - Time to be announced -- Open Meeting  
Richmond area; location to be announced.

The board will consider for final adoption wildlife regulations to be effective from July 1997 through June 1999. Under board procedures, regulatory actions occur over two sequential board meetings. At the May 5-6, 1997 meeting, the board will determine whether the amendments to regulations for game, nonreptilian terrestrial and avian nongame wildlife, hunting and trapping, including the length of seasons, bag limits and methods of take for game, which were proposed at its March 20-21, 1997, board meeting, will be adopted as final regulations. The board will solicit comments from the public during the public hearing portion of the board meeting; the board's procedure is to solicit public comment on the first day of the board meeting (Monday, May 5, 1997), at which time any interested citizen present shall be heard. The board reserves the right to adopt final amendments which may be more liberal than, or more stringent than the regulations currently in effect, or the regulation amendments proposed at the March 20-21, 1997, board meeting, as necessary for the proper management of wildlife resources.

Additional information on this review of regulations, including a list of the specific regulations subject to review and additional details on opportunities for public involvement, is available in a separate announcement submitted under General Notices.

General and administrative issues may be discussed by the board at the May 5-6 meeting. The board may hold an executive session before the public session begins on May 5. If the board completes its entire agenda on May 5, it may not convene on May 6, the second of the scheduled two days of the meeting.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

### DEPARTMENT OF GENERAL SERVICES

#### Design/Build Construction Management Review Board

April 18, 1997 - 10 a.m. -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond,  
Virginia. (Interpreter for the deaf provided upon request)

May 16, 1997 - 10 a.m. -- Open Meeting  
Department of General Services, 805 East Broad Street,  
Room 116, Richmond, Virginia. (Interpreter for the deaf  
provided upon request)

A meeting of the board to continue development of guidelines/procedures and review any requests which may have been submitted. The board meets the third Friday of each month.

**Contact:** Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

## DEPARTMENT OF HEALTH (STATE BOARD OF)

† **April 17, 1997 - 10 a.m.** -- Open Meeting  
University of Virginia Health Sciences Center, Jordan Hall Conference Center, 1340 Jefferson Park Avenue, Conference Room 1, Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A work session of the board.

**Contact:** Paul W. Matthias, Staff to the Board of Health, Department of Health, P.O. Box 2448, Suite 227, Richmond, VA 23218, telephone (804) 371-2902 or FAX (804) 786-4616.

† **April 17, 1997 - 2 p.m.** -- Open Meeting  
Thomas Jefferson Health District, 1138 Rose Hill Drive, Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A work session of the board. An informal dinner will be held at 7 p.m. at the South Street Restaurant, 106 South Street, Charlottesville.

**Contact:** Paul W. Matthias, Staff to the Board of Health, Department of Health, P.O. Box 2448, Suite 227, Richmond, VA 23218, telephone (804) 371-2902 or FAX (804) 786-4616.

† **April 18, 1997 - 9 a.m.** -- Open Meeting  
Sheraton Inn Charlottesville, Route 29 North, Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A business meeting.

**Contact:** Paul W. Matthias, Staff to the Board of Health, Department of Health, P.O. Box 2448, Suite 227, Richmond, VA 23218, telephone (804) 371-2902 or FAX (804) 787-4616.

## BOARD FOR HEARING AID SPECIALISTS

† **May 12, 1997 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☎

A routine business meeting. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact David Dick at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **April 14, 1997 - 8 a.m.** -- Open Meeting  
Shenandoah University, Winchester, Virginia.

At 8 a.m., a meeting of the Resources Committee; at 10 a.m., a meeting of the Planning Committee; at 1 p.m., a meeting of the Outreach Committee; and at 2 p.m., a joint meeting with the Council of Independent Colleges will be held.

**Contact:** Michael McDowell, Public Relations Director, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

† **April 15, 1997 - 9 a.m.** -- Open Meeting  
Shenandoah University, Winchester, Virginia.

A regular business meeting immediately followed by a meeting of the Executive Committee.

**Contact:** Michael McDowell, Public Relations Director, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

† **April 1, 1997 - 9 a.m.** -- Open Meeting  
† **May 6, 1997 - 9 a.m.** -- Open Meeting  
† **June 3, 1997 - 9 a.m.** -- Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☎ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **April 15, 1997 - 11 a.m.** -- Open Meeting  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☎

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

---

## Calendar of Events

---

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

### GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

**April 15, 1997 - 10 a.m.** -- Open Meeting  
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level, Rooms 1 and 2, Richmond, Virginia. ☎

A regular business meeting of the council to discuss annual goals and objectives, federal waivers, and other issues related to the federal Job Training Partnership Act and Workforce Training.

**Contact:** Gail Nottingham, Senior Policy Analyst, Governor's Employment and Training Department, 730 E. Broad St., 9th Floor, Richmond, VA 23219, telephone (804) 786-2511, FAX (804) 786-2310, or (804) 786-2315/TDD ☎

### STATE BOARD OF JUVENILE JUSTICE

† **April 9, 1997 - 9 a.m.** -- Open Meeting  
† **May 14, 1997 - 9 a.m.** -- Open Meeting  
† **June 11, 1997 - 9 a.m.** -- Open Meeting  
700 Centre Building, 700 East Franklin Street, 4th Floor, Richmond, Virginia. ☎

Board committees meet at 9 a.m. to hear reports on secure and nonsecure programs. The full board meets at 10 a.m. to approve certifications of residential programs and nonresidential services, receive public comments on proposed regulations, and take up such other matters as are brought before it.

**Contact:** Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

### DEPARTMENT OF LABOR AND INDUSTRY

#### Safety and Health Codes Board

† **April 7, 1997 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting with tentative agenda items to include:

1. Final regulation concerning Certified Lead Contractor Notification, Lead Project Permits and Permit Fees, 16 VAC 25-35-10 et seq.
2. Safety Standards for Scaffolds Used in the Construction Industry; Corrections and Partial Stay, 16 VAC 25-175-1926.451 and 16 VAC 25-175-1926.453.
3. Occupational Exposure to 1,3-Butadiene, 1910.1051, 16 VAC 25-90-1910.1051 and related standards, 16 VAC

25-90-1910.19, 16 VAC 25-90-1910.1000, 16 VAC 25-100-1915.1000 and 16 VAC 25-175-1926.55.

4. Occupational Exposure to Methylene Chloride, 16 VAC 25-90-1910.1052, 16 VAC 25-100-1915.1052, 16 VAC 25-175-1926.1152, and related standard 16 VAC 25-90-1910.19.

5. Reporting Occupational Injury and Illness Data to OSHA, 1904.17; Final Rule.

**Contact:** Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, or (804) 786-2376/TDD ☎

### COMMISSION ON LOCAL GOVERNMENT

† **May 5, 1997 - 10 a.m.** -- Open Meeting  
702 Eighth Street Office Building, 805 East Broad Street, Richmond, Virginia.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

† **June 2, 1997 - 10:30 a.m.** -- Open Meeting  
Pearisburg Town Hall, 112 Tazewell Street, Pearisburg, Virginia.

Oral presentations regarding the Town of Pearisburg - Giles County amended Voluntary Settlement Agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

† **June 2, 1997 - 7 p.m.** -- Public Hearing  
Giles County High School, Route 460, Auditorium, Pearisburg, Virginia.

A public hearing regarding the Town of Pearisburg - Giles County amended Voluntary Settlement Agreement. Persons desiring to participate in the proceedings and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999 or (804) 786-1860/TDD ☎

### LONGWOOD COLLEGE

#### Board of Visitors

† April 18, 1997 - 2:30 p.m. -- Open Meeting  
Longwood College, Lancaster Building, Room 215, Farmville,  
Virginia. ☎

A meeting to conduct routine business.

**Contact:** Patricia P. Cormier, President, Longwood College,  
201 High St., Farmville, VA 23909, telephone (804) 395-2004  
or FAX (804) 395-2821.

† April 18, 1997 - 11 a.m. -- Open Meeting  
Longwood College, Lancaster Building, Room 215, Farmville,  
Virginia. ☎

A meeting of the Academic Affairs/Student Affairs  
Committees to conduct routine business.

**Contact:** Patricia P. Cormier, President, Longwood College,  
201 High St., Farmville, VA 23909, telephone (804) 395-2001  
or FAX (804) 395-2821.

† April 18, 1997 - 8:30 a.m. -- Open Meeting  
Longwood College, Lancaster Building, Room 215, Farmville,  
Virginia. ☎

A meeting to conduct routine business of the Facilities  
and Services Committee and Finance Committee of the  
Longwood Board of Visitors.

**Contact:** Patricia P. Cormier, President, Longwood College,  
201 High St., Farmville, VA 23909, telephone (804) 395-2004  
or FAX (804) 395-2821.

### STATE MANAGEMENT TEAM

† April 1, 1997 - 9:30 a.m. -- Open Meeting  
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A meeting to discuss and recommend policy to the State  
Executive Council of the Comprehensive Services Act  
for At Risk Youth and Their Families.

**Contact:** Pamela Fitzgerald Cooper or Gloria Jarrell,  
Secretary, State Management Team, P.O. Box 1797,  
Richmond, VA 23218, telephone (804) 371-2177 or FAX  
(804) 371-0091.

### MATERNAL AND CHILD HEALTH COUNCIL

#### School Health Subcommittee

† April 15, 1997 - 10 a.m. -- Open Meeting  
American Cancer Society, 4240 Park Place Court, Glen  
Allen, Virginia.

The March 18, 1997, meeting has been rescheduled to  
April 15, 1997. The meeting focuses on improving the  
health of the Commonwealth's children and adolescents

by promoting and improving programs and service  
delivery systems related to school health programs.

**Contact:** Nancy Ford, School Health Nurse Consultant,  
Department of Health, Division of Child and Adolescent  
Health, 1500 E. Main St., Suite 137, Richmond, VA 23219,  
telephone (804) 786-7367.

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† May 30, 1997 -- Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of  
the Code of Virginia that the Department of Medical  
Assistance Services intends to amend regulations  
entitled **12 VAC 30-70-10 et seq. Methods and  
Standards for Establishing Payment Rates for  
Inpatient Hospital Care, and 12 VAC 30-90-10 et seq.  
Methods and Standards for Establishing Payment  
Rates for Long-Term Care**, relating to specialized care  
services payment methodology. The purpose of this  
proposal is to implement the reimbursement changes  
recommended in the study of specialized care services  
as directed by the 1996 General Assembly. The  
remainder of the recommendations of the study will be  
implemented through a separate regulatory package.  
The purpose of the proposed changes in cost report filing  
requirements is to conform the Department of Medical  
Assistance Services' filing time frames to those recently  
instituted by the Health Care Financing Administration for  
Medicare cost reports. Some additional technical  
changes are being made to correct the names of specific  
divisions within the department.

Statutory Authority: § 32.1-325 of the Code of Virginia and  
Item 322(D)(2) of Chapter 912 of the 1996 Acts of Assembly.

Public comments may be submitted until May 30, 1997, to  
Scott Crawford, Department of Medical Assistance Services,  
600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas,  
Regulatory Coordinators, Department of Medical Assistance  
Services, 600 E. Broad St., Suite 1300, Richmond, VA  
23219, telephone (804) 371-8854 or FAX (804) 371-4981.

### Virginia Medicaid Drug Utilization Review Board

May 15, 1997 - 2 p.m. -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting to conduct routine business including the  
amendment of bylaws.

**Contact:** Marianne R. Rollings, Registered Pharmacist,  
Pharmacy Services Unit, Department of Medical Assistance  
Services, 600 E. Broad St., Suite 1300, Richmond, VA  
23219, telephone (804) 786-8057 or FAX (804) 786-0414.



---

## Calendar of Events

---

### Virginia Medicaid Prior Authorization Advisory Committee

**May 15, 1997 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

A meeting to conduct routine business including the adoption of bylaws.

**Contact:** Marianne R. Rollings, Registered Pharmacist, Pharmacy Services Unit, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8057 or FAX (804) 786-0414.

### BOARD OF MEDICINE

**† April 11, 1997 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A panel of the board will convene pursuant to §§ 54.1-2400 and 9-6.14:12 of the Code of Virginia to inquire into allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in open and closed sessions pursuant to § 2.1-344 A7 and A15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

\*\*\*\*\*

**April 11, 1997 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

**May 2, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to **repeal** regulations entitled: **18 VAC 85-30-10 et seq. Regulations for Practice of Physical Therapy**, and **adopt** regulations entitled: **18 VAC 85-31-10 et seq. Regulations for Practice of Physical Therapy**. Since revisions recommended as a result of the Executive Order 15(94) review were extensive, 18 VAC 85-30-10 et seq. is being repealed and replaced by new regulations which establish the criteria for licensure, a process for applicants to follow, requirements for renewal and fees, and practice standards appropriate to the type of licensure and statutory mandates for these professions. Regulations are clarified and simplified and the application fee has been reduced.

**Statutory Authority:** §§ 54.1-2400 and 54.1-2943 of the Code of Virginia.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond,

VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

\*\*\*\*\*

**April 11, 1997 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

**May 2, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-50-10 et seq. Regulations for Practice of Physicians' Assistants**. The purpose of the proposed amendments is to clarify and simplify regulations; to reduce the burdensome requirements of reporting recordkeeping of invasive procedures; and to reduce the application and renewal fee for physicians' assistants who work in more than one setting.

**Statutory Authority:** §§ 54.1-2400 and 54.1-2949 through 54.1-2953 of the Code of Virginia.

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

### Credentials Committee

**† April 12, 1997 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### Executive Committee

**† April 11, 1997 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

The committee will meet in open and closed session to (i) review disciplinary files requiring administrative action; (ii) adopt amendments and approve for promulgation regulations as presented; and (iii) act on other issues that come before the board. A public hearing will be held

on physical therapy regarding 18 VAC 85-31-10 et seq., and physicians' assistants, 18 VAC 85-50-10 et seq. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Informal Conference Committee

**April 8, 1997 - 9 a.m.** -- Open Meeting  
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

**April 16, 1997 - 9 a.m.** -- Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

† **April 17, 1997 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

† **April 25, 1997 - 9:30 a.m.** -- Open Meeting  
Fort Magruder Inn, Route 60, Conference Center, Route 60, Williamsburg, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7332, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **April 10, 1997 - 10 a.m.** -- Open Meeting  
Giesen Building, Western State Hospital, Staunton, Virginia. ☎ (Interpreter for the deaf provided upon request)

† **April 22, 1997 - 10 a.m.** -- Open Meeting  
Richmond, Virginia (Location to be announced).

The Facility Work Group will continue the development of models for the future structure and function of state operated mental health and mental retardation facilities.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-6431 or FAX (804) 786-0092.

## State Human Rights Committee

† **April 29, 1997 - 9 a.m.** - Open Meeting  
Southside Community Services Board, South Boston, Virginia.

A regular meeting of the committee to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

**Contact:** Kli Kinzie, State Human Rights Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, FAX (804) 371-2308, toll-free 1-800-451-5544 or (804) 371-8977/TDD ☎

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Coal Mining Examiners

**April 8, 1997 - 10 a.m.** -- Public Hearing  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Big Stone Gap, Virginia.

**May 2, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Coal Mining Examiners intends to amend regulations entitled: **4 VAC 25-20-10 et seq. Board of Coal Mining Examiners Certification Requirements.** The Board of Coal Mining Examiners is promulgating amendments to its certification requirements to ensure that miners are certified to perform specialized tasks required to mine coal. The amendments incorporate new requirements under the Mine Safety Act, revise and clarify requirements for individual certifications, and add several certifications needed by industry.

Statutory Authority: §§ 45.1-161.28, 45.1-161.29, 45.1-161.34 and 45.1-161.35 of the Code of Virginia.

**Contact:** Frank Linkous, Chair, Board of Coal Mining Examiners, Buchanan-Smith Bldg., Big Stone Gap, VA, telephone (540) 523-8100, FAX (540) 523-8239, or 1-800-828-1120 (VA Relay Center).

### Coal Surface Mining Reclamation Fund Advisory Board

**April 23, 1997 - 10 a.m.** -- Open Meeting  
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review and discuss the current status and administration of the reclamation fund.

---

## Calendar of Events

---

**Contact:** Danny R. Brown, Division Director, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

### Virginia Gas and Oil Board

**April 15, 1997 - 9 a.m.** -- Public Hearing  
Southwest Virginia 4-H Center, Hillman Highway, Abingdon, Virginia.

**May 2, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Gas and Oil Board intends to amend regulations entitled: **4 VAC 25-160-10 et seq. Virginia Gas and Oil Board Regulations**. The purpose of the proposed amendments is to enhance the conservation and use of the Commonwealth's gas and oil resources and protect the correlative rights of gas and oil resource owners.

Statutory Authority: § 45.1-361.15 of the Code of Virginia.

**Contact:** B. Thomas Fulmer, Division Director, Department of Mines, Minerals and Energy, P.O. Box 1416, Abingdon, VA 24212, telephone (540) 676-5423, FAX (540) 676-5459, or 1-800-828-1120 (VA Relay Center).

### DEPARTMENT OF MOTOR VEHICLES

**May 19, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to repeal regulations entitled: **24 VAC 20-20-10 et seq. Privacy Protection Act Rules and Regulations**. The purpose of the proposed action is to repeal the existing regulation, which was originally promulgated in 1977 and last amended in 1984. Changes adopted by the 1994 Session of the General Assembly to §§ 46.2-204 through 46.2-210 have made these regulations obsolete. The Department of Motor Vehicles does not intend to hold a public hearing on the proposed repeal of these regulations. The purpose of this notice is to solicit input and comments from the public and any other interested parties. The Department of Motor Vehicles encourages you to share this information with others you feel may have an interest in this action. Any industry or professional association or other group receiving this notice is requested to publish this information in newsletters or journals or use any other means available to them to disseminate this notice to their memberships.

Statutory Authority: §§ 46.2-203 and 46.2-208 of the Code of Virginia.

Public comments may be submitted until May 19, 1997, to Marc Copeland, Legislative Analyst, Department of Motor

Vehicles, Room 724, P. O. Box 34712, Richmond, Virginia 23269-0001.

**Contact:** Karen Chappell, Administrator, Motorist Record Services, Department of Motor Vehicles, Room 311, P.O. Box 24712, Richmond, VA 23269-0001, telephone (804) 367-0146, FAX (804) 367-6631, or toll-free 1-800-272-9268/TDD ☎

\*\*\*\*\*

**May 19, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to repeal regulations entitled: **24 VAC 20-130-10 et seq. International Registration Plan Virginia Rules and Regulations**. The purpose of the proposed action is to repeal the regulation. This regulation was first published in 1975 when Virginia and 13 other jurisdictions were members of the International Registration Plan (Plan). The regulation was used by Virginia primarily as a tool to educate the motor carrier industry to the workings of the plan. Today, there are 49 jurisdictions that are members of the International Registration Plan. The plan has been changed many times in the intervening years, making the regulation published in 1975 obsolete. The current plan, along with various other related national policies and procedures, provides the necessary guidance to the member jurisdictions and the motor carrier industry alike. The agency does not intend to hold a public hearing on the proposed regulation after publication. The purpose of this notice is to solicit input and comments from the public and any other interested parties. The Department of Motor Vehicles encourages you to share this information with others you feel may have an interest in this action. Any industry or professional association or other group receiving this notice is requested to publish this information in newsletters or journals or use any other means available to them to disseminate this notice to their memberships.

Statutory Authority: §§ 46.2-203 and 46.2-703 of the Code of Virginia.

Public comments may be submitted until May 19, 1997, to Marc Copeland, Legislative Analyst, Department of Motor Vehicles, Room 724, P. O. Box 34712, Richmond, Virginia 23269-0001.

**Contact:** Jerry Fern, Manager, IRP and Tax Licensing, Department of Motor Vehicles, Room 607, P.O. Box 24712, Richmond, VA 23269-0001, telephone (804) 367-8487, FAX (804) 367-6631, or toll-free 1-800-272-9268/TDD ☎

\*\*\*\*\*

**May 19, 1997** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor

Vehicles intends to repeal regulations entitled: **24 VAC 20-30-10 et seq. Virginia Driver Improvement Rules and Regulations.** The purpose of the proposed action is to repeal the existing regulation, which was originally promulgated in 1975 and last amended in 1978. As such, the regulation has no substantive relationship to either the current statute or program. The Department of Motor Vehicles does not intend to hold a public hearing on the proposed repeal of these regulations. The purpose of this notice is to solicit input and comments from the public and any other interested parties. The Department of Motor Vehicles encourages you to share this information with others you feel may have an interest in this action. Any industry or professional association or other group receiving this notice is requested to publish this information in newsletters or journals or use any other means available to them to disseminate this notice to their memberships.

Statutory Authority: §§ 46.2-203 and 46.2-489 of the Code of Virginia.

**Contact:** Marc Copeland, Legislative Analyst, Department of Motor Vehicles, Room 724, P.O. Box 24712, Richmond, VA 23269-0001, telephone (804) 367-1875, FAX (804) 367-6631, or toll-free 1-800-272-9268.

## Medical Advisory Board

† **April 9, 1997 - 1 p.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎

A regular business meeting.

**Contact:** Millicent N. Ford, Program Manager, Medical Advisory Board, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23230, telephone (804) 367-0132.

## VIRGINIA MUSEUM OF NATURAL HISTORY

### Board of Trustees

† **April 26, 1997 - 9 a.m.** -- Open Meeting  
Blacksburg Marriott, 900 Prices Fork Road, N.W., Blacksburg, Virginia. ☎

A meeting to include reports from the development, executive, finance, legislative, marketing, nominating, outreach, personnel, planning and facilities, and research and collections committees. Public comment will be received following approval of the minutes of the January meeting.

**Contact:** Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

### Development Committee

† **April 26, 1997 - 8 a.m.** -- Open Meeting  
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ☎

A meeting to discuss development issues.

**Contact:** Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

### Marketing Committee

† **April 26, 1997 - Noon** -- Open Meeting  
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ☎

A meeting to discuss marketing issues.

**Contact:** Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

### Outreach Committee

† **April 26, 1997 - 8:30 a.m.** -- Open Meeting  
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ☎

A meeting to discuss redesign of the museum's newsletter.

**Contact:** Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

### Research and Collections Committee

† **April 26, 1997 - 7:30 a.m.** -- Open Meeting  
Blacksburg Marriott, 900 Prices Fork Road, N.W., Jacob's Lantern Restaurant, Blacksburg, Virginia. ☎

A meeting to discuss appointment of research associates, revision of research policies, and recommendations for the museum.

**Contact:** Rhonda J. Knighton, Administrative Staff Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (540) 666-8616 or (540) 666-8638/TDD ☎

---

# Calendar of Events

---

## BOARD OF NURSING

### Special Conference Committee

† April 7, 1997 - 9 a.m. -- Open Meeting

† April 8, 1997 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences with licensees or certificate holders or both. Public comment will not be received.

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

## BOARD OF NURSING HOME ADMINISTRATORS

April 9, 1997 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A general board meeting. Public comments will be heard 15 minutes prior to the beginning of the meeting.

Contact: Senita Booker, Program Support Technician Senior, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## BOARD FOR OPTICIANS

April 4, 1997 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

## BOARD OF PHARMACY

† April 8, 1997 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A general business meeting to include discussion of draft report and task force recommendations on pharmacist workload. Public comment will be received at the beginning of the meeting. Public comment on any regulatory process for which the official public comment period has closed will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

## BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

† April 3, 1997 - 10 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. No public comment will be received.

Contact: Arnice N. Covington, Staff Administrative Assistant, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943.

\*\*\*\*\*

April 18, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to adopt regulations entitled: **18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapy.** The purpose of the proposed regulation is to comply with statutory requirements to establish standards of ethics, fees and criteria for licensure of marriage and family therapists.

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

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

**BOARD OF PSYCHOLOGY**

**April 8, 1997 - 10 a.m.** -- Open Meeting  
**June 10, 1997 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to conduct general board business. Public comment will be received.

**Contact:** LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

\*\*\*\*\*

**April 8, 1997 - 8:30 a.m.** -- Public Hearing  
Department of Health Professions, 5th Floor, Conference Room 3, Richmond, Virginia.

**May 12, 1997--** Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Psychology intends to amend regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed amendments is to replace emergency regulations which were necessary to conform regulations to 1996 statutory changes requiring the transfer of licensure of clinical psychologists to the Board of Psychology and establishment of three types of psychology licensure. Fees and renewal schedules have been amended to be less burdensome for licensees.

**Statutory Authority:** §§ 54.1-2400 and 54.1-3600 et seq. of the Code of Virginia.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575 or FAX (804) 662-9943.

\*\*\*\*\*

**May 2, 1997--** Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Psychology intends to adopt regulations entitled: **18 VAC 125-30-10 et seq. Regulations Governing the Certification of Sex Offender Treatment Providers.** The purpose of the proposed regulations is to establish requirements for education and supervised training, endorsement, renewal of certification, standards of practice, and fees for the certification of sex offender treatment providers.

**Statutory Authority:** §§ 54.1-2400 and 54.1-3605 of the Code of Virginia.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA

23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

† **April 14, 1997 - 10 a.m.** -- Open Meeting  
† **April 15, 1997 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 5th Floor, Conference Room 3, Richmond, Virginia.☎

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. No public comment will be received.

**Contact:** Arnice N. Covington, Staff Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9914, FAX (804) 662-9943.

**Credentials Committee**

† **April 18, 1997 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.☎

A meeting to conduct an informal hearing regarding a practitioner's academic and experience credentials. Public comment will be received at the beginning of the meeting.

**Contact:** LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

**Regulatory/Legislative Committee**

† **April 8, 1997 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.☎

A meeting to review regulations governing the practice of psychology pursuant to Executive Order 15(94).

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎.

**VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD**

† **April 17, 1997 - 10 a.m.** -- Open Meeting  
Department of Information Technology, Richmond Plaza Building, 110 South 7th Street, 1st Floor East Conference Room, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A quarterly meeting. The agenda will include (i) an update on actions of the 1997 General Assembly; (ii) the process for allocation of contracts and grants for FY98, (iii) a review of the planning process for biennial budget, and (iv) other items of interest.

**Contact:** Suzanne J. Piland, Department of Information Technology, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5544 or FAX (804) 371-5556.

---

# Calendar of Events

---

## REAL ESTATE APPRAISER BOARD

**May 13, 1997 - 10 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2039, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## REAL ESTATE BOARD

**† April 25, 1997 - 10 a.m. -- Open Meeting**  
University Center, College of William and Mary, Chesapeake C, Williamsburg, Virginia ☎ (Interpreter for the deaf provided upon request)

A meeting with neighboring states. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

**May 1, 1997 - 9 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## Education Committee

**May 1, 1997 - 8 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia ☎

A general business meeting of the committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the

meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## Fair Housing Subcommittee

**May 1, 1997 - 8 a.m. -- Open Meeting**  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia ☎

A general business meeting of the subcommittee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## STATE REHABILITATION ADVISORY COUNCIL

**† April 2, 1997 - 10 a.m. -- Open Meeting**  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

Committee meetings of the State Rehabilitation Advisory Council to provide input to Department of Rehabilitative Services State Plan for FY 97-98.

**Contact:** Kay Magill, SRAC Liaison, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7527, FAX (804) 662-7696, toll-free 1-800-552-5019/TDD and Voice, or (804) 464-9950/TDD ☎

## VIRGINIA RESOURCES AUTHORITY

**† April 15, 1997 - 9:30 a.m. -- Open Meeting**  
**† May 13, 1997 - 9:30 a.m. -- Open Meeting**  
The Mutual Building, 909 East Main Street, Suite 607,  
Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month, to review the authority's operations for the prior month, and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

## BOARD OF SOCIAL WORK

† **April 10, 1997 - 3 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia. ☎

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. No public comment will be received.

**Contact:** Arnice N. Covington, Staff Administrative Assistant, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9914, FAX (804) 662-9943.

† **April 11, 1997 - 10:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia. ☎

A meeting to present committee reports for the board and conduct regulatory review. Public comment will be received beginning at 10:45 a.m.

**Contact:** Evelyn B. Brown, Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9914.

## COMMONWEALTH TRANSPORTATION BOARD

† **April 16, 1997 - 2 p.m.** -- Open Meeting  
Department of Transportation, 1401 East Broad Street,  
Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

† **April 17, 1997 - 10 a.m.** -- Open Meeting  
Department of Transportation, 1401 East Broad Street,  
Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

## TREASURY BOARD

**April 16, 1997 - 9 a.m.** -- Open Meeting  
**May 21, 1997 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☎

A regular business meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

## BOARD OF VETERINARY MEDICINE

† **April 8, 1997 - 8 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A public hearing to receive comments to simplify and clarify regulations and to eliminate unnecessary or redundant regulations according to recommendations of Executive Order (15)94. The board will also amend its regulations pursuant to § 54.1-3804 as amended by the 1996 General Assembly.

**Contact:** Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD

† **April 8, 1997 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. Public comment will not be received.

**Contact:** Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD

## VIRGINIA RACING COMMISSION

† **April 16, 1997 - 9:30 a.m.** -- Open Meeting  
New Kent County Administration Building, 12007 Courthouse Circle, New Kent, Virginia. ☎

A monthly meeting to include discussion of proposed amendments to regulations pertaining to participants and pari-mutuel wagering.

**Contact:** William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363, FAX (804) 371-6127 or toll-free 1-800-371-7363.



---

# Calendar of Events

---

## DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR THE)

**April 1, 1997 - 1 p.m.** -- Open Meeting

Department for the Visually Handicapped, 111 Commonwealth Avenue, Bristol, Virginia. (Interpreter for the deaf provided upon request)

A meeting to receive comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

**April 12, 1997 - 10 a.m.** -- Open Meeting

Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

**Contact:** Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

## Vocational Rehabilitation Advisory Council

**† May 17, 1997 - 10 a.m.** -- Open Meeting

Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for blind and visually impaired citizens of the Commonwealth.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD ☎

## VIRGINIA VOLUNTARY FORMULARY BOARD

**April 23, 1997 - 10 a.m.** -- Public Hearing

Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add drugs and drug products to the formulary that became effective on January 15, 1996, and its most recent supplement. Copies of the proposed revisions to the formulary are available for inspection at the Department of Health, Bureau of Pharmacy Services, James Monroe Building, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, VA 23218. Written comments sent to the above address and received prior to 5 p.m. on April 23, 1997, will be made part of the hearing record.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

**May 29, 1997 - 10:30 a.m.** -- Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to review the public hearing record and product data for products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

## VIRGINIA WASTE MANAGEMENT BOARD

**April 18, 1997** -- Public comments may be submitted until 5 p.m. on this date to the address listed below or by hand delivery to 629 East Main Street, Richmond, VA.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **9 VAC 20-160-10 et seq. Voluntary Remediation Regulations.** The purpose of the proposed regulation is to govern voluntary remediation of releases of hazardous substance, hazardous waste, solid waste, or petroleum.

Statutory Authority: § 10.1-1429.1 of the Code of Virginia.

**Contact:** Robert G. Wickline, P.E., Office of Technical Assistance, Waste Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX (804) 698-4327, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

† **May 5, 1997 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House  
Room C, Richmond, Virginia.

A regular meeting of the board.

**Contact:** Cindy M. Berndt, Department of Environmental  
Quality, P.O. Box 10009, Richmond, VA 23240, telephone  
(804) 698-4378.

### STATE WATER CONTROL BOARD

† **March 31, 1997 - 7 p.m.** -- Public Hearing  
Acquinton Elementary School, Route 30, King William  
County, King William, Virginia.

An informal public hearing to receive comments from  
the public on the proposed issuance of a Virginia Water  
Protection Permit to the City of Newport News for the  
King William Reservoir.

**Contact:** Joe Hassell, Department of Environmental Quality,  
P.O. Box 10009, Richmond, VA 23240-0009, telephone (804)  
698-4072.

\*\*\*\*\*

**April 18, 1997** - Public comments may be submitted until 4  
p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of  
the Code of Virginia that the State Water Control Board  
intends to adopt regulations entitled: **9 VAC 25-194-10  
et seq. General Virginia Pollutant Discharge  
Elimination System (VPDES) Permit for Car Wash  
Facilities.** The purpose of the proposed regulation is to  
establish a general permit to cover the car wash facility  
category of point source discharges to surface waters.

**Request for Comments:** The board is giving notice on the  
proposed adoption of 9 VAC 25-194-10 et seq. and the  
issuance of the General VPDES Permit (VAG75) to discharge  
to state waters and state certification under the State Water  
Control Law. The board is seeking written comments from  
interested persons on both the proposed regulatory action  
and the draft permit, and also comments regarding the cost  
and benefits of the stated alternative or any other  
alternatives. Comments shall include the name, address,  
and telephone number of the writer, and shall contain a  
complete, concise statement of the factual basis for  
comments. Only those comments received within this period  
will be considered by the board.

**Other Information:** The Department of Environmental has  
conducted analyses on the proposed regulation related to the  
basis, purpose, substance, issues and estimated impacts.  
These are available upon request from Mr. Cosby at the  
address below.

**Question and Answer Period:** A question and answer period  
will be held one half hour prior to the public hearing at the  
same location. Interested citizens will have an opportunity to  
ask questions pertaining to the proposal at that time.

**Accessibility to Persons with Disabilities:** The public hearing  
will be held at facilities believed to be accessible to persons  
with disabilities. Any person with questions should contact  
George Cosby. Persons needing interpreter services for the  
deaf should notify Mr. Cosby no later than March 7, 1997.

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

**Contact:** George Cosby, Department of Environmental  
Quality, P.O. Box 10009, Richmond, VA 23240, telephone  
(804) 698-4067.

† **April 29, 1997 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House  
Room C, Richmond, Virginia.

A regular meeting of the board.

**Contact:** Cindy M. Berndt, Department of Environmental  
Quality, P.O. Box 10009, Richmond, VA 23240, telephone  
(804) 698-4378.

### Technical Advisory Committee

**April 15, 1997 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street,  
First Floor Training Room, Richmond, Virginia. (Interpreter  
for the deaf provided upon request)

A meeting to discuss the reissuance of the board's  
general permit regulation governing discharges from the  
cleanup of petroleum from underground storage tanks (9  
VAC 25-120-10 et seq.).

**Contact:** Richard Ayers, Technical Services Administrator,  
Department of Environmental Quality, 629 E. Main St.,  
Richmond, VA 23219, telephone (804) 698-4075 or FAX  
(804) 698-4032.

### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**April 10, 1997 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review, disciplinary  
cases, and other matters requiring board action. A  
public comment period will be held at the beginning of  
the meeting. Persons desiring to participate in the  
meeting and requiring special accommodations or  
interpreter services should contact the board at least 10  
days prior to the meeting so that suitable arrangements  
can be made. The department fully complies with the  
Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director,  
Department of Professional and Occupational Regulation,  
3600 W. Broad St., Richmond, VA 23230-4917, telephone  
(804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

---

## Calendar of Events

---

### INDEPENDENT

#### STATE LOTTERY BOARD

† April 23, 1997 - 9:30 a.m. -- Open Meeting  
State Lottery Department, 900 East Main Street, Richmond,  
Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. A period for public comment is scheduled at the beginning of the meeting. The Audit Committee will meet at 8:30 a.m.; the Compensation and Personnel Committee will meet at 9 a.m.

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

### LEGISLATIVE

#### JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† April 14, 1997 - 9:30 a.m. -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

Staff briefings on the 1997 JLARC workplan and the 1997 Auditor of Public Accounts Workplan.

**Contact:** Phillip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

#### DIVISION OF LEGISLATIVE SERVICES

April 9, 1997 - 9 a.m.  
General Assembly Building, Senate Room B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Division of Legislative Services is presenting its third annual program on "Recent Developments: 1997 Legislative Session." This program is designed to provide attorneys, regulators and lobbyists with an overview of legislation considered during the 1997 Session of the Virginia General Assembly. Division staff will make a series of presentations on legislation considered by the standing committees of the General Assembly. Ample opportunity will be available for questions and answers. Registration begins at 8:30 a.m. The cost is \$50 in advance and \$60 at the door. The program has been approved for 6.0 Virginia Mandatory Continuing Legal Education credits (no ethics credits). Seating is limited, so register early. All participants will receive a copy of the 1997 *Session Summary*. Box lunches will be available only for those who request them in advance. Coffee and pastries will be provided in the

morning. A copy of the registration form is on pages 1627-1628 and may also be obtained from the contact person listed below.

**Contact:** Sandra Levin, Division of Legislative Services, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

### CHRONOLOGICAL LIST

#### OPEN MEETINGS

##### March 31

Alcoholic Beverage Control Board, Virginia

##### April 1

Contractors, Board for  
- Disciplinary Committee  
† Hopewell Industrial Safety Council  
† Management Team, State  
Visually Handicapped (Board for the), Department for the

##### April 2

† Rehabilitation Advisory Council, State

##### April 3

Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
- State Parks Foundation  
† Professional Counselors and Marriage and Family Therapists, Board of

##### April 4

† Dentistry, Board of  
Opticians, Board for

##### April 7

Cosmetology, Board of  
† Labor and Industry, Department of  
- Safety and Health Codes Board  
† Nursing, Board of

##### April 8

† Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
- Southern Area Review Committee  
Medicine, Board of  
† Nursing, Board of  
† Pharmacy, Board of  
Psychology, Board of  
† Veterinary Medicine, Board of

##### April 9

Agriculture and Consumer Services, Department of  
- Virginia Winegrowers Advisory Board  
† Contractors, Board for  
† Environmental Quality, Department of  
† Juvenile Justice, Board of  
Legislative Services, Division of  
† Motor Vehicles, Department of  
- Medical Advisory Board  
Nursing Home Administrators, Board of

---

## Calendar of Events

---

### April 10

- † Aging, Department for the
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
- † Social Work, Board of

### April 11

- † Dentistry, Board of
- † Medicine, Board of
  - Executive Committee
- † Social Work, Board of
  - Regulatory/Legislative Committee

### April 12

- † Medicine, Board of
  - Credentials Committee
- Visually Handicapped (Board for the), Department for the

### April 14

- Barbers, Board for
- † Competition Council, Commonwealth
- † Higher Education for Virginia, State Council of
- † Legislative Audit and Review Commission, Joint
- † Psychology, Board of

### April 15

- Agriculture and Consumer Services, Department of
  - Virginia Horse Industry Board
- † Asbestos Licensing and Lead Certification, Board for
- † Higher Education for Virginia, State Council of
- † Housing Development Authority, Virginia
- Job Training Coordinating Council, Governor's
- † Maternal and Child Health Council
  - School Health Subcommittee
- † Psychology, Board of
- † Resources Authority, Virginia
- Water Control Board, State
  - Technical Advisory Committee

### April 16

- Accountancy, Board for
- † Auctioneers Board
- † Fire Services Board, Virginia
  - Sprinkler Committee
- Medicine, Board of
- † Transportation Board, Commonwealth
- Treasury Board
- † Virginia Racing Commission

### April 17

- † Agriculture and Consumer Services, Department of
  - Virginia Sweet Potato Board
- † Fire Services Board, Virginia
  - Fire/EMS Education and Training Committee
  - Fire Prevention and Control Committee
  - Legislative/Liaison Committee
- † Health, State Board of
- † Medicine, Board of
- † Public Telecommunications Board, Virginia
- † Transportation Board, Commonwealth

### April 18

- † Audiology and Speech-Language Pathology, Board of
- † Dentistry, Board of

- † Fire Services Board, Virginia
- General Services, Department of
  - Design-Build/Construction Management Review Board
- † Health, State Board of
- † Longwood College
  - Board of Visitors
- † Psychology, Board of
  - Credentials Committee

### April 21

- † Aging, Governor's Advisory Board on
- † Forestry, Board of

### April 22

- Accountancy, Board for
- † Aviation Board, Virginia
- † Aging, Governor's Advisory Board on
- † Forestry, Board of
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of

### April 23

- † Aviation Board, Virginia
- † Lottery Board, State
- Mines, Minerals and Energy, Department of
  - Coal Surface Mining Reclamation Fund Advisory Board

### April 24

- † Air Pollution Control Board, State
- Compensation Board

### April 25

- † Medicine, Board of
- † Real Estate Board

### April 26

- † Museum of Natural History, Virginia
  - Development Committee
  - Marketing Committee
  - Outreach Committee
  - Research and Collections Committee

### April 29

- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
  - State Human Rights Committee
- † Water Control Board, State

### May 1

- Conservation and Recreation, Department of
  - Falls of the James Scenic River Advisory Board
- Real Estate Board
  - Education Committee
  - Fair Housing Subcommittee

### May 5

- Game and Inland Fisheries, Board of
- † Local Government, Commission on
- † Waste Management Board, Virginia

### May 6

- Asbestos Licensing and Lead Certification, Board for
- Game and Inland Fisheries, Board of
- † Hopewell Industrial Safety Council

---

## Calendar of Events

---

- May 12**  
† Hearing Aid Specialists, Board for
- May 13**  
Real Estate Appraiser Board  
† Resources Authority, Virginia
- May 14**  
† Juvenile Justice, State Board of
- May 15**  
Medical Assistance Services, Department of  
- Virginia Medicaid Drug Utilization Review Board  
- Virginia Medicaid Prior Authorization Advisory Committee  
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- May 16**  
General Services, Department of  
- Design-Build/Construction Management Review Board
- May 17**  
† Visually Handicapped (Board for the), Department for the  
- Vocational Rehabilitation Advisory Council
- May 21**  
† Conservation and Recreation, Department of  
- Rappahannock Scenic River Advisory Board  
Treasury Board
- May 29**  
Voluntary Formulary Board, Virginia
- June 2**  
† Local Government, Commission on
- June 3**  
† Hopewell Industrial Safety Council
- June 5**  
† Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board
- June 10**  
Psychology, Board of
- June 11**  
† Juvenile Justice, State Board of
- April 5**  
† Game and Inland Fisheries, Department of
- April 8**  
Education, Board of  
Mines, Minerals and Energy, Department of  
- Board of Coal Mining Examiners  
Psychology, Board of
- April 9**  
Education, Board of
- April 11**  
Medicine, Board of
- April 15**  
Education, Board of  
Mines, Minerals and Energy, Department of  
- Virginia Gas and Oil Board
- April 16**  
Education, Board of
- April 23**  
Voluntary Formulary Board, Virginia
- May 14**  
Psychology, Board of
- June 2**  
† Local Government, Commission on

### PUBLIC HEARINGS

- March 31**  
† Game and Inland Fisheries, Department of  
† Water Control Board, State
- April 1**  
Education, Board of  
† Game and Inland Fisheries, Department of
- April 2**  
† Game and Inland Fisheries, Department of
- April 3**  
† Game and Inland Fisheries, Department of

## TOPIC AREAS:

General Laws

Business,  
Trade & Commerce

Taxation & Finance

Transportation

Local Government

Environment &  
Natural Resources

Education

Health

Welfare &  
Social Services

Courts of Justice

Constitutional issues &  
Privileges & Elections

Interim activities,  
legislative studies

*Division of Legislative Services  
General Assembly Building, 2nd Floor  
910 Capitol Square  
Richmond, Virginia 23219*

---

*Third Annual*

---

*Recent  
Developments:*

---

**1997  
Legislative  
Session**

---

---

Richmond: April 9

---

Presented by



Virginia Division of  
Legislative Services

Approved for 6 MCLE Credits

**Registration Form**

NAME(S): \_\_\_\_\_

ORGANIZATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

Please enclose a check, made payable to the Treasurer of Virginia, for the following:

- April 9: Richmond**
- \_\_\_ Attendees at \$50.00 each \$ \_\_\_\_\_  
(\$60.00 at the door)
- \_\_\_ Lunch(s) at \$6.00 each \$ \_\_\_\_\_
- 1997 Session Summary**
- \_\_\_ Extra copies at \$10.00 each \$ \_\_\_\_\_  
(Copies may be ordered without attending this presentation; add \$4.00 per copy if to be mailed.)

**Total**..... \$ \_\_\_\_\_

Please indicate below any particular bills or topics addressed by the 1997 Session of the General Assembly you would like to learn more about:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Please mail to:**  
 Ms. Sandra Levin  
 Division of Legislative Services  
 General Assembly Building, 2nd Floor  
 Richmond, Virginia 23219  
 PHONE: (804) 786-3591  
 FAX: (804) 371-0169

No return mail confirmation will be made.

**DATE & LOCATION:**

**Wednesday, April 9, 1997:**  
 Senate Room B  
 General Assembly Building  
 Richmond, Virginia

**TIME:**

9 a.m. to 4:30 p.m.  
 (registration begins at 8:30)

**COST:**

\$50.00 (\$60.00 at the door)

**MCLE CREDIT:**

Approved for 6.0 Virginia Mandatory  
 Continuing Legal Education credits  
 (no ethics credits)



- Seating is limited, so please register early.
- All participants will receive a copy of the 1997 Session Summary. (Additional copies may be ordered using this form.)
- Box lunches will be available only for those who request in advance.
- Coffee and pastries will be provided.

This program is designed to provide attorneys, regulators and lobbyists with an overview of legislation considered during the 1997 Session of the Virginia General Assembly. Division of Legislative Services staff will make a series of presentations on legislation considered by the standing committees of the General Assembly. Ample opportunity will be available for questions and answers.

The Division of Legislative Services is the legal and research arm of the General Assembly. Division staff draft a majority of bills and amendments considered during the legislative session. The staff is made up of attorneys and research specialists with expertise in the areas of responsibilities of the legislature's standing committees.