

---

# TABLE OF CONTENTS

---

## CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table.....2393

## NOTICES OF INTENDED REGULATORY ACTION

### TITLE 12. HEALTH

Department of Medical Assistance Services.....2399

### TITLE 13. HOUSING

Board of Housing and Community Development .....2399

Virginia Manufactured Housing Board.....2401

### TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Dentistry .....2401

Board of Medicine .....2401

## PROPOSED REGULATIONS

### TITLE 14. INSURANCE

#### STATE CORPORATION COMMISSION

##### Bureau of Insurance

Rules Governing Accelerated Benefits Provisions (amending 14 VAC 5-70-10 through 14 VAC 5-70-40, 14 VAC 5-70-80, and 14 VAC 5-70-130). .....2403

### TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

#### BOARDS OF NURSING AND MEDICINE

Regulations for Prescriptive Authority for Nurse Practitioners (amending 18 VAC 90-40-100, 18 VAC 90-40-110, and 18 VAC 90-40-120). .....2406

### TITLE 22. SOCIAL SERVICES

#### DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Assistive Technology Equipment (amending 22 VAC 20-20-10 through 22 VAC 20-20-110). .....2408

## STATE BOARD OF SOCIAL SERVICES

Standards and Regulations for Licensed Assisted Living Facilities (amending 22 VAC 40-71-10, 22 VAC 40-71-20, 22 VAC 40-71-30, 22 VAC 40-71-50, 22 VAC 40-71-60, 22 VAC 40-71-80, 22 VAC 40-71-90, 22 VAC 40-71-110, 22 VAC 40-71-130, 22 VAC 40-71-150, 22 VAC 40-71-160, 22 VAC 40-71-170, 22 VAC 40-71-180, 22 VAC 40-71-210, 22 VAC 40-71-270, 22 VAC 40-71-280, 22 VAC 40-71-290, 22 VAC 40-71-310, 22 VAC 40-71-330, 22 VAC 40-71-360, 22 VAC 40-71-410, 22 VAC 40-71-440, 22 VAC 40-71-450, 22 VAC 40-71-460, 22 VAC 40-71-480, 22 VAC 40-71-490, 22 VAC 40-71-530, 22 VAC 40-71-540, 22 VAC 40-71-550, 22 VAC 40-71-560, 22 VAC 40-71-570, 22 VAC 40-71-580, 22 VAC 40-71-590, 22 VAC 40-71-600, 22 VAC 40-71-630, 22 VAC 40-71-640, 22 VAC 40-71-650, 22 VAC 40-71-660, 22 VAC 40-71-670, 22 VAC 40-71-680, 22 VAC 40-71-690, and 22 VAC 40-71-700; adding 22 VAC 40-71-45 and 22 VAC 40-71-275). ..... 2422

## FINAL REGULATIONS

### TITLE 9. ENVIRONMENT

#### STATE WATER CONTROL BOARD

General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities (amending 9 VAC 25-194-10 and 9 VAC 25-194-40 through 9 VAC 25-194-70; repealing 9 VAC 25-194-80). ..... 2452

### TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

#### STATE CORPORATION COMMISSION

##### Bureau of Financial Institutions

Rules Governing Mortgage Lenders and Brokers (adding 10 VAC 5-160-50). ..... 2452

### TITLE 11. GAMING

#### VIRGINIA RACING COMMISSION

Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Medication (amending 11 VAC 10-180-10, 11 VAC 10-180-20, 11 VAC 10-180-40 through 11 VAC 10-180-90). ..... 2453

### TITLE 12. HEALTH

#### STATE BOARD OF HEALTH

Waterworks Regulations (amending 12 VAC 5-590-10, 12 VAC 5-590-370, 12 VAC 5-590-410, 12 VAC 5-590-420, 12 VAC 5-590-440, 12 VAC 5-590-500, 12 VAC 5-590-530, 12 VAC 5-590-540, and 12 VAC 5-590-550; Appendix B and Appendix F). ..... 2462

---

# Table of Contents

---

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### **BOARD FOR BRANCH PILOTS**

Public Participation Guidelines (amending 18 VAC 45-10-10, 18 VAC 45-10-20, 18 VAC 45-10-30, 18 VAC 45-10-50, and 18 VAC 45-10-90)..... [2507](#)

## **GOVERNOR**

### EXECUTIVE ORDER

Creating the Governor's Commission on National and Community Service. (12-2002) ..... [2509](#)

## **GENERAL NOTICES/ERRATA**

### **STATE CORPORATION COMMISSION**

#### **Bureau of Insurance**

### ADMINISTRATIVE LETTER

Legislation Enacted by the 2002 Virginia General Assembly. (2002-5)..... [2510](#)

### **STATE BOARD OF SOCIAL SERVICES**

Notice of Periodic Review of Regulations ..... [2513](#)

### **STATE WATER CONTROL BOARD**

Proposed Consent Special Order - TA Operating Corporation - D/B/A Travel Centers of America ..... [2513](#)

### **STATE WATER CONTROL BOARD/WASTE MANAGEMENT BOARD**

Consent Order - Martinsville Emulsion Products Company, Inc. .... [2514](#)

### **VIRGINIA CODE COMMISSION**

Notice to State Agencies ..... [2514](#)

Forms for Filing Material for Publication in *The Virginia Register of Regulations* ..... [2514](#)

## **CALENDAR OF EVENTS**

### EXECUTIVE

Open Meetings and Public Hearings ..... [2515](#)

### INDEPENDENT

Open Meetings and Public Hearings ..... [2533](#)

## LEGISLATIVE

Open Meetings and Public Hearings ..... [2533](#)

## CHRONOLOGICAL LIST

Open Meetings..... [2534](#)

Public Hearings..... [2536](#)

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

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2002 VAC Supplement includes final regulations published through *Virginia Register* Volume 18, Issue 11, dated February 11, 2002). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 5-35-10 through 4 VAC 5-35-50	Repealed	18:14 VA.R. 1800	4/25/02
4 VAC 5-36-10 through 4 VAC 5-36-210	Added	18:14 VA.R. 1800-1827	4/25/02
4 VAC 20-270-30	Amended	18:14 VA.R. 1827	3/5/02
4 VAC 20-270-40	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-55	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-56	Added	18:14 VA.R. 1828	3/5/02
4 VAC 20-430-50	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-430-60	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-560-20	Erratum	18:14 VA.R. 1911	--
4 VAC 20-560-20 emer	Amended	18:14 VA.R. 1904	3/4/02-3/31/02
4 VAC 20-560-20	Amended	18:16 VA.R. 2054	4/1/02
4 VAC 20-560-50 emer	Amended	18:14 VA.R. 1905	3/4/02-3/31/02
4 VAC 20-560-50	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 20-620-20	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-40	Amended	18:12 VA.R. 1646	1/31/02
4 VAC 20-620-50	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-60	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-70	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-720-47 emer	Added	18:12 VA.R. 1697	2/1/02-2/28/02
4 VAC 20-950-30	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-40	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-45	Amended	18:12 VA.R. 1647	1/31/02
4 VAC 20-950-45	Amended	18:14 VA.R. 1830	3/4/02
4 VAC 20-950-45	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 50-20-30	Amended	18:14 VA.R. 1831	7/1/02
4 VAC 50-20-50	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-50	Erratum	18:17 VA.R. 2183	--
4 VAC 50-20-70	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-120	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-220	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-320	Amended	18:14 VA.R. 1835	7/1/02
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 20-171-10	Amended	18:15 VA.R. 1955	5/10/02
6 VAC 20-171-50	Amended	18:15 VA.R. 1957	5/10/02
6 VAC 20-171-120	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-200	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-220	Amended	18:15 VA.R. 1959	5/10/02
6 VAC 20-171-230	Amended	18:15 VA.R. 1960	5/10/02
6 VAC 20-171-240	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-250	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-260	Amended	18:15 VA.R. 1962	5/10/02
6 VAC 20-171-280	Amended	18:15 VA.R. 1963	5/10/02
6 VAC 20-171-310	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-320	Amended	18:15 VA.R. 1964	5/10/02

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 20-171-330	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-340	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-350	Amended	18:15 VA.R. 1966	5/10/02
6 VAC 20-171-445	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-450	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-480	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-520	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-530	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-540	Amended	18:15 VA.R. 1969	5/10/02
<b>Title 8. Education</b>			
8 VAC 20-21-10	Amended	18:12 VA.R. 1648	3/28/02
8 VAC 20-21-40	Amended	18:12 VA.R. 1649	3/28/02
8 VAC 20-21-50	Amended	18:12 VA.R. 1650	3/28/02
8 VAC 20-21-90	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-100	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-120	Amended	18:12 VA.R. 1652	3/28/02
8 VAC 20-21-170	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-590	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-660	Amended	18:12 VA.R. 1655	3/28/02
8 VAC 20-21-680	Amended	18:12 VA.R. 1656	3/28/02
8 VAC 20-80-30	Amended	18:12 VA.R. 1657	3/27/02
8 VAC 20-80-40	Amended	18:12 VA.R. 1660	3/27/02
8 VAC 20-80-54	Amended	18:12 VA.R. 1661	3/27/02
8 VAC 20-80-56	Amended	18:12 VA.R. 1664	3/27/02
8 VAC 20-80-60	Amended	18:12 VA.R. 1666	3/27/02
8 VAC 20-80-66	Amended	18:12 VA.R. 1668	3/27/02
8 VAC 20-80-70	Amended	18:12 VA.R. 1671	3/27/02
8 VAC 20-80-76	Amended	18:12 VA.R. 1676	3/27/02
8 VAC 20-630-10 through 8 VAC 20-630-70	Added	18:12 VA.R. 1683-1684	3/28/02
<b>Title 9. Environment</b>			
9 VAC 5-40-160 through 9 VAC 5-40-230	Repealed	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-50-160 through 9 VAC 5-50-230	Repealed	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-60-200 through 9 VAC 5-60-270	Added	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-60-200	Erratum	18:17 VA.R. 2183	--
9 VAC 5-60-300 through 9 VAC 5-60-370	Added	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-60-300	Erratum	18:17 VA.R. 2183	--
9 VAC 5-80-2000 through 9 VAC 5-80-2090	Amended	18:14 VA.R. 1845-1852	5/1/02
9 VAC 5-80-2100	Repealed	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2110	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2120	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2150	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2160	Repealed	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2180	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2190	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2200	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2210	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2220	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2230	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2240	Added	18:14 VA.R. 1853	5/1/02
9 VAC 10-20-40	Erratum	18:13 VA.R. 1763	--
9 VAC 10-20-130	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-181	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-191	Erratum	18:13 VA.R. 1764	--
9 VAC 20-60	Erratum	18:12 VA.R. 1714	--
9 VAC 20-120-10	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-20	Repealed	18:18 VA.R. 2287	6/19/02

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-120-40 through 9 VAC 20-120-100	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-120	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-130	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-150 through 9 VAC 20-120-180	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-200 through 9 VAC 20-120-310	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-330	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-340	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-360	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-370	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-380	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-390	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-410 through 9 VAC 20-120-480	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-500	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-530	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-540	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-560	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-590	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-640	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-680 through 9 VAC 20-120-760	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-770 through 9 VAC 20-120-800	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-810	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-835	Added	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-840	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-880	Amended	18:18 VA.R. 2287	6/19/02
Appendix 10.1	Repealed	18:18 VA.R. 2287	6/19/02
Appendix 10.4	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-160-10 through 9 VAC 20-160-40	Amended	18:18 VA.R. 2288-2290	7/1/02
9 VAC 20-160-50	Repealed	18:18 VA.R. 2290	7/1/02
9 VAC 20-160-60 through 9 VAC 20-160-120	Amended	18:18 VA.R. 2290-2292	7/1/02
9 VAC 20-160-130	Repealed	18:18 VA.R. 2292	7/1/02
9 VAC 25-260-50	Amended	17:16 VA.R. 2381	6/5/02*
9 VAC 25-260-55	Added	17:16 VA.R. 2381	6/5/02*
<b>Title 12. Health</b>			
12 VAC 5-65	Repealed	18:12 VA.R. 1685	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Added	18:12 VA.R. 1685-1688	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Erratum	18:13 VA.R. 1764	--
12 VAC 5-120-10 through 12 VAC 5-120-90	Added	18:16 VA.R. 2057-2058	5/22/02
12 VAC 5-475-10 through 12 VAC 5-475-90	Added	18:12 VA.R. 1691	3/27/02
12 VAC 5-520-10	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-20	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Erratum	18:18 VA.R. 2369	--
12 VAC 5-520-40 through 12 VAC 5-520-70	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-80	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-90 through 12 VAC 5-520-120	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-130 through 12 VAC 5-520-210	Added	18:15 VA.R. 1969	5/8/02
12 VAC 5-615-10 through 12 VAC 5-615-470	Added	18:18 VA.R. 2293-2300	7/1/02
12 VAC 30-40-220	Amended	18:18 VA.R. 2304	7/1/02
12 VAC 30-40-280	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-290	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-345	Amended	18:18 VA.R. 2308	7/1/02
12 VAC 30-50-190	Amended	18:18 VA.R. 2309	7/1/02
12 VAC 30-50-210	Amended	18:18 VA.R. 2310	7/1/02

\* Notice of effective date published in 18:17 VA.R. 2174

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-60-300	Amended	18:18 VA.R. 2312	6/20/02
12 VAC 30-60-303	Added	18:18 VA.R. 2313	6/20/02
12 VAC 30-60-307	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-312	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-316	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-60-318	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-90-10	Amended	18:18 VA.R. 2319	7/1/02
12 VAC 30-90-20	Amended	18:18 VA.R. 2320	7/1/02
12 VAC 30-90-38	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-40	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-60	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-271	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-272	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-280	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-300	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-301	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-302	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-303	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-304	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-305	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-307	Added	18:18 VA.R. 2328	7/1/02
12 VAC 30-120-10 emer	Amended	18:12 VA.R. 1698	2/1/02-1/31/03
12 VAC 30-120-40 emer	Amended	18:12 VA.R. 1699	2/1/02-1/31/03
12 VAC 30-120-50 emer	Amended	18:12 VA.R. 1701	2/1/02-1/31/03
12 VAC 30-120-55 emer	Added	18:12 VA.R. 1702	2/1/02-1/31/03
12 VAC 30-120-60 emer	Amended	18:12 VA.R. 1704	2/1/02-1/31/03
12 VAC 30-141-90	Erratum	18:18 VA.R. 2369	--
12 VAC 30-150-10 through 12 VAC 30-150-100	Added	18:17 VA.R. 2174	6/6/02
12 VAC 30-150	Erratum	18:18 VA.R. 2370	--
12 VAC 35-20	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-102	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-105-10 through 12 VAC 35-105-1410	Added	18:18 VA.R. 2331-2365	9/19/02
12 VAC 35-140	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-150	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-160	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-170	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-200-10	Amended	18:16 VA.R. 2059	5/22/02
12 VAC 35-200-20	Amended	18:16 VA.R. 2060	5/22/02
12 VAC 35-200-30	Amended	18:16 VA.R. 2061	5/22/02
<b>Title 14. Insurance</b>			
14 VAC 5-80-160 through 14 VAC 5-80-190	Repealed	18:14 VA.R. 1896	3/31/02
14 VAC 5-390-20	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-30	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-40	Amended	18:12 VA.R. 1692	2/1/02
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 90-30-20	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-100	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-105	Added	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-220	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-40-20	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-50	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-55	Added	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-60	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-130	Amended	18:15 VA.R. 1977	5/8/02

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 110-20-20	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-270	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-280	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-285	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 110-20-430	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-10	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-20	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-30	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-40	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-60	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-70	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-80	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-100	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-30 (Forms)	Amended	18:15 VA.R. 1985	--
18 VAC 125-30-10 through 18 VAC 125-30-50	Amended	18:13 VA.R. 1753-1754	4/10/02
18 VAC 125-30-60	Repealed	18:13 VA.R. 1754	4/10/02
18 VAC 125-30-80	Amended	18:13 VA.R. 1755	4/10/02
18 VAC 125-30-90	Amended	18:13 VA.R. 1755	4/10/02
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-423-10 through 20 VAC 5-423-90	Added	18:14 VA.R. 1899-1902	3/6/02
<b>Title 22. Social Services</b>			
22 VAC 15-10-10	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-30	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-40	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-50	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-60	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-70	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 40-41-10	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-20	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-40	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-50	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-55	Added	18:12 VA.R. 1696	4/1/02
22 VAC 40-880-10	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-30	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-60	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-80	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-110	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-120	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-130	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-170	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-190	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-200 through 22 VAC 40-880-300	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-270	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-290	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-320	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-330	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-340	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-360	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-380	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-385	Added	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-410	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-430	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-440	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-480 through 22 VAC 40-880-520	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-550	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-560	Amended	18:14 VA.R. 1903	4/24/02

---

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

---

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-880-650	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-670	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-680	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-700	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-720	Added	18:14 VA.R. 1903	4/24/02



---

# NOTICES OF INTENDED REGULATORY ACTION

---

## Symbol Key

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

---

## TITLE 12. HEALTH

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistant Services intends to consider amending regulations entitled: **12 VAC 30-50. Amount, Duration, and Scope of Medical and Remedial Care Services.** The purpose of the proposed action is to amend the DMAS community mental health services regulations. The potential amendments cover a range of topics: billing units, provider license qualifications, emergency response capability, provider acceptance of all individuals without regard to their ability to pay for services, providers permitted to perform evaluations and several federally mandated changes. The purpose of these revisions is to facilitate the delivery of services to Medicaid recipients.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

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

Public comments may be submitted until June 20, 2002.

**Contact:** Catherine Hancock, MH Policy Analyst, Policy Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4272, FAX (804) 786-1680 or e-mail [chancock@dmass.state.va.us](mailto:chancock@dmass.state.va.us).

VA.R. Doc. No. R02-164; Filed April 29, 2002, 2:41 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistant Services intends to consider amending regulations entitled: **12 VAC 30-90. Methods and Standards for Establishing Payment Rates-Long Term Care Services: Nursing Home Payment System.** The purpose of the proposed action is to add a new requirement to the Nursing Home Payment System that each nursing facility submit a quarterly report of Medicaid credit balances. A credit balance would be defined as an improper or excess payment made to a provider as a result of patient billing or claims processing errors. Therefore, for each credit balance, the nursing facility would be required to submit to DMAS either the payment of the credit balance or an adjustment claim to correct any billing or claims processing errors.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

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

Public comments may be submitted until June 20, 2002.

**Contact:** James Branham, Reimbursement Analyst, Division of Cost Settlement and Reimbursement Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4587, FAX (804) 786-0729 or e-mail [jbranham@dmass.state.va.us](mailto:jbranham@dmass.state.va.us).

VA.R. Doc. No. R02-166; Filed April 29, 2002, 2:41 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistant Services intends to consider amending regulations entitled: **12 VAC 30-110. Eligibility and Appeals.** The purpose of this regulatory action is to promulgate state regulations concerning which individuals are authorized to sign Medicaid applications. In the past, the department has found itself faced with applications filed without the knowledge and approval of the applicant or filed on behalf of incompetent or incapacitated individuals by others who have no legal authority to conduct business on behalf of the applicant. To ensure that applications are only filed with the full knowledge and consent of an applicant or by someone legally acting on his behalf, the department proposes this regulation.

The agency does not intend to hold a public hearing on the proposed regulation after publication in the Virginia Register.

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

Public comments may be submitted until June 20, 2002.

**Contact:** Patricia A. Sykes, Manager, Division of Policy, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958, FAX (804) 786-1680 or e-mail [psykes@dmass.state.va.us](mailto:psykes@dmass.state.va.us).

VA.R. Doc. No. R02-165; Filed April 29, 2002, 2:24 p.m.

---

## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-21. Virginia Certifications Standards.**

---

# Notices of Intended Regulatory Action

---

The purpose of the proposed action is to initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated, and to consider amending the regulation by adopting and incorporating updated text to comport with the Virginia Administrative Code formatting and to put before the public proposed changes submitted to the board.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until June 21, 2002.

**Contact:** George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150, FAX (804) 371-7092 or e-mail grickman@dhcd.state.va.us.

VA.R. Doc. No. R02-169; Filed April 30, 2002, 11:57 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-31. Virginia Amusement Device Regulations.** The purpose of the proposed action is to initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated, and to consider amending the regulation by incorporating by reference updated standards of the American Society for Testing and Materials (ASTM) for the regulation of amusement devices. Also, proposed changes submitted to the board by the Virginia Amusement Device Technical Advisory Committee will be considered.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until June 21, 2002.

**Contact:** George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150, FAX (804) 371-7092 or e-mail grickman@dhcd.state.va.us.

VA.R. Doc. No. R02-171; Filed April 30, 2002, 11:56 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-51. Virginia Statewide Fire Prevention Code.** The purpose of the proposed action is to initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated, and to consider amending the regulation by adopting and incorporating by reference the International Code Council's (ICC) International

Fire Code/2000 and to put before the public proposed changes submitted to the board.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until June 21, 2002.

**Contact:** George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150, FAX (804) 371-7092 or e-mail grickman@dhcd.state.va.us.

VA.R. Doc. No. R02-172; Filed April 30, 2002, 11:57 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-61. Virginia Uniform Statewide Building Code.** The purpose of the proposed action is to initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated, and to consider amending the regulation by adopting and incorporating by reference the International Code Council's (ICC), International Building Code/2000 and to put before the public proposed changes submitted to the board.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until June 21, 2002.

**Contact:** George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150, FAX (804) 371-7092 or e-mail grickman@dhcd.state.va.us.

VA.R. Doc. No. R02-170; Filed April 30, 2002, 11:57 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-80. Standards Governing Operation of Individual and Regional Code Academies/1990.** The purpose of the proposed action is to initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated, and to consider amending the regulation by adopting and incorporating updated text to comport with the Virginia Administrative Code formatting and to put before the public proposed changes submitted to the board.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

---

# Notices of Intended Regulatory Action

---

Statutory Authority: §§ 36-137 and 36-139 of the Code of Virginia.

Public comments may be submitted until June 21, 2002.

**Contact:** George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150, FAX (804) 371-7092 or e-mail grickman@dhcd.state.va.us.

VA.R. Doc. No. R02-168; Filed April 30, 2002, 11:57 a.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending regulations entitled: **13 VAC 5-91. Virginia Industrialized Building Safety Regulations.** The purpose of the proposed action is to initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated, and to consider amending the regulation by adopting and incorporating by reference the International Code Council's (ICC), International Building Code/2000 and to put before the public proposed changes submitted to the board.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 36-73 of the Code of Virginia.

Public comments may be submitted until June 21, 2002.

**Contact:** George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150, FAX (804) 371-7092 or e-mail grickman@dhcd.state.va.us.

VA.R. Doc. No. R02-173; Filed April 30, 2002, 11:56 a.m.

## VIRGINIA MANUFACTURED HOUSING BOARD

### † Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the Department of Housing and Community Development has **WITHDRAWN** the Notice of Intended Regulatory Action for **13 VAC 6-20, Manufactured Housing Licensing and Transaction Recovery Fund Regulations**, which was published in 14:22 VA.R. 3048 July 20, 1998.

**Contact:** George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150, FAX (804) 371-7092 or e-mail grickman@dhcd.state.va.us.

VA.R. Doc. No. R98-272; Filed May 15, 2002, 7:59 a.m.



## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to consider amending regulations entitled: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.** The purpose of the proposed action is to amend regulations pursuant to recommendations of a periodic review, including but not limited to updates to certain requirements and terminology, clarification of requirements, and an expanded access to Virginia licensure for persons who are licensed in other states and hold board certification in a specialty area of dentistry approved by the American Dental Association Commission on Dental Accreditation. The board will also consider modifying and adding requirements and qualifications for administration of various forms of analgesia, sedation and anesthesia as minimally necessary to ensure public safety. It will consider an amendment to specify that dental education must be in an accredited program of at least 24 months in duration.

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

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

Public comments may be submitted until June 19, 2002.

**Contact:** Sandra Reen, Executive Director, Board of Dentistry, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943 or e-mail sandra.reen@dhp.state.va.us.

VA.R. Doc. No. R02-176; Filed May 1, 2002, 10:41 a.m.

### BOARD OF MEDICINE

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic.** The purpose of the proposed action is to eliminate unnecessary provisions of the regulations, clarify provisions that have raised questions for licensees or the public, especially the rules on advertising, and specify the use of the term "active practice."

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until June 19, 2002.

---

## Notices of Intended Regulatory Action

---

**Contact:** William Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail [william.harp@dhp.state.va.us](mailto:william.harp@dhp.state.va.us).

VA.R. Doc. No. R02-177; Filed May 1, 2002, 10:41 a.m.



---

# PROPOSED REGULATIONS

---

For information concerning Proposed Regulations, see Information Page.

---

## Symbol Key

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

---

## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Bureau of Insurance

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** 14 VAC 5-70. Rules Governing Accelerated Benefits Provisions (amending 14 VAC 5-70-10 through 14 VAC 5-70-40, 14 VAC 5-70-80, and 14 VAC 5-70-130).

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

**Public Hearing Date:** June 18, 2002 - 10:30 a.m. (only if hearing requested)

Public comments may be submitted until June 12, 2002.

**Agency Contact:** Bob Wright, Special Projects Coordinator, Life and Health Division, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9074, FAX (804) 371-9944, toll-free 1-800-552-7945 or e-mail [rwright@scc.state.va.us](mailto:rwright@scc.state.va.us).

#### Summary:

*This proposal amends the definition of "qualifying event" by expanding the conditions under which payment of accelerated benefits can occur. Under the proposed amendments, accelerated benefits can be paid when a qualified health care provider or court of competent jurisdiction determines that the insured (i) is unable to perform certain activities of daily living or (ii) requires direct supervision by another person during the majority of each day to protect the health and safety of the insured or any other person. These amendments result from Chapter 343 of the 2002 Acts of Assembly.*

*Other amendments clarify that the regulation applies not only to individual and group life insurance policies, but also to riders of such policies and to policy and rider renewals or reissues.*

AT RICHMOND, MAY 13, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00117

Ex Parte: In the matter of  
Adopting Revisions to the Rules  
Governing Accelerated Benefits  
Provisions

#### ORDER TO TAKE NOTICE

WHEREAS, § 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia;

WHEREAS, the rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code;

WHEREAS, the Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 70 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Accelerated Benefits Provisions," which amend the rules at 14 VAC 5-70-10, 14 VAC 5-70-20, 14 VAC 5-70-30, 14 VAC 5-70-40, 14 VAC 5-70-80, and 14 VAC 5-70-130;

WHEREAS, the proposed revisions reflect the addition of § 38.2-3115.1 of the Code of Virginia enacted by the General Assembly in its 2002 session, which is effective July 1, 2002, and provides that insurers may include a policy provision for accelerated payment of life insurance benefits to the insured during his lifetime under certain conditions; and

WHEREAS, the Commission is of the opinion that the proposed revisions should be considered for adoption with an effective date of July 1, 2002;

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Accelerated Benefits Provisions," which amend the rules at 14 VAC 5-70-10, 14 VAC 5-70-20, 14 VAC 5-70-30, 14 VAC 5-70-40, 14 VAC 5-70-80, and 14 VAC 5-70-130, be attached hereto and made a part hereof;

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before June 12, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00117;

(3) If a written request for a hearing on the proposed revisions is filed on or before June 12, 2002, the Commission shall conduct a hearing in the Commission's Courtroom, 2<sup>nd</sup> Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219 at 10:30 a.m. on June 18, 2002, to consider the adoption of the attached proposed revisions proposed by the Bureau of Insurance with an effective date of July 1, 2002;

---

# Proposed Regulations

---

(4) If no written request for a hearing on the proposed revisions is filed on or before June 12, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance;

(5) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with a draft of the proposed revisions, to all life and health insurers, fraternal benefit societies, cooperative non-profit life benefit companies or mutual assessment life, accident and sickness insurers licensed by the Commission to write life insurance in the Commonwealth of Virginia; and by forwarding a copy of this Order, together with a draft of the proposed revisions, to the Virginia Registrar of Regulations for appropriate publication in the *Virginia Register of Regulations*; and

(6) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (5) above.

## 14 VAC 5-70-10. Purpose.

The purpose of this chapter (~~14 VAC 5-70-10 et seq.~~), is to regulate accelerated benefit provisions of individual and group life insurance policies *and riders to such policies* and to provide required standards of disclosure. This chapter shall apply to all accelerated benefits provisions of individual and group life insurance policies *and riders to such policies* except those subject to Rules Governing Long-Term Care Insurance (~~Chapter 200 of this title, 14 VAC 5-200-10 et seq.~~), issued or delivered in this Commonwealth, on or after ~~June 1, 1992~~ July 1, 2002.

## 14 VAC 5-70-20. ~~Effective date;~~ Compliance with the chapter.

~~A. This chapter (14 VAC 5-70-10 et seq.) shall be effective on June 1, 1992.~~

~~B. No new policy form shall be approved on or after June 1, 1992 unless it complies with this chapter (14 VAC 5-70-10 et seq.). A. Any policy or rider complying with this chapter and other regulatory requirements may be sold, solicited or negotiated in this Commonwealth, or in the case of group life insurance policies or riders, re-issued or renewed in this Commonwealth with accelerated benefit provisions as set forth in this chapter.~~

~~C. B. No policy form or rider shall be delivered or issued for delivery in this Commonwealth on or after September 1, 1992 July 1, 2002, unless it complies with this chapter (14 VAC 5-70-10 et seq.).~~

## 14 VAC 5-70-30. Applicability and scope.

Except as otherwise specifically provided, this chapter (~~14 VAC 5-70-10 et seq.~~), ~~applies shall apply~~ to accelerated benefit provisions on individual and group life insurance policies *or riders to such policies* delivered or issued for delivery in this Commonwealth, on or after ~~the effective date hereof~~ July 1, 2002, by insurers, fraternal benefit societies,

cooperative nonprofit life benefit companies or mutual assessment life, accident and sickness insurers, *and to renewals or reissues of group life insurance policies or riders occurring on or after July 1, 2002.*

## 14 VAC 5-70-40. Definitions.

For the purposes of this chapter, ~~14 VAC 5-70-10 et seq.:~~

"Accelerated benefits" ~~as used in this chapter (14 VAC 5-70-10 et seq.),~~ means benefits payable under a life insurance contract;

1. To a policyholder or certificateholder, during the lifetime of the insured, in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider; and
2. Which reduce the death benefit otherwise payable under the life insurance contract; and
3. Which are payable upon the occurrence of a single qualifying event which results in the payment of a benefit amount fixed at the time of acceleration.

"Qualifying event" means one or more of the following:

1. A medical condition which would result in a drastically limited life span as specified in the contract, for example, 24 months or less;
2. A medical condition which has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support, without which the insured would die;
3. Any condition which usually requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of his ~~or her~~ life;
4. A medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, but are not limited to, one or more of the following:
  - a. Coronary artery disease resulting in an acute infarction or requiring surgery;
  - b. Permanent neurological deficit resulting from cerebral vascular accident;
  - c. End stage renal failure;
  - d. Acquired Immune Deficiency Syndrome; or
  - e. Other medical conditions which the commission shall approve for any particular filing; ~~or~~
5. A condition where a qualified health care provider or court of competent jurisdiction has determined that the insured is no longer able to perform at least two of the following activities of daily living:
  - a. Bathing;
  - b. Dressing;
  - c. Continence;
  - d. Eating;

e. Toileting; or

f. Transferring;

6. A condition for which a qualified health care provider or court of competent jurisdiction has determined that the insured requires direct supervision by another person during the majority of each day to protect the health and safety of the insured or any other person; or

5- 7. Other qualifying events which the commission shall approve for any particular filing.

**14 VAC 5-70-80. Required disclosure provision; descriptive title; tax consequences; solicitations and disclosures; effect of benefit payment.**

A. The terminology "accelerated benefit" shall be included in the descriptive title. Products regulated under this chapter (~~14 VAC 5-70-10 et seq.~~), shall not be described or marketed as long-term care insurance or as providing long-term care or other type of illness benefits.

B. A disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

C. 1. A written disclosure including, but not necessarily limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation of any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

a. In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant prior to or concurrently with the application. Acknowledgment of the disclosure shall be signed by the applicant and writing agent.

b. In the case of a solicitation by direct response methods, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a notice that a full premium refund shall be received if the policy is returned to the company within the free look period.

c. In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the *individual* certificateholder.

2. If there is a premium or cost of insurance charge for the accelerated benefit, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

a. In the case of agent solicited insurance, the agent shall provide the illustration to the applicant prior to or concurrently with the application.

b. In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered.

c. In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the *individual* certificateholder.

3. a. Insurers with financing options other than as described in 14 VAC 5-70-120 A 2 and A 3 shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. These insurers shall make a reasonable effort to assure that the certificateholder is aware of any additional premium or cost of insurance charge if the certificateholder is required to pay such charge.

b. Insurers shall furnish an actuarial demonstration to the commission when filing the product disclosing the method of arriving at their cost for the accelerated benefit.

4. The insurer shall disclose to the policyowner any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any administrative expense charge if the certificateholder is required to pay such charge.

D. When a policyowner or certificateholder requests an acceleration, the insurer shall send a statement to the policyowner or certificateholder and irrevocable beneficiary showing any effect that the payment of the accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. The statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements. In addition, receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor. When a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policyowner or certificateholder and irrevocable beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policyholder or notify the certificateholder under a group policy to reflect any new, reduced in-force face amount of the contract.

**14 VAC 5-70-130. Actuarial disclosure and reserves.**

A. A qualified actuary ~~should~~ shall be required to describe the accelerated benefits, the risks, the expected costs and the calculation of statutory reserves in an actuarial memorandum accompanying each filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the commission upon request.

B. 1. When benefits are provided through the acceleration of benefits under group or individual life policies or riders to

---

# Proposed Regulations

---

such policies, policy reserves shall be determined in accordance with §§ 38.2-3126 through 38.2-3144 of the Code of Virginia. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a member in good standing of the American Academy of Actuaries. Mortality tables and interest currently recognized for life insurance reserves by the National Association of Insurance Commissioners may be used as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary must follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate should be sufficient to cover:

- a. Policies upon which no claim has yet arisen.
  - b. Policies upon which an accelerated claim has arisen.
2. For policies and certificates which provide actuarially equivalent benefits, no additional reserves need to be established.
  3. Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For any policy on which the policy lien exceeds the policy's statutory reserve liability such excess must be held as a nonadmitted asset.

VA.R. Doc. No. R02-181; Filed May 15, 2002, 10:17 a.m.

---

◆ ————— ◆

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARDS OF NURSING AND MEDICINE

Title of Regulation: **18 VAC 90-40. Regulations for Prescriptive Authority for Nurse Practitioners (amending 18 VAC 90-40-100, 18 VAC 90-40-110, and 18 VAC 90-40-120).**

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the Code of Virginia.

Public Hearing Date: July 16, 2002 - 1:30 p.m.  
Public comments may be submitted until August 2, 2002.  
(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Boards of Nursing and Medicine, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

Section 54.1-2957.01 of the Code of Virginia provides that the Board of Nursing and the Board of Medicine, in consultation with the Board of Pharmacy, shall promulgate such regulations governing the prescriptive authority of nurse

practitioners as are deemed reasonable and necessary to ensure an appropriate standard of care for patients.

Purpose: During the periodic review of regulations, two professional organizations commented that the monthly chart review and site visit may not be necessary and may be overly burdensome in some practices. While the boards did recommend amendments to the regulations, they did not recommend that chart reviews or site visits be discretionary. In those settings in which the physician does not regularly practice with the nurse practitioner, the amendment will require site visits for consultation and direction to occur in accordance with the practice agreement but no less frequently than quarterly. Consideration was given to modifying the requirement for a review of charts from a monthly, random review to a quarterly review. However, since it is not required that all charts be reviewed, the boards decided that the current requirement for a monthly review should remain to provide greater assurance that patient health and safety is being protected by the care of the nurse practitioner with prescriptive authority. The collaboration of a supervising physician in the practice of the nurse practitioner is believed to be essential to the continued protection of the public's health and safety in receiving services delivered by a nurse practitioner.

Substance: Amendments to regulations will eliminate unnecessary duplication and clarify provisions for the supervision of nurse practitioners who practice in public and private settings. The only substantive change is a less burdensome requirement for the site visit in a setting where the physician does not regularly practice with the nurse practitioner. Other amendments will clarify (i) that the prescription from a nurse practitioner should show the authorization number from the Board of Nursing and the DEA number, if applicable and (ii) that a nurse practitioner is authorized to dispense manufacturer's samples in accordance with the practice agreement on file with the board.

Issues:

Advantages or disadvantages to the public. Amendments to allow a less stringent schedule for site visits to be established in the practice agreement may free up some time for the supervising physicians and the nurse practitioners to be engaged in direct patient care. The schedule of site visit will be set in the practice agreement and may depend on factors such as geography, acuity of patient population, and practice setting, but that there will be an outside limit on the frequency, i.e., not less than quarterly. Since the more important element of supervision is the regular chart review, which is not being amended, the public is protected by the current and revised regulation. Specificity about the site visit being necessary for consultation and direction for appropriate patient management may provide clearer direction and supervision – which would also be of benefit to patients. There are no disadvantages to the public.

Advantages or disadvantages to the agency. Clarification of questions related to the number or numbers required for a written prescription by a nurse practitioner or to whether a nurse practitioner may dispense drugs under a license held by the physician from the Board of Pharmacy may relieve the board staff of phone inquiries currently being received. In



addition, there may be further clarification about the purpose of a site visit, which will be helpful to both the LNP and the supervising physicians. Many of the settings in which nurse practitioners practice without on-site collaboration and supervision by physicians are public health clinics throughout the Commonwealth. To the extent the site visit is burdensome for physicians who serve those clinics, these amendments may alleviate some of that burden.

There are no disadvantages to the agency; there are no new requirements to be interpreted and enforced.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Boards of Nursing and Medicine are proposing to amend the Regulations Governing Prescriptive Authority for Nurse Practitioners to reduce the burden of required site visits and clarify requirements that are not easily understood. Specifically, the proposed regulation:

- Reduces the frequency of required site visits from monthly to quarterly;
- Clarifies that the authorization number required to be included on all prescriptions is the nurse practitioner's prescriptive authority number and Drug Enforcement Administration (DEA) authorization number when applicable; and
- Clarifies that nurse practitioners with prescriptive authority are allowed to dispense only manufacturers' samples of drugs that they have the authority to prescribe.

Estimated economic impact. Currently, physicians supervising nurse practitioners are required to conduct a random review of patient charts and a site visit each month. Under the proposed regulations, physicians and nurse practitioners will be able to determine the frequency of site visits based on factors such as the practice setting, proximity of the physician to the practice of the nurse practitioner, acuity of the patient population, etc. The minimum standard for site visits is reduced from monthly to quarterly. This change will allow more flexibility in scheduling these visits and may free up some physician and nurse practitioner time for direct patient care. Clarifying that monthly chart review is not tied to the site visit may also lead to more consultation-oriented site visits and allow more thorough review of patient charts in a different setting or environment. While there is no empirical evidence currently available to determine how effective site visits are on the

quality of care provided by nurse practitioners, the Boards of Nursing and Medicine do not believe the proposed change will have any negative impact.

The remaining proposed changes to this regulation are intended to clarify existing requirements and do not represent a change in current practice. Aside from providing clearer guidance to licensees and possibly reducing the number of phone inquiries handled by agency staff, these changes are not expected to have any economic impact.

Businesses and entities affected. The proposed changes to this regulation will affect licensed nurse practitioners with prescriptive authority and the physicians who provide supervision for their practice. There are approximately 1,800 nurse practitioners who hold authorization to prescribe controlled substances in Virginia. Each nurse practitioner has at least one, and sometimes several, supervising physicians.

Localities particularly affected. The proposed changes to this regulation are not expected to uniquely affect any particular localities.

Projected impact on employment. The proposed changes to this regulation are not expected to have any significant impact on employment in Virginia.

Effects on the use and value of private property. The proposed changes to this regulation are not expected to have any significant effects on the use and value of private property in Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Boards of Nursing and Medicine concur with the analysis of the Department of Planning and Budget for 18 VAC 90-40.

### Summary:

*The proposed amendments provide less burdensome requirements for site visits by supervising physicians, make certain changes related to expanded prescriptive authority, and clarify requirements or terminology that are not easily understood.*

### **18 VAC 90-40-100. Supervision and site visits.**

~~A. Physicians, other than those employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs, who enter into a practice agreement with a nurse practitioner for prescriptive authority shall:~~

1. Supervise and direct, at any one time, no more than four nurse practitioners with prescriptive authority;
2. Regularly practice in any location in which the licensed nurse practitioner exercises prescriptive authority. A separate practice setting may not be established for the nurse practitioner. *Exceptions to this requirement are as follows:*
  - a. A separate office practice may be established for a certified nurse midwife or for a nurse practitioner employed by or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs.

---

# Proposed Regulations

---

b. Physicians who do not regularly practice at the same location with the nurse practitioner and who provide supervisory services to such separate practices shall make regular site visits for consultation and direction for appropriate patient management. The site visits shall occur in accordance with the practice agreement, but no less frequently than once a quarter.

3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a prescription for an approved drug or device;

4. Regularly practice in the location in which the certified nurse midwife practices, or in the event that the midwife has established a separate office, the supervising physician shall conduct a monthly site visit and review of patient charts.

~~B. Physicians employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs to provide supervisory services, shall:~~

~~1. Supervise and direct, at any one time, no more than four nurse practitioners with prescriptive authority who provide services on behalf of such entities;~~

~~2. Regularly practice in such settings or shall make monthly site visits to such settings for chart review and direction;~~

~~3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a prescription for an approved drug or device.~~

## 18 VAC 90-40-110. Disclosure.

A. The nurse practitioner shall include on each prescription written or dispensed his signature and ~~authorization~~ prescriptive authority number as issued by the boards and the Drug Enforcement Administration (DEA) number, when applicable.

B. The nurse practitioner shall disclose to patients that he is a licensed nurse practitioner and the name, address and telephone number of the supervising physician. Such disclosure may be included on a prescription pad or may be given in writing to the patient.

## 18 VAC 90-40-120. Dispensing.

~~A. A nurse practitioner may dispense only under the orders of a supervising physician who is authorized to dispense. Such orders shall be those manufacturers' samples of drugs that are included in the written practice agreement as submitted with the initial application or the renewal of authorization is on file with the board.~~

~~B. Nurse practitioners may dispense only those drugs allowed by § 54.1-2957.01 of the Code of Virginia.~~

VA.R. Doc. No. R01-83; Filed May 10, 2002, 12:57 p.m.



## TITLE 22. SOCIAL SERVICES

### DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

**Title of Regulation:** 22 VAC 20-20. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Assistive Technology Equipment (amending 22 VAC 20-20-10 through 22 VAC 20-20-110).

**Statutory Authority:** § 63.1-85.4 of the Code of Virginia.

**Public Hearing Date:** July 22, 2002 - 4 p.m.

Public comments may be submitted until 5 p.m. on August 2, 2002.

(See Calendar of Events section for additional information)

**Agency Contact:** Ms. Leslie G. Hutcheson, Regulatory Coordinator, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, Suite 203, Richmond, VA 23229-5012, telephone (804) 662-9703, FAX (804) 662-9718 or e-mail hutchelg@ddhh.state.va.us.

**Basis:** Section 63.1-85.4 of the Code of Virginia authorizes the Virginia Department for the Deaf and Hard-of-Hearing to promulgate regulations as may be necessary to carry out the powers and duties of the agency. Further, § 63.1-85.4 of the Code of Virginia authorizes the agency to operate a program of technology assistance, including equipment distribution. Both of these provisions are discretionary.

**Purpose:** The proposed amendments to this regulation emerged from the periodic review of regulations conducted in 2000. During that review, the agency hosted a focus group in an effort to elicit direct comments on the regulation and specific suggestions for improvement. As a result of this focus group and general public comment received during the review, the agency has reviewed the financial eligibility requirements and documentation required in determining eligibility. The focus group was especially concerned that proof of income should be required. Agency staff periodically reviews random applications and has identified that a percentage of applicants state their income to be within several dollars per year of the previously published Economic Needs Guidelines, indicating that some applicants are manipulating the information in order to qualify for free equipment. In order to maintain the integrity of the program, the agency is proposing a clear statement that the agency reserves the right to verify income. In addition, the agency has identified concerns about proof of residency. Other states with distribution programs require proof of residency and the availability of program applications on the Internet makes the potential for fraud greater than in the past. As a result, VDDHH is proposing a requirement for proof of residency. By ensuring that only persons who meet all eligibility requirements are approved for program participation, the agency is able to reach the maximum number of citizens who will benefit from the critical communications access provided by this program.

**Substance:** The following detailed changes are being proposed:

1. The agency proposes to incorporate a statement that it reserves the right to verify income information provided by the applicant and that it is the applicant's responsibility to provide correct and verifiable income information.
2. The agency proposes to incorporate a requirement for proof of residency. Specifically, the agency proposes requiring a recent utility bill or a current lease or deed for a property in Virginia in the name of the applicant, the applicant's spouse or the applicant's legal guardian or other approved documentation (to be established in agency policy) as proof of residency.
3. Specific dollar amounts in the Economic Income Guidelines are eliminated and replaced with the incorporation by reference of the Federal Poverty Guidelines published annually in the Federal Register.
4. The agency has eliminated the partial pay (up to \$75) category for program participants. Instead, applicants whose income is at or below 250% of the Federal Poverty Guidelines will receive equipment at no cost. Applicants whose income exceeds 250% of the Federal Poverty Guidelines will be eligible to purchase equipment at the state contract cost.

### Issues:

Advantages to the Public. Increased program accountability through requirements for proof of residency and income verification ensures that program funds will be used only for those who are truly eligible. The elimination of the partial pay option will reduce consumer confusion about this aspect of the program. Adopting the Federal Poverty Guidelines as the basis for determining financial participation ensures that the guidelines will remain current and appropriate for program participants. In addition, based on a sample analysis applying the new financial participation guidelines to past program participants, approximately 86% of participants who were required to pay up to \$75 for equipment in the past will be eligible for the same equipment at no cost under the new regulation.

Disadvantages to the Public. Based on a sample analysis applying the new financial participation guidelines to past program participants, approximately 14% of program participants will be negatively impacted by the elimination of the partial pay option. These participants, earning more than 250% of the Federal Poverty Guidelines, will be required to pay the full contract cost for equipment under the new regulation as opposed to a maximum of \$75 under the old regulation. Another perceived disadvantage to the public is the need to provide proof of residency and the possibility of verification of income. Since its inception, the program has depended upon the honor of program participants to ensure that the information they provided was correct. This new requirement for proof may seem intrusive to some program participants.

Advantages to the Commonwealth. The primary advantages of the proposed amendments to the Commonwealth are those of increased program accountability and fiscal responsibility. The requirement for proof of residency and the reserved right to verify income will only minimally increase the processing time for applications yet will result in greater fiscal

accountability. Proof of residency requirements will ensure that the program benefits only Virginia citizens. In addition, the elimination of the partial payment category of program participants will reduce the overall complexity of processing applications, resulting in a more efficient program.

Disadvantages to the Commonwealth. The new financial participation guidelines will result in slightly increased costs for equipment purchase as approximately 86% of individuals who were previously required to pay a portion of the equipment costs will now be eligible for the equipment at no cost. This disadvantage is partially offset by the reduction in processing required for program applications.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed amendments will (i) replace the current income levels for program eligibility with 250% of the federal poverty guidelines, (ii) eliminate the partial pay category of applicants, (iii) adopt a uniform income ceiling for the whole Commonwealth, (iv) require proof of residency from the applicants, (v) furnish the agency with the right to verify reported income, and (vi) allow the agency to accept payment for spot transactions.

Estimated economic impact. The Department for the Deaf and Hard-of-Hearing (the agency) manages the technology assistance program for people with hearing disabilities. The program provides equipment to certified deaf, hard of hearing, deaf-blind, hearing-visually or speech disabled living in the Commonwealth. The agency distributes 15 types of equipment worth between \$20 and \$489. The types of equipment include text telephones, voice, or hearing carry over telephones, large visual displays, amplification devices, ring signal devices, doorbell signalers, and visual or vibrating alarm clocks. This regulation contains provisions determining the financial participation of applicants. Currently, the equipment is distributed free of charge if the applicant's income level is less than or equal to the applicable income ceiling in the economic needs guidelines included in the regulation. If the applicant's income level is between 101% and 150% of the income ceiling, a partial payment of 20% of the cost of the equipment or \$75, whichever is less, is charged to the applicant. Applicants with higher income levels can purchase the equipment at the contract price paid to the vendors. The agency proposes a number of amendments to the current regulations based on the recommendations from an ad-hoc advisory committee and the findings from a periodic review of the regulations.

# Proposed Regulations

The proposed amendments will eliminate the partial pay category of applicants receiving equipment from the program. Under the current regulations, an applicant whose income level is between 101% and 150% of the guideline amounts in the regulation is required to partially participate in the cost of the equipment.<sup>1</sup> Also, the current guideline income ceilings are different for applicants from northern Virginia and from the rest of the state. For applicants who fall into the partial pay category, the required participation is the lesser of 20% of the cost of the equipment or \$75. The proposed changes will eliminate the current partial pay category and the distinction between the applicants from northern Virginia and from the rest of the state. The proposed rule will establish a uniform income ceiling for the whole Commonwealth. Under the proposed rule, an applicant will either get the equipment free or pay the full cost. Additionally, current income levels in the regulation to qualify for equipment at no cost will be replaced by the federal poverty guidelines. An applicant whose income is less than or equal to 250% of the federal poverty guidelines will be eligible for free equipment.

The proposed changes will have a direct effect on the eligibility and the amount of financial participation provided to the applicants in the partial pay category. To facilitate the discussion on the direct impact on the applicants, a table is provided on the next page. The table shows the income ceilings to be eligible for free equipment and the partial pay under current regulations and to be eligible for free equipment under the proposed regulations for applicants from northern Virginia and from the rest of the state. For example, it is indicated in Panel A that an applicant with a family size of one whose income level is less than or equal to \$15,760 is currently qualified for free equipment. If the income level is \$23,640, the applicant is required to pay either 20% of the cost of equipment or a fixed \$75, whichever is less. With the proposed changes, the partial pay category will be eliminated, so the applicant will either receive the equipment for free if his income is less than or equal to \$21,475 or pay the full cost otherwise.

**Table: Income Ceilings to Qualify for Financial Assistance**

Family Size	Panel A: Rest of the State			Panel B: Northern Virginia		
	Current		Proposed	Current		Proposed
	Free	Partial Pay	Free	Free	Partial Pay	Free
1	\$15,760	\$23,640	\$21,475	\$17,172	\$25,758	\$21,475
2	\$20,609	\$30,914	\$29,025	\$22,464	\$33,696	\$29,025
3	\$25,459	\$38,189	\$36,575	\$27,756	\$41,634	\$36,575
4	\$30,308	\$45,462	\$44,125	\$33,036	\$49,554	\$44,125
5	\$35,157	\$52,736	\$51,675	\$38,316	\$57,474	\$51,675
6	\$40,007	\$60,011	\$59,225	\$43,608	\$65,412	\$59,225

It should be noted that the proposed income ceilings will have no effect on applicants currently eligible to receive free

equipment because their eligibility status for free equipment will not change. Similarly, applicants who are not currently eligible for any financial assistance will also not be affected because the proposed income ceilings are lower than the current ceilings to be eligible for at least partial assistance.

The main effect will be on those who currently qualify for partial payment. Some of the applicants under the partial pay category will be affected positively and some negatively. To illustrate the positive impact, consider an applicant of one member family with an income level of \$21,000 who is currently eligible for partial assistance and may be participating in equipment costs up to \$75. This person will no longer be required to pay a portion of the equipment because his income is less than the proposed \$21,475 to be eligible for free equipment under the proposed changes. For applicants in the current partial pay category with income levels less than the proposed ceilings, the proposed amendments will represent savings up to \$75. The agency indicates that about 200 applicants who make 86% of the total participants in the partial pay category will benefit approximately \$3,210 per year from the proposed changes in this fashion.

On the contrary, some of the applicants in the partial pay category will be affected negatively due to the proposed changes. For instance, consider an applicant of a family size of one with \$23,000 income applying for a \$100-equipment. This applicant would currently be required to pay 20% of the cost, which amounts to \$20. With the proposed changes, he will be charged the full cost of the equipment and lose exactly \$80. For applicants in the current partial pay category with income levels higher than the proposed ceilings, the proposed amendments will represent a loss equal to the difference between the full cost of the equipment and the partial payment currently required. The agency estimates that approximately 34 applicants who make 14% of the total participants in the partial pay category will lose about \$1,150 per year due to the proposed changes.

The net effect of the proposed changes will be an increase in the need for the funds by \$2,060, which is the difference between the savings of the 86% of the applicants in the partial pay category and the losses of the remaining 14% of the applicants in the same group. However, it is not clear if the program's expenditures would increase or fewer applicants would be provided financial assistance. The increase in expenditures would be possible only if the agency has available funds. The agency has indicated that this scenario is more likely because the flexibility exists to re-deploy discretionary funds within the program. The possibility that some of the applicants will not receive financial assistance cannot be ruled out, however, because the funding for this program is capped and some of the applicants did not receive financial assistance in the past due to limited funding.

In addition, the proposed changes may result in disproportional impact between the applicants from northern Virginia and from the rest of the state. As mentioned, current income cohorts for eligibility differ between northern Virginia and elsewhere in the Commonwealth. The current income ceilings for northern Virginia are approximately 9% percent higher than the income levels for the rest of state for all family sizes. Because of this difference, some of the applicants from

<sup>1</sup> Current income levels to be eligible for free equipment can be found in the table on page 3.

northern Virginia are currently eligible for benefits even if their incomes would not qualify them for financial assistance elsewhere in the state. With the proposed uniform income cohorts for the whole Commonwealth, the percent reduction in income ceilings for northern Virginia applicants which make up approximately 19% of the total applicants in the partial pay category are higher than the percent reduction in the income ceilings for the applicants from the rest of the state. This is likely to cause a proportionally higher amount of applicants in the partial pay category to lose their eligibility for financial assistance in the northern Virginia. The current data at the agency show proportionally higher negative impact on northern Virginia applicants than on those from the rest of the state. Potentially, about six applicants per year from northern Virginia will feel this effect.<sup>2</sup>

Replacement of the economic needs guidelines included in the regulation with 250% of the federal poverty guidelines adjusted annually will allow an automatic update of the most recent income levels. Current income ceilings in the regulation have not been updated on a regular basis. The proposed amendments will incorporate the federal poverty guidelines by reference and delete the current dollar amounts in the regulation. Automatic update of the income ceilings is likely to reflect the most recent economic conditions and result in a better allocation of the program's resources among the residents of Virginia. Another related consequence of the automatic update is likely to be an increase in the number of eligible applicants over time. As the federal poverty guidelines are adjusted upward annually, more people with hearing disabilities may gain eligibility for free equipment from the program. A larger pool of applicants combined with a fixed level of funding is likely to reduce the likelihood of present applicants receiving financial assistance. To be able to offer the same level of financial assistance to the present pool of applicants continuously, an increase in the program funding that is consistent with the increase in the federal poverty guidelines may be needed.

The proposed changes are also expected to simplify the overall program for both the applicants and the agency and provide some savings in staff time. Currently, about 1.5 full time positions have been devoted to the program's administrative duties such as handling of the checks for the partial payments received by the agency and of the coupons issued to the applicants to purchase the equipment from vendors. Personnel also provide customer service to the applicants. According to the agency, the partial pay category caused confusion among the applicants and some staff time has been devoted to clarify these confusions. The proposed elimination of the partial pay category is expected to eliminate the need to handle checks and reduce the time devoted to customer service. The proposed uniform income ceiling for both northern Virginia and the rest of the state is likely to further simplify the program. The agency indicates that the savings in staff time is likely to be about \$4,000 per year. The released staff time will be utilized in other administrative responsibilities and other program activities such as public education and awareness.

---

<sup>2</sup> Source: The agency

Another proposed significant amendment to the regulations is establishing a requirement for proof of residency. Equipment through the program is available to residents of the Commonwealth. However, there is no current requirement to verify the residency of an applicant in Virginia. The lack of residency verification makes the program susceptible to abuse by applicants who do not reside in the Commonwealth. Besides the financial motive for non-residents to take advantage of the program, a few other factors are believed to elevate the potential abuse. The agency indicated that the states surrounding the Commonwealth either do not have a comparable program or their programs are much more restrictive than Virginia's program. The absence of residency verification in the current program may currently be providing incentives to the residents of neighboring states who are in need of hearing devices to take advantage what the program has to offer. The agency also believes that the availability of applications on internet further increases the potential for fraud.

To make sure that the resources of the program are correctly allocated to the residents of Virginia instead of non-residents, one of several documentations will be required to establish the validity of the residency claim. A current lease or deed to domicile in Virginia or a utility bill will be required as proof of residency in the Commonwealth. In addition to these documents, other forms of documentation may be accepted as proof by the agency. Being able to accept other forms of proof is expected to provide flexibility to the applicant as well as to the agency where residency cannot be established by conventional documents. For example, an applicant may be a roommate to a lessor and may truly be residing in the Commonwealth without a lease agreement. In this case, a phone bill may serve as an additional means to prove residency in Virginia. In cases where the residency cannot be established with conventional documents, the additional flexibility afforded by the proposed regulations represents an economic value to the applicants. On the other hand, the proposed requirement is likely to introduce some costs. True Virginia residents will likely absorb a small additional burden to verify their residency status. The proposed rule is also expected to increase the administrative work associated with applications. The additional work is expected to absorb some staff time to process new information and to adjust the database. Also, small additional costs associated with printing new applications are expected.

Another proposed amendment provides the agency the right to verify income. According to the agency, verification of reported income has been problematic. An analysis of a random sample of applicants indicated that the some of the applicants may have been underreporting the income levels to qualify for free equipment. The agency has been noticing that some of the reported income levels were just a few dollars below the income level that would qualify them for free equipment. This is believed to be an indication that some applicants may be manipulating the income information. The agency has not yet determined a specific way to verify income, but stated that effectiveness and economic efficiency will be considered when developing a departmental policy. Employing an effective procedure is particularly problematic in this case because the goal is to verify the total income. Much conventional documentation such as W2 forms, pay stubs or

---

# Proposed Regulations

---

employee letters would not be suitable for this purpose because they cannot be taken as proof of an applicant's total income. Another dimension of income verification is the economic efficiency. Income verification could be costly if the agency attempts to verify reported income on all applications. However, the associated costs could be greatly reduced if the applications are investigated on a random basis. The overall costs and benefits of this amendment will depend on the policy adopted. If an effective and cost-efficient policy is implemented, it will be almost ensured that the proposed language will provide a better allocation of the Commonwealth's resources.

Lastly, the proposed changes will allow the agency to receive payments from applications for spot purchasing. The agency indicates that it is a lot easier and cheaper to purchase simple equipment at the local stores than obtaining them from a contractor. This less expensive equipment then will be provided to the applicants. This service is expected to save some resources for the applicants and the agency.

Businesses and entities affected. The proposed regulations are expected to affect approximately 800 to 1,000 people with hearing disabilities per year who are provided equipment through the program.

Localities particularly affected. The proposed amendments will apply throughout the Commonwealth. Currently, income ceilings for the applicants from northern Virginia are higher than they are for the applicants from the rest of the state. The proposed uniform income ceilings for the whole Commonwealth will eliminate this discrepancy and introduce a higher percent reduction in the income levels for eligibility for the applicants from northern Virginia. This may potentially cause a proportionally higher negative impact on several applicants located in northern Virginia.

Projected impact on employment. The proposed regulations are unlikely to have a significant impact on employment.

Effects on the use and value of private property. No significant impact on the use and value of private property is expected.

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

## Summary:

*This regulation establishes eligibility and application standards for the Virginia Department for the Deaf and Hard-of-Hearing Technology Assistance Program. The regulation includes criteria for determining an applicant's financial participation. The proposed amendments are intended to clarify and update language and to enhance program effectiveness and efficiency. Specifically, the agency is proposing to incorporate a requirement for proof of residency and income, and to adopt 250% of the Federal Poverty Guidelines, adjusted annually, as the demarcation between applicants who will receive equipment at no cost and those who must pay full contract cost. The regulation eliminates the partial pay category of applicants.*

## CHAPTER 20. REGULATIONS GOVERNING ELIGIBILITY STANDARDS AND APPLICATION PROCEDURES ~~OF FOR~~ THE DISTRIBUTION OF ~~TECHNOLOGICAL ASSISTIVE DEVICES~~ *TECHNOLOGY EQUIPMENT.*

### **22 VAC 20-20-10. Definitions.**

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

*"Alerting device"* means a device that alerts individuals with a hearing loss of sounds around them.

*"Amplification device"* means a device that amplifies either incoming sounds for individuals who have a hearing loss or outgoing sounds for individuals who have a speech disability.

*"Applicant"* means a person who applies for ~~technological assistive devices~~ *technology equipment*.

*"Application"* means the TAP Application (~~VDDHH-TDD-4 VDDHH-TAP-1~~).

*"Assistive technology equipment"* means any device or adaptive equipment for telecommunications or alerting used by individuals who are deaf, hard of hearing, deafblind or speech-disabled.

*"Audiologist"* means any person who is licensed by the Department of Health Professions to engage in the practice of audiology.

*"Completion date"* means the date all supporting documentation for the application is received by the department.

~~*"Coordinator"* means the Technology Assistance Program Coordinator of the Virginia Department for the Deaf and Hard-of-Hearing.~~

*"Coupon"* means a voucher ~~which~~ *that* may be used by the applicant towards the purchase of approved ~~technological assistive devices from a contracted vendor~~ *technology equipment through the program*.

*"Deaf"* means a hearing loss that requires use of a text telephone or *Voice Carry Over Phone* to communicate effectively on the telephone.

~~*"Deaf-blind"* *"Deafblind"* means a dual loss of hearing and vision that requires use of a braille text telephone or a large visual display text telephone to communicate effectively on the telephone.~~

*"Department"* means the Virginia Department for the Deaf and Hard-of-Hearing.

*"Family"* means the applicant, his dependents and any person legally required to support the applicant, including ~~spouses~~ *a spouse*.

~~*"Fiscal constraint"* means when the potential cumulative cost of equipment requested through the program for a budgeted portion of a fiscal year equals or exceeds 75% of program funds designated by the department to be available for purchasing equipment during the same period or when 75% of~~

~~program funds for a fiscal year have been disbursed or encumbered projected expenditures may exceed appropriated funds for equipment distribution within a budgeted period.~~

"Gross income" means the income, total cash receipts before taxes from all sources of the applicant, his dependents, and any person legally required to support the applicant, including spouses a spouse.

"Hard of hearing" means a hearing loss that requires use of either a text telephone or an amplification device to communicate effectively on the telephone.

"Hearing aid specialist" means a person who has a license from the Department of Professional and Occupational Regulation to fit and sell hearing aids.

"Hearing-disabled/visually-disabled" means a dual loss of hearing and vision that requires use of large visual display text telephone or a braille text telephone to communicate effectively on the telephone.

"Minor" means a person less than 18 years of age whose parent or legal guardian is legally responsible for his support.

"Physician" means a person who has a medical degree and a license to practice medicine in any one of the United States.

"Program" or "TAP" means Technology Assistance Program for distributing ~~technological assistive devices~~ *technology equipment* to individuals who are deaf, hard of hearing, hearing-disabled/visually-disabled, ~~deaf-blind deafblind~~ or speech-disabled and who meet eligibility requirements through an application process.

"Public assistance" means and includes ~~aid to dependent children Temporary Assistance to Needy Families (TANF); Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI);~~ auxiliary grants to the aged, blind and disabled; medical assistance; food stamps; general relief; fuel assistance; and social services.

"Recipient" means a person who receives ~~technological assistive devices~~ *technology equipment*.

"Ring signal device" means a device that alerts an individual who is deaf, hard of hearing, hearing-disabled/visually-disabled or ~~deaf-blind deafblind~~ of an incoming call.

"Speech-disabled" means a loss of verbal communication ability ~~which~~ that prohibits normal usage of a standard telephone handset.

"Speech-language pathologist" means any person who is licensed by the Department of Health Professions to engage in the practice of speech-language pathology.

~~"Technological assistive device" means any adaptation for an alerting or communication system needed by individuals who are deaf, hard of hearing, hearing-disabled/visually-disabled, deaf-blind or speech-disabled.~~

"Text telephone" (hereinafter called TTY/TDD) means a nonvoice terminal device used to transmit and receive messages ~~via telephone telephonically~~. This includes, but is not limited to, telecommunications devices for the deaf (TDD/TTY) and computer ~~modems~~ software.

"VDDHH outreach specialist" means a person hired by or contracted with the department to provide outreach services and to assist the department in carrying out activities related to the Technology Assistance Program on either a regional or local level.

"Vendor" means a company that enters into a contract with the Commonwealth to provide assistive technology equipment as defined in this regulation.

~~"Voice carryover (VCO) screen" means a device used to receive text telephone messages and transmit verbal messages, consecutively, via a telephone line either in conjunction with or independent of a standard telephone. This device is generally used in conjunction with a telecommunications relay service by a person who is deaf or hard of hearing and prefers to use his own voice rather than type the message manually.~~

## 22 VAC 20-20-20. Ownership guidelines.

A. Any ~~technological assistive device or component~~ *technology equipment* distributed through the program is the property of the individual recipient except for any device which, individually, has a ~~value or cost to the program or the program recipient~~ in excess of \$5,000 at the date of acquisition.

B. The department shall retain ownership of any ~~technological assistive device or component~~ *technology equipment* distributed through the program that costs \$5,000 or more. Where ownership of ~~technological assistive devices or components~~ *technology equipment* is retained by the department, information regarding ~~financial data~~ *income* and family size shall not be required.

## 22 VAC 20-20-30. Eligibility requirements.

Upon request for ~~technological assistive devices~~ *technology equipment* by an applicant, the department will require information as to the family size, financial status, and other related data as described on the application. ~~It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for technological assistive devices.~~ Applicants eligible to participate in the program shall meet the following requirements:

1. The applicant must be certified as deaf, hard of hearing, hearing-disabled/visually-disabled, ~~deaf-blind deafblind~~, or speech-disabled by a licensed physician, audiologist, speech-language pathologist, hearing aid specialist, vocational rehabilitation counselor employed by the Department of Rehabilitative Services or the Department for the ~~Visually Handicapped~~ *Blind and Vision Impaired*, a Virginia School for the Deaf and Blind representative, a VDDHH outreach specialist or other appropriate agency or government representative.

2. The applicant shall ~~reside~~ *provide one of the following, in the name of the applicant or the applicant's spouse or legal guardian, as proof of residency in the Commonwealth of Virginia:*

- a. Current lease or deed to domicile in Virginia;



# Proposed Regulations

b. A utility bill, dated within 12 months of the submission, for a residence in Virginia; or

c. Any other form of proof approved by the department.

3. The applicant shall provide correct and verifiable information on the family's gross income. The department reserves the right to request verification of income from any program applicant before determining what charges, if any, the applicant will be required to pay for assistive technology equipment through the program.

~~3.~~ 4. The applicant shall submit a completed and signed application.

## 22 VAC 20-20-40. Charges for equipment.

Eligible applicants shall be granted program participation based on a first-come, first-served basis and the availability of program funds. If the individual or family monthly gross income is such that a charge for ~~technological~~ assistive devices ~~technology equipment~~ is required, an explanation of the charges shall be provided to the recipient.

1. An applicant shall not be required to participate in the cost of ~~technological~~ assistive devices ~~technology equipment~~.

a. If his individual or family monthly gross income is:

(1) Obtained solely from public assistance, as defined in Part I of this chapter, earnings of minor children or gifts, or any combination thereof; or

(2) Less than or equal to ~~the Economic Needs Guidelines found in subdivision 3 of this section~~ 250% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC § 9902(2).

b. If ownership of ~~technological~~ assistive devices ~~or components~~ ~~technology equipment~~ is retained by the department.

2. Any ~~other~~ applicant whose annual income exceeds 250% of the Federal Poverty Guidelines shall be required to participate in the cost of any ~~technological~~ assistive devices distributed to the applicant. The portion paid by the applicant to the vendor shall be determined as follows: a. When the applicant's monthly gross income is 101%-150% of the economic needs guidelines found in subdivision 3 of this section, the portion paid by the applicant shall be equal to 20% of the cost of the equipment package or \$75, whichever is lower. b. When the applicant's monthly gross income is 151% of the economic needs guidelines found in subdivision 3 of this section or greater, the portion paid by the applicant shall pay to the vendor or to the department an amount equal to the full state contract cost or actual state invoice cost of the requested equipment package on state contract.

~~3. Statewide Economic Needs Guidelines. The same formula used to determine the following sets of Economic Needs Guidelines shall be applied where the number of family members exceeds six.~~

### Monthly Gross Income Annual Gross Income

Family of 1	\$1,313	\$15,760
Family of 2	1,717	20,609
Family of 3	2,122	25,459
Family of 4	2,526	30,308
Family of 5	2,929	35,157
Family of 6	3,334	40,007

~~a. Northern Virginia Economic Needs Guidelines. To be used for applicants residing in Arlington, Fairfax, Loudoun, and Prince William counties and the incorporated cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.~~

### Monthly Gross Income Annual Gross Income

Family of 1	\$1,431	\$17,172
Family of 2	1,872	22,464
Family of 3	2,313	27,756
Family of 4	2,753	33,036
Family of 5	3,193	38,316
Family of 6	3,634	43,608

~~b.~~ 3. If an applicant is paying monthly installments toward a debt(s), then the amount of one monthly installment will be subtracted from the applicant's expected contribution before the valid amount owed is determined, under the following conditions:

~~(1)~~ a. The debt(s) is owed for nonpreventative medical or dental services; and

~~(2)~~ b. The debt(s) is owed by or for the applicant or individuals whom the applicant is legally responsible to support or is legally supported by.

## 22 VAC 20-20-50. Type of equipment.

The equipment that may be available through the program includes but is not limited to: TTY/TDDs, large visual display TTY/TDDs, braille TTY/TDDs, amplification devices, ring signal devices, doorbell signallers, visual smoke/fire detectors, ~~TTY/TDD paper rolls, baby criers sound monitors, and visual or vibrating alarm clocks.~~

## 22 VAC 20-20-60.

The application may be obtained from the department or the department's outreach specialists or other ~~authorized distribution centers sites around the state.~~ Completed applications shall be forwarded to:

Virginia Department for the Deaf and Hard-of-Hearing  
 ATTN: VDDHH-TAP  
 Washington Building  
 Capitol Square  
 1100 Bank Street  
 12th Floor  
 Richmond, VA 23219-3640.  
 1602 Rolling Hills Drive, Suite 203  
 Richmond, Virginia 23229-5012

The VDDHH telephone number is 1-800-552-7917 (V/T) or (804) 225-2570 (V/T) 662-9502 (V/TTY).



**22 VAC 20-20-70. Processing applications.**

A. The ~~coordinator~~ department shall approve all applications for which eligibility requirements defined in 22 VAC 20-20-30 are satisfied, except as provided in ~~subsections B, C, D, E, F and G~~ of this section. Priority may be given to first-time recipients applicants and to recipients who have not received equipment through the program during the preceding 48 months and are without fully functioning equipment as verified in writing by a VDDHH-approved agency representative or individual vendor during times of fiscal constraint, as determined by the director.

B. Original Application shall not be approved when:

1. When The applicant who must contribute has already been issued a coupon which that is still valid and has not been redeemed towards the purchase of ~~technological~~ assistive devices technology equipment under this program.
2. When The applicant has received a device from TAP within the preceding four years except for conditions set in subsections D and E of this section.

C. Application for replacement equipment shall not be approved when:

1. A device previously issued by the department has been subjected to abuse, misuse or unauthorized repair by the recipient.
2. The recipient fails to provide a police report of a stolen device or refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court when requested to do so.
3. The recipient is found negligent in the police report, such as doors to the house or car left unlocked or unattended.
4. The recipient has lost the device.
5. The recipient has sold the device.

D. Replacement equipment may be given within a four-year period if a ~~technological~~ assistive device technology equipment is damaged through natural disasters, such as lightning, electrical storms, or floods. The recipient must first send damaged equipment to the vendor. # The vendor certifies must certify to the department that the equipment, provided it is still under valid warranty, is unrepairable due to natural disaster, a. The recipient must provide proof that the damage was not covered by homeowners or rental insurance. The agency shall issue a replacement unit shall be issued device to the recipient, upon reapplication, either free or up to at the full cost of the requested equipment package, depending on eligibility criteria as outlined in 22 VAC 20-20-40.

E. Exchange of equipment may be permitted where the original equipment can no longer be used by a recipient due to deteriorating vision or hearing or when a new device has become available through TAP and is deemed more appropriate to the recipient's disability than a device previously issued to the recipient. A recipient must obtain submit a letter from a professional listed in 22 VAC 20-20-30 of this chapter stating that the recipient would achieve a more

appropriate benefit from another the new device available through TAP on the basis of the individual's disability.

**22 VAC 20-20-80. Notice of action on approved or denied applications.**

The recipient applicant shall be notified of a decision regarding an original or a renewal application within 30 calendar days of the completion date.

**22 VAC 20-20-90. Fraud.**

If a recipient obtained ~~technological~~ obtains assistive devices technology equipment under false promises pretenses or misrepresentation of facts on the TAP application, the department reserves the right to demand return of such equipment. Such a recipient may be prosecuted to the fullest extent of the law.

**22 VAC 20-20-100. Processing.**

Processing, redemption and invoicing shall be governed by internal department departmental procedures, contractual agreements and the Commonwealth of Virginia's Prompt Payment Act that shall be applied uniformly to applicants and contracted vendors.

**22 VAC 20-20-110. Liability.**

Recipients shall be responsible for any repairs to or loss of a device issued in the program, except where the department retains ownership of the device subject to provisions in the loan agreement form.

**NOTICE:** The forms used in administering 22 VAC 20-20, Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Assistive Technology Equipment, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Technology Assistance Program Overview Application, ~~VDDHH-TDD-1 VDDHH-TAP-1.~~

~~Application Order Form Instructions.~~

~~Application Order Form.~~



---

## Overview

---

### **WHAT IS TAP?**

The Technology Assistance Program (TAP), which is managed by the Virginia Department for the Deaf and Hard of Hearing, distributes equipment that assists Virginians to become more independent.

### **WHO CAN USE TAP?**

People who are certified as deaf, hard of hearing, DeafBlind, hearing-visually disabled or speech-disabled AND live in the Commonwealth of Virginia. There is no age restriction, but minors must have a parent or guardian co-sign a TAP application order form. Proof of residency is required.

### **WHAT'S A TEXT TELEPHONE?**

A Text Telephone (TTY) is a small portable device, that has a typewriter-style keyboard with an acoustic coupler and/or direct jack connection, for telephone conversations with other people who also have a TTY. If the other person does not have a TTY, you can still use your TTY to call that person through the Virginia Relay at 1-800-828-1120. Voice users can use the relay by calling 1-800-828-1140. Now Virginia Relay is as easy as 711.

### **WHAT'S A VOICE CARRY OVER (VCO) PHONE?**

#### **WHAT IS HEARING CARRY OVER (HCO)?**

A VCO Phone allows people who are hard of hearing or deaf to communicate with people who use a standard telephone through the Virginia Relay. In a voice carry over call, the VCO user talks directly to the person on the line. The response, which is typed by the Communication Assistant (CA), appears as text on the screen of the VCO phone. You simply read and talk, without typing. HCO enables persons who are speech disabled to relay their conversations in text. This is read by the CA to the other party. The HCO user hears the caller but responds by typing.

### **WHAT'S AN AMPLIFIER?**

An Amplifier is a volume control that helps some hard of hearing people to hear the speaker's message louder. There are also Speech Amplifiers that help listeners to hear speech disabled people.

### **WHAT ABOUT SIGNALERS?**

There are different kinds of Signalers that will let a person know that the telephone is ringing:

- Visual Signaler: causes a light (i.e. lamp) to flash
- Audible Signaler: has a very loud ring
- Tactile Signaler: vibrates so that a hearing-visually disabled or DeafBlind person can feel it
- Multi-Function Signaler: uses visual and tactile methods to alert the person of different sources of sound (i.e. telephone, alarm clock, doorbell)

### **WHAT IS TAPLOAN?**

TAPLOAN provides individuals and organizations with the opportunity to evaluate equipment available through the Technology Assistance Program (TAP), prior to purchase, for up to 30 days. TAPLOAN also allows people who have purchased equipment through TAP to borrow the same or similar equipment while their own equipment is being repaired. The equipment that TAPLOAN offers includes telephone amplification devices, speech amplifiers, text telephones, voice carry over (VCO) and hearing carry over (HCO) telephones, and telephone ring signalers. Specialists at each site can show you how to hook up and use the equipment. To try a device or to find out more information, contact the TAPLOAN center nearest you. For current loan sites call VDDHH or visit our homepage.



***DO I HAVE TO PAY FOR THESE DEVICES?***

It depends on your whole family income, family size, where your family gets its income, and other factors. You may get equipment at no cost OR, you may have to pay the contract cost. Contact VDDHH if you need more information. (VDDHH reserves the right to verify your income.) **Do not send money to VDDHH with your application.**

***WHAT ABOUT WARRANTY SERVICE?***

All TAP equipment, except the speech amplifier, tactile signaler, or special purchase equipment, has a five-year warranty. If you have problems with a device, return it directly to the company that sent you the equipment with a note explaining the problem and telling the company that the device is from VDDHH-TAP. If VDDHH sent you the equipment directly, call us first. Repairs are free of charge, unless the device has been abused or misused. You pay the postage to ship the equipment to the company, but the company pays to have the repaired equipment shipped back to you. **Do not send the equipment to VDDHH for repair.**

***WHAT DO I DO WHILE MY EQUIPMENT IS BEING REPAIRED?***

People who have received equipment through VDDHH-TAP and are waiting for it to be repaired can borrow the same or a similar device from VDDHH through the TAPLOAN program. There is no charge to borrow the equipment, and you may keep the devices for 30 days or until your own equipment is returned. For a list of TAPLOAN sites call VDDHH or visit our homepage.

***CAN I GET MORE THAN ONE KIND OF EQUIPMENT?***

You can pick one TTY, Amplifier, Amplified phone or a Voice Carry Over (VCO) Phone. You can also pick one Signaler.

***IF I ALREADY HAVE TAP EQUIPMENT, CAN I APPLY AGAIN?***

You can reapply for new equipment every four (4) years. However, during times of fiscal constraint (low budget), VDDHH may give priority to first-time applicants. When our budget is low, people who have received equipment before MIGHT be able to get equipment again. These people will need to submit proof that the old equipment from VDDHH-TAP is not working AND is no longer covered by the warranty. Contact VDDHH for further renewal information.

***SO WHAT DO I DO NOW?***

Just complete the TAP application order form, detach, include proof of residency and mail it to:

**Virginia Department for the Deaf and Hard of Hearing  
Technology Assistance Program  
Ratcliffe Building  
1602 Rolling Hills Dr., Suite 203  
Richmond, VA 23229-5012**

**For more information, call:  
1-800-552-7917 (Voice/TTY)  
1-804-662-9502 (Voice/TTY)**

**Or visit our homepage: [www.vddhh.org](http://www.vddhh.org)**





8. **IS YOUR INCOME FROM PUBLIC ASSISTANCE ONLY?** Check "Yes" if all your income is ONLY from public assistance. Check "No" if your income is from other sources. Public assistance includes: Temporary Assistance to Needy Families (TANF); Social Services Auxiliary Grants to the aged, blind or disabled; Medical Assistance; Food Stamps; General Relief; and Fuel Assistance.

YES     NO

9. **HOME ADDRESS:** Print your complete home address that you use for regular mail.

**HOME ADDRESS (regular mail/letters)**

**STREET ADDRESS:**

\_\_\_\_\_

\_\_\_\_\_

CITY

STATE

ZIP CODE

The agency has an electronic newsletter. If you would like to be added please check the box.

**ADD MY NAME TO AGENCY EMAIL LIST – MY EMAIL ADDRESS** \_\_\_\_\_

10. **SHIPPING INFORMATION:** Your equipment will be shipped to your local Outreach Specialist. The Outreach Specialist will contact you to schedule delivery and hook-up. Please contact VDDHH if special arrangements need to be made.

11. **TELEPHONE NUMBERS:**

HOME: (    ) \_\_\_\_\_ - \_\_\_\_\_  TTY     VOICE

WORK: (    ) \_\_\_\_\_ - \_\_\_\_\_  TTY     VOICE

OTHER: (    ) \_\_\_\_\_ - \_\_\_\_\_ **WHO/WHAT?** \_\_\_\_\_

12. **PROOF OF RESIDENCY:**

Include one of the following documents with your application as proof of residency in Virginia:

A copy of a current lease or deed for a domicile in Virginia or a recent utility bill for a residence in Virginia.

Documents must be in the name of the applicant, the applicant's spouse or the applicant's legal guardian. Other documentation will be considered on a case-by-case basis.



14. APPLICATION CERTIFICATION:

I Certify:

- 1. All information on this application is true.
2. I live in Virginia. I have included proof of residency with this application.
3. I am deaf, hard of hearing, DeafBlind, hearing-visually disabled or speech disabled.
4. "Your whole family monthly income" (Question #6) is the total gross monthly income my family earns in one month.

I Understand:

- 1. VDDHH may request proof of my whole family monthly income and I will provide it if requested.
2. If any information on this application is not true I will have to give all equipment back to VDDHH.
3. I accept responsibility for the machines, including repair and maintenance costs.
4. I accept responsibility for all of my telephone bills.
5. Name, address, and phone number are provided to vendor and agency Outreach contractors for purpose of delivery.

If you are not registered to vote where you live now, would you like to apply to register to vote? (Please check only one.)

- checkbox I am already registered to vote at my current address, or I am not eligible to register to vote and do not need an application.
checkbox Yes. I would like to apply to register to vote. (Please send me the voter registration application form.)
checkbox No. I do not want to register to vote.

If you do not check any box, you will be considered to have decided not to register to vote at this time. Applying to register to vote or declining to register to vote will not affect the assistance or services that you will be provided by this agency.

If you decline to register to vote, this fact will remain confidential. If you do register to vote, the office where your application was submitted will keep it confidential, and it will be used only for voter registration purposes.

APPLICATION SIGNATURE: \_\_\_\_\_ DATE: \_\_\_/\_\_\_/\_\_\_

PARENT OR GUARDIAN: \_\_\_\_\_ SOC SEC# \_\_\_-\_\_\_-\_\_\_ DATE: \_\_\_/\_\_\_/\_\_\_

Parent must sign if child is a minor.

15. PROFESSIONAL CERTIFICATION: If new or exchange application (see # 3), take this application order form to any of the professionals listed in this section. They must fill out the section completely, certify your hearing loss, speech and/or visual disability, and return the application to you. VDDHH must approve a professional not listed in this section. If renewal or replacement application (see # 3) - skip to # 16.

- checkbox Doctor (licensed physician)
checkbox Audiologist
checkbox Speech Pathologist
checkbox VDDHH Outreach Specialist
checkbox AAA (Aging) Representative
checkbox School Rep.
checkbox DRS or DBVI Rep.
checkbox Hearing Aid Specialist
checkbox VDDHH TAPLoan Representative
checkbox Other appropriate agency Rep. (check with VDDHH)
Above Consumer is (please Check One):
checkbox Deaf
checkbox Hard of Hearing
checkbox Speech Disabled
checkbox Hearing-Visually Disabled
checkbox DeafBlind
checkbox Other

Please Print.

I certify that this applicant is "Deaf," "Hard of Hearing," "Hearing-Visually Disabled," "DeafBlind," or "Speech Disabled".

Name of Certifying Person: \_\_\_\_\_ Title: \_\_\_\_\_

Name of Agency: \_\_\_\_\_ State Lic. # (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_ Day Phone Number: (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_/\_\_\_/\_\_\_



**16. EQUIPMENT DESCRIPTION:**

Check (✓) one box from this section for the TTY, Amplifier or VCO (or HCO) Phone that you want:  
(Costs may vary. Contact VDDHH for more information.)



- ULTRATEC-SUPERPRINT 4425A TTY**  
Adjustable Type Printer, ASCII, Turbo Code, and Auto Answer  
(Contract Cost \$305.00)



- ULTRATEC - UNIPHONE 1140**  
A Telephone and TTY all in one with Auto Answer (No Printer) Has VCO and HCO Capabilities.  
(Contract Cost \$203.00)



- ULTRATEC - COMPACT TTY**  
Portable TTY with ASCII 2-line, 40-Character Display Cellular Compatible  
(Contract Cost \$255.00)

**For Speech Disabled Customers Only**

- SPEAKERPHONE**
- SPEECH AMPLIFIER**  
Amplifies outgoing voice



- TTY WITH LARGE VISUAL DISPLAY**  
ASCII Printer Auto Answer (For Hearing-Visually Disabled Customers Only)  
(Contract Cost \$488.95)



- AMPLIFIED TELEPHONE**  
Telephone amplifies incoming voice up 35 dB. Built-in amplified ringer.  
(Contract Cost \$56.00)



- AMERIPHONE - DIALOGUE VCO**  
"Read & Talk" phone; no keyboard Voice Carry Over telephone  
(Contract Cost \$136.40)

- AMPLIFIERS**
- Battery Powered In-line
- Electric Powered In-line
- Portable

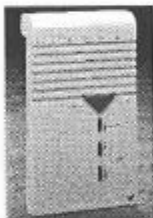
- SPECIAL NEED/REQUEST:** If you are in need of telecommunications equipment not listed on this application, please attach documentation of need and of the equipment desired. VDDHH will consider alternative requests but does NOT commit to purchase.

**17. EQUIPMENT DESCRIPTION:**

Check (✓) one box from this section for the Signaler that you want:  
(Costs may vary. Contact VDDHH for more information.)

**For DeafBlind Customers Only**

- Tactile Signaler for use with AM6000
- Trine Doorbell



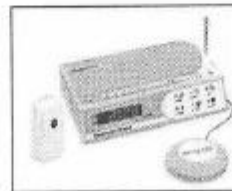
- AUDIBLE RINGER FOR TELEPHONE**  
Ringmax (Cost \$29.99)



- AMERIPHONE-ALERTMASTER 100**  
Light Flasher for Telephone and Doorbell (No Remote)  
(Contract Cost \$61.60)



- VISUAL SIGNALER FOR TELEPHONE**  
Call Alert (Cost \$32.00)



- ALERTMASTER 6000**  
Light flasher and bed shaker for Clock, Telephone and Doorbell (Remote included)  
(Contract Cost \$151.80)

---

# Proposed Regulations

---

## STATE BOARD OF SOCIAL SERVICES

**Title of Regulation:** 22 VAC 40-71. **Standards and Regulations for Licensed Assisted Living Facilities (amending 22 VAC 40-71-10, 22 VAC 40-71-20, 22 VAC 40-71-30, 22 VAC 40-71-50, 22 VAC 40-71-60, 22 VAC 40-71-80, 22 VAC 40-71-90, 22 VAC 40-71-110, 22 VAC 40-71-130, 22 VAC 40-71-150, 22 VAC 40-71-160, 22 VAC 40-71-170, 22 VAC 40-71-180, 22 VAC 40-71-210, 22 VAC 40-71-270, 22 VAC 40-71-280, 22 VAC 40-71-290, 22 VAC 40-71-310, 22 VAC 40-71-330, 22 VAC 40-71-360, 22 VAC 40-71-410, 22 VAC 40-71-440, 22 VAC 40-71-450, 22 VAC 40-71-460, 22 VAC 40-71-480, 22 VAC 40-71-490, 22 VAC 40-71-530, 22 VAC 40-71-540, 22 VAC 40-71-550, 22 VAC 40-71-560, 22 VAC 40-71-570, 22 VAC 40-71-580, 22 VAC 40-71-590, 22 VAC 40-71-600, 22 VAC 40-71-630, 22 VAC 40-71-640, 22 VAC 40-71-650, 22 VAC 40-71-660, 22 VAC 40-71-670, 22 VAC 40-71-680, 22 VAC 40-71-690, and 22 VAC 40-71-700; adding 22 VAC 40-71-45 and 22 VAC 40-71-275).**

**Statutory Authority:** §§ 63.1-25 and 63.1-174 of the Code of Virginia.

**Public Hearing Date:** N/A -- Public comments may be submitted until August 2, 2002.

(See Calendar of Events section for additional information)

**Agency Contact:** Judy McGreal, Program Development Consultant, Department of Social Services, 730 East Broad Street, Richmond, VA 23219, telephone (804) 692-1792, FAX (804) 692-2370 or e-mail jzm7@dss.state.va.us.

**Basis:** Section 63.1-25 of the Code of Virginia gives general authority to the State Board of Social Services to promulgate regulations to carry out the purpose and intent of Title 63.1 of the Code of Virginia.

Section 63.1-174 of the Code of Virginia addresses the State Board of Social Services' overall authority to promulgate regulations for assisted living facilities and specifies content areas to be included in the standards.

Section 63.1-174.001 of the Code of Virginia provides the authority to promulgate regulations relating to admission, retention and discharge of residents of assisted living facilities.

Section 63.1-182.1 of the Code of Virginia provides the board its authority to promulgate regulations relating to the rights of residents of assisted living facilities.

**Purpose:** The regulation is needed in order to replace the emergency regulation, which will expire on October 8, 2002. The replacement regulation covers the same subject matter as the emergency regulation, i.e., areas addressed in Chapter 845 of the 2000 Acts of Assembly and Chapter 161 of the 2001 Acts of Assembly. The replacement regulation is more specific and provides more detail in certain areas than the emergency regulation in order to adequately protect the health, safety and welfare of vulnerable adults in assisted living facilities. It includes provisions to address when an administrator is shared between an assisted living facility and a nursing home to ensure the facility is properly managed and resident care remains at an acceptable level. The regulation

includes requirements related to admission, care, services, and physical plant to protect residents with serious cognitive impairments due to dementia who reside in special care units. Freedom of movement is also addressed in the regulation to make sure that residents are not limited in movement inappropriately.

The regulation also incorporates other changes relating to assisted living facilities that were made in the Code of Virginia in 1996 and in 2000 so that the regulation will be current with the related law.

**Substance:** The name of a home for aged, infirm or disabled adults is changed from "adult care residence" to "assisted living facility." The change in name makes the type of facility and types of services offered more easily recognizable to the general public.

The regulation makes an allowance for a shared administrator when an assisted living facility and a nursing home are located in the same building, and when there is a management plan to ensure that residents receive proper care and supervision.

A section regarding freedom of movement for residents is added to the regulation to make sure that no resident's movement is limited inappropriately.

A clear division is established between standards for special care units for residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia and standards for mixed populations as set forth in the regulation. Special care units for residents with dementia may be locked if in conformance with building and fire safety codes. Specific admission, staffing, programmatic and building requirements have been added for special care units to protect the health and safety of the residents.

This regulation also includes changes in the Code of Virginia resulting from the following bills in the 2000 General Assembly session: House Bills 836 (community service board access to assisted living facilities), 837 (disclosure of staffing), 1168 (training of mandatory reporters), 1169 (posting related to resident rights), 1194 (training for new applicants for licensure) and Senate Bill 577 (training for new applicants for licensure). In addition, the regulation includes changes in the Code of Virginia resulting from House Bill 1384 (Do Not Resuscitate orders) in the 1996 General Assembly session. The material in the regulation is taken directly from the Code, with some adjustment in format, to make it fit the regulation, but with no elaboration in content. Without making these changes, the regulation would not reflect current law.

**Issues:** One of the advantages to the public of the proposed regulatory action is the change in name from "adult care residence" to "assisted living facility." This change makes this type of facility and the services offered more easily recognizable to the public. Another advantage is the increased disclosure requirements relating to resident rights, staffing and services. This allows residents and their families to be more aware of what an assisted living facility offers and what the rules and procedures are regarding resident rights. Additional advantages are greater specificity about who may reside in special care units and increased protections provided in these



units. These ensure a better quality of life for residents and a greater degree of comfort for their families.

A possible disadvantage to the public is increased costs to consumers that may occur when a resident resides in a special care unit.

An advantage to the department is that the proposed regulatory action facilitates the enforcement of legislative mandates. There are no known disadvantages to the department or the Commonwealth.

A matter of interest to some regulated facilities relates to the mandate of Chapter 808 of the 2000 Acts of Assembly, which stated that the regulation take into consideration cost constraints of smaller operations. The department has carefully considered these cost constraints again. Cost impacts, including differential impacts according to facility size, types, locations, etc., are routinely and carefully reviewed during the promulgation process. In order to adequately protect the health and safety of residents, no additional special concessions could be made to the regulation, which offers minimal protection to an increasingly vulnerable population. Residents are equally at risk in smaller facilities and in larger ones and deserve the same protection. The allowable variance process already exists as a means for considering special circumstances and hardships. A facility may request an allowable variance if it believes that a regulation poses a special hardship and that an alternative method of compliance or suspension of a regulation would not endanger the safety and well-being of residents. The department considers the request and the specific circumstances involved and may grant an allowable variance. There may be some smaller facilities that do not agree with the way the department has handled the consideration of cost constraints of smaller operations.

In the development of the regulation, the department has addressed potential conflicts between placement of a resident in a special care unit and the rights of the resident. There is no hard line to be drawn here, however, and some people may not agree on the best way to handle these matters.

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 § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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. State Board of Social Services proposes over 30 changes to current assisted living regulations. The most significant changes include prohibiting locking the doors of a facility providing services to mixed populations and allowing locking the doors of a special care

unit, requiring primary and periodic diagnosis of dementia for special care residents, introducing new training requirements for assisted living facility operators, changing training requirements for facility personnel, modifying orientation requirements for new employees, establishing new qualifications for training personnel, allowing a facility to share a facility administrator with a nursing home, establishing an approval requirement to place a resident in a special care unit, changing on-site employee requirements, establishing a new standard to have a glazed window in at least one of the common rooms of an assisted living facility, and allowing a "do not resuscitate" order to be honored in the presence of a CPR licensed personnel.

The proposed changes have been in effect since October 9, 2001, as emergency regulations. Thus, the proposed permanent regulations are not expected to create new economic effects. Most of the economic effects discussed below may have been already realized and are expected to continue.

Estimated economic impact. The proposed regulations will amend the rules for the assisted living facilities. These facilities provide services to people needing assistance with daily activities and wishing to live as independently as possible. The need for assistance may originate from inability to recognize danger or protect safety due to cognitive impairments. The sources of the impairment may be various which may include dementia, mental retardation, or some other diseases.<sup>1</sup> These facilities offer help to their residents with activities such as eating, bathing, dressing, housekeeping, laundry, transportation, and taking medications. An assisted living residence may be a part of a nursing home, or it may be a stand-alone facility. Main advantages of assisted living facilities are providing the needed services and the security of living with others in a supervised setting.

Based on the most recent data available to the Department of Social Services (the department), there are 702 assisted living facilities in the Commonwealth. A facility size may vary from 4 to 600 beds, but the average size is reported to be between 40-50 residents. In addition to the general maintenance, care, and supervision, some facilities offer special care services to residents in a secure unit. Residents in these secured units are diagnosed with dementia and cannot recognize danger or protect themselves. The department estimates that of the 702 facilities, there may be as many as 255 facilities with a special care unit. It is reported that the statewide licensed capacity is 34,206 for all types of residents of which 4,500 are estimated to be in special care units. Although the number of residents living in assisted living facilities is not known, it is believed to be considerably less than the licensed capacity. Assisted living residences may offer their services for a price ranging from \$800 a month to \$4,000 or more a month, depending on the services and accommodations offered and the size of the room or the apartment.

The proposed changes will prohibit locking the doors of a facility providing services to mixed populations and allow

---

<sup>1</sup> Dementia is loss of mental abilities. Typical symptoms include memory loss and difficulty in performing complex tasks.

---

## Proposed Regulations

---

locking the doors of a special care unit serving residents with dementia. The locking of doors of a special care unit is an option among others a licensee has in securing the unit. Mixed populations include residents with or without serious cognitive impairments. The department indicates that some of the facilities have been locking the doors in lieu of monitoring the residents with serious cognitive impairments. Since the doors of the environment containing a mixed population will not be locked, these facilities will have to either monitor the residents with serious cognitive impairments or discharge them. If the facility continues to provide services to these residents, there are likely to be additional monitoring costs associated with door alarms, cameras, constant staff oversight, security bracelets, or delayed egress mechanisms. If the facility discharges them, transfer of revenues from facilities discharging residents to facilities receiving residents will likely take place. Also, if discharged, the residents will likely incur additional costs such as moving expenses to relocate from a facility to another. However, the number of facilities that will continue to provide services to these residents and the facilities that will discharge them are not known. Also, the size of additional compliance costs to the facilities, the size of potential revenue transfers, and relocation costs to the residents are not known.

Facilities with special care units may also discharge some of their residents, or relocate them to unsecured units because they will not be allowed to detain residents without serious cognitive impairments. Similarly, this may cause some revenue transfers among the assisted living facilities or increase supervision costs, and introduce relocation costs to the residents.

The main benefits of these proposed changes are providing enhanced protection, via the special care unit provisions, for residents who have dementia and cannot recognize danger, and allowing residents who need not be restricted to freely leave the facility. Removing restrictions on leaving the facility could contribute to the mental and emotional well-being of residents who do not need to be restricted.

Also, the proposed regulations will add new areas to be included in assessment of a person entering a special care unit. Currently, every resident entering an assisted living facility must have a physical examination. Due to the proposed changes, a determination for dementia will have to be made for residents entering a special care unit. Dementia determination may take about 45 minutes to one hour.<sup>2</sup> Thus, this requirement has the potential to increase physician fees paid by the residents. Also, some patients who are currently in special care units will likely be diagnosed as not suffering from dementia. Residents without the diagnosis may have to be transferred to another facility if the facility has a special care unit only, or the facility may choose to provide additional monitoring. As before, there may be additional monitoring costs for some facilities, or revenue transfers between the facilities discharging and receiving these residents as well as relocation costs to the patients. The benefit of dementia assessment will be increased potential for more appropriate placement of residents into special care units. Some of the

current residents of special care units who do not suffer from dementia will be allowed to freely leave the facility. This could contribute to the mental and emotional well-being of these residents.

Further, the proposed regulations will require facilities to make a determination periodically as to whether a patient's continued residence in the special care unit is appropriate. A periodic determination will be required every six months for special care unit residents. In some cases, a resident's condition may improve over time and his/her stay at the special care unit may no longer be needed. The determination will be made by the facility. The facility may consult with family members, employees, and the resident himself to make the determination. Each periodic determination is expected to take about one hour of staff time and is expected to cost the facility about \$25.<sup>3</sup> Since up to 4,500 periodic determinations will be required every six months, the annual total costs to the assisted living facilities may be up to \$225,000. In exchange for these compliance costs, the need for continued residence in a special care unit may be more appropriately assessed and this may improve the resident's welfare.

Additionally, the proposed regulations will introduce new training requirements. An operator applying for an initial assisted living facility license will be required to receive training on health and safety regulations and resident rights. Based on the average number of applications between 1999 and 2001, about 90 new facility operators may be required to receive initial training annually. Since it takes about five to eight hours to complete initial training, about 450 to 750 hours of operator time will likely be devoted to comply with this requirement.<sup>4</sup> This time should be valued at the operator's wage rate. However, the operators will be voluntarily undertaking the initial training, which indicates that the benefits to the operator exceed the costs. The department offers initial training to the operators at no charge at about ten different locations every month. To provide this training, the department incurs about \$241,000 in terms of 5-1/2 full time equivalent staff positions and training materials.<sup>5</sup> On the other hand, this change may reduce health and safety risks to the residents by educating the first-time facility operators on health and safety requirements.

The proposed regulations will also amend the employee training requirements. There are four different types of training. The requirements vary between facility staff and administrator and between cognitive impairments related to dementia and not related to dementia. One of the proposed changes will allow employees and administrators to meet the initial training requirements on cognitive impairments by providing documentation of training received in the year prior to employment in an assisted living facility. The main effect of this proposed change will be allowing transfer of previous training. The department offers provider training at \$10 per person. Currently, this expense may be incurred by the facility or by the employee. Thus, the facility or the employees may

---

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

---

<sup>2</sup> Source: The Department of Social Services

avoid \$10 training expense per training session. Additionally, wages corresponding to training hours should be considered as cost savings to the employees or the facility. However, there is not enough data to determine the size of the potential cost savings.

Further, the direct care staff will be required to receive dementia related training within 2 months instead of 6 months of employment. Currently, there is a chance that by the time an employee quits his job within six months, he/she may not have received training. Due to the proposed changes, facilities may incur increased costs associated with ensuring that staff receives the training by an earlier date. Employees who quit working between the second and the sixth months of employment will be more likely to be trained. On the other hand, they will be provided information, which may improve their performance early on at their new position.

With another change, the annual training required for direct care staff in special care units will be increased to 16 hours of annual training during the first year of employment. Currently, the annual training requirement is 12 hours. There will be an additional four hours of training required per employee for the first year of employment. The expected cost of the employee time is about \$24 for four hours.<sup>6</sup> Training costs may be incurred by the facility but in some cases employees may incur them out of their pocket. Most employees are expected to be paid during the training because they are believed to be provided training at company's time. This change will likely result in increased costs for the facilities with special care units, but may also improve employee productivity and quality of services offered.

Furthermore, the proposed regulations will increase the qualifications of the persons developing and providing the training for facility staff in special care units. A licensed health care professional that has at least 12 hours of training in dementia related impairments must provide the training. The additional requirement to be a licensed professional and the requirement for hours of training may increase the costs to the facilities with special care units. However, this requirement may improve the quality of training provided. The number of training staff that may be affected and the sizes of the additional costs and benefits are not known.

Moreover, the proposed changes will increase the time frame in which the new employee orientation must be completed. Orientation of nondirect care staff at assisted living facilities with a special care unit or with a mixed population will have to be completed within one month of employment rather than within one week. This provision will likely provide flexibility for the facilities to meet the orientation requirement. There may be cost savings for facilities because of the additional flexibility and because they will not have to provide orientation to staff members who remain employed only a short time. However, this may negatively affect the quality of services provided by new employees.

Also, the proposed regulations will allow the use of a shared administrator for an assisted living facility and a nursing home provided both are part of the same building. If the shared

administrator does not provide the direct management of the assisted living facility, the proposed regulation requires that a manager be designated. This manager must meet lesser qualifications and training requirements than the administrator is required. Currently, both an assisted living facility and a nursing home must have separate administrators. Facilities that can use a shared administrator are expected to incur some managerial cost savings. In these cases, cost savings could be in the range from \$35,000 to \$70,000, which is the estimated annual salary for the facility administrator.<sup>7</sup> Some other facilities may choose to designate a manager in which case cost savings will probably be lower. The number of facilities under the same building with a nursing home is not known. Reduced managerial oversight is a potential cost of this proposed change.

Additionally, the proposed regulations will require a written approval prior to placing a resident with diagnosis of dementia in a special care unit. Currently, there is no requirement for approval. Someone who is on the statutory priority list must issue the written approval. The order of priority is the following: the resident (if capable of making informed decisions), guardian or legal representative, spouse, adult child, parent, adult sibling, adult grandchild, adult niece or nephew, aunt or uncle, and an independent physician. The proposed priority order may change the person who may currently be making a placement decision for a resident. Thus, it is not known if this requirement will increase or decrease the number of placements in special care units. The costs and benefits of this proposed change will depend on the changes in welfare of the resident. The likely effect on residents' welfare is not known.

The proposed regulations will require an employee responsible for managing or coordinating the activities program to be on-site in the special care unit 20 hours each week. This employee must have specific qualifications which include being a therapeutic recreation specialist, an activities professional, or being eligible for such certification, having one year experience in a similar position, being a qualified occupational therapist or being an assistant to one, or having completed an adult group activities training. Current regulations already require the presence of an employee. Thus the facilities may incur additional costs to provide required qualifications to their existing personnel through training, or may hire new employees with the required qualifications. Facilities with special care units that do not have a trained staff person in charge of activities will incur additional costs as a result of this proposed change. However, there is no accurate data to determine the size of these additional costs. On the other hand, the proposed change may improve the quality of activities provided in special care units.

Further, the proposed regulations will provide an exception for the current requirement that two direct care staff members be awake and on duty in each special care unit. This requirement will not apply if there are less than five residents in the unit and certain conditions are met. This change has the potential to provide some cost savings to the facilities with special care

---

<sup>6</sup> Ibid.

<sup>7</sup> Source: Conversations with Department of Social Services and industry representatives.

---

## Proposed Regulations

---

units, but also has the potential to reduce the oversight provided by direct care staff.

Another proposed amendment will require the facility with a special care unit to have a glazed window above ground level in at least one of the common rooms in newly constructed facilities and those with a change in use group. Facilities purchasing older buildings may have to renovate the building while new facilities may have to add a glazed window to construction design. The number of facilities that may be subject to this change and the cost of providing a glazed window are not known. It is indicated that most new facilities already have a glazed window. Thus, additional costs may be small. On the other hand, the requirement for a glazed window may contribute to well being of a special care resident.

Finally, the proposed regulations will allow carrying out a "do not resuscitate" (DNR) order by an employee with a certification in cardiopulmonary resuscitation (CPR) in addition to a licensed nurse. The proposed change will incorporate the statutory changes occurred in 1996. Since then, honoring a DNR order by an employee with a certification in CPR has been allowed in practice. Thus, no significant effect from this change is expected.

Businesses and entities affected. Approximately 702 assisted living facilities in the Commonwealth will be subject to the proposed regulations. Although these facilities are licensed to serve up to 34,206 residents, the actual occupancy level at assisted living facilities is not known, but is believed to be considerably lower than the permitted capacity.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. The proposed changes are likely to affect employee needs of assisted living facilities and the department. Although some of the proposed requirements are expected to have opposite effects, it seems that the majority of the changes will increase the labor demand by the department and the assisted living facilities. For example, the department may need additional staff to provide required training and the facilities may need additional staff to comply with periodic diagnostic requirement for dementia. Thus, there may be a positive effect on employment in or related to assisted living industry.

Effects on the use and value of private property. Similarly, most of the proposed requirements are likely to increase compliance costs while a few are likely to provide cost savings to the assisted living facilities. If the increase in compliance costs has a significant effect on profitability, a decline in the value of assisted living facilities may be experienced. Additionally, if a significant number of residents are discharged from some facilities, the revenue transfers among the facilities may be large enough to affect profitability and the value of some of the individual assisted living facilities.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services basically concurs with the economic impact analysis. There are, however, a few inaccuracies and one area in which additional information has become available.

The most significant changes noted on the first page of the analysis include "requiring primary and periodic diagnosis of dementia for special care residents." Correct statements are "requiring initial assessment of serious cognitive impairment due to a primary diagnosis of dementia for special care unit residents," and "requiring periodic review of the appropriateness of continued residence in a special care unit."

Another significant change noted is "establishing a new standard to have a glazed window in at least one of the common rooms of an assisted living facility." A correct statement is "establishing a new standard to have a glazed window in at least one of the common rooms of a special care unit in a new building or one with a change in use group."

There is a statement that says "The proposed changes have been in effect since October 9, 2001 as emergency regulations." The fact is that many, but not all, of the proposed changes have been in effect as emergency regulations.

There is a sentence that states "An assisted living residence may be a part of a nursing home, or it may be a stand-alone facility." An accurate statement is "An assisted living residence may be in the same building as a nursing home, or it may be a stand-alone facility."

There is a statement that says "However, the operators will be voluntarily undertaking the initial training, which indicates that the benefits to the operator exceed the costs." This statement is incorrect; the initial training on health and safety regulations and resident rights is mandatory, except under certain conditions.

There is a sentence that says "The number of facilities under the same building with a nursing home is not known." Additional information has become available that there are about 45 of these facilities.

There is a statement that says "This requirement will not apply if there are less than five residents in the unit and certain conditions are met." The correct statement is "This requirement will not apply if there are no more than five residents in the unit and certain conditions are met."

### Summary:

*The proposed amendments (i) rename "adult care residence" as "assisted living facility" throughout the regulation; (ii) allow for a shared administrator when an assisted living facility and a nursing home are located in the same building, and when there is a management plan to ensure that residents receive proper care and supervision; and (iii) establish a clear division between standards for special care units for residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia and standards for mixed populations. Special care units for residents with dementia may be locked if in conformance with building and fire safety codes. Specific admission, staffing, programmatic and building requirements have been added for special care units to protect the health and safety of the residents. These amendments conform the regulation to changes made by Chapter 845 of the 2000 General Assembly session.*

*This proposal also includes changes resulting from the following legislation enacted by the 2000 General*

Assembly: Chapter 130 (community services board access to assisted living facilities), Chapter 804 (disclosure of staffing), Chapter 176 (training of mandatory reporters of adult abuse, neglect, and exploitation), Chapter 177 (posting related to residents' rights), and Chapters 178 and 203 (training for new applicants for licensure). In addition, amendments are made to conform the regulation to 1996 legislation relating to "Do Not Resuscitate" orders.

CHAPTER 71.  
STANDARDS AND REGULATIONS FOR LICENSED ADULT  
CARE RESIDENCES ASSISTED LIVING FACILITIES.

PART I.  
GENERAL PROVISIONS.

**22 VAC 40-71-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Administer medication" means to open a container of medicine or to remove the prescribed dosage and to give it to the resident for whom it is prescribed.

"Administrator" means the licensee or a person designated by the licensee who oversees the day-to-day operation of the facility, including compliance with all regulations for licensed adult care residences assisted living facilities.

~~"Adult care residence" means any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; and (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.~~

"Ambulatory" means the condition of a resident who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the structure itself without the assistance of another person if there is no such

refuge area within the structure, even if such resident may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate.

"Assisted living care" means a level of service provided by an ~~adult care residence~~ assisted living facility for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed; and (iv) any housing project for seniors or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development including, but not limited to, U.S. Department of Housing and Urban Development Sections 8, 202, 221(d)(3), 221(d)(4), 231, 236 or 811 housing, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.

"BOCA®" means the trademark of Building Officials and Code Administrators International, Inc., and it is registered in the U.S. Patent and Trademark Office.

"Building" means a structure with exterior walls under one roof.

"Case management" means multiple functions designed to link clients to appropriate services. Case management may include a variety of common components such as initial screening of needs, comprehensive assessment of needs, development and implementation of a plan of care, service monitoring, and client follow-up.

"Case manager" means an employee of a public human services agency who is qualified and designated to develop and coordinate plans of care.

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms, including when the drug is used in one or more of the following ways:

---

# Proposed Regulations

---

1. In excessive dose (including duplicate drug therapy);
2. For excessive duration;
3. Without adequate monitoring;
4. Without adequate indications for its use;
5. In the presence of adverse consequences which indicate the dose should be reduced or discontinued; and
6. In a manner that results in a decline in the resident's functional status.

~~"Committee" means a person who has been legally invested with the authority and charged with the duty of managing the estate or making decisions to promote the well-being of a person who has been determined by the circuit court to be totally incapable of taking care of his person or handling and managing his estate because of mental illness or mental retardation. A committee shall be appointed only if the court finds that the person's inability to care for himself or handle and manage his affairs is total.~~

*"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person and, where the context plainly indicates, includes a "limited conservator" or a "temporary conservator." The term includes a local or regional program designated by the Department for the Aging as a public conservator pursuant to Article 2 (§ 2.2-711 et seq.) of Chapter 7 of Title 2.2 of the Code of Virginia.*

*"Continuous licensed nursing care" means around-the-clock observation, assessment, monitoring, supervision, or provision of medical treatments provided by a licensed nurse. Residents requiring continuous licensed nursing care may include:*

1. Individuals who have a medical instability due to complexities created by multiple, interrelated medical conditions; or
2. Individuals with a health care condition with a high potential for medical instability.

*"Department" means the Virginia Department of Social Services.*

*"Department's representative" means an employee of the Virginia Department of Social Services, acting as the authorized agent in carrying out the duties specified in the Code of Virginia.*

*"Direct care staff" means supervisors, assistants, aides, or other employees of a facility who assist residents in their daily living activities. Examples are likely to include nursing staff, geriatric assistants and mental health workers but are not likely to include waiters, chauffeurs, and cooks.*

*"Discharge" means the movement of a resident out of the ~~adult care residence assisted living facility.~~*

*"Emergency" means, as it applies to restraints, a situation which may require the use of a restraint where the resident's behavior is unmanageable to the degree an immediate and serious danger is presented to the health and safety of the resident or others.*

*"Emergency placement" means the temporary status of an individual in an ~~adult care residence assisted living facility~~ when the person's health and safety would be jeopardized by not permitting entry into the facility until the requirements for admission have been met.*

*"Extended license" means a license that is granted for more than one year's duration because the facility demonstrated a pattern of strong compliance with licensing standards.*

*"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the person, managing his property and protecting the rights of the person who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the person in need of a guardian has been determined to be incapacitated.*

*"Habilitative service" means activities to advance a normal sequence of motor skills, movement, and self-care abilities or to prevent unnecessary additional deformity or dysfunction.*

*"Health care provider" means a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services such as a physician or hospital, dentist, pharmacist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, or health maintenance organization. This list is not all inclusive.*

*"Household member" means any person domiciled in an ~~adult care residence assisted living facility~~ other than residents or staff.*

*"Human subject research" means any medical or psychological research which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subject's needs but does not include (i) the conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from a human subject in the course of standard medical practice, (ii) epidemiological investigations, or (iii) medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated or to improve the quality of the subject's life pursuant to § 37.1-234 of the Code of Virginia.*

*"Independent living environment" means one in which the resident or residents perform all activities of daily living and instrumental activities of daily living for themselves without requiring the assistance of any staff member in the ~~adult care residence assisted living facility.~~*

*"Independent living status" means that the resident is assessed as capable of performing all activities of daily living and instrumental activities of daily living for himself without requiring the assistance of any staff member in the ~~adult care residence assisted living facility.~~ (If the policy of a facility dictates that medications are administered or distributed*

centrally without regard for the residents' capacity, this shall not be considered in determining independent status.)

*"Independent physician"* means a physician who is chosen by the resident of the ~~adult care residence assisted living facility~~ and who has no financial interest in the ~~adult care residence assisted living facility~~, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the ~~residence facility~~.

*NOTE: "Physician" is defined later in this section.*

*"Individualized service plan"* means the written description of actions to be taken by the licensee to meet the assessed needs of the resident.

*"Instrumental activities of daily living (IADLs)"* means meal preparation, housekeeping, laundry, and managing money. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

*"Intermittent intravenous therapy"* means therapy provided by a licensed health care professional at medically predictable intervals for a limited period of time on a daily or periodic basis.

*"Licensee"* means any person, association, partnership or corporation to whom the license is issued.

*"Licensed health care professional"* means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of his profession, such as a clinical social worker, dentist, licensed practical nurse, nurse practitioner, *occupational therapist*, pharmacist, physical therapist, physician, physician assistant, psychologist, registered nurse, and speech-language pathologist.

*NOTE: Responsibilities of physicians contained within this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.*

*"Maintenance or care"* means the protection, general supervision and oversight of the physical and mental well-being of the aged, infirm or disabled individual. Assuming responsibility for the well-being of residents, either directly or through contracted agents, is considered "general supervision and oversight."

*"Mandated reporter"* means any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, any person providing full-time or part-time care to adults for pay on a regularly scheduled basis, any person employed as a social worker, any mental health professional and any law-enforcement officer, in his professional or official capacity, who has reason to suspect that an adult is an abused, neglected or exploited adult. This is pursuant to § 63.1-55.3 of the Code of Virginia.

*"Maximum physical assistance"* means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

*NOTE: An individual who can participate in any way with performance of the activity is not considered to be totally dependent.*

*"Mental impairment"* means a disability which reduces an individual's ability to reason or make decisions.

*"Minimal assistance"* means dependency in only one activity of daily living or dependency in one or more of the instrumental activities of daily living as documented on the uniform assessment instrument.

*"Moderate assistance"* means dependency in two or more of the activities of daily living as documented on the uniform assessment instrument.

*"Nonambulatory"* means the condition of a resident who by reason of physical or mental impairment is not capable of self-preservation without the assistance of another person.

*"Nonemergency"* means, as it applies to restraints, circumstances which may require the use of a restraint for the purpose of providing support to a physically weakened resident.

~~*"Payee"* means an individual, other than the guardian or committee, who has been designated to receive and administer funds belonging to a resident in an adult care residence. A payee is not a guardian or committee unless so appointed by the court.~~

*"Personal representative"* means the person representing or standing in the place of the resident for the conduct of his affairs. This may include a guardian, ~~committee conservator~~, attorney-in-fact under durable power of attorney, next of kin, descendent, trustee, or other person expressly named by the resident as his agent.

*"Physical impairment"* means a condition of a bodily or sensory nature that reduces an individual's ability to function or to perform activities.

*"Physical restraint"* means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, which restricts freedom of movement or access to his body.

*"Physician"* means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

*"Psychopharmacologic drug"* means any drug prescribed or administered with the intent of controlling mood, mental status or behavior. Psychopharmacologic drugs include not only the obvious drug classes, such as antipsychotic, antidepressants, and the anti-anxiety/hypnotic class, but any drug that is prescribed or administered with the intent of controlling mood, mental status, or behavior, regardless of the manner in which it is marketed by the manufacturers and regardless of labeling or other approvals by the Federal Food and Drug Administration (FDA).

*"Public pay"* means a resident of an adult care facility eligible for benefits under the Auxiliary Grants Program.

*"Qualified assessor"* means an entity contracting with the Department of Medical Assistance Services to perform

---

# Proposed Regulations

---

nursing facility preadmission screening or to complete the uniform assessment instrument for a home- and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of ~~adult care residences~~ *assisted living facilities*, or any hospital which has contracted with the Department of Medical Assistance Services to perform nursing facility preadmission screenings.

*"Rehabilitative services"* means activities that are ordered by a physician or other qualified health care professional which are provided by a rehabilitative therapist (physical therapist, occupational therapist or speech-language pathologist). These activities may be necessary when a resident has demonstrated a change in his capabilities and are provided to enhance or improve his level of functioning.

*"Resident"* means any aged, infirm, or disabled adult residing in an ~~adult care residence~~ *assisted living facility* for the purpose of receiving maintenance or care.

*"Residential living care"* means a level of service provided by an ~~adult care residence~~ *assisted living facility* for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. This definition includes *the services provided by independent living facilities that voluntarily become licensed.*

*"Respite care"* means services provided for maintenance and care of aged, infirm or disabled adults for temporary periods of time, regularly or intermittently. Facilities offering this type of care are subject to this chapter.

*"Restorative care"* means activities designed to assist the resident in reaching or maintaining his level of potential. These activities are not required to be provided by a rehabilitative therapist and may include activities such as range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

*"Safe, secure environment"* means a setting in which the health, safety and welfare of residents are protected, and necessary care and services are provided to maximize individual well-being.

*"Serious cognitive impairment"* means severe deficit in mental capability of a chronic, enduring or long term nature that affects areas such as thought processes, problem-solving, judgment, memory, and comprehension and that interferes with such things as reality orientation, ability to care for self, ability to recognize danger to self or others, and impulse control. Such cognitive impairment is not due to acute or episodic conditions, nor conditions arising from treatable metabolic or chemical imbalances or caused by reactions to medication or toxic substances.

*"Skilled nursing treatment"* means a service ordered by a physician which is provided by and within the scope and practice of a licensed nurse.

*"Special care unit"* means a self-contained safe, secure environment for individuals with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare. Means of egress that lead to unprotected areas must be monitored or secured through devices that conform to applicable building and fire safety standards, including but not limited to, door alarms, cameras, constant staff oversight, security bracelets that are part of an alarm system, pressure pads at doorways, delayed egress mechanisms, locking devices and perimeter fence gates. There may be one or more special care units in a facility or the whole facility may be a special care unit. NOTE: Nothing in this definition limits or contravenes the privacy protections set forth in § 63.1-182.1 of the Code of Virginia.

*"Systems review"* means a physical examination of the body to determine if the person is experiencing problems or distress, including cardiovascular system, respiratory system, gastrointestinal system, urinary system, endocrine system, musculoskeletal system, nervous system, sensory system and the skin.

*"Therapeutic goal"* means the expected outcome of any planned interventions, training, rehabilitation, habilitation, or support services that help a resident obtain or maintain an optimal level of functioning by reducing the effects of a disability or disorder on the physical, mental, behavioral, or social functioning.

*"Transfer"* means movement of a resident to a different assigned living area within the same licensed facility.

*"Transfer trauma"* means feelings or symptoms of stress, emotional shock or disturbance, hopelessness, or confusion resulting from the resident being moved from one residential environment to another.

*"Uniform assessment instrument (UAI)"* means the department designated assessment form. There is an alternate version of the form which may be used for private pay residents, i.e., those not eligible for benefits under the Auxiliary Grants Program. Social and financial information which is not relevant because of the resident's payment status is not included on the private pay version of the form.

## **22 VAC 40-71-20. Applicability.**

A. These standards and regulations for licensed ~~adult care residences~~ *assisted living facilities* apply to any ~~facility~~ *congregate residential setting that*.

1. ~~That is operated or maintained~~ *Provides or coordinates personal and health care services, 24-hour supervision, and assistance for the maintenance or care of four or more adults in one or more locations who are aged, infirm or disabled.*
2. ~~That~~ *Assumes responsibility, either directly or through contracted agents, for the maintenance or care of four or more adults who are aged, infirm or disabled.*

B. The following types of facilities are not subject to licensure as an ~~adult care residence~~ *assisted living facility*.



1. A facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation, and Substance Abuse Services.

2. The home or residence of an individual who cares for or maintains only persons related to him by blood or marriage.

3. A facility or portion of a facility, licensed as a children's residential facility under Chapter 10 (§ 63.1-185 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped.

4. Any housing project for seniors or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority.

**22 VAC 40-71-30. Types of facilities and scope of services.**

A. An ~~adult care residence~~ assisted living facility licensed for residential living care as defined in 22 VAC 40-71-10 shall comply with Parts I through V.

B. An ~~adult care residence~~ assisted living facility licensed for assisted living care as defined in 22 VAC 40-71-10 shall comply with Parts I through VI.

NOTE: Within assisted living care there are two payment levels for recipients of an auxiliary grant: Regular assisted living and intensive assisted living as defined in regulations promulgated by the Department of Medical Assistance Services.

**22 VAC 40-71-45. Community services board access.**

All assisted living facilities shall provide reasonable access to staff or contractual agents of community services boards, local government departments with policy-advisory community services boards or behavioral health authorities as defined in Title 37.1 of the Code of Virginia for the purposes of:

- 1. Assessing or evaluating, providing case management or other services or assistance to, or monitoring the care of clients residing in the facility; or
- 2. Evaluating other facility residents who have previously requested their services.

PART II.  
PERSONNEL AND STAFFING REQUIREMENTS.

**22 VAC 40-71-50. Licensee.**

A. The licensee shall ensure compliance with all regulations for licensed ~~adult care residences~~ assisted living facilities and terms of the license issued by the department; with other relevant federal, state or local laws and regulations; and with the facility's own policies.

B. The licensee shall meet the following requirements:

- 1. The licensee shall give evidence of financial responsibility.
- 2. The licensee shall be of good character and reputation.

3. The licensee shall provide a safe, secure environment for residents.

~~3.~~ 4. The licensee shall protect the physical and mental well-being of residents.

~~4.~~ 5. The licensee shall keep such records and make such reports as required by this chapter for licensed ~~adult care residences~~ assisted living facilities. Such records and reports may be inspected at any reasonable time in order to determine compliance with this chapter.

~~5.~~ 6. The licensee shall meet the qualifications of the administrator if he assumes those duties.

C. An ~~adult care residence~~ assisted living facility sponsored by a religious organization, a corporation or a voluntary association shall be controlled by a governing board of directors that shall fulfill the duties of the licensee.

D. Upon initial application for an assisted living facility license, any person applying to operate such a facility who has not previously owned or managed or does not currently own or manage a licensed assisted living facility shall be required to undergo training by the commissioner or his designated agents.

1. The commissioner may also approve training programs provided by other entities and allow owners or managers to attend such approved training programs in lieu of training by the department.

2. The commissioner may also approve for licensure applicants who meet requisite experience criteria as established by the board.

3. The training programs shall focus on the health and safety regulations and resident rights as they pertain to assisted living facilities and shall be completed by the owner or manager prior to the granting of an initial license.

4. The commissioner may, at his discretion, issue a license conditioned upon the owner or manager's completion of the required training.

**22 VAC 40-71-60. Administrator.**

A. Each ~~residence~~ facility shall have an administrator of record. This does not prohibit the administrator from serving more than one facility.

B. The administrator shall meet the following minimum qualifications and requirements:

- 1. The administrator shall be at least 21 years of age.
- 2. ~~He~~ The administrator shall be able to read, ~~to~~ and write, and ~~to~~ understand this chapter.
- 3. ~~He~~ The administrator shall be able to perform the duties and to carry out the responsibilities required by this chapter.
- 4. The administrator shall be a high school graduate or shall have a General Education Development Certificate (GED), and have completed at least one year of successful post secondary education from an accredited college or institution or at least one year of administrative or supervisory experience in caring for adults in a group care

---

# Proposed Regulations

---

facility. The following exception applies: Administrators employed prior to ~~the effective date of these standards~~ February 1, 1996, shall be a high school graduate or shall have a GED, or shall have completed one year of successful experience in caring for adults in a group care facility.

~~5. He shall demonstrate basic respect for the dignity of residents by ensuring compliance with residents' rights.~~

~~6. He~~ 5. The administrator shall meet the requirements stipulated for all staff in subsection A of 22 VAC 40-71-70.

~~7. He~~ 6. The administrator shall not be a resident of the facility.

C. Any person meeting the qualifications for a licensed nursing home administrator pursuant to § 54.1-3103 of the Code of Virginia may (i) serve as an administrator of an assisted living facility and (ii) serve as the administrator of both an assisted living facility and a licensed nursing home, provided the assisted living facility and licensed nursing home are part of the same building.

D. The administrator shall demonstrate basic respect for the dignity of residents by ensuring compliance with residents' rights.

~~C.~~ E. The ~~residence~~ facility licensee/operator, ~~residence~~ facility administrator, relatives of the licensee/operator or administrator, or ~~residence~~ facility employees shall not act as, seek to become, or become the ~~committee~~ conservator or guardian of any resident unless specifically so appointed by a court of competent jurisdiction pursuant to Chapter 4 (§ 37.1-128.01 et seq.) of Title 37.1 of the Code of Virginia.

~~D.~~ F. Facility owners shall notify the licensing agency of a change in a facility's administrator. The notifications shall be sent to the licensing agency in writing within 10 working days of the change.

~~E.~~ G. It shall be the duty of the administrator to oversee the day-to-day operation of the ~~residence~~ facility. This shall include, but shall not be limited to, responsibility for:

1. Services to residents;
2. Maintenance of buildings and grounds;
3. Supervision of ~~adult care residence~~ assisted living facility staff.

~~F.~~ H. Either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week.

~~G.~~ I. When an administrator terminates employment, a new administrator shall be hired within 90 days from the date of termination.

~~H.~~ J. The administrator shall attend at least 20 hours of training related to management or operation of a residential facility for adults or client specific training needs within each 12-month period. When adults with mental impairments reside in the facility, at least five of the required 20 hours of training shall focus on the resident who is mentally impaired. Documentation of attendance shall be retained at the facility

and shall include title of course, location, date and number of hours.

K. Whenever an assisted living facility and a licensed nursing home have a single administrator, there shall be a written management plan that addresses the care and supervision of the assisted living facility residents. The management plan shall include, but not be limited to, the following:

1. Written policies and procedures that describe how the administrator will oversee the care and supervision of the residents and the day-to-day operation of the facility;
2. If the administrator does not provide the direct management of the assisted living facility, the plan shall specify a designated individual who shall serve as manager and who shall be directly supervised by the administrator;
3. A current organizational chart that depicts the lines of responsibility; and
4. A position description for the administrator, and if applicable, for the manager.

L. The manager referred to in subdivision K 2 of this section shall meet the following minimum qualifications and requirements:

1. The manager shall be at least 21 years of age;
2. The manager shall be able to read and write, and understand this chapter;
3. The manager shall be able to perform the duties and carry out the responsibilities of his position;
4. The manager shall be a high school graduate or shall have a General Education Development Certificate (GED), and have completed at least one year of successful post secondary education from an accredited college or institution or at least one year of administrative or supervisory experience in caring for adults in a group care facility;
5. The manager shall not be a resident of the facility; and
6. The manager shall attend at least eight hours of training related to management or operation of a residential facility for adults or client specific training needs within each 12-month period. When adults with mental impairments reside in the facility, at least two of the required eight hours of training shall focus on residents who are mentally impaired. Documentation of attendance shall be retained at the facility and shall include title of course, sponsor, date and number of hours.

## 22 VAC 40-71-80. Staff training and orientation.

A. All employees shall be made aware of:

1. The purpose of the facility;
2. The services provided;
3. The daily routines; and
4. Required compliance with regulations for ~~adult care residences~~ assisted living facilities as it relates to their duties and responsibilities.

B. All personnel shall be trained in the relevant laws, regulations, and the ~~residence's~~ *facility's* policies and procedures sufficiently to implement the following:

1. Emergency and disaster plans for the facility;
2. Techniques of complying with emergency and disaster plans including evacuating residents when applicable;
3. Use of the first aid kit and knowledge of its location;
4. Confidential treatment of personal information;
5. Observance of the rights and responsibilities of residents;
6. Procedures for detecting and reporting suspected abuse, neglect, or exploitation of residents to the appropriate local department of social services *and for mandated reporters, the consequences for failing to make a required report.* (NOTE: ~~Section 63.1-55.3 of the Code of Virginia requires anyone providing full- or part-time care to adults for pay on a regular basis to report suspected adult abuse, neglect, or exploitation. See 22 VAC 40-71-10 for a definition of mandated reporter~~);
7. Techniques for assisting residents in overcoming transfer trauma; and
8. Specific duties and requirements of their positions. Training in these areas shall occur within the first seven days of employment, and prior to assuming job responsibilities unless under the sight supervision of a trained staff person.

C. Within the first 30 days of employment, all direct care staff shall be trained to have general knowledge in the care of aged, infirm or disabled adults with due consideration for their individual capabilities and their needs.

D. On an annual basis, all direct care staff shall attend at least eight hours of training.

1. The training shall be relevant to the population in care and shall be provided through in-service training programs or institutes, workshops, classes, or conferences.
2. When adults with mental impairments reside in the facility, at least two of the required eight hours of training shall focus on the resident who is mentally impaired.
3. Documentation of this training shall be kept by the facility in a manner that allows for identification by individual employee.

## **22 VAC 40-71-90. Staff duties performed by residents.**

A. Any resident who performs any staff duties shall meet the personnel and health requirements for that position.

B. There shall be a written agreement between the ~~residence~~ *facility* and any resident who performs staff duties.

1. The agreement shall specify duties, hours of work, and compensation.
2. The agreement shall not be a condition for admission or continued residence.
3. The resident shall enter into such an agreement voluntarily.

## **22 VAC 40-71-110. Employee records and health requirements.**

A. A record shall be established for each staff member. It shall not be destroyed until two years after employment is terminated.

B. Personal and social data to be maintained on employees are as follows:

1. Name;
2. Birthdate;
3. Current address and telephone number;
4. Position and date employed;
5. Last previous employment;
6. For persons employed after November 9, 1975, copies of at least two references or notations of verbal references, obtained prior to employment, reflecting the date of the reference, the source and the content;
7. For persons employed after July 1, 1992, an original criminal record report and a sworn disclosure statement;
8. Previous experience or training or both;
9. Social security number;
10. Name and telephone number of person to contact in an emergency;
11. Notations of formal training received following employment; and
12. Date and reason for termination of employment.

C. Health information required by these standards shall be maintained at the facility for the licensee or administrator or both, each staff member, and each household member who comes in contact with residents.

1. Initial tuberculosis examination and report.
  - a. Within 30 days before or seven days after employment, each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form.
  - b. When a staff person terminates work at a licensed facility and begins working at another licensed facility with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the second facility.
  - c. Each individual shall submit documentation that he is free of tuberculosis in a communicable form. This information shall include the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination as deemed appropriate by a physician to rule out tuberculosis in a communicable form. This documentation shall be maintained at the facility and shall include the information contained on the form recommended by the Virginia Department of Health.
2. Subsequent evaluations.
  - a. Any individual who comes in contact with a known case of infectious tuberculosis shall be screened as deemed

---

# Proposed Regulations

---

appropriate in consultation with the local health department.

b. Any individual who develops respiratory symptoms of three or more weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

c. Any individual not previously reacting significantly to a Mantoux tuberculin skin test shall be retested annually. Annual chest x-rays are not required.

3. Any individual suspected to have infectious tuberculosis shall not be allowed to return to work or have any contact with the residents and personnel of the ~~residence~~ facility until tuberculosis is ruled out or determined by a physician to be noninfectious.

4. If a staff member develops an active case of tuberculosis the facility shall report this information to the local health department.

D. At the request of the administrator of the facility or the department, a report of examination by a licensed physician shall be obtained when there are indications that the safety of residents in care may be jeopardized by the physical or mental health of a specific individual.

E. Any individual who, upon examination or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of residents in care or which would prevent performance of duties:

1. Shall be removed immediately from contact with residents; and
2. Shall not be allowed contact with residents until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

## 22 VAC 40-71-130. Standards for staffing.

A. The ~~adult care residence~~ assisted living facility shall have staff adequate in knowledge, skills, and abilities and sufficient in numbers to provide services to attain and maintain the physical, mental and psychosocial well-being of each resident as determined by resident assessments and individualized service plans, and to assure compliance with this chapter.

B. There shall be sufficient staff on the premises at all times to implement the approved fire plan.

C. There shall be at least one staff member awake and on duty at all times in each building when at least one resident is present.

EXCEPTION: In buildings that house 19 or fewer residents, the staff member on duty does not have to be awake during the night if none of the residents requires a staff member awake and on duty at night.

## PART III. ADMISSION, RETENTION AND DISCHARGE OF RESIDENTS.

### 22 VAC 40-71-150. Admission and retention of residents.

A. No resident shall be admitted or retained for whom the facility cannot provide or secure appropriate care, or who requires a level of service or type of service for which the facility is not licensed or which the facility does not provide, or if the facility does not have the staff appropriate in numbers and with appropriate skill to provide such services.

B. ~~Adult care residences~~ Assisted living facilities shall not admit an individual before a determination has been made that the facility can meet the needs of the resident. The facility shall make the determination based upon:

1. The completed UAI;
2. The physical examination report; and
3. An interview between the administrator or a designee responsible for admission and retention decisions, the resident and his personal representative, if any.

NOTE: In some cases, medical conditions may create special circumstances which make it necessary to hold the interview on the date of admission.

C. Upon receiving the UAI prior to admission of a resident, the ~~adult care residence~~ assisted living facility administrator shall provide written assurance to the resident that the facility has the appropriate license to meet his care needs at the time of admission. Copies of the written assurance shall be given to the personal representative, if any, and case manager, if any, and shall be kept on file at the facility.

D. All residents shall be 18 years of age or older.

E. No person shall be admitted without his consent and agreement, or that of his personal representative, if applicable.

F. ~~Adult care residences~~ Assisted living facilities shall not admit or retain individuals with any of the following conditions or care needs:

1. Ventilator dependency;
2. Dermal ulcers III and IV except those stage III ulcers which are determined by an independent physician to be healing, as permitted in subsection G of this section;
3. Intravenous therapy or injections directly into the vein, except for intermittent intravenous therapy managed by a health care professional licensed in Virginia as permitted in subsection H or subsection I of this section;
4. Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold;
5. Psychotropic medications without appropriate diagnosis and treatment plans;
6. Nasogastric tubes;

7. Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube or as permitted in subsection I of this section;

8. Individuals presenting an imminent physical threat or danger to self or others;

9. Individuals requiring continuous licensed nursing care;

10. Individuals whose physician certifies that placement is no longer appropriate;

11. Unless the individual's independent physician determines otherwise, individuals who require maximum physical assistance as documented by the UAI and meet Medicaid nursing facility level of care criteria as defined in the State Plan for Medical Assistance (12 VAC 30-10-40 ~~et seq.~~);

12. Individuals whose health care needs cannot be met in the specific ~~adult care residence~~ *assisted living facility* as determined by the ~~residence facility~~.

G. When a resident has a stage III dermal ulcer that has been determined by an independent physician to be healing, periodic observation and any necessary dressing changes shall be performed by a licensed health care professional under a physician's treatment plan.

H. Intermittent intravenous therapy may be provided to a resident for a limited period of time on a daily or periodic basis by a licensed health care professional under a physician's treatment plan. When a course of treatment is expected to be ongoing and extends beyond a two-week period, evaluation is required at two-week intervals by the licensed health care professional.

I. At the request of the resident, care for the conditions or care needs specified in subdivisions F 3 and F 7 of this section may be provided to a resident in an ~~adult care residence~~ *assisted living facility* by a physician licensed in Virginia, a nurse licensed in Virginia under a physician's treatment plan or by a home care organization licensed in Virginia when the resident's independent physician determines that such care is appropriate for the resident. This standard does not apply to recipients of auxiliary grants.

J. When care for a resident's special medical needs is provided by licensed staff of a home care agency, the ~~adult care residence~~ *assisted living facility* staff may receive training from the home care agency staff in appropriate treatment monitoring techniques regarding safety precautions and actions to take in case of emergency.

K. Notwithstanding § 63.1-174.001 of the Code of Virginia, at the request of the resident, hospice care may be provided in an ~~adult care residence~~ *assisted living facility* under the same requirements for hospice programs provided in Article 7 (§ 32.1-162.1 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, if the hospice program determines that such program is appropriate for the resident.

L. A person shall have a physical examination by an independent physician, including screening for tuberculosis, within 30 days prior to the date of admission. The report of

such examination shall be on file at the ~~adult care residence~~ *assisted living facility* and shall contain the following:

1. The date of the physical examination;

2. Height, weight, and blood pressure;

3. Significant medical history;

4. General physical condition, including a systems review as is medically indicated;

5. Any diagnosis or significant problems;

6. Any allergies;

7. Any recommendations for care including medication, diet and therapy;

8. The type or types of tests for tuberculosis used and the results. This information shall include the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination as deemed appropriate by a physician to rule out tuberculosis in a communicable form. Documentation is required which includes the information contained on the form recommended by the Virginia Department of Health;

9. A statement that the individual does not have any of the conditions or care needs prohibited by subsection F of this section;

10. A statement that specifies whether the individual is considered to be ambulatory or nonambulatory; and

11. Each report shall be signed by the examining clinician.

NOTE: See 22 VAC 40-71-10, definition of "licensed health care professional" for clarification regarding "physician."

M. When a person is accepted for respite care or on an intermittent basis, the physical examination report shall be valid for six months.

N. Subsequent tuberculosis evaluations.

1. Any resident who comes in contact with a known case of infectious tuberculosis shall be screened as deemed appropriate in consultation with the local health department.

2. Any resident who develops respiratory symptoms of three or more weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

3. If a resident develops an active case of tuberculosis, the facility shall report this information to the local health department.

O. The department, at any time, may request a report of a current psychiatric or physical examination, giving the diagnoses or evaluation or both, for the purpose of determining whether the resident's needs may continue to be met in an ~~adult care residence~~ *assisted living facility*. When requested, this report shall be in the form specified by the department.

P. An ~~adult care residence~~ *assisted living facility* shall only admit or retain residents as permitted by its use group classification and certificate of occupancy. The ambulatory/nonambulatory status of an individual is based upon:

---

# Proposed Regulations

---

1. Information contained in the physical examination report; and
2. Information contained in the most recent UAI.

Q. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker or case manager for public pay individuals or an independent physician or a Virginia adult protective services worker for private pay individuals.

R. When an emergency placement occurs, the person shall remain in the ~~adult care residence~~ *assisted living facility* no longer than seven working days, unless all the requirements for admission have been met and the person has been admitted.

S. Prior to or at the time of admission to an ~~adult care residence~~ *assisted living facility*, the following personal and social data on a person shall be maintained in the individual's record:

1. Name;
2. Last home address, and address from which resident was received, if different;
3. Date of admission;
4. Social security number;
5. Birthdate (if unknown, estimated age);
6. Birthplace, if known;
7. Marital status, if known;
8. Name, address and telephone number of personal representative, or other person responsible;
9. Name, address and telephone number of next of kin, if known (two preferred);
10. Name, address and telephone number of personal physician, if known;
11. Name, address and telephone number of personal dentist, if known;
12. Name, address and telephone number of clergyman and place of worship, if applicable;
13. Name, address and telephone number of local department of social services or any other agency, if applicable, and the name of the case manager or caseworker;
14. Service in the Armed Forces, if applicable;
15. Special interests and hobbies; and
16. Information concerning advance directives, if applicable.

NOTE: For assisted living *care* facilities, 22 VAC 40-71-640 also applies.

T. At or prior to the time of admission, there shall be a written agreement/acknowledgment of notification dated and signed by the resident/applicant for admission or the appropriate personal representative, and by the licensee or administrator. This document shall include the following:

1. Financial arrangement for accommodations, services and care which specifies:

- a. Listing of specific charges for accommodations, services, and care to be made to the individual resident signing the agreement, the frequency of payment, and any rules relating to nonpayment;
- b. Description of all accommodations, services, and care which the facility offers and any related charges;
- c. The amount and purpose of an advance payment or deposit payment and the refund policy for such payment;
- d. The policy with respect to increases in charges and length of time for advance notice of intent to increase charges;
- e. If the ownership of any personal property, real estate, money or financial investments is to be transferred to the ~~residence~~ *facility* at the time of admission or at some future date, it shall be stipulated in the agreement; and
- f. The refund policy to apply when transfer of ownership, closing of facility, or resident transfer or discharge occurs.

2. Requirements or rules to be imposed regarding resident conduct and other restrictions or special conditions and signed acknowledgment that they have been reviewed by the resident or his appropriate personal representative.

3. Acknowledgment that the resident has been informed of the policy regarding the amount of notice required when a resident wishes to move from the facility.

4. Acknowledgment that the resident has been informed of the policy required by 22 VAC 40-71-490 † J regarding weapons.

5. Those actions, circumstances, or conditions which would result or might result in the resident's discharge from the facility.

6. Acknowledgment that the resident has reviewed a copy of § 63.1-182.1 of the Code of Virginia, Rights and Responsibilities of Residents of ~~Adult Care Residences~~ *Assisted Living Facilities*, and that the provisions of this statute have been explained to him.

7. Acknowledgment that the resident or his personal representative has reviewed and had explained to him the ~~residence's~~ *facility's* policies and procedures for implementing § 63.1-182.1 of the Code of Virginia, including the grievance policy and the transfer/discharge policy.

8. Acknowledgment that the resident has been informed of the bed hold policy in case of temporary transfer, if the facility has such a policy.

U. Copies of the signed agreement/acknowledgment of notification shall be provided to the resident and any personal representative and shall be retained in the resident's record.

V. A new agreement shall be signed or the original agreement shall be updated and signed by the licensee or administrator when there are changes in financial arrangements, services, or requirements governing the resident's conduct. If the original agreement provides for specific changes in financial

arrangements, services, or requirements, this standard does not apply.

*W. Upon admission and upon request, the assisted living facility shall provide in writing a description of the types of staff working in the facility and the services provided, including the hours such services are available.*

~~W.~~ X. An ~~adult care residence~~ assisted living facility shall establish a process to ensure that any resident temporarily detained in an inpatient facility pursuant to § 37.1-67.1 of the Code of Virginia is accepted back in the ~~adult care residence~~ assisted living facility if the resident is not involuntarily committed pursuant to § 37.1-67.3 of the Code of Virginia.

X. Y. If an ~~adult care residence~~ assisted living facility allows for temporary movement of a resident with agreement to hold a bed, it shall develop and follow a written bed hold policy, which includes, but is not limited to, the conditions for which a bed will be held, any time frames, terms of payment, and circumstances under which the bed will no longer be held.

## **22 VAC 40-71-160. Discharge of residents.**

A. When actions, circumstances, conditions, or care needs occur which will result in the discharge of a resident, discharge planning shall begin immediately. The resident shall be moved within 30 days, except that if persistent efforts have been made and the time frame is not met, the facility shall document the reason and the efforts that have been made.

B. The ~~adult care residence~~ assisted living facility shall immediately notify the resident and the resident's personal representative, if any, of the planned discharge. The notification shall occur at least 14 calendar days prior to the actual discharge date. The reason for the move shall be discussed with the resident and his personal representative at the time of notification.

C. The ~~adult care residence~~ assisted living facility shall adopt and conform to a written policy regarding the number of calendar days notice that is required when a resident wishes to move from the facility. Any required notice of intent to move shall not exceed 45 days.

D. The facility shall assist the resident and his personal representative, if any, in the discharge or transfer processes. The facility shall help the resident prepare for relocation, including discussing the resident's destination. Primary responsibility for transporting the resident and his possessions rests with the resident or his personal representative.

E. When a resident's condition presents an immediate and serious risk to the health, safety or welfare of the resident or others and emergency discharge is necessary, 14-day notification of planned discharge does not apply, although the reason for the relocation shall be discussed with the resident and when possible his personal representative, if any.

F. Under emergency conditions, the resident or his personal representative and the family, caseworker, social worker or other agency personnel, as appropriate, shall be informed as rapidly as possible, but by the close of the business day following discharge, of the reasons for the move.

G. 1. At the time of discharge, except as noted in subdivision 5 2 of this subsection, the ~~adult care residence~~ assisted living facility shall provide to the resident or his personal representative a dated statement signed by the licensee or administrator which contains the following information:

~~4.~~ a. The date on which the resident or his personal representative was notified of the planned discharge and the name of the personal representative who was notified;

~~2.~~ b. The reason or reasons for the discharge;

~~3.~~ c. The actions taken by the facility to assist the resident in the discharge and relocation process; and

~~4.~~ d. The date of the actual discharge from the facility and the resident's destination;

~~5.~~ 2. When the termination of care is due to emergency conditions, the dated statement shall contain the above information as appropriate and shall be provided or mailed to the resident or his personal representative as soon as practicable and within 48 hours from the time of the decision to discharge.

H. A copy of the written statement required by subsection G of this section shall be retained in the resident's record.

I. When the resident is discharged and moves to another caregiving facility, the ~~adult care residence~~ assisted living facility shall provide to the receiving facility such information related to the resident as is necessary to ensure continuity of care and services. Original information pertaining to the resident shall be maintained by the ~~adult care residence~~ assisted living facility from which the resident was discharged. The ~~adult care residence~~ assisted living facility shall maintain a listing of all information shared with the receiving facility.

J. Within 60 days of the date of discharge, each resident or his appropriate personal representative shall be given a final statement of account, any refunds due, and return of any money, property or things of value held in trust or custody by the facility.

## **PART IV. RESIDENT ACCOMMODATIONS, CARE AND RELATED SERVICES.**

### **22 VAC 40-71-170. Assessment and individualized service plans.**

A. Uniform assessment instrument (UAI).

1. Private pay residents. As a condition of admission, the facility shall obtain a UAI with the items completed that are specified in Assessment in Adult Care Residences (22 VAC 40-745-10 ~~et seq.~~). The facility shall obtain the UAI from one of the following entities:

a. An independent physician;

b. A facility employee with documented training in the completion of the UAI and appropriate application of level of care criteria, provided the administrator or the administrator's designated representative approves and then signs the completed UAI; or

---

# Proposed Regulations

---

c. A case manager employed by a public human services agency or other qualified assessor.

2. Public pay residents. As a condition of admission, the facility shall obtain a completed UAI from the prospective resident's case manager or other qualified assessor.

3. The UAI shall be completed within 90 days prior to the date of admission to the ~~adult care residence~~ *assisted living facility* except that if there has been a change in the resident's condition since the completion of the UAI which would appear to affect the admission, a new UAI shall be completed.

4. When a resident moves to an ~~adult care residence~~ *assisted living facility* from another ~~adult care residence~~ *assisted living facility* or other long-term care setting which uses the UAI, if there is a completed UAI on record, another UAI does not have to be completed. The transferring long-term care provider must update the UAI to indicate any change in the individual's condition.

B. Facilities opting to complete the UAI for prospective private pay residents shall ensure that the information is obtained as required by 22 VAC 40-745-10 ~~et seq.~~

C. Individualized service plan. The licensee/administrator or designee, in conjunction with the resident, and the resident's family, case worker, case manager, health care providers or other persons, as appropriate, shall develop and implement an individualized service plan to meet the resident's service needs.

An individualized service plan is not required for those residents who are assessed as capable of maintaining themselves in an independent living status.

The service plan shall be completed within 45 days after admission and shall include the following:

1. Description of identified need;
2. A written description of what services will be provided and who will provide them;
3. When and where the services will be provided; and
4. The expected outcome.

~~5.~~ If a resident lives in a building housing 19 or fewer residents, the service plan shall include a statement that specifies whether the person does need or does not need to have a staff member awake and on duty at night.

The master service plan shall be filed in the resident's record; extracts from the plan may be filed in locations specifically identified for their retention, e.g., dietary plan in kitchen.

D. The individualized service plan shall reflect the resident's assessed needs and support the principles of individuality, personal dignity, freedom of choice and home-like environment and shall include other formal and informal supports that may participate in the delivery of services.

E. Uniform assessment instruments shall be completed at least once every 12 months on residents of ~~adult care residences~~ *assisted living facilities*. Uniform assessment instruments shall be completed as needed as the condition of

the resident changes and whenever there is a change in the resident's condition that appears to warrant a change in the resident's approved level of care. All UAIs shall be completed as prescribed in subsections A and B of this section.

F. At the request of the ~~adult care residence~~ *assisted living facility*, the resident's representative, the resident's physician, the Department of Social Services, or the local department of social services, an independent assessment using the UAI shall be completed to determine whether the resident's care needs are being met in the ~~adult care residence~~ *assisted living facility*. The ~~adult care residence~~ *assisted living facility* shall assist the resident in obtaining the independent assessment as requested.

G. For private pay residents, the ~~adult care residence~~ *assisted living facility* shall be responsible for coordinating with an independent physician, a case manager or other qualified assessor as necessary to ensure that UAIs are completed as required.

H. Individualized service plans shall be reviewed and updated at least once every 12 months. Individualized service plans shall be reevaluated as needed as the condition of the resident changes.

I. The licensee shall designate a staff person to review, monitor, implement and make appropriate modifications to the individualized service plan. This person shall also keep the resident's case manager, if applicable, informed of significant changes in the resident's condition.

## **22 VAC 40-71-180. Resident and personnel records.**

A. Any forms used for recordkeeping shall contain at a minimum the information specified in this chapter. Model forms, which may be copied, will be supplied by the department upon request.

B. Any physician's notes and progress reports in the possession of the facility shall be retained in the resident's record.

C. Copies of all agreements between the facility and the resident and official acknowledgment of required notifications, signed by all parties involved, shall be retained in the resident's record. Copies shall be provided to the resident and any appropriate personal representative.

D. All records which contain the information required by these standards for both residents and personnel shall be retained at the facility and kept in a locked area.

E. The licensee shall assure that all records are treated confidentially and that information shall be made available only when needed for care of the resident. All records shall be made available for inspection by the department's representative.

F. Residents shall be allowed access to their own records.

G. The resident's individual record shall be kept current and the complete record shall be retained until two years after the resident leaves the ~~residence~~ *facility*.

H. A current picture of each resident shall be readily available for identification purposes, or if the resident refuses to consent



to a picture, there shall be a narrative physical description, which is annually updated, maintained in his file.

## **22 VAC 40-71-210. Resident rooms.**

A. The resident shall be encouraged to furnish or decorate his room as space and safety considerations permit and in accordance with this chapter.

B. Bedrooms shall contain the following items:

1. A separate bed with comfortable mattress, springs and pillow for each resident. Provisions for a double bed for a married couple shall be optional;
2. A table or its equivalent accessible to each bed;
3. An operable bed lamp or bedside light accessible to each resident;
4. A sturdy chair for each resident (wheelchairs do not meet the intent of this standard);
5. Drawer space for clothing and other personal items. If more than one resident occupies a room, ample drawer space shall be assigned to each individual;
6. At least one mirror; and
7. Window coverings for privacy.

C. Adequate and accessible closet or wardrobe space shall be provided for each resident.

D. The ~~residence~~ facility shall have sufficient bed and bath linens in good repair so that residents always have clean:

1. Sheets;
2. Pillowcases;
3. Blankets;
4. Bedspreads;
5. Towels;
6. Washcloths; and
7. Waterproof mattress covers when needed.

## **22 VAC 40-71-270. Resident rights.**

A. The resident shall be encouraged and informed of appropriate means as necessary to exercise his rights as a resident and a citizen throughout the period of his stay at the ~~residence~~ facility.

B. The resident has the right to voice or file grievances, or both, with the ~~residence~~ facility and to make recommendations for changes in the policies and services of the ~~residence~~ facility. The residents shall be protected by the licensee or administrator, or both, from any form of coercion, discrimination, threats, or reprisal for having voiced or filed such grievances.

C. Any resident of an ~~adult care residence~~ assisted living facility has the rights and responsibilities as provided in § 63.1-182.1 of the Code of Virginia and this chapter.

D. The operator or administrator of an ~~adult care residence~~ assisted living facility shall establish written policies and

procedures for implementing § 63.1-182.1 of the Code of Virginia.

*E. All established policies and procedures regarding the rights and responsibilities of residents shall be printed in at least 12-point type and posted conspicuously in a public place in all assisted living facilities. The facility shall include in them the name, title and telephone number of the appropriate regional licensing supervisor of the Department of Social Services, the Adult Protective Services' toll-free telephone number, the toll-free telephone number of the Virginia Long-Term Care Ombudsman Program and any substate (local) ombudsman program serving the area, and the toll-free telephone number of the Department for the Rights of Virginians with Disabilities.*

~~E. F.~~ The rights and responsibilities of residents in ~~adult care residences~~ assisted living facilities shall be reviewed with all residents annually. Evidence of this review shall be the resident's written acknowledgment of having been so informed which shall include the date of the review and shall be filed in his record.

~~F. G.~~ The ~~residence~~ facility shall make available in an easily accessible place a copy of the rights and responsibilities of residents and shall include in it the name, title, address and telephone number of the appropriate regional licensing supervisor of the Department of Social Services, the toll free telephone number of the Virginia Long-Term Care Ombudsman Program and any substate (local) ombudsman program serving the area, and the toll free number of the Department for the Rights of Virginians with Disabilities.

## **22 VAC 40-71-275. Freedom of movement.**

A. Any resident who does not have a serious cognitive impairment and an inability to recognize danger or protect his own safety and welfare shall be allowed to freely leave the facility. A resident who has a serious cognitive impairment and an inability to recognize danger or protect his own safety and welfare shall be subject to the provisions set forth in 22 VAC 40-71-700 B or C.

B. Doors leading to the outside shall not be locked from the inside or secured from the inside in any manner that amounts to a lock, except that doors may be locked or secured in a manner that amounts to a lock in special care units as provided in 22 VAC 41-71-700 C.

NOTE: Any devices used to lock or secure doors in any manner must be in accordance with applicable building and fire codes.

C. The facility shall provide freedom of movement for the residents to common areas and to their personal spaces. The facility shall not lock residents out of or inside their rooms.

## **22 VAC 40-71-280. Visiting in the ~~residence~~ facility.**

A. Daily visits to residents in the ~~residence~~ facility shall be permitted.

B. If visiting hours are restricted, daily visiting hours shall be posted in a place conspicuous to the public.

---

# Proposed Regulations

---

## 22 VAC 40-71-290. Visiting outside the residence facility.

Residents shall not be prohibited from making reasonable visits away from the ~~residence facility~~ except when there is written order of the appropriate personal representative to the contrary.

## 22 VAC 40-71-310. Resident councils.

Every ~~adult care residence assisted living facility~~ shall assist the residents in establishing and maintaining a resident council, except when the majority of the residents do not want to have a council. The council shall be composed of residents of the facility and may include their family members. The council may extend membership to advocates, friends and others.

## 22 VAC 40-71-330. Food service and nutrition.

A. When any portion of an ~~adult care residence assisted living facility~~ is subject to inspection by the State Department of Health, the ~~residence facility~~ shall be in compliance with those regulations, as evidenced by a report from the State Department of Health.

B. All meals shall be served in the dining area as designated by the facility. Under special circumstances, such as temporary illness or incapacity, meals may be served in a resident's room provided a sturdy table is used.

C. Residents with independent living status who have kitchens equipped with stove, refrigerator and sink within their individual apartments may have the option of obtaining meals from the facility or from another source.

1. The facility must have an acceptable health monitoring plan for these residents and provide meals both for other residents and for residents identified as no longer capable of maintaining independent living status.

2. An acceptable health monitoring plan includes: Assurance of adequate resources, accessibility to food, a capability to prepare food, availability of meals when the resident is sick or temporarily unable to prepare meals for himself.

D. Personnel shall be available to help any resident who may need assistance in reaching the dining room or when eating.

## 22 VAC 40-71-360. Catering or contract food service.

A. Catering service or contract food service, if used, shall be approved by the state or local health department or both.

B. Persons who are employed by a food service contractor or catering service and who are working on the premises of the ~~adult care residence assisted living facility~~ shall meet the health requirements for employees of ~~adult care residences assisted living facilities~~ as specified in this chapter and the specific health requirements for food handlers in that locality.

C. Catered food or food prepared and provided on the premises by a contractor shall meet the dietary requirements set forth in this chapter.

## 22 VAC 40-71-410. Do Not Resuscitate (DNR) orders.

Do Not Resuscitate orders shall only be carried out in a licensed ~~adult care residence assisted living facility~~ when the order, *which must be in writing*, has been prescribed by a *the resident's attending physician*, is included in the individualized service plan and there is *an employee with a current certification in cardiopulmonary resuscitation (CPR), unless disallowed as provided for in § 63.1-174.3 of the Code of Virginia, or a licensed nurse available to implement the order.*

*Section 63.1-174.3 of the Code of Virginia states that the owners or operators of any assisted living facility may provide that their employees who are certified in CPR shall not be required to resuscitate any resident for whom a valid written order not to resuscitate in the event of cardiac or respiratory arrest has been issued by the resident's attending physician and has been included in the resident's individualized service plan.*

## 22 VAC 40-71-440. Management and control of resident funds.

Pursuant to § 63.1-182.1 A 3 of the Code of Virginia, unless a ~~committee conservator~~ or guardian of a resident has been appointed (see 22 VAC 40-71-60 ~~€ E~~), the resident shall be free to manage his personal finances and funds; provided, however, that the ~~residence facility~~ may assist the resident in such management in accordance with 22 VAC 40-71-450 and 22 VAC 40-71-460.

## 22 VAC 40-71-450. Resident accounts.

The ~~residence facility~~ shall provide to each resident a monthly statement or itemized receipt of the resident's account and shall place a copy also in the resident's record. The monthly statement or itemized receipt shall itemize any charges made and any payments received during the previous 30 days or during the previous calendar month and shall show the balance due or any credits for overpayment on the resident's account.

## 22 VAC 40-71-460. Safeguarding residents' funds.

A. If the resident delegates the management of personal funds to the ~~residence facility~~, the following standards apply:

1. Residents' funds shall be held separately from any other moneys of the ~~residence facility~~. Residents' funds shall not be borrowed, used as assets of the ~~residence facility~~, or used for purposes of personal interest by the licensee/operator, administrator, or ~~residence facility~~ staff.

2. If the ~~residence's facility's~~ accumulated residents' funds are maintained in a single interest-bearing account, each resident shall receive interest proportionate to his average monthly account balance. The ~~residence facility~~ may deduct a reasonable cost for administration of the account.

3. If any personal funds are held by the ~~residence facility~~ for safekeeping on behalf of the resident, a written accounting of money received and disbursed, showing a current balance, shall be maintained. Residents' funds and the accounting of the funds shall be made available to the resident or the personal representative or both upon request.

B. No ~~residence facility~~ administrator or staff member shall act as either attorney-in-fact or trustee unless the resident has no other preferred designee and the resident himself expressly requests such service by or through ~~residence facility~~ personnel. Any ~~residence facility~~ administrator or staff member so named shall be accountable at all times in the proper discharge of such fiduciary responsibility as provided under Virginia law, shall provide a quarterly accounting to the resident, and, upon termination of the power of attorney or trust for any reason, shall return all funds and assets, with full accounting, to the resident or to his personal representative or to another responsible party expressly designated by the resident. See also 22 VAC 40-71-60 ~~G E~~ regarding ~~committees conservators~~ or guardians appointed by a court of competent jurisdiction.

**22 VAC 40-71-480. Staff training when aggressive or restrained residents are in care.**

The following training is required for staff in ~~adult care residences assisted living facilities~~ that accept, or have in care, residents who are aggressive or restrained:

1. Aggressive residents.
  - a. Direct care staff shall be trained in methods of dealing with residents who have a history of aggressive behavior or of dangerously agitated states prior to being involved in the care of such residents.
  - b. This training shall include, at a minimum, information, demonstration, and practical experience in self-protection and in the prevention and de-escalation of aggressive behavior.
2. Restrained residents.
  - a. Direct care staff shall be appropriately trained in caring for the health needs of residents who are restrained prior to being involved in the care of such residents. Licensed medical personnel, e.g., R.N.s, L.P.N.s, are not required to take this training if their academic background deals with this type of care.
  - b. This training shall include, at a minimum, information, demonstration and experience in:
    - (1) The proper techniques for applying and monitoring restraints;
    - (2) Skin care appropriate to prevent redness, breakdown, and decubiti;
    - (3) Active and active assisted range of motion to prevent joint contractures;
    - (4) Assessment of blood circulation to prevent obstruction of blood flow and promote adequate blood circulation to all extremities;
    - (5) Turning and positioning to prevent skin breakdown and keep the lungs clear;
    - (6) Provision of sufficient bed clothing and covering to maintain a normal body temperature; and

(7) Provision of additional attention to meet the physical, mental, emotional, and social needs of the restrained resident.

3. The training described in subdivisions 1 and 2 of this section shall meet the following criteria:
  - a. Training shall be provided by a qualified health professional.
  - b. A written description of the content of this training, a notation of the person/agency/organization or institution providing the training and the names of staff receiving the training shall be maintained by the facility except that, if the training is provided by the department, only a listing of staff trained and the date of training are required.
4. Refresher training for all direct care staff shall be provided at least annually or more often as needed.
  - a. The refresher training shall encompass the techniques described in subdivision 1 or 2 of this section, or both.
  - b. A record of the refresher training and a description of the content of the training shall be maintained by the facility.

PART V.  
BUILDING AND GROUNDS.

**22 VAC 40-71-490. General requirements.**

- A. Buildings licensed for ambulatory residents or nonambulatory residents shall be classified by and meet the specifications for the proper use group as required by the Virginia Uniform Statewide Building Code (13 VAC 5-61-40 ~~et seq.~~).
- B. A certificate of occupancy shall be obtained as evidence of compliance with the applicable edition of the Virginia Uniform Statewide Building Code.
- C. Before construction begins or contracts are awarded for any new construction, remodeling, or alterations, plans shall be submitted to the department for review.
- D. Doors and windows.
  1. All doors shall open and close readily and effectively.
  2. Any doorway or window that is used for ventilation shall be effectively screened.
- E. There shall be enclosed walkways between residents' rooms and dining and sitting areas which are adequately lighted, heated, and ventilated. This requirement shall not apply to existing buildings or ~~residences facilities~~ that had licenses in effect on January 1, 1980, unless such buildings are remodeled after that date or there is a change of sponsorship of the licensed ~~residence facility~~.
- F. There shall be an ample supply of hot and cold water from an approved source available to the residents at all times.
- G. Hot water at taps available to residents shall be maintained within a range of 105°– F to 120°F.

---

# Proposed Regulations

---

H. Where there is an outdoor area accessible to residents, such as a porch or lawn, it shall be equipped with furniture in season.

I. Cleaning supplies and other hazardous materials shall be stored in a locked area. This safeguard shall be optional in an independent living environment.

J. Each facility shall develop and implement a written policy regarding weapons on the premises of the facility that will ensure the safety and well-being of all residents and staff.

## 22 VAC 40-71-530. Sleeping areas.

Resident sleeping quarters shall provide:

1. For not less than 450 cubic feet of air space per resident;
2. For square footage as provided in this subdivision:
  - a. As of February 1, 1996, all buildings approved for construction or change in use group, as referenced in the **BOCA BOCA®** National Building Code, shall have not less than 100 square feet of floor area in bedrooms accommodating one resident; otherwise not less than 80 square feet of floor area in bedrooms accommodating one resident shall be required.
  - b. As of February 1, 1996, all buildings approved for construction or change in use group, as referenced in the **BOCA BOCA®** National Building Code, shall have not less than 80 square feet of floor area per person in bedrooms accommodating two or more residents; otherwise not less than 60 square feet of floor area per person in bedrooms accommodating two or more persons shall be required;
3. For ceilings at least 7-1/2 feet in height;
4. For window areas as provided in this subdivision:
  - a. There shall be at least eight square feet of glazed window area above ground level in a room housing one person, and
  - b. There shall be at least six square feet of glazed window area above ground level per person in rooms occupied by two or more persons;
5. For occupancy by no more than four residents in a room. A ~~residence~~ facility that had a valid license on January 1, 1980, permitting care of more than four residents in specific rooms, will be deemed to be in compliance with this standard; however, the ~~residence~~ facility may not exceed the maximum number of four residents in any other room in the facility. This exception will not be applicable if the ~~residence~~ facility is remodeled or if there is a change of sponsorship.
6. For at least three feet of space between sides and ends of beds that are placed in the same room;
7. That no bedroom shall be used as a corridor to any other room;
8. That all beds shall be placed only in bedrooms; and
9. That household members and staff shall not share bedrooms with residents.

## 22 VAC 40-71-540. Toilet, handwashing and bathing facilities.

A. In determining the number of toilets, washbasins, bathtubs or showers required, the total number of persons residing on the premises shall be considered. Unless there are separate facilities for household members or live-in staff, they shall be counted in determining the required number of fixtures. In a ~~residence~~ facility with a valid license on January 1, 1980, only residents shall be counted in making the determination unless such ~~residence~~ facility is subsequently remodeled or there is a change of sponsorship.

1. On each floor where there are residents' bedrooms, there shall be:
  - a. At least one toilet for each seven persons;
  - b. At least one washbasin for each seven persons;
  - c. At least one bathtub or shower for each 10 persons;
  - d. Toilets, washbasins and bathtubs or showers in separate rooms for men and women where more than seven persons live on a floor. Bathrooms equipped to accommodate more than one person at a time shall be labeled by sex. Sex designation of bathrooms shall remain constant during the course of a day.
2. On floors used by residents where there are no residents' bedrooms there shall be:
  - a. At least one toilet;
  - b. At least one washbasin;
  - c. Toilets and washbasins in separate rooms for men and women in ~~residences~~ facilities where there are 10 or more residents. Bathrooms equipped to accommodate more than one person at a time shall be designated by sex. Sex designation of bathrooms must remain constant during the course of a day.

B. Bathrooms shall provide for visual privacy for such activities as bathing, toileting, and dressing.

C. There shall be ventilation to the outside in order to eliminate foul odors.

D. The following sturdy safeguards shall be provided:

1. Handrails by bathtubs;
2. Grab bars by toilets; and
3. Handrails and stools by stall showers.

These safeguards shall be optional for individuals with independent living status.

## 22 VAC 40-71-550. Toilet supplies.

A. The ~~residence~~ facility shall have an adequate supply of toilet tissue and soap. Toilet tissue shall be accessible to each commode.

B. Common handwashing ~~facilities~~ washbasins shall have paper towels or an air dryer, and liquid soap for hand washing.

**22 VAC 40-71-560. Fire safety: Compliance with state regulations and local fire ordinances.**

A. An ~~adult care residence~~ *assisted living facility* shall comply with the Virginia Statewide Fire Prevention Code, (~~13 VAC 5-50-10 et seq.~~ 13 VAC 5-51) as determined by at least an annual inspection by the appropriate fire prevention official.

B. An ~~adult care residence~~ *assisted living facility* shall comply with any local fire ordinance.

**22 VAC 40-71-570. Fire plans.**

A. An ~~adult care residence~~ *assisted living facility* shall have a fire plan approved by the appropriate fire prevention official. The plan shall consist of the following:

1. Written procedures to be followed in the event of a fire. The local fire department or fire prevention bureau shall be consulted in preparing such a plan, if possible;
2. A drawing of each floor of each building, showing alternative exits for use in a fire, location of telephones, fire alarm boxes and fire extinguishers, if any. The drawing shall be prominently displayed on each floor of each building used by residents.

B. The telephone numbers for the fire department, rescue squad or ambulance, and police shall be posted by each telephone shown on the fire plan.

NOTE: In ~~adult care residences~~ *assisted living facilities* where all outgoing telephone calls must be placed through a central switchboard located on the premises, this information may be posted by the switchboard rather than by each telephone, providing this switchboard is manned 24 hours each day.

C. The licensee or administrator or both and all staff members shall be fully informed of the approved fire plan, including their duties, and the location and operation of fire extinguishers and fire alarm boxes, if available.

D. The approved fire plan shall be reviewed quarterly with all staff and with all residents.

**22 VAC 40-71-580. Fire drills.**

A. At least one fire drill shall be held each month for the staff on duty and all residents who are in the building at the time of the fire drill to practice meeting the requirements of the approved fire plan. During a three-month period:

1. At least one fire drill shall be held between the hours of 7 a.m. and 3 p.m.;
2. At least one fire drill shall be held between the hours of 3 p.m. and 11 p.m.; and
3. At least one fire drill shall be held between the hours of 11 p.m. and 7 a.m.

B. Additional fire drills may be held at the discretion of the administrator or licensing ~~specialist~~ *inspector* and must be held when there is any reason to question whether all residents can meet the requirements of the approved fire plan.

C. Each required drill shall be unannounced.

D. Immediately following each required fire drill, there shall be an evaluation of the drill by the staff in order to determine the effectiveness of the drill. The licensee or administrator shall immediately correct any problems identified in the evaluation.

E. A record of required fire drills shall be kept in the ~~residence~~ *facility* for one year. Such record shall include the date, the hour, the number of staff participating, the number of residents, and the time required to comply with subdivision F 2 of this section.

F. Fire drills shall include at least the following:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures or, if evacuation is not required, other procedures as specified in the approved fire plan. This practice shall be timed;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other fire safety procedures as may be required by the facility's approved fire plan.

**22 VAC 40-71-590. Emergency procedures.**

A. An ~~adult care residence~~ *assisted living facility* shall have written procedures to meet other emergencies, including severe weather, loss of utilities, missing persons and severe injury.

B. The procedures required by subsection A of this section and the approved fire plan shall be discussed at orientation for new staff, for new residents, and for volunteers.

**22 VAC 40-71-600. Provisions for emergency calls/signaling systems.**

A. All ~~adult care residences~~ *assisted living facilities* shall have a signaling device that is easily accessible to the resident in his bedroom or in a connecting bathroom that enables the staff to be readily available to the resident.

B. In ~~residences~~ *facilities* licensed to care for 20 or more residents under one roof, there shall be a signaling device or intercom or a telephone which terminates at the staff station and permits staff to determine the origin of the signal. If the device does not terminate at the staff station so as to permit staff to determine the origin of the signal, staff shall make rounds at least once each hour to monitor for emergencies. These rounds shall begin when the majority of the residents have gone to bed each evening and shall terminate when the majority of the residents have arisen each morning.

1. A written log shall be maintained showing the date and time rounds were made and the signature of the person who made rounds.
2. Logs for the past three months shall be retained.
3. These logs shall be subject to inspection by the department.

---

# Proposed Regulations

---

PART VI.  
ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING  
CARE FACILITIES.

Article 1.  
General Requirements.

**22 VAC 40-71-630. Personnel and staffing.**

A. The administrator shall be a high school graduate or shall have a General Education Development Certificate (GED) and shall have successfully completed at least two years of post secondary education or one year of courses in human services or group care administration from an accredited college or institution or a department approved curriculum specific to the administration of an ~~adult care residence~~ *assisted living facility*. The administrator also shall have completed at least one year of experience in caring for adults with mental or physical impairments, as appropriate to the population in care, in a group care facility. The following three exceptions apply:

1. Administrators employed prior to ~~the effective date of these standards~~ *February 1, 1996*, who do not meet the above requirement shall be a high school graduate or shall have a GED, or shall have completed at least one full year of successful experience in caring for adults in a group care facility;
2. Licensed nursing home administrators who maintain a current license from the Virginia Department of Health Professions;
3. Licensed nurses who meet the above experience requirements. The requirements in this standard are in lieu of the requirements specified in 22 VAC 40-71-60 B 4.

B. Any designated assistant administrator as referenced in 22 VAC 40-71-60 ~~F H~~, that is acting in place of the administrator for part or all of the 40 hours, shall meet the qualifications of the administrator, or if employed prior to the effective date of these standards, its exception, unless the designated assistant is performing as an administrator for fewer than 15 of the 40 hours referenced in 22 VAC 40-71-60 ~~F H~~ or for fewer than four weeks due to the vacation or illness of the administrator, then the requirements of 22 VAC 40-71-60 B 4 shall be acceptable.

C. All direct care staff shall have satisfactorily completed, or within 30 days of employment shall enroll in and successfully complete within four months of employment, a training program consistent with department requirements, except as noted in subsections D and E of this section. Department requirements shall be met in one of the following four ways:

1. Registration as a certified nurse aide.
2. Graduation from a Virginia Board of Nursing approved educational curriculum from a Virginia Board of Nursing accredited institution for nursing assistant, geriatric assistant or home health aide.
3. Graduation from a department approved educational curriculum for nursing assistant, geriatric assistant or home health aide. The curriculum is provided by a hospital, nursing facility, or educational institution not approved by

the Virginia Board of Nursing, e.g., out-of-state curriculum. To obtain department approval:

a. The facility shall provide to the licensing representative an outline of the course content, dates and hours of instruction received, the name of the institution which provided the training, and other pertinent information.

b. The department will make a determination based on the above information and provide written confirmation to the facility when the course meets department requirements.

4. Successful completion of department approved ~~adult care residence~~ *assisted living facility* offered training. To obtain department approval:

a. Prior to offering the course, the facility shall provide to the licensing representative an outline of the course content, the number of hours of instruction to be given, the name and professional status of the trainer, and other pertinent information.

b. The content of the training shall be consistent with the content of the personal care aide training course of the Department of Medical Assistance Services; a copy of the outline for this course is available from the licensing representative.

c. The training shall be provided by a licensed health care professional acting within the scope of the requirements of his profession.

d. The department will make a determination regarding approval of the training and provide written confirmation to the facility when the training meets department requirements.

D. Licensed health care professionals, acting within the scope of the requirements of their profession, are not required to complete the training in subsection C of this section.

E. Direct care staff of the facility employed prior to February 1, 1996, shall either meet the training requirements in subsection C of this section within one year of February 1, 1996, or demonstrate competency in the items listed on a skills checklist within the same time period. The following applies to the skills checklist:

1. The checklist shall include the content areas covered in the personal care aide training course. A department model checklist is available from the licensing representative.

2. A licensed health care professional, acting within the scope of the requirements of his profession, shall evaluate the competency of the staff person in each item on the checklist, document competency, and sign and date.

F. The facility shall obtain a copy of the certificate issued to the certified nurse aide, the nursing assistant, geriatric assistant or home health aide, or documentation indicating ~~adult care residence~~ *assisted living facility* offered training has been successfully completed. The copy of the certificate or the appropriate documentation shall be retained in the staff member's file. Written confirmation of department course or training approval shall also be retained in the staff member's file, as appropriate.

G. When direct care staff are employed who have not yet successfully completed the training program as allowed for in subsection C of this section, the administrator shall develop and implement a written plan for supervision of these individuals.

H. On an annual basis, all direct care staff shall attend at least 12 hours of training which focuses on the resident who is mentally or physically impaired, as appropriate to the population in care. This requirement is in lieu of the requirement specified in 22 VAC 40-71-80 D.

I. Documentation of the dates of the training received annually, number of hours and type of training shall be kept by the facility in a manner that allows for identification by individual employee.

J. Each ~~adult care residence~~ *assisted living facility* shall retain a licensed health care professional, either by direct employment or on a contractual basis, to provide health care oversight. The licensed health care professional, acting within the scope of the requirements of his profession, shall be on-site at least quarterly and more often if indicated, based on his professional judgment of the seriousness of a resident's needs or the stability of a resident's condition. The responsibilities of the professional while on site shall include at least quarterly:

1. Recommending in writing changes to a resident's service plan whenever the plan does not appropriately address the current health care needs of the resident.
2. Monitoring of direct care staff performance of health related activities, including the identification of any significant gaps in the staff person's ability to function competently.
3. Advising the administrator of the need for staff training in health related activities or the need for other actions when appropriate to eliminate problems in competency level.
4. Providing consultation and technical assistance to staff as needed.
5. Directly observing every resident whose care needs are equivalent to the intensive assisted living criteria and recommending in writing any needed changes in the care provided or in the resident's service plan. For auxiliary grant recipients receiving intensive assisted living services, the monitoring will be in accordance with the specifications of the Department of Medical Assistance Services.
6. Reviewing documentation regarding health care services, including medication and treatment records to assess that services are being provided in accordance with physicians' orders, and informing the administrator of any problems.
7. Reviewing the current condition and the records of restrained residents to assess the appropriateness of the restraint and progress toward its reduction or elimination, and advising the administrator of any concerns.

K. A resident's need for skilled nursing treatments within the facility shall be met by facility employment of a licensed nurse or contractual agreement with a licensed nurse, or by a home health agency or by a private duty licensed nurse.

## **22 VAC 40-71-640. Resident personal and social data.**

Prior to or at the time of admission to an ~~adult care residence~~ *assisted living facility*, the following information on a person shall be obtained and placed in the individual's record:

1. Description of family structure and relationships;
2. Previous mental health/mental retardation services history, if any, and if applicable for care or services;
3. Current behavioral and social functioning including strengths and problems; and
4. Any substance abuse history if applicable for care or services.

## **22 VAC 40-71-650. Resident care and related services.**

A. There shall be at least 14 hours of scheduled activities available to the residents each week for no less than one hour each day. The activities shall be designed to meet the specialized needs of the residents and to promote maximum functioning in physical, mental, emotional, and social spheres. This requirement is in lieu of the requirement specified in ~~22 VAC 40-71-250~~ 22 VAC 40-71-260 A.

B. Facilities shall assure that all restorative care and habilitative service needs of the residents are met. Staff who are responsible for planning and meeting the needs shall have been trained in restorative and habilitative care. Restorative and habilitative care includes, but is not limited to, range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

C. In the provision of restorative and habilitative care, staff shall emphasize services such as the following:

1. Making every effort to keep residents active, within the limitations permitted by physicians' orders.
2. Encouraging residents to achieve independence in the activities of daily living.
3. Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if they are no longer able to maintain past involvement in activities.
4. Assisting residents to carry out prescribed physical therapy exercises between visits from the physical therapist.
5. Maintaining a bowel and bladder training program.

D. Facilities shall assure that the results of the restorative and habilitative care are documented in the service plan.

E. Facilities shall arrange for specialized rehabilitative services by qualified personnel as needed by the resident. Rehabilitative services include physical therapy, occupational therapy and speech-language pathology services. Rehabilitative services may be indicated when the resident has lost or has shown a change in his ability to respond to or perform a given task and requires professional rehabilitative services in an effort to regain lost function. Rehabilitative services may also be indicated to evaluate the appropriateness and individual response to the use of assistive technology.

---

# Proposed Regulations

---

F. All rehabilitative services rendered by a rehabilitative professional shall be performed only upon written medical referral by a physician or other qualified health care professional.

G. The physician's orders, services provided, evaluations of progress, and other pertinent information regarding the rehabilitative services shall be recorded in the resident's record.

H. Direct care staff who are involved in the care of residents using assistive devices shall know how to operate and utilize the devices.

I. A licensed health care professional, acting within the scope of the requirements of his profession, shall perform an annual review of all the medications of each resident, including both prescription and over-the-counter medications. The results of the review shall be documented, signed and dated by the health care professional, and retained in the resident's record. Any potential problems shall be reported to the resident's attending physician and to the facility administrator. Action taken in response to the report shall also be documented in the resident's record.

## Article 2.

Additional Requirements for Assisted Living Care Facilities Caring for Adults with Mental Illness or Mental Retardation or Who Are Substance Abusers.

### **22 VAC 40-71-660. Psychiatric or psychological evaluation.**

A. When determining the appropriateness of admission for applicants with serious mental illness, mental retardation or a history of substance abuse, a current psychiatric or psychological evaluation may be needed. The need for this evaluation will be indicated by the UAI or based upon the recommendation of the resident's case manager or other assessor.

B. A current evaluation for an applicant with mental illness or a history of substance abuse shall be no more than 12 months old, unless the case manager or other assessor recommends a more recent evaluation.

C. A current evaluation for a person with mental retardation shall be no more than three years old, unless the case manager or other assessor recommends a more recent evaluation.

D. The evaluation shall have been completed by a person having no financial interest in the ~~adult care residence~~ *assisted living facility*, directly or indirectly as an owner, officer, employee, or as an independent contractor with the ~~residence~~ *facility*.

E. A copy of the evaluation shall be filed in the resident's record.

### **22 VAC 40-71-670. Services agreement and coordination.**

A. The facility shall enter into a written agreement with the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, treatment facility or agent to make services available to all residents. This agreement shall be jointly

reviewed annually by the ~~adult care residence~~ *assisted living facility* and the service entity.

NOTE: This requirement does not preclude a resident from engaging the services of a private psychiatrist or other appropriate professional.

B. Services to be included in the agreement shall at least be the following:

1. Diagnostic, evaluation and referral services in order to identify and meet the needs of the resident;
2. Appropriate community-based mental health, mental retardation and substance abuse services;
3. Services and support to meet emergency mental health needs of a resident; and
4. Completion of written progress reports specified in 22 VAC 40-71-680.

C. A copy of the agreement specified in subsections A and B of this section shall remain on file in the ~~adult care residence~~ *assisted living facility*.

D. For each resident the services of the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, rehabilitative services agency, treatment facility or agent shall be secured as appropriate based on the resident's current evaluation.

### **22 VAC 40-71-680. Written progress reports.**

A. The facility shall obtain written progress reports on each resident receiving services from the local community mental health, mental retardation and substance abuse services board, or a public or private mental health clinic, treatment facility or agent.

B. The progress reports shall be obtained at least every six months until it is stated in a report that services are no longer needed.

C. The progress reports shall contain at a minimum:

1. A statement that continued services are or are not needed;
2. Recommendations, if any, for continued services;
3. A statement that the resident's needs can continue to be met in an ~~adult care residence~~ *assisted living facility*, and
4. A statement of any recommended services to be provided by the ~~adult care residence~~ *assisted living facility*.

D. Copies of the progress reports shall be filed in the resident's record.

### **22 VAC 40-71-690. Obtaining recommended services.**

The ~~adult care residence~~ *assisted living facility* shall assist the resident in obtaining the services recommended in the initial evaluation and in the progress reports.



Article 3.

Additional Requirements for Assisted Living Care Facilities Caring for Adults With Serious Cognitive Deficits Impairments.

**22 VAC 40-71-700. Adults with serious cognitive deficits impairments.**

~~A. The requirements provided in subsection B of this section apply when any resident exhibits behavior indicating a serious cognitive deficit and when the resident cannot recognize danger or protect his own safety and welfare, except as noted in subdivision B 12 of this section.~~

~~B. If there is a mixed population the requirements apply to the entire facility unless specified otherwise. If there is a self-contained special care unit for residents with serious cognitive deficits, the requirements apply only to the special care unit.~~

*A. All residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare shall be subject to either subsection B or C of this section. All residents with serious cognitive impairments due to any other diagnosis who cannot recognize danger or protect their own safety and welfare shall be subject to subsection B of this section.*

*NOTE: Serious cognitive impairment is defined in 22 VAC 40-71-10.*

*B. The following requirements apply when there is a mixed population consisting of any combination of (i) residents who have serious cognitive impairments due to a primary psychiatric diagnosis of dementia who are unable to recognize danger or protect their own safety and welfare and who are not in a special care unit; (ii) residents who have serious cognitive impairments due to any other diagnosis who cannot recognize danger or protect their own safety and welfare; and (iii) other residents. The following requirements also apply when all the residents have serious cognitive impairments due to any diagnosis other than a primary psychiatric diagnosis of dementia and cannot recognize danger or protect their own safety and welfare. Except for special care units covered by subsection C of this section, these requirements apply to the entire facility unless specified otherwise.*

1. There shall be at least two direct care staff members awake and on duty at all times in each building at all times that when residents are present who shall be responsible for their care and supervision.

*NOTE: The exception to 22 VAC 40-71-130 C does not apply.*

2. During trips away from the facility, there shall be sufficient staff to provide sight and sound supervision to all residents who cannot recognize danger or protect their own safety and welfare.

3. Commencing immediately and within six months of employment, direct care staff shall complete four hours of dementia/cognitive deficit impairment training that meets the requirements of subdivision 5 of this subsection. This training is counted toward meeting the annual training requirements requirement for the first year. Previous

training that meets the requirements of subdivision 5 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required four hours but not toward the annual training requirement.

4. Commencing immediately and within three months of employment, the administrator shall complete 12 hours of dementia/cognitive deficit impairment training. This training is counted toward the annual training requirements requirement for the first year. Previous training that meets the requirements of subdivision 5 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required 12 hours but not toward the annual training requirement.

5. Curriculum for the dementia/cognitive deficit impairment training shall be developed by a qualified health professional or by a licensed social worker, shall be relevant to the population in care and shall include, but need not be limited to:

- a. Explanation of ~~Alzheimer's disease and related disorders~~ cognitive impairments;
- b. Resident care techniques, ~~such as assistance with the activities of daily living;~~
- c. Behavior management;
- d. Communication skills; ~~and~~
- e. Activity planning; ~~and~~
- f. Safety considerations.

6. Within the first ~~week~~ month of employment, employees other than the administrator and direct care staff shall complete one hour of orientation on the nature and needs of residents with dementia/cognitive deficits impairments relevant to the population in care.

7. Doors leading to the outside shall have a system of security monitoring of residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare, such as door alarms, cameras, ~~or~~ constant staff oversight, security bracelets which that are part of an alarm system, ~~unless the door leads to a secured outdoor area and delayed egress mechanisms.~~ Residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare shall be provided a safe, secure environment through measures that do not include prohibiting the resident from exiting the facility or any part thereof. Before limiting any resident from freely leaving the facility, the resident's record shall reflect the behavioral observations or other bases for determining that the resident has a serious cognitive impairment and an inability to recognize danger or protect his own safety and welfare.

8. The facility shall have a secured outdoor area for the residents' use or provide staff supervision while residents

---

## Proposed Regulations

---

*with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare are outside.*

9. There shall be protective devices on the bedroom and the bathroom windows of residents with ~~dementia~~ *serious cognitive impairments who cannot recognize danger or protect their own safety and welfare* and on windows in common areas accessible to these residents ~~with dementia~~ to prevent the windows from being opened wide enough for a resident to crawl through.

10. The facility shall provide to residents free access to an indoor walking corridor or other area ~~which~~ that may be used for walking.

11. Special environmental precautions shall be taken by the facility to eliminate hazards to the safety and well-being of residents with ~~dementia~~ *serious cognitive deficits impairments who cannot recognize danger or protect their own safety and welfare*. Examples of environmental precautions include signs, carpet patterns and arrows ~~which~~ that point the way; and reduction of background noise.

12. *When there are indications that ordinary materials or objects may be harmful to a resident with a serious cognitive impairment who cannot recognize danger or protect his own safety and welfare, these materials or objects shall be inaccessible to the resident except under staff supervision.*

~~42-~~ **EXCEPTION:** This subsection does not apply when facilities are licensed for 10 or fewer residents if no more than three of the residents ~~exhibit behavior indicating~~ have serious cognitive ~~deficits~~ *impairments*, when the ~~resident~~ *residents* cannot recognize danger or protect ~~his~~ *their* own safety and welfare. ~~The~~ *Each* prospective resident or his personal representative shall be so notified prior to admission.

**C.** *In order to be admitted or retained in a special care unit as defined in 22 VAC 40-71-10, a resident must have a serious cognitive impairment due to a primary psychiatric diagnosis of dementia and be unable to recognize danger or protect his own safety and welfare. The following requirements apply when such residents reside in a special care unit. These requirements apply only to the special care unit.*

1. *Prior to his admission to a special care unit, the resident shall have been assessed by an independent physician as having a serious cognitive impairment due to a primary psychiatric diagnosis of dementia and as being unable to recognize danger or protect his own safety and welfare. The diagnosis shall also include type or etiology. The physician shall be board certified or board eligible in a specialty or subspecialty relevant to the diagnosis and treatment of serious cognitive impairments, e.g., family practice, geriatrics, internal medicine, neurology, neurosurgery, or psychiatry. The physician's assessment shall be in writing and shall be maintained in the resident's record. The assessment shall include, but not be limited to, the following areas:*

*a. Cognitive functions, e.g., orientation, comprehension, problem-solving, attention/concentration, memory, intelligence, abstract reasoning, judgment, insight;*

*b. Thought and perception, e.g., process, content;*

*c. Mood/affect;*

*d. Behavior/psychomotor;*

*e. Speech/language; and*

*f. Appearance.*

2. *Prior to placing a resident with a serious cognitive impairment due to a primary psychiatric diagnosis of dementia in a special care unit, the facility shall obtain the written approval of one of the following persons, in the following order of priority:*

*a. The resident, if capable of making an informed decision;*

*b. A guardian or legal representative for the resident if one has been appointed;*

*c. A relative who is willing and able to take responsibility to act as the resident's representative, in the following specified order, (i) spouse; (ii) adult child; (iii) parent; (iv) adult sibling; (v) adult grandchild; (vi) adult niece or nephew; (vii) aunt or uncle;*

*d. If the resident is not capable of making an informed decision and a guardian, legal representative or relatives are unavailable, an independent physician who is skilled and knowledgeable in the diagnosis and treatment of dementia.*

*The obtained written approval shall be retained in the resident's file.*

**NOTE:** *As soon as one of the persons in the order as prioritized above disapproves of placement or continued placement in the special care unit, then the assisted living facility shall not place or retain the resident or prospective resident in the special care unit.*

3. *The facility shall document that the order of priority specified in subdivision 2 of this subsection was followed and the documentation shall be retained in the resident's file.*

4. *Six months after the completion of the initial and each subsequent uniform assessment instrument as required in 22 VAC 40-71-170, the assisted living facility shall perform a review of the appropriateness of each resident's continued residence in the special care unit. The facility shall also perform a review of the appropriateness of continued residence in the unit whenever warranted by a change in a resident's condition. The review shall be performed in consultation with the following persons, as appropriate: (i) the resident, (ii) a responsible family member, (iii) a guardian, (iv) a personal representative, (v) direct care staff who provide care and supervision to the resident, (vi) the resident's mental health provider, (vii) the licensed health care professional required in 22 VAC 40-71-630 J, (viii) the resident's physician, and (ix) any other professional involved with the resident. The facility shall make a determination as to whether continued residence in the special care unit is appropriate at the time of completion of each annual uniform assessment*

instrument and each review required by this subdivision. The determination and justification for the decision shall be in writing and shall be retained in the resident's file.

5. Therapeutic goals shall be established for each resident. These therapeutic goals shall be based on the resident's assessment and shall be documented on the resident's individualized service plan.

6. In addition to the requirements of 22 VAC 40-71-650 A, scheduled activities shall be designed to promote the achievement of therapeutic goals, as appropriate.

7. Each week a variety of scheduled activities shall be available that shall include, but not necessarily be limited to, the following categories:

- a. Cognitive/mental stimulation/creative activities, e.g., discussion groups, reading, reminiscing, story telling, writing;
- b. Physical activities (both gross and fine motor skills), e.g., exercise, dancing, gardening, cooking;
- c. Productive/work activities, e.g., practicing life skills, setting the table, making decorations, folding clothes;
- d. Social activities, e.g., games, music, arts and crafts;
- e. Sensory activities, e.g., auditory, visual, scent and tactile stimulation; and
- f. Outdoor activities, weather permitting; e.g., walking outdoors, field trips.

NOTE: Several of the examples listed above may fall under more than one category.

NOTE: These activities do not require additional hours beyond those specified in 22 VAC 40-71-650 A.

8. If appropriate to meet the needs of the resident with a short attention span, there shall be multiple short activities.

9. Staff shall regularly encourage residents to participate in activities and provide guidance and assistance, as needed.

10. In addition to the scheduled activities required by 22 VAC 40-71-650 A, there shall be unscheduled staff and resident interaction throughout the day that fosters an environment that promotes socialization opportunities for residents.

11. Residents shall be given the opportunity to be outdoors on a daily basis, weather permitting.

12. As appropriate, residents shall be encouraged to participate in supervised activities or programs outside the special care unit.

13. There shall be a designated employee responsible for managing or coordinating the structured activities program. This employee shall be on-site in the special care unit at least 20 hours a week, shall maintain personal interaction with the residents and familiarity with their needs and interests, and shall meet at least one of the following qualifications:

- a. Be a qualified therapeutic recreation specialist or an activities professional;
- b. Be eligible for certification as a therapeutic recreation specialist or an activities professional by a recognized accrediting body;
- c. Have one year full-time experience, within the last five years, in an activities program in an adult care setting;
- d. Be a qualified occupational therapist or an occupational therapy assistant; or
- e. Prior to or within six months of employment, have successfully completed 40 hours of department approved training in adult group activities and in recognizing and assessing the activity needs of residents.

NOTE: The required 20 hours on-site does not have to be devoted solely to managing or coordinating activities, nor is it required that the person responsible for managing or coordinating the activities program conduct the activities.

14. The facility shall obtain documentation of the qualifications as specified in subdivision 13 of this subsection for the designated employee responsible for managing or coordinating the structured activities program. The documentation shall be retained in the staff member's file. Written confirmation of department approval of training provided for in subdivision 13 e of this subsection shall also be retained in the staff member's file, as appropriate.

15. When residents are present, there shall be at least two direct care staff members awake and on duty at all times in each special care unit who shall be responsible for the care and supervision of the residents.

EXCEPTION: Only one direct care staff member has to be awake and on duty in the unit if sufficient to meet the needs of the residents, if (i) there are no more than five residents present in the unit, and (ii) there are at least two other direct care staff members in the building, one of whom is readily available to assist with emergencies in the special care unit, provided that the health, safety and welfare of residents throughout the building are not endangered.

NOTE: The exception to 22 VAC 40-71-130 C does not apply.

16. During trips away from the facility, there shall be sufficient staff to provide sight and sound supervision to residents.

17. Commencing immediately and within two months of employment, the administrator and direct care staff shall attend at least four hours of training in cognitive impairments due to dementia. This training is counted toward meeting the annual training requirement for the first year. The training shall cover the following topics:

- a. Information about the cognitive impairment, including areas such as cause, progression, behaviors, management of the condition;
- b. Communicating with the resident;
- c. Managing dysfunctional behavior; and

---

## Proposed Regulations

---

*d. Identifying and alleviating safety risks to residents with cognitive impairment.*

*Previous training that meets the requirements of this subdivision and subdivisions 19 and 20 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required four hours but not toward the annual training requirement.*

*NOTE: In this subdivision, for direct care staff, employment means employment in the special care unit.*

*18. Within the first year of employment, the administrator and direct care staff shall attend at least six more hours of training, in addition to that required in subdivision 17 of this subsection, in caring for residents with cognitive impairments due to dementia. The training is counted toward meeting the annual training requirement for the first year. The training shall cover the following topics:*

- a. Assessing resident needs and capabilities and understanding and implementing service plans;*
- b. Resident care techniques for persons with physical, cognitive, behavioral and social disabilities;*
- c. Creating a therapeutic environment;*
- d. Promoting resident dignity, independence, individuality, privacy and choice;*
- e. Communicating with families and other persons interested in the resident;*
- f. Planning and facilitating activities appropriate for the resident;*
- g. Common behavioral problems and behavior management techniques.*

*Previous training that meets the requirements of this subdivision and subdivisions 19 and 20 of this subsection that was completed in the year prior to employment is transferable if there is documentation of the training. The documented previous training is counted toward the required six hours but not toward the annual training requirement.*

*NOTE: In this subdivision, for direct care staff, employment means employment in the special care unit.*

*19. The training required in subdivisions 17 and 18 of this subsection shall be developed by:*

- a. A licensed health care professional acting within the scope of the requirements of his profession who has at least 12 hours of training in the care of individuals with cognitive impairments due to dementia; or*
- b. A person who has been approved by the department to develop the training.*

*20. The training required in subdivisions 17 and 18 of this subsection shall be provided by a person qualified under subdivision 19 a of this subsection or a person who has been approved by the department to provide the training.*

*21. During the first year of employment, direct care staff shall attend at least 16 hours of training. Thereafter, the annual training requirement specified in 22 VAC 40-71-630 H applies.*

*22. Within the first month of employment, employees, other than the administrator and direct care staff, who will have contact with residents in the special care unit shall complete one hour of orientation on the nature and needs of residents with cognitive impairments due to dementia.*

*23. Doors that lead to unprotected areas shall be monitored or secured through devices that conform to applicable building and fire codes, including but not limited to, door alarms, cameras, constant staff oversight, security bracelets that are part of an alarm system, pressure pads at doorways, delayed egress mechanisms, locking devices and perimeter fence gates. Residents who reside in special care units shall be provided a safe, secure environment through measures that may include prohibiting the resident from exiting the facility or the special care unit, if applicable building and fire codes are met.*

*24. There shall be protective devices on the bedroom and bathroom windows of residents and on windows in common areas accessible to residents to prevent the windows from being opened wide enough for a resident to crawl through.*

*25. The facility shall have a secured outdoor area for the residents' use or provide staff supervision while residents are outside.*

*26. The facility shall provide to residents free access to an indoor walking corridor or other area that may be used for walking.*

*27. As of October 9, 2001, buildings approved for construction or change in use group, as referenced in the BOCA® National Building Code, shall have a glazed window area above ground level in at least one of the common rooms, e.g., living room, multipurpose room, dining room. The square footage of the glazed window area shall be at least 8.0% of the square footage of the floor area of the common room.*

*28. Special environmental precautions shall be taken by the facility to eliminate hazards to the safety and well-being of residents. Examples of environmental precautions include signs, carpet patterns and arrows that point the way, high visual contrast between floors and walls, and reduction of background noise.*

*29. When there are indications that ordinary materials or objects may be harmful to a resident, these materials or objects shall be inaccessible to the resident except under staff supervision.*

*30. Special environmental enhancements, tailored to the population in care, shall be provided by the facility to enable residents to maximize their independence and to promote their dignity in comfortable surroundings. Examples of environmental enhancements include memory boxes, activity centers, rocking chairs, and visual contrast between plates/eating utensils and the table.*

*EXCEPTION: A resident's spouse, parent, adult sibling or adult child who otherwise would not meet the criteria to reside in a special care unit may reside in the unit if the spouse, parent, sibling or child so requests in writing, the facility agrees in writing and the resident, if capable of making the decision, agrees in writing. The written request and agreements must be maintained in the resident's file. The spouse, parent, sibling or child is considered a resident of the facility and as such 22 VAC 40-71 applies. The requirements of this subsection do not apply for the spouse, parent, adult sibling or adult child since that individual does not have a serious cognitive impairment due to a primary psychiatric diagnosis of dementia and does not have an inability to recognize danger or protect his own safety and welfare.*

### DOCUMENTS INCORPORATED BY REFERENCE

U.S. Department of Agriculture, Food Guide Pyramid.

BOCA BOCA® National Building Code/1996.

VA.R. Doc. No. R01-258; Filed May 10, 2002, 10:32 a.m.



---

# FINAL REGULATIONS

---

For information concerning Final Regulations, see Information Page.

---

## Symbol Key

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

---

## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

**REGISTRAR'S NOTICE:** The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 if the board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** 9 VAC 25-194. **General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities (amending 9 VAC 25-194-10 and 9 VAC 25-194-40 through 9 VAC 25-194-70; repealing 9 VAC 25-194-80).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia.

**Effective Date:** October 15, 2002.

**Summary:**

*This regulation establishes permitting requirements for discharges of wastewater from car wash operations. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. The existing general permit expires on October 15, 2002. The regulatory action reissues this general permit in order to continue making the permit available for car washes after October 15, 2002. This is a reissuance of an existing regulation, and the only changes to the regulation are designed to clarify the intent of the regulation. The changes and rationale are: (i) the EPA reopener special condition was removed because car wash facilities are not listed as a primary industry in accordance with 40 CFR Part 122, Appendix A; (ii) the notification levels special condition was added because it is required by the VPDES Permit Regulation, 9 VAC 25-31-200 A, for all-manufacturing, commercial, mining and silvicultural dischargers; (iii) Part II K 1 Registration Statement was revised to reflect changes in signature requirements in accordance with the VPDES Permit Regulation.*

**Summary of Public Comments and Agency's Response:** A summary of comments made by the public and the agency's

response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

**Agency Contact:** George Cosby, Environmental Engineer, Department of Environmental Quality, Office of Water Permit Programs, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4067, FAX (804) 698-4032 or e-mail gecosby@deq.state.va.us.

**REGISTRAR'S NOTICE:** The proposed regulation was adopted as published in 18:9 VA.R. 1178-1186 January 14, 2002, without change. Therefore, pursuant to § 2.2-4031 of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R01-161; Filed May 15, 2002, 11:07 a.m.

---

## TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

### STATE CORPORATION COMMISSION

#### Bureau of Financial Institutions

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** 10 VAC 5-160. **Rules Governing Mortgage Lenders and Brokers (adding 10 VAC 5-160-50).**

**Statutory Authority:** §§ 6.1-421 and 12.1-13 of the Code of Virginia.

**Effective Date:** May 15, 2002.

**Summary:**

*The amendment clarifies that licensed mortgage lenders and brokers are required to deliver in a timely manner a written response as well as any other information and materials requested by the commission pursuant to its investigative and examination authority under § 6.1-419 of the Code of Virginia. The proposed regulation was modified to require the Bureau of Financial Institutions to consider the volume and complexity of the requested material as well as other relevant factors when determining the specified time period for responding and considering a request for an extension. The amendment also clarifies the commission's authority to initiate regulatory action in the event a licensee fails to respond as required.*

Agency Contact: Susan Hancock, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, Tyler Bldg., P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9702, FAX (804) 371-9416, toll-free 1-800-552-7945, or e-mail SHancock@scc.state.va.us.

AT RICHMOND, MAY 9, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2002-00004

Ex Parte: In re: proposed regulation relating to examination and investigation of mortgage lender and broker licensees

**ORDER ADOPTING A REGULATION**

By Order entered herein on March 12, 2002, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 6.1-421 of the Code of Virginia, to promulgate a regulation applicable to mortgage lender and broker licensees. Notice of the proposed regulation was published in the Virginia Register on April 8, 2002, and the proposed regulation was posted on the Commission's website. Interested parties were afforded the opportunity to file written comments in favor of or against the proposal on or before April 22, 2002. Household Finance, by counsel, filed written comments suggesting certain additions to the proposed regulation.

The Commission, having considered the record, the proposed regulation, the written comments filed, and Staff recommendations, concludes that the proposed regulation should be modified in certain respects and that the modified regulation should be adopted.

THEREFORE, IT IS ORDERED THAT:

- (1) Modified proposed 10 VAC 5-160-50 entitled "Responding to requests from Bureau of Financial Institutions" attached hereto is adopted effective as of the date of this Order.
- (2) The modified proposed regulation shall be transmitted for publication in the Virginia Register.
- (3) The Commissioner of Financial Institutions shall send a copy of the regulation to all mortgage lender and broker licensees.
- (4) This case is dismissed, and the papers herein shall be placed among the ended cases.

AN ATTESTED COPY of this Order shall be sent to the Commissioner of Financial Institutions.

**10 VAC 5-160-50. Responding to requests from Bureau of Financial Institutions.**

*A. When the Bureau of Financial Institutions (bureau) requests a written response, books, records, documentation, or other information from a mortgage lender or mortgage broker (licensee) in connection with the bureau's investigation, enforcement, or examination of compliance with applicable laws, the licensee shall deliver a written response as well as any requested books, records, documentation, or information*

*within the time period specified in the bureau's request. If no time period is specified, a written response as well as any requested books, records, documentation, or information shall be delivered by the licensee to the bureau not later than 30 days [ ~~of~~ from ] the date of such request. [ In determining the specified time period for responding to the bureau and when considering a request for an extension of time to respond, the bureau shall take into consideration the volume and complexity of the requested written response, books, records, documentation or information and such other factors as the bureau determines to be relevant under the circumstances. ]*

*B. Requests made by the bureau pursuant to subsection A are deemed to be in furtherance of the bureau's investigation and examination authority provided for in § 6.1-419 of the Code of Virginia. Failure to comply with subsection A may result in fines, license suspension, or license revocation.*

VA.R. Doc. No. R02-138; Filed May 15, 2002, 10:17 a.m.

**TITLE 11. GAMING**

**VIRGINIA RACING COMMISSION**

**REGISTRAR'S NOTICE:** The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision B 23 of § 2.2-4002 of the Code of Virginia when promulgating regulations relating to the administration of medication or other substances foreign to the natural horse.

**Title of Regulation: 11 VAC 10-180. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Medication (amending 11 VAC 10-180-10, 11 VAC 10-180-20, 11 VAC 10-180-40 through 11 VAC 10-180-90).**

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

**Effective Date:** May 10, 2002.

**Summary:**

*The substantial amendments include: (i) a definition of "milkshaking" and a subsequent prohibition from possession of the paraphernalia for "milkshaking," (ii) the requirements for the filing of veterinary treatment reports, (iii) the consolidation from five classes to three classes of substances and revision of the guidelines for disciplinary actions, (iv) the consolidation of all permissible bleeder medications in one section, and (v) a revision of regulations pertaining to bicarbonate testing to reflect current practice in the mid-Atlantic region.*

**Agency Contact:** William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404, e-mail Anderson@vrc.state.va.us.

**11 VAC 10-180-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings; unless the context clearly indicates otherwise:

---

# Final Regulations

---

"*Bleeder*" means a horse which has been diagnosed as suffering from exercise-induced pulmonary hemorrhage based on external or endoscopic examination by the commission veterinarian, licensee's veterinarian or private practitioner who is a permit holder.

"*Bleeder list*" means a tabulation of all bleeders to be maintained by the stewards.

"*Commission*" means the Virginia Racing Commission.

"*Controlled substance*" means a drug, substance or immediate precursor in Schedules I through VI of the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) or any substance included in the five classification schedules of the U.S. Uniform Controlled Substances Act (21 USC § 301 et seq.).

"*Injectable substance*" means a liquid or solid substance, ~~which that~~ may require the addition of a liquid via a needle and syringe to change it from a solid into a liquid, contained in a vial ~~with a rubber top which that~~ can be accessed and administered only via a needle and syringe.

"*Licensed veterinarian*" means a veterinarian who holds a valid license to practice veterinary medicine and surgery under the applicable laws of the jurisdiction in which such person's practice is principally conducted.

"*Milkshaking*" or "*bicarbonate loading*" means a bicarbonate or alkaline substance, administered to a horse by any means possible that elevates the horse's bicarbonate level or pH level above those existing naturally in the untreated horse at normal physiological concentrations as determined by the commission.

"*Permitted race day substances*" means only substances that are not performance altering and are administered solely for the benefit and welfare of the horse.

"*Prescription substance*" means any substance ~~which that~~ is administered or dispensed by or on the order of a licensed veterinarian for the purpose of medical treatment of an animal patient when a bona fide doctor-patient relationship has been established.

"*Primary laboratory*" means a facility designated by the commission for the testing of test samples.

"*Prohibited substance*" means any drug, medication or chemical foreign to the natural horse, whether natural or synthetic, or a metabolite or analog thereof, the use of which is not expressly permitted by the regulations of the commission.

"*Race day*" means the period between midnight before a race and post-time for the race in which the horse is entered to start.

"*Reference laboratory*" means a facility designated by the commission for the testing of split samples.

"*Substance*" means any drug, medication or chemical foreign to the natural horse or human being, whether natural or synthetic, or a metabolite or analog thereof.

"*Test sample*" means any sample of blood, urine, saliva or tissue obtained from a horse or person for the purpose of laboratory testing for the presence of substances.

"*Tubing*" means the administration to a horse of any substance via a naso-gastric tube.

## 11 VAC 10-180-20. Generally.

*A. Prohibited substance. No trainer shall allow a horse to appear in a race, including qualifying races or official timed workouts, when the horse contains in its system any prohibited substance, as determined by testing of blood, saliva or urine, or any other reasonable means.*

*B. Veterinarian treatment reports. Practicing veterinarians at the horse racing facility shall submit daily treatment reports at a time and in a manner prescribed by the commission veterinarian. The report shall contain the veterinarian's name, the name of the trainer of the horse, the name of the horse, all medications administered to the horse, diagnostic and therapeutic procedures performed, and the time and date of the administration or treatment.*

*1. Trainers of horses not stabled at the horse racing facility shall be responsible for submitting retroactive treatment reports to the commission veterinarian for any horse programmed to race. At a time prescribed by the commission veterinarian, the trainer shall submit to the commission veterinarian a retroactive treatment report for the seven previous days for any horse programmed to race. Reports may be electronically submitted or hand delivered to the commission veterinarian's office.*

*2. If a treatment report has not been received by the commission veterinarian prior to the start of a horse's race, the stewards, in their discretion, may exclude the introduction of such a treatment report into any subsequent hearing.*

~~A. C. Race day prohibitions. No person shall administer any substance to a horse on race day other than those substances expressly permitted by the commission. Substances permitted by the commission shall be nonperformance altering and administered only for the benefit and welfare of the horse.~~

~~B. D. Tubing of horses prohibited. The tubing or dosing of any horse for any reason on race day is prohibited, unless administered for medical emergency purposes by a licensed veterinarian in which case the horse shall be scratched. The practice of administration of any substance, via a tube or dose syringe, into a horse's stomach on race day is considered a violation of this chapter.~~

*1. Using or possessing the ingredients or the paraphernalia associated with forced feeding to a horse of a combination of baking soda and sugar or a form of sugar, or administering a substance by tubing on race day shall be considered a violation of this chapter.*

*2. Under the provisions of subsection B of this section, endoscopic examination shall not be considered a violation of this chapter.*

~~G. E. Possession of needles prohibited. No person, except a veterinarian holding a valid veterinarian's permit or an~~



assistant under his immediate supervision, shall have in his possession within the enclosure any hypodermic syringe or needle or any instrument capable of being used for the injection of any substance.

~~D.~~ F. Possession of injectables prohibited. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure any injectable substance.

~~E.~~ G. Prescription substances for animal use. No person, except a veterinarian holding a valid veterinarian's permit or an assistant under his immediate supervision, shall have in his possession within the enclosure of a horse racing facility any prescription substance for animal use unless:

1. The person actually possesses, within the enclosure of the horse racing facility, documentary evidence that a prescription has been issued to him for the substance by a licensed veterinarian;
2. The prescription substance is labeled with a dosage for the horse or horses to be treated with the prescription substance; and
3. The horse or horses named in the prescription are then under the care and supervision of the permit holder and are then stabled within the enclosure of the horse racing facility.

~~F.~~ H. Possession of substances. No veterinarian or permit holder shall, *without good cause*, possess or administer any substance to a horse stabled within the enclosure:

1. That has not been approved by the U.S. Food and Drug Administration pursuant to the Federal Food, Drug and Cosmetic Act (21 USC § 301 et seq.) Administration's Center for Veterinary Medicine, or the U.S. Department of Agriculture's Center for Veterinary Biologics; or
2. That is on the U.S. Drug Enforcement Agency's Schedule I or Schedule II of controlled substances as prepared by the Attorney General of the United States pursuant to 21 USC §§ 811 and 812.

~~G.~~ I. Human use of needles and substances. Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a substance for use on his person, providing the permit holder or veterinarian possesses documentary evidence that a valid medical prescription has been issued to the permit holder or veterinarian.

Notwithstanding these regulations, a permit holder or veterinarian may possess within the enclosure of a horse racing facility a hypodermic syringe or needle for the purpose of administering to himself a substance, provided that the permit holder has documentary evidence that the substance can only be administered by injection and that the substance to be administered by injection has been prescribed for him.

## **11 VAC 10-180-40. Collection of samples.**

A. Test barn. All Test samples shall be collected in the test barn under the supervision of the commission veterinarian or his designee. The commission veterinarian may, at his discretion, permit test samples to be collected in the horse's

stall or any other location he deems appropriate. Under these circumstances, the commission veterinarian shall inform the stewards of his decision.

B. Horses to be tested. The stewards or commission veterinarian may, at any time, order the taking of test samples from any horse stabled within the enclosure of the horse racing facility, prior to racing or after racing, including qualifying races and official timed workouts for the stewards or commission veterinarian. However, the stewards shall designate at least one horse from each race for the collection of test samples.

C. Collection procedure.

1. The trainer or a permit holder designated by the trainer shall accompany a horse sent to the test barn and witness the collection and splitting of the samples. The trainer or a permit holder designated by the trainer shall cooperate with the commission veterinarian and the commission's veterinary technicians in the performance of their duties. The trainer or a permit holder designated by the trainer must remain with the horse until the horse is released from the test barn.

2. Horses, from which samples are to be collected, shall be escorted, following the race, directly to the test barn by the commission's veterinary technicians and the horses shall remain in the test barn until released by the commission veterinarian.

3. Stable equipment, other than that which is necessary for washing and cooling out of a horse, is prohibited in the test barn. A private practitioner may attend a horse in the test barn only in the presence of the commission veterinarian or the commission's veterinary technicians.

4. During the collection of test samples, the owner, trainer or an assistant designated by the owner or trainer, shall be present and witness the collection of the test sample, the splitting of the sample and sealing of containers. In the case of a claimed horse, the owner or trainer, or an assistant designated by the owner or trainer in whose name the horse started, shall be present to witness the collection of the test samples.

5. The test and split samples collected from a horse shall have identification tags affixed. One portion of the tag, bearing a printed identification number, shall remain with the sealed test and split samples, and the other portion of the tag bearing the same printed identification numbers shall be detached in the presence of the witness. The commission veterinarian or his designee shall on the detached portion of the tags identify the horse from which the test and split samples were collected, the race and date, and other information deemed appropriate. The detached portion of the tag shall be witnessed by the trainer or a permit holder designated by the trainer and shall be retained by the commission veterinarian for safe keeping.

6. A horse's identity shall be confirmed by examining its lip-tattoo number, or for a Standardbred, its freeze brand number. A horse that has not been lip-tattooed, or a Standardbred that has not been freeze branded shall be reported immediately to the stewards.

---

# Final Regulations

---

7. If, after a horse remains for a reasonable time in the test barn, a test sample of urine cannot be collected from the horse, the commission veterinarian may, at his discretion, collect a test sample of blood or permit the horse to be returned to its barn where a test sample may be collected under the supervision of the commission veterinarian or the commission's veterinary technicians.

## 11 VAC 10-180-50. Laboratory findings and reports.

A. Primary testing laboratory. The commission shall designate a primary testing laboratory for the analysis of test samples collected under the supervision of the commission veterinarian. The commission shall designate a chief racing chemist within the primary testing laboratory who shall have the authority to report his findings to the executive secretary of the commission, the stewards and the commission veterinarian.

B. Reference laboratories. The commission shall designate one or more laboratories, other than the primary testing laboratory, as reference laboratories. These laboratories will conduct confirmatory analysis of split samples. Any reference laboratory must be accredited by the Association of Racing Commissioners International and be willing to accept split samples for confirmatory testing. Any reference laboratory shall send results to both the person requesting the testing and the commission.

C. Chief racing chemist's responsibilities. The chief racing chemist shall be responsible for safeguarding and analyzing the test samples delivered to the primary testing laboratory. It shall be the chief racing chemist's responsibility to maintain proper equipment, adequate staffing and acceptable procedures to thoroughly and accurately analyze test samples submitted to the primary testing laboratory.

D. Reporting procedures. The chief racing chemist shall submit to the executive secretary of the commission, the stewards and the commission veterinarian a written report as to each test sample analyzed, indicating by identification tag number, whether the test sample was negative or there was a chemical identification.

E. Chemical identifications. If the chief racing chemist determines that there is present in the test sample a substance or metabolites of a substance foreign to the natural horse, except those specifically permitted by the regulations of the commission, he shall submit a report of chemical identification to the executive secretary of the commission, the stewards and the commission veterinarian. In a report of chemical identification, the chief racing chemist shall submit evidence acceptable in the scientific community and admissible in court in support of his determination.

F. Review of chemical identifications. Upon receipt of a report of a chemical identification from the chief racing chemist, the stewards shall conduct a review of the chemical identification which shall include but not be limited to the chief racing chemist and the commission veterinarian. During the review, the following procedures shall apply:

1. All references to the report of a chemical identification shall be only by the identification tag number of the sample collected from the horse;

2. The chief racing chemist shall submit his written report of the chemical identification and the evidence supporting his finding;

3. The commission veterinarian shall submit a written statement to the stewards including but not limited to the classification of the substance and its probable effect on a racehorse;

4. The stewards may ask questions at any time and request further documentation as they deem necessary;

5. If the chemical identification involves a Class 1 or Class 2 substance, as specified by this regulation, then the stewards shall determine that the chemical identification constitutes a violation of the regulations of the commission and it is deemed a positive test result;

6. If the chemical identification and quantification involves a ~~Class 2 or Class 3, Class 4 or Class 5~~ substance, as specified by this regulation, then the stewards shall determine whether the chemical identification does or does not constitute a violation of the regulations of the commission and whether it should be deemed a positive test result;

7. In the event of a positive test result, the stewards shall notify the trainer of the horse of his right to send the split sample collected from the horse to one of the reference laboratories, designated by the commission, for confirmatory testing;

8. The stewards shall take no disciplinary action against any permit holder until the results of confirmatory testing are received, and the findings shall be a part of the record of any subsequent hearing; and

9. The chief racing chemist's report of a chemical identification, the commission veterinarian's written statement, the results of confirmatory testing and any other documentation submitted to the stewards shall become part of the record of any subsequent proceedings.

G. Barred from racing. No horse from which a positive test sample was collected shall be permitted to race until the stewards have made a final determination in the matter. Such a horse shall not be immune from resulting disciplinary action by the stewards or the commission.

H. Frozen samples. Unconsumed portions of all test samples tested by the primary testing laboratory will be maintained in a frozen state until cleared by the chief racing chemist and permission for their disposal is obtained from the Senior Commonwealth Steward.

I. Split samples. The commission veterinarian or his designee shall determine a minimum test sample requirement for the primary testing laboratory. If the test sample collected is less than the minimum requirement, then the entire test sample shall be sent to the primary laboratory.

If the sample collected is greater than the minimum sample requirement but less than twice that amount, the portion of the test sample that is greater than the minimum test sample requirement shall be secured as the split sample.

If the test sample collected is greater than twice the minimum test sample requirement, a portion of the sample approximately equal to the test sample shipped to the primary testing laboratory shall be secured as the split sample.

J. Storage of split samples. Split samples shall be stored in secured location inside a locked freezer in accordance with the following procedures:

1. Split samples shall be secured in the test barn in the same manner as the portion of the test sample acquired for shipment to the primary laboratory until such time as test samples are packed and secured for shipment to the primary laboratory.
2. Upon shipment of the test samples to the primary laboratory, the split samples shall be transferred to the locked freezer by the commission veterinarian who shall be responsible for securing possession of the keys.
3. The freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of split samples.
4. Whenever the freezer used for storage of split samples is opened, it shall be attended by the commission veterinarian or his designee and a representative of the horsemen if the respective horsemen's association has provided a representative. In the case that the split samples from a race must be secured in the freezer and no horsemen's representative is present, the commission veterinarian or his designee shall be in attendance.
5. A log shall be maintained each time the freezer used for storage of split samples is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was locked.
6. Any evidence of a malfunction of the freezer used for storage of split samples or evidence that split samples are not in a frozen condition shall be documented in the log and immediately reported to the stewards.

K. Shipment of split samples. The trainer or owner of the horse shall have 48 hours from receipt of notice of a positive test result to request that the split sample be shipped to one of the reference laboratories designated by the commission and the split sample shall be shipped to the requested reference laboratory. The cost of shipment and additional testing shall be paid by the permit holder requesting the testing of the split sample.

L. Chain of custody form. The commission veterinarian, or his designee, shall be responsible for the completion of a chain of custody verification form that shall provide a place for recording the following information:

1. Date and time the split sample is removed from the freezer;
2. The test sample number;
3. The address of the reference laboratory;

4. The name and address where the split sample package is to be taken for shipment to the reference laboratory;

5. Verification of retrieval of the split sample from the freezer;

6. Verification that each specific step of the split sample packaging procedure is in accordance with the recommended procedure;

7. Verification of the address of the reference laboratory on the split sample package;

8. Verification of the condition of the split sample package immediately prior to the transfer of custody to the carrier for shipment to the reference laboratory; and

9. The date and time custody of the split sample package was transferred to the carrier.

~~10.~~ The commission veterinarian, or his designee, and the trainer or owner of the horse, or his designee, shall witness, attest and sign the form, and a copy of the form shall be supplied to the trainer or owner.

~~11.~~ In the event that the trainer or owner of the horse, or his designee, is not present, the commission veterinarian shall not remove the split sample from the freezer or ship the split sample to a reference laboratory.

M. Packaging the split sample. The following procedures shall apply to the packaging of the split sample:

1. The split sample shall be removed from the freezer by the commission veterinarian, or his designee, in the presence of the trainer or owner, or his designee.

2. The trainer or owner, or his designee, shall pack the split sample, in the presence of the commission veterinarian or his designee, in accordance with the instructions supplied by the reference laboratory.

3. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

4. The package containing the split sample shall be transported in the presence of the commission veterinarian, or his designee, and the trainer or owner, or his designee, to the location where custody is transferred to the delivery carrier for shipment to the reference laboratory.

5. The commission veterinarian, or his designee, and the trainer or owner, or his designee, shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

6. The commission veterinarian, or his designee, and the trainer or owner, or his designee, shall complete the chain of custody verification form.

## **11 VAC 10-180-60. Medications and substances.**

A. Disciplinary actions. The stewards may, at their discretion, refer to the following guidelines in imposing a disciplinary action upon a permit holder for a positive test result for one of the ~~five~~ *three* classifications listed in subsection B of this

---

# Final Regulations

---

section. However, the stewards may, at their discretion and in consideration of the circumstances, impose a greater or lesser disciplinary action. The guidelines are:

1. Class 1. ~~One to five years~~ Six-month to five-year suspension and at least \$5,000 fine and loss of purse.
2. Class 2. ~~Six months to one year suspension and \$1,500 to \$2,500~~ Minimum of 15-day suspension and/or fine and loss of purse.
3. Class 3. ~~Sixty days to six months suspension and up to \$1,500 fine and loss of purse~~ Fine, suspension and loss of purse are discretionary, relating to the specific circumstances of the case and any mitigating circumstances.
4. Class 4. ~~Fifteen to 60 days suspension and up to \$1,000 fine and loss of purse.~~
5. Class 5. ~~Zero to 15 days suspension with a possible loss of purse or fine or both.~~
6. 4. For cimetidine, dicoumerol, griseofulvin, isoxsuprine, ranitidine, sulfa and tetramisole--first offense: \$500 fine; second offense: 15-day suspension and disqualification.
7. 5. For procaine, o-desmethyl pyrillamine--if the stewards determine that the drug was administered more than 48 hours before race day, first offense: \$500 fine; second offense: 15-day suspension and disqualification.
8. 6. For procaine, o-desmethyl pyrillamine--if the stewards determine that the drug was administered within 48 hours of race day, first offense: 15-day suspension and disqualification; second offense: more stringent disciplinary action.
9. 7. For methylprednisolone--first offense, if found in urine only: \$250 fine, or if found in urine and blood: 15-day suspension and disqualification; second offense: 15-day suspension and disqualification.
8. For nonsteroidal anti-inflammatory substances--first offense: \$500 fine and disqualification; second offense: 15-day suspension and disqualification; and third offense: \$500 fine, 15-day suspension and disqualification.
9. For two or more nonsteroidal anti-inflammatory substances, or a nonsteroidal anti-inflammatory substance and a corticosteroid substance--60-day suspension, disqualification, and a fine.

B. Classes of prohibited substances. The classes of prohibited substances are:

1. Class 1. ~~Drugs~~ Substances found in this class are substances which have no generally accepted medical use in the racehorse and have a very high pharmacological potential for altering the performance of a racehorse. These substances should never be found in the horse's system through post-race testing or in the possession of any holder of a permit within the enclosure of a horse racing facility licensed by the commission. Such substances are potent stimulants of the nervous system and included in this class are including opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. Drug

Enforcement Agency (DEA) Scheduled I and II drugs. ~~Drugs in this class have no generally accepted medical use in the racehorse and their pharmacological potential for altering the performance of a racehorse is very high controlled substances, and substances that are products intended to alter consciousness or the psychic state of humans.~~

Some substances in this class, such as injectable local anesthetics, have legitimate uses in equine medicine, but should not be found in a racehorse through post-race testing. The following groups of substances in this class are:

- a. Opiate partial agonists or agonist-antagonists;
- b. Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;
- c. Miscellaneous substances that might have a stimulant effect on the central nervous system (CNS);
- d. Drugs with prominent CNS depressant action;
- e. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;
- f. Muscle-blocking substances that have a direct neuromuscular blocking action;
- g. Local anesthetics which have a reasonable potential for use as nerve-blocking agents (except procaine); and
- h. Other biological substances or chemicals that may be used as nerve-blocking agents.

2. Class 2. ~~Drugs~~ Substances found in this class have an accepted therapeutic use in the horse, but have a high potential for affecting the outcome of a race. Most drugs in this class are generally not accepted therapeutic agents in the racehorse. Many drugs in this class are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. ~~Some drugs in this class, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racehorse to enhance performance, and their presence in the horse's system is prohibited on race day.~~ The following groups of drugs are substances in this class are:

- a. ~~Opiate partial agonists, or agonist-antagonists;~~ Substances affecting the autonomic nervous system that do not have prominent CNS effects, but that do have prominent cardiovascular and respiratory system effects (bronchodilators are included in this class);
- b. ~~Nonopiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects~~ Local anesthetics that have nerve-blocking potential but also a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the substance (procaine);
- c. ~~Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS) substances with mild sedative action, such as the sleep-inducing antihistamines;~~

- d. ~~Drugs with prominent CNS depressant action Primary vasodilating/hypotensive agents;~~
- e. ~~Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects Potent diuretics affecting renal function and body fluid composition;~~
- f. ~~Muscle blocking drugs which have a direct neuromuscular blocking action Nonopiate substances that have a mild central analgesic effect;~~
- g. ~~Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and Substances affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects:~~
- (1) ~~Substances used solely as topical vasoconstrictors or decongestants;~~
  - (2) ~~Substances used as gastrointestinal antispasmodics;~~
  - (3) ~~Substances used to void the urinary bladder; and~~
  - (4) ~~Substances with a major effect on CNS vasculature or smooth muscle of visceral organs.~~
- h. ~~Snake venoms and other biological substances which may be used as nerve blocking agents Antihistamines that do not have a significant CNS depressant effect (this does not include H1 blocking agents).~~
3. ~~Class 3. Drugs Substances found in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racehorse are therapeutic medications that are considered nonperformance enhancing, but may interfere with testing. The following groups of drugs are substances in this class are:~~
- a. ~~Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);~~
  - b. ~~A local anesthetic which has nerve blocking potential but also a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);~~
  - c. ~~Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;~~
  - d. ~~Primary vasodilating/hypotensive agents; and~~
  - e. ~~Potent diuretics affecting renal function and body fluid composition.~~
    - a. ~~Mineral corticoid substances;~~
    - b. ~~Skeletal muscle relaxants;~~
    - c. ~~Anti-inflammatory substances that may reduce pains as a consequence of their anti-inflammatory actions, which include:~~
      - (1) ~~Nonsteroidal anti-inflammatory drugs (NSAIDs)—aspirin-like substances;~~
      - (2) ~~Corticosteroids (glucocorticoids); and~~
      - (3) ~~Miscellaneous anti-inflammatory agents.~~
- d. ~~Anabolic or androgenic steroids, or both, and other substances;~~
- e. ~~Less potent diuretics;~~
- f. ~~Cardiac glycosides and antiarrhythmics including:~~
- (1) ~~Cardiac glycosides;~~
  - (2) ~~Antiarrhythmic agents (exclusive of lidocaine, bretilium and propranolol); and~~
- g. ~~Topical anesthetics agents not available in injectable formulations;~~
- h. ~~Antidiarrheal agents; and~~
- i. ~~Miscellaneous substances including:~~
- (1) ~~Expectorants with little or no other pharmacologic action;~~
  - (2) ~~Stomachics; and~~
  - (3) ~~Mucolytic agents.~~
4. ~~Class 4. This class of drugs is comprised primarily of therapeutic medications routinely used in racehorses. These drugs may influence performance but generally have a more limited ability to do so. The following groups of drugs are in this class: Newly developed substances not previously classified. For the purposes of a stewards' determination if a chemical identification constitutes a positive finding, and for determining the subsequent disciplinary action, newly developed substances, not previously classified, may be considered Class 1 substances, until a duly recognized scientific body or regulatory racing authority determines the substance should be classified otherwise.~~
- a. ~~Nonopiate drugs which have a mild central analgesic effect;~~
  - b. ~~Drugs affecting the autonomic nervous system which do not have prominent CNS, cardiovascular or respiratory effects:~~
    - (1) ~~Drugs used solely as topical vasoconstrictors or decongestants;~~
    - (2) ~~Drugs used as gastrointestinal antispasmodics;~~
    - (3) ~~Drugs used to void the urinary bladder; and~~
    - (4) ~~Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs;~~
  - c. ~~Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);~~
  - d. ~~Mineralocorticoid drugs;~~
  - e. ~~Skeletal muscle relaxants;~~

---

# Final Regulations

---

~~f. Anti-inflammatory drugs—those that may reduce pain as a consequence of their anti-inflammatory actions, which include:~~

- ~~(1) Nonsteroidal Anti-inflammatory Drugs (NSAIDs)—aspirin-like drugs;~~
- ~~(2) Corticosteroids (glucocorticoids); and~~
- ~~(3) Miscellaneous anti-inflammatory agents;~~

~~g. Anabolic or androgenic steroids, or both, and other drugs;~~

~~h. Less potent diuretics;~~

~~i. Cardiac glycosides and antiarrhythmics including:~~

- ~~(1) Cardiac glycosides;~~
- ~~(2) Antirhythmic agents (exclusive of lidocaine, bretylium and propranolol); and~~
- ~~(3) Miscellaneous cardiotonic drugs;~~

~~j. Topical anesthetics—agents not available in injectable formulations;~~

~~k. Antidiarrheal agents; and~~

~~l. Miscellaneous drugs including:~~

- ~~(1) Expectorants with little or no other pharmacologic action;~~
- ~~(2) Stomachics; and~~
- ~~(3) Mucolytic agents.~~

~~5. Class 5. Drugs found in this class are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically in this class of drugs are agents with very localized action only, such as anti-ulcer drugs and certain antiallergic drugs. The anticoagulant drugs are also included.~~

~~G. Permitted race day substances. The following substances have been determined to be nonperformance altering and administered only for the benefit and welfare of the horse. These substances may be administered to a horse on race day by a permit holder when administered under veterinary supervision within the limits of this chapter:~~

~~1. Intravenous commercially available electrolyte solutions including calcium and magnesium, but not including bicarbonate, providing such administration is a minimum of three hours prior to the post time for that horse's race.~~

~~2. Conjugated estrogens, not to exceed 25 milligrams, providing the horse is on the bleeders list and administration is concurrent with furosemide administration.~~

~~3. Aminocaproic acid, not to exceed 2.5 grams, providing the horse is on the bleeders list and administration is concurrent with furosemide administration.~~

~~4. Tranexamic acid, not to exceed 1 gram, providing the horse is on the bleeders list and administration is concurrent with furosemide administration.~~

## 11 VAC 10-180-70. Phenylbutazone.

A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of phenylbutazone in racehorses in the quantities provided for in this chapter.

B. Quantitative testing. Any horse to which phenylbutazone has been administered shall be subject to having test samples taken at the direction of the commission veterinarian to determine the quantitative level of phenylbutazone or the presence of other substances which may be present.

C. Disciplinary actions. The stewards shall take the following disciplinary actions for reports of quantitative testing by the primary testing laboratory for levels of phenylbutazone quantified at levels above 2.0 micrograms per milliliter of plasma in horses following races, qualifying races, and official timed workouts for the stewards or commission veterinarian:

1. The stewards shall verbally warn a trainer of a horse with a post-race test above 2.0 to below 2.6 micrograms per milliliter of plasma;

2. The stewards shall fine a trainer \$500, but not more than any purse, for the first offense with a post-race test above 2.6 micrograms per milliliter to below 5.0 micrograms per milliliter of plasma;

3. The stewards shall suspend a trainer for 15 days and disqualify the horse for a second offense with a post-race test from above 2.6 micrograms per milliliter of plasma and below 5.0 micrograms per milliliter of plasma; and

4. The stewards shall ~~suspend a trainer for 15 days and disqualify the horse~~ impose the following for a post-race test of 5.0 micrograms per milliliter of plasma ~~or above~~:

(a) First offense: \$500 fine and disqualification;

(b) Second offense: 15-day suspension and disqualification; and

(c) Third offense: \$500 fine, 15-day suspension and disqualification.

5. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which phenylbutazone is permitted by the commission.

## 11 VAC 10-180-80. Bleeder medications Permitted race day substances.

~~A. Generally. By this regulation, the Virginia Racing Commission specifically permits the use of furosemide in only those horses that have been placed on the bleeder list by the stewards. The following substances have been determined to be nonperformance altering and administered only for the benefit and welfare of the horse. These substances may be administered to a horse on race day by a permit holder when administered under veterinary supervision within the limits of this chapter:~~

~~Intravenous commercially available electrolyte solutions including calcium and magnesium, but not including bicarbonate, providing such administration is a minimum of three hours prior to the post time for that horse's race.~~

*B. Bleeder medications. By this regulation, the Virginia Racing Commission specifically permits the use of bleeder medications in only those horses that:*

1. *Have been placed on the bleeders list by the stewards; or*
2. *Have raced on furosemide in another jurisdiction and on the last previous start in a pari-mutuel race, as indicated by the past performance chart or by verification by the commission veterinarian from that racing jurisdiction, or both.*

~~B.~~ C. Furosemide.

1. Procedures for usage. The use of furosemide shall be permitted by the commission only in horses ~~already on the bleeder list~~ eligible to receive bleeder medications and under the following circumstances:

a. Furosemide shall be administered intravenously, by a ~~private practitioner~~ veterinarian who is a permit holder, no less than three hours prior to the scheduled post time of the race in which the horse is entered to start.

b. The furosemide dosage administered shall not exceed 10 ml (500 mg) and shall not be less than 3 ml (150 mg). Dosage levels between each race shall not vary by more than 3 ml (150 mg).

c. The ~~private practitioner~~ veterinarian, who is a permit holder, administering the furosemide shall deliver to the commission's office at the ~~racetrack~~ horse racing facility no later than two hours prior to post time for the race in which the horse is entered a furosemide treatment form containing the following:

- (1) The trainer's name, date, horse's name, and horse's identification number;
- (2) The time furosemide was administered to the horse;
- (3) The prior dosage level of furosemide administered to the horse and the dosage level administered for this race;
- (4) The barn and stall number; and
- (5) The signature of the private practitioner, who is a permit holder.

2. Furosemide quantification. Furosemide levels must not exceed 100 nanograms per milliliter (ng/ml) of plasma in horses administered furosemide and with urine specific gravity measuring 1.010 or lower. Furosemide must be present in the plasma of any horse racing in Virginia which has been designated in the program as being treated with ~~the substance~~ bleeder medications.

~~C.~~ D. Disciplinary actions.

1. For the first violation of the regulation pertaining to furosemide quantification (subdivision B 2 of this section), the stewards shall issue a written reprimand to the trainer.

2. For the second violation of the regulation pertaining to furosemide quantification (subdivision B 2 of this section), the stewards shall fine the trainer an amount not to exceed \$500.

3. For the third violation of the regulation pertaining to furosemide quantification (subdivision B 2 of this section) within a 12-month period, the stewards shall suspend or fine the trainer or both.

4. The stewards, in their discretion, may impose other more stringent disciplinary actions against trainers or other permit holders who violate the provisions under which furosemide is permitted by the commission, regardless of whether or not the same horse is involved.

*E. Adjunct bleeder medications. The Virginia Racing Commission permits the use of adjunct bleeder medications only in horses qualified to receive bleeder medications as provided for in this chapter. Such medications, if administered to a horse, must be administered concurrently with furosemide. Permissible adjunct bleeder medications and maximum dosages are:*

1. *Conjugated estrogens, not to exceed 25 milligrams.*
2. *Aminocaproic acid, not to exceed 2.5 grams.*
3. *Tranexamic acid, not to exceed 1 gram.*

~~D.~~ F. Program designation. The licensee shall be responsible for designating in the program those horses racing on furosemide. The designation shall also include those horses making their first start while racing on furosemide. In the event there is an error, the licensee shall be responsible for making an announcement to be made over the public address system and taking other means to correct the information published in the program.

~~E.~~ G. ~~Removal from the bleeder list~~ Discontinue use of furosemide. A trainer or owner may ~~remove~~ discontinue the administration of furosemide to his horse ~~from the bleeder list~~ only with the permission of the stewards and prior to entering the horse in a race.

**11 VAC 10-180-90. Bicarbonate testing.**

A. Generally. By this regulation, the Virginia Racing Commission prohibits the ~~use~~ administration to a horse on race day of any bicarbonate-containing substance or ~~any substance which~~ alkalinizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or carbon dioxide in the horse.

B. Test values. For a test sample collected from a horse at least one hour following a race in the test barn, the serum total carbon dioxide concentration shall not exceed 37.0 millimoles per liter for horses not administered furosemide prior to racing or shall not exceed 39.0 millimoles per liter for horses administered furosemide prior to racing. A serum total carbon dioxide level exceeding these values constitutes a positive test.

C. Testing procedure. The stewards or commission veterinarian may, at their discretion and at any time, order the collection of test samples from any horses present within the enclosure for determination of serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes. A sample shall be taken from the horse one hour after racing to determine the serum total carbon dioxide concentration. ~~The procedures for split samples do not apply to bicarbonate~~

---

# Final Regulations

---

~~testing procedures consisting of at least two blood tubes shall be taken from the horse at least one hour after racing to determine the serum total carbon dioxide concentration. If the chief racing chemist finds that the total carbon dioxide levels in the tubes exceed the standard test values of 37.0 and 39.0 millimoles per liter, then he shall inform the stewards of the positive test results.~~

~~D. Positive test results. If the chief racing chemist determines that there is a positive test, he shall send the sample to a reference laboratory for confirmatory testing. If the reference laboratory confirms the chief racing chemist's initial finding, then he shall inform the stewards of the positive test results. Split samples prohibited. The procedures for split sample testing shall not apply to bicarbonate testing procedures.~~

VA.R. Doc. No. R02-180; Filed May 10, 2002, 8:44 a.m.

---

## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

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

**Title of Regulation:** 12 VAC 5-590. **Waterworks Regulations (amending 12 VAC 5-590-10, 12 VAC 5-590-370, 12 VAC 5-590-410, 12 VAC 5-590-420, 12 VAC 5-590-440, 12 VAC 5-590-500, 12 VAC 5-590-530, 12 VAC 5-590-540, and 12 VAC 5-590-550; Appendix B and Appendix F).**

**Statutory Authority:** §§ 32.1-12 and 32.1-170 of the Code of Virginia.

**Effective Date:** July 3, 2002.

**Summary:**

*The amendments implement higher standards in the treatment of surface water and stricter standards for disinfectants and disinfectant byproducts in drinking water as required by the Environmental Protection Agency. The amendments conform the Virginia Waterworks Regulations to the 1996 amendments to the federal Safe Drinking Water Act.*

**Agency Contact:** Elizabeth Crocker, Department of Health, 1500 East Main Street, Room 109, Richmond, VA 23218, telephone (804) 371-2885.

**12 VAC 5-590-10. Definitions.**

As used in this chapter, the following words and terms hereinafter set forth shall have meanings respectively set forth unless the context clearly requires a different meaning: :

"Action level" means the concentration of lead or copper in water specified in 12 VAC 5-590-410 E, which determines, in some cases, the treatment requirements contained in 12 VAC 5-590-420 C, D, E and F that a waterworks is required to complete.

"Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture, or other device and the rim of the receptacle.

"Annual daily water demand" means the average rate of daily water usage over at least the most recent three-year period.

"Applied water" means water that is ready for filtration.

"Approved" means material, equipment, workmanship, process or method that has been accepted by the division as suitable for the proposed use.

"Auxiliary water system" means any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute an unapproved water source or system over which the water purveyor does not have control.

"Backflow" means the flow of water or other liquids, mixtures, or substances into the distribution piping of a waterworks from any source or sources other than its intended source.

"Backflow prevention device" means any approved device, method, or type of construction intended to prevent backflow into a waterworks.

"Best available technology (BAT)" means the best technology, treatment techniques, or other means which the commissioner finds, after examination for efficacy under field conditions and not solely under laboratory conditions and in conformance with applicable EPA regulations, are available (taking cost into consideration).

"Board" means the State Board of Health.

"Breakpoint chlorination" means the addition of chlorine to water until the chlorine demand has been satisfied and further additions result in a residual that is directly proportional to the amount added.

"Chlorine" means dry chlorine.

"Chlorine gas" means dry chlorine in the gaseous state.

"Chlorine solution (chlorine water)" means a solution of chlorine in water. Note: the term chlorine solution is sometimes used to describe hypochlorite solutions. This use of the term is incorrect.

"Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

"Coliform bacteria group" means a group of bacteria predominantly inhabiting the intestines of man or animal but also occasionally found elsewhere. It includes all aerobic and facultative anaerobic, gram-negative, non-sporeforming bacilli that ferment lactose with production of gas. Also included are



all bacteria that produce a dark, purplish-green colony with metallic sheen by the membrane filter technique used for coliform identification.

"*Commissioner*" means the State Health Commissioner.

"*Community water system*" means a waterworks which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"*Compliance cycle*" means the nine-year calendar year cycle during which a waterworks must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993, and ends December 31, 2001; the second begins January 1, 2002, and ends December 31, 2010; the third begins January 1, 2011, and ends December 31, 2019.

"*Compliance period*" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993, to December 31, 1995; the second from January 1, 1996, to December 31, 1998; the third from January 1, 1999, to December 31, 2001.

"*Comprehensive performance evaluation*" (*CPE*) is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operational and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with 12 VAC 5-590-530 C 1 b (2) (d), the comprehensive performance evaluation must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"*Confluent growth*" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

"*Consecutive waterworks*" means a waterworks which has no water production or source facility of its own and which obtains all of its water from another permitted waterworks.

"*Consumer*" means any person who drinks water from a waterworks.

"*Consumer's water system*" means any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

"*Contaminant*" means any objectionable or hazardous physical, chemical, biological, or radiological substance or matter in water.

"*Conventional filtration treatment*" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

"*Corrosion inhibitor*" means a substance capable of reducing the corrosivity of water toward metal plumbing materials,

especially lead and copper, by forming a protective film on the interior surface of those materials.

"*Cross connection*" means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

"*CT*" or "*CTcalc*" means the product of "residual disinfectant concentration" (C) in mg/L determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T."

"*Daily fluid intake*" means the daily intake of water for drinking and culinary use and is defined as two liters.

"*Dechlorination*" means the partial or complete reduction of residual chlorine in water by any chemical or physical process at a waterworks with a treatment facility.

"*Degree of hazard*" means the level of health hazard, as derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

"*Diatomaceous earth filtration*" means a process resulting in substantial particulate removal in which (i) a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum), and (ii) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

"*Direct filtration*" means a series of processes including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

"*Disinfectant*" means any oxidant (including chlorine) that is added to water in any part of the treatment or distribution process for the purpose of killing or deactivating pathogenic organisms.

"*Disinfectant contact time*" ("*T*" in *CT* calculations) means the time in minutes that it takes for water to move from the point of disinfectant application to the point where residual disinfectant concentration ("*C*") is measured.

"*Disinfection*" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

"*Disinfection profile*" means a summary of daily *Giardia lamblia* inactivation through the treatment plant.

"*Distribution main*" means a water main whose primary purpose is to provide treated water to service connections.

"*Division*" means the Commonwealth of Virginia, Department of Health, Division of ~~Drinking Water Supply Engineering~~.

"*Domestic or other nondistribution system plumbing problem*" means a coliform contamination problem in a waterworks with more than one service connection that is limited to the specific service connection from which the coliform positive sample was taken.

"*Domestic use or usage*" means normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

---

# Final Regulations

---

"Double gate-double check valve assembly" means an approved assembly composed of two single independently acting check valves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each check valve.

"Effective corrosion inhibitor residual," for the purpose of 12 VAC 5-590-420 C 1 only, means a concentration sufficient to form a passivating film on the interior walls of a pipe.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Entry point" means the place where water from the source after application of any treatment is delivered to the distribution system.

"Equivalent residential connection" means a volume of water used equal to a residential connection which is 400 gallons per day unless supportive data indicates otherwise.

"Exception" means an approved deviation from a "shall" criteria contained in Part III of this chapter.

"Exemption" means a conditional waiver of a specific PMCL or treatment technique requirement which is granted to a specific waterworks for a limited period of time.

"Filter profile" means a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"First draw sample" means a one-liter sample of tap water, collected in accordance with 12 VAC 5-590-370 B 6 a (2), that has been standing in plumbing pipes at least six hours and is collected without flushing the tap.

"Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

"Free available chlorine" means that portion of the total residual chlorine remaining in water at the end of a specified contact period which will react chemically and biologically as hypochlorous acid or hypochlorite ion.

"GAC10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days.

"Governmental entity" means the Commonwealth, a town, city, county, service authority, sanitary district or any other governmental body established under the Code of Virginia, including departments, divisions, boards or commissions.

"Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Groundwater" means all water obtained from sources not classified as surface water (or surface water sources).

"Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with (†) significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*, or (‡) *Cryptosporidium*. It also means significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which that closely correlate to climatological or surface water conditions. The pathogen, *Cryptosporidium*, applies to all waterworks that use surface water or groundwater under the direct influence of surface water ~~will be determined by serving at least 10,000 people.~~ The division in accordance with 12 VAC 5-590-430 will determine direct influence of surface water.

"Haloacetic acids (five)" or "(HAA5)" means the sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Halogen" means one of the chemical elements chlorine, bromine, fluorine, astatine or iodine.

"Health hazard" means any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

"Health regulations" means regulations which include all primary maximum contaminant levels, treatment technique requirements, and all operational regulations, the violation of which would jeopardize the public health.

"Hypochlorite" means a solution of water and some form of chlorine, usually sodium hypochlorite.

"Initial compliance period" means for all regulated contaminants, the initial compliance period is the first full three-year compliance period beginning at least 18 months after promulgation with the exception of waterworks with 150 or more service connections for contaminants listed at Table 2.3, VOC 19-21; Table 2.3, SOC 19-33; and antimony, beryllium, cyanide (as free cyanide), nickel, and thallium which shall begin January 1993.

"Interchangeable connection" means an arrangement or device that will allow alternate but not simultaneous use of two sources of water.

"Karstian geology" means an area predominantly underlain by limestone, dolomite, or gypsum and characterized by rapid underground drainage. Such areas often feature sinkholes, caverns, and sinking or disappearing creeks. In Virginia, this generally includes all that area west of the Blue Ridge and, in Southwest Virginia, east of the Cumberland Plateau.

"Large waterworks," for the purposes of 12 VAC 5-590-370 B 6, 12 VAC 5-590-420 C through F, 12 VAC 5-590-530 D, and 12 VAC 5-590-550 D only, means a waterworks that serves more than 50,000 persons.

"Lead service line" means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Liquid chlorine" means a liquefied, compressed gas as shipped in commerce. Note: The term liquid chlorine is sometimes used to describe a hypochlorite solution often employed for swimming pool sanitation. This use of the term is incorrect.

"Log inactivation (log removal)" means that a 99.9% reduction is a 3-log inactivation; a 99.99% reduction is a 4-log inactivation.

"Man-made beta particle and photon emitters" means all radionuclides emitting beta particles and/or photons listed in the most current edition of "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," National Bureau of Standards Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum daily water demand" means the rate of water usage during the day of maximum water use.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water which is delivered to any user of a waterworks, except in the cases of turbidity and VOCs, where the maximum permissible level is measured at each entry point to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. Maximum contaminant levels may be either "primary" (PMCL), meaning based on health considerations or "secondary" (SMCL) meaning based on aesthetic considerations.

"Maximum residual disinfectant level (MRDL)" means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a waterworks is in compliance with the MRDL when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a waterworks is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in Table 2.12, operators may increase residual disinfectant

levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.

"Maximum residual disinfectant level goal (MRDLG)" means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Maximum total trihalomethane potential (MTP)" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after seven days at a temperature of 25°C or above.

"Medium-size waterworks," for the purpose of 12 VAC 5-590-370 B 6, 12 VAC 5-590-420 C through F, 12 VAC 5-590-530, and 12 VAC 5-590-550 D only, means a waterworks that serves greater than 3,300 and less than or equal to 50,000 persons.

"Most probable number (MPN)" means that number of organisms per unit volume that, in accordance with statistical theory, would be more likely than any other number to yield the observed test result or that would yield the observed test result with the greatest frequency, expressed as density of organisms per 100 milliliters. Results are computed from the number of positive findings of coliform-group organisms resulting from multiple-portion decimal-dilution plantings.

"Noncommunity water system" means a waterworks that is not a community waterworks, but operates at least 60 days out of the year.

"Nonpotable water" means water not classified as pure water.

"Nontransient noncommunity water system (NTNC)" means a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year.

"One hundred ~~(400)~~ year flood level" means the flood elevation which will, over a long period of time, be equaled or exceeded on the average once every 100 years.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks.

"Optimal corrosion control treatment" means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while ensuring that the treatment does not cause the waterworks to violate any other section of this chapter.

---

# Final Regulations

---

"Owner" or "water purveyor" means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity, or the federal government which supplies or proposes to supply water to any person within this state from or by means of any waterworks (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point of disinfectant application" means the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water runoff.

"Point-of-entry treatment device (POE)" means a treatment device applied to the water entering a house or building for the purpose of reducing contaminants in the water distributed throughout the house or building.

"Point-of-use treatment device (POU)" means a treatment device applied to a single tap for the purpose of reducing contaminants in the water at that one tap.

"Pollution" means the presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

"Pollution hazard" means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

"Post-chlorination" means the application of chlorine to water subsequent to treatment.

"Practical quantitation level (PQL)" means the lowest level achievable by good laboratories within specified limits during routine laboratory operating conditions.

"Prechlorination" means the application of chlorine to water prior to filtration.

"Process fluids" means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted which would constitute a health, pollutional, or system hazard if introduced into the waterworks. This includes, but is not limited to:

1. Polluted or contaminated water,
2. Process waters,
3. Used waters, originating from the waterworks which may have deteriorated in sanitary quality,
4. Cooling waters,
5. Contaminated natural waters taken from wells, lakes, streams, or irrigation systems,
6. Chemicals in solution or suspension, and
7. Oils, gases, acids, alkalis, and other liquid and gaseous fluid used in industrial or other processes, or for fire fighting purposes.

"Pure water" or "potable water" means water fit for human consumption and domestic use which is sanitary and normally

free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Raw water main" means a water main which conveys untreated water from a source to a treatment facility.

"Reduced pressure principle backflow prevention device (RPZ device)" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

"REM" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (MREM) is 1/1000 of a REM.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Residual disinfectant concentration ("C" in CT Calculations)" means the concentration of disinfectant measured in mg/L in a representative sample of water.

"Responsible charge" means designation by the owner of any individual to have duty and authority to operate or modify the operation of waterworks processes.

"Sanitary facilities" means piping and fixtures, such as sinks, lavatories, showers, and toilets, supplied with potable water and drained by wastewater piping.

"Sanitary survey" means an investigation of any condition that may affect public health.

"Secondary water source" means any approved water source, other than a waterworks' primary source, connected to or available to that waterworks for emergency or other nonregular use.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Service connection" means the point of delivery of water to a customer's building service line as follows:

1. If a meter is installed, the service connection is the downstream side of the meter;
2. If a meter is not installed, the service connection is the point of connection to the waterworks;
3. When the water purveyor is also the building owner, the service connection is the entry point to the building.

"Service line sample" means a one-liter sample of water, collected in accordance with 12 VAC 5-590-370 B 6 a (2) (c), that has been standing for at least six hours in a service line.

"Sewer" means any pipe or conduit used to convey sewage or industrial waste streams.

"Single family structure," or the purpose of 12 VAC 5-590-370 B 6 (a) only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than 0.4 m/h) resulting in substantial particulate removal by physical and biological mechanisms.

"Small waterworks," for the purpose of 12 VAC 5-590-370 B 6, 12 VAC 5-590-420 C through F, 12 VAC 5-590-530 D and 12 VAC 5-590-550 D only, means a waterworks that serves 3,300 persons or fewer.

"Standard sample" means that portion of finished drinking water that is examined for the presence of coliform bacteria.

"Surface water" means all water open to the atmosphere and subject to surface runoff.

"SUVA" means specific ultraviolet absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm ( $UV_{254}$ ) (in  $m^{-1}$ ) by its concentration of dissolved organic carbon (DOC) (in mg/L).

"Synthetic organic chemicals (SOC)" means one of the family of organic man-made compounds generally utilized for agriculture or industrial purposes.

"System hazard" means a condition posing an actual, or threat of, damage to the physical properties of the waterworks or a consumer's water system.

"Terminal reservoir" means an impoundment providing end storage of water prior to treatment.

"Too numerous to count" means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Total effective storage volume" means the volume available to store water in distribution reservoirs measured as the difference between the reservoir's overflow elevation and the minimum storage elevation. The minimum storage elevation is that elevation of water in the reservoir that can provide a minimum pressure of 20 psi at a flow as determined in 12 VAC 5-590-690 C to the highest elevation served within that reservoir's service area under systemwide maximum daily water demand.

"Total organic carbon" (TOC) means total organic carbon in mg/L measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total trihalomethanes (TTHM)" means the sum of the concentrations of the trihalomethanes expressed in milligrams per liter (mg/L) and rounded to two significant figures. For the purpose of these regulations, the TTHM's shall mean trichloromethane (chloroform), dibromochloromethane, bromodichloromethane, and tribromomethane (bromoform).

"Transmission main" means a water main whose primary purpose is to move significant quantities of treated water among service areas.

"Treatment technique requirement" means a requirement which specifies for a contaminant a specific treatment technique(s) demonstrated to the satisfaction of the division to lead to a reduction in the level of such contaminant sufficient to comply with these regulations.

"Trihalomethane (THM)" means one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

"Uncovered finished water storage facility" is a tank, reservoir, or other facility used to store water that will undergo no further treatment (except residual disinfection) and is open to the atmosphere.

"Unregulated contaminant (UC)" means a contaminant for which a monitoring requirement has been established, but for which no MCL or treatment technique requirement has been established established.

"Used water" means any water supplied by a water purveyor from the waterworks to a consumer's water system after it has passed through the service connection.

"Virus" means a virus of fecal origin which is infectious to humans by waterborne transmission.

"Variance" means a conditional waiver of a specific regulation which is granted to a specific waterworks. A PMCL Variance is a variance to a Primary Maximum Contaminant Level, or a treatment technique requirement. An Operational Variance is a variance to an operational regulation or a Secondary Maximum Contaminant Level. Variances for monitoring, reporting and public notification requirements will not be granted.

"Volatile synthetic organic chemical (VOC)" means one of the family of manmade organic compounds generally characterized by low molecular weight and rapid vaporization at relatively low temperatures or pressures.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a waterworks which is deficient in treatment, as determined by the commissioner or the State Epidemiologist.

"Water purveyor" (same as owner).

"Water supply" means water that shall have been taken into a waterworks from all wells, streams, springs, lakes, and other bodies of surface waters (natural or impounded), and the tributaries thereto, and all impounded groundwater, but the term "water supply" shall not include any waters above the

---

# Final Regulations

---

point of intake of such waterworks (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Water supply main" or "main" means any water supply pipeline that is part of a waterworks distribution system.

"Water Well Completion Report" means a report form published by the State Water Control Board entitled "Water Well Completion Report" which requests specific information pertaining to the ownership, driller, location, geological formations penetrated, water quantity and quality encountered as well as construction of water wells. The form is to be completed by the well driller.

"Waterworks" means a system that serves piped water for drinking or domestic use to (i) the public, (ii) at least 15 connections, or (iii) an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Waterworks with a single service connection" means a waterworks which supplies drinking water to consumers via a single service line.

## 12 VAC 5-590-370. Sampling frequency.

The commissioner may exempt consecutive waterworks that obtain potable water from another water system for distribution from all monitoring requirements in this section except for bacteriological (subsection A of this section), ~~trihalomethanes~~ *disinfectant residuals, byproducts and disinfection byproduct precursors* (subdivision B 3 of this section), and lead and copper (subdivision B 6 of this section). The required sampling frequencies are as follows:

**REGISTRAR'S NOTICE:** There are no changes to subsection A or subdivisions B 1 or B 2 of this section. Due to their length, these portions of the text are not set out.

B. ...

### 3. ~~Trihalomethanes~~ *Disinfectant residuals, disinfection byproducts and disinfection byproduct precursors.*

*a. The requirements in subdivisions B 3 a (1) through (10) (e) of this section apply to community or nontransient noncommunity waterworks that use a surface water or a groundwater under the direct influence of surface water and serve a population of 10,000 or more until December 31, 2001. The requirements in subdivisions B 3 a (1) through (10) (e) of this section apply to community waterworks that use only groundwater not under the direct influence of surface water that add a disinfectant (oxidant) in any part of the treatment process and serve a population of 10,000 or more until December 31, 2003. After December 31, 2003, subdivisions B 3 a (1) through (10) (e) of this section are no longer applicable.*

(1) Samples for TTHM analyses shall be collected quarterly from all community and nontransient noncommunity waterworks which disinfect and serve

10,000 or more individuals. At least four samples for each treatment plant used by the waterworks must be collected using the following criteria: at least 25% of the samples shall be taken at locations within the distribution system reflecting the maximum residence time of the water in the system. The remaining 75% shall be taken at representative locations in the distribution system, taking into account the number of persons served, different sources of water and different treatment methods employed. Sample locations shall be approved by the commissioner.

a. (2) Community and nontransient noncommunity waterworks utilizing surface water in whole or in part, may, upon written request, have the monitoring frequency reduced by the division to a minimum of one sample per quarter taken at a point of maximum residence time of the water in the distribution system. The division must make a written determination that data from at least one year of monitoring and local conditions indicate that TTHM concentrations will be consistently below the PMCL.

If at any time in the reduced monitoring program the results from any analysis exceed the PMCL for TTHMs and such results are confirmed by at least one check sample taken promptly after such results are received, or if the waterworks makes any significant change to its source of water or treatment program, the waterworks shall immediately begin monitoring in accordance with subdivision B 3 of this section. Routine monitoring must continue for at least one year before a reduced monitoring frequency can be implemented again.

b. (3) Community and nontransient noncommunity waterworks utilizing groundwaters only may, upon written request, have the monitoring frequency reduced to a minimum of one sample per year for TTHM. This sample shall be collected at a point in the distribution system reflecting the maximum residence time of the water. The division must make a written determination that the data indicates the system has a TTHM concentration of less than the PMCL and local conditions indicate that TTHM concentrations will be consistently below the PMCL.

If at any time in the reduced monitoring program the results from any TTHM exceed or equal the PMCL and such results are confirmed by at least one check sample taken promptly after such results are received, the waterworks shall immediately begin monitoring in accordance with subdivision B 3 of this section. Routine monitoring must continue for at least one year before a reduced monitoring frequency can be implemented again.

If any significant change occurs in the raw water or if the waterworks treatment process is altered, an additional sample for TTHM shall be analyzed immediately to determine whether the waterworks must comply with the monitoring requirements of subdivision B 3 of this section. The sample shall be collected at a

point in the distribution system reflecting the maximum residence time of the water.

~~e~~ (4) Nothing shall prevent the division from requiring additional samples for TTHM or MTP analysis when conditions warrant.

~~d~~ (5) Nothing shall prevent the TTHM regulations from being applicable to waterworks serving less than 10,000 individuals when in the determination of the division, public health will be better served.

~~e~~ (6) With prior approval of the division, waterworks which utilize multiple wells from a common aquifer may consider these multiple sources as one treatment plant for determining the minimum number of samples to be collected for TTHM analysis.

~~f~~ (7) All samples for TTHM or MTP taken within an established frequency shall be collected within a 24-hour period.

~~g~~ (8) The results of all analyses per quarter shall be arithmetically averaged and reported to the division within 30 days of the owner's receipt of the results (when samples are not analyzed by the state). All samples collected shall be used in the computation of the average unless the results are invalidated for technical reasons.

~~h~~ (9) Analysis shall be conducted in accordance with 12 VAC 5-590-440.

~~i~~ (10) Before any modification to a waterworks is undertaken for the purposes of complying with this section, approval must be obtained in accordance with 12 VAC 5-590-200. In addition, the following information, as a minimum, may be required from the owner:

~~(1)~~ (a) An evaluation of the waterworks for sanitary defects and an evaluation of the source water for biological quality;

~~(2)~~ (b) Evaluation of existing treatment practices and indication of how proposed improvements will minimize disinfectant demand and optimize finished water quality;

~~(3)~~ (c) Provision of results of a baseline water quality survey. Parameters monitored should include coliform, fecal coliform, fecal streptococci, heterotrophic plate counts at 20°C and 35°C, phosphate, ammonia nitrogen and TOC. Virus studies may be necessary as determined by the division;

~~(4)~~ (d) Performance of additional monitoring to assure continued maintenance of optimal biological quality in the finished water;

~~(5)~~ (e) Consideration of a plan to maintain an active disinfectant residual throughout the distribution system at all times during and after proposed modifications.

*b. Unless otherwise noted, all waterworks that use a chemical disinfectant must comply with the requirements of this section as follows:*

*(1) Community or nontransient noncommunity waterworks that use surface water or groundwater under the direct influence of surface water and serving 10,000 or more persons, must comply with this section beginning January 1, 2002.*

*(2) Community or nontransient noncommunity waterworks that use surface water or groundwater under the direct influence of surface water serving fewer than 10,000 persons and waterworks using only groundwater not under the direct influence of surface water must comply with this section beginning January 1, 2004.*

*(3) Transient noncommunity waterworks which use surface water or groundwater under the direct influence of surface water and serving 10,000 or more persons and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2002.*

*(4) Transient noncommunity waterworks which use surface water or groundwater under the direct influence of surface water serving fewer than 10,000 persons and using chlorine dioxide as a disinfectant or oxidant and waterworks using only groundwater not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with any requirements for chlorine dioxide in this section beginning January 1, 2004.*

*c. Waterworks must take all samples during normal operating conditions.*

*(1) Analysis under this section for disinfection byproducts (TTHM, HAA5 and bromate) must be conducted by a laboratory that has received certification by EPA or the state.*

*(2) Measurement under this section of daily chlorite samples at the entry point to the distribution system, disinfection residuals (free chlorine, combined chlorine, total chlorine and chlorine dioxide), alkalinity, bromide, TOC, SUVA (DOC and UV<sub>254</sub>), and pH must be made by a party approved by the commissioner.*

*(3) DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines and chlorine dioxide.*

*d. Failure to monitor in accordance with the monitoring plan required under subdivision B 3 k of this section is a monitoring violation. Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the waterworks' failure to monitor makes it impossible to determine compliance with PMCLs or MRDLs.*

*e. Waterworks may use only data collected under the provisions of this section or the US EPA Information Collection Rule, 40 CFR 141 Subpart M, Information*

---

# Final Regulations

---

Collection Requirements (ICR) for Public Water Systems, to qualify for reduced monitoring.

f. TTHM/HAA5 monitoring. Community or nontransient noncommunity waterworks must monitor TTHM and HAA5 at the frequency indicated below:

(1) Routine monitoring requirements.

(a) Waterworks using surface water or groundwater under the direct influence of surface water and serving at least 10,000 persons must collect four water samples per quarter per treatment plant. At least 25% of all samples collected each quarter must be at locations representing maximum residence time in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system and representative of the entire distribution system. When setting the sample locations the waterworks must take into account number of persons served, different sources of water, and different treatment methods.

(b) Waterworks using surface water or groundwater under the direct influence of surface water and serving from 500 to 9,999 persons must collect one sample per quarter per treatment plant. The sample location must represent maximum residence time in the distribution system.

(c) Waterworks using surface water or groundwater under the direct influence of surface water and serving fewer than 500 persons must collect one sample per year per treatment plant during the month of warmest water temperature. The sample location must represent maximum residence time in the distribution system. If the sample (or average of annual samples, if more than one sample is taken) exceeds PMCL in Table 2.13, the waterworks must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until waterworks meets reduced monitoring criteria.

(d) Waterworks using only groundwater not under direct influence of surface water using chemical disinfectant and serving at least 10,000 persons must collect one sample per quarter per treatment plant. The sample location must represent maximum residence time in the distribution system.

(e) Waterworks using only groundwater not under direct influence of surface water using chemical disinfectant and serving fewer than 10,000 persons must collect one sample per year per treatment plant during the month of warmest water temperature. The sample location must represent maximum residence time in the distribution system. If the sample (or average of annual samples, if more than one sample is taken) exceeds PMCL in Table 2.13, the waterworks must increase monitoring to one sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the waterworks meets the

criteria for reduced monitoring found in subdivision B 3 f (4) of this section.

(f) If a waterworks elects to sample more frequently than the minimum required, at least 25% of all samples collected each quarter (including those taken in excess of the required frequency) must be taken at locations that represent the maximum residence time of the water in the distribution system. The remaining samples must be taken at locations representative of at least average residence time in the distribution system.

(g) With prior approval of the commissioner, waterworks that utilize multiple wells from a common aquifer may consider these multiple sources as one treatment plant for determining the minimum number of samples to be collected for TTHM and HAA5 analysis.

(2) After one year of routine monitoring a waterworks may reduce monitoring, except as otherwise provided, as follows:

(a) Waterworks using surface water or groundwater under the direct influence of surface water and serving at least 10,000 persons that has a source water annual average TOC level, before any treatment, of equal to or less than 4.0 mg/L and a TTHM annual average equal to or less than 0.040 mg/L and HAA5 annual average equal to or less than 0.030 mg/L may reduce its monitoring to one sample per treatment plant per quarter at a distribution system location reflecting maximum residence time.

(b) Waterworks using surface water or groundwater under the direct influence of surface water serving from 500 to 9,999 persons that has a source water annual average TOC level, before any treatment of, equal to or less than 4.0 mg/L and a TTHM annual average equal to or less than 0.040 mg/L and HAA5 annual average equal to or less than 0.030 mg/L may reduce its monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(c) Waterworks using only groundwater not under the direct influence of surface water, using chemical disinfectant and serving at least 10,000 persons that has a TTHM annual average of equal to or less than 0.040 mg/L and HAA5 annual average of equal to or less than 0.030 mg/L may reduce its monitoring to one sample per treatment plant per year at a distribution system location reflecting maximum residence time during the month of warmest water temperature.

(d) Waterworks using only groundwater not under the direct influence of surface water, using chemical disinfectant and serving fewer than 10,000 persons that has a TTHM annual average equal to or less than 0.040 mg/L and HAA5 annual average equal to or less than 0.030 mg/L for two consecutive years or



TTHM annual average equal to or less than 0.020 mg/L and HAA5 annual average of equal to or less than 0.015 mg/L for one year may reduce its monitoring to one sample per treatment plant per three-year monitoring cycle at a distribution system location reflecting maximum residence time during the month of warmest water temperature, with the three-year cycle beginning on January 1 following the quarter in which the system qualifies for reduced monitoring.

(e) Waterworks using surface water or groundwater under the direct influence of surface water serving fewer than 500 persons may not reduce its monitoring to less than one sample per treatment plant per year.

(3) Waterworks on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for waterworks that must monitor quarterly) or the result of the sample (for waterworks that must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Waterworks that do not meet these levels must resume monitoring at the frequency identified in subdivision B 3 f (1) of this section in the quarter immediately following the quarter in which the waterworks exceeds 0.060 mg/L or 0.045 mg/L for TTHMs or HAA5, respectively. For waterworks using only groundwater not under the direct influence of surface water and serving fewer than 10,000 persons, if either the TTHMs annual average is greater than 0.080 mg/L or the HAA5 annual average is greater than 0.060 mg/L, the waterworks must go to increased monitoring identified in subdivision B 3 f (1) of this section in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHM or HAA5 respectively.

(4) Waterworks on increased monitoring may return to routine monitoring if, after at least one year of monitoring, their TTHM annual average is equal to or less than 0.060 mg/L and their HAA5 annual average is equal to or less than 0.045 mg/L.

(5) The commissioner may return a waterworks to routine monitoring at the commissioner's discretion.

g. Chlorite. Community and nontransient noncommunity waterworks using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(1) Routine monitoring.

(a) Daily monitoring. Waterworks must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite PMCL in Table 2.13, the waterworks must take additional samples in the distribution system the following day at the locations required by subdivision B 3 g (1) (c) of this section, in addition to the sample required at the entrance to the distribution system.

(b) Monthly monitoring. Waterworks must take a three-sample set each month in the distribution

system. The waterworks must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three-sample sets, at the specified locations). The waterworks may use the results of additional monitoring conducted under subdivision B 3 g (1) (c) of this section to meet the requirement for monitoring in this paragraph.

(c) Additional monitoring requirements. On each day following a routine sample monitoring result that exceeds the chlorite PMCL in Table 2.13 at the entrance to the distribution system, the waterworks is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(2) Reduced monitoring.

(a) Chlorite monitoring at the entrance to the distribution system required by subdivision B 3 g (1) (a) of this section may not be reduced.

(b) Chlorite monitoring in the distribution system required by subdivision B 3 g (1) (b) of this section may be reduced to one three-sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under subdivision B 3 g (1) (b) of this section has exceeded the chlorite PMCL in Table 2.13 and the waterworks has not been required to conduct monitoring under subdivision B 3 g (1) (c) of this section. The waterworks may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken quarterly in the distribution system under subdivision B 3 g (1) (b) of this section exceeds the chlorite PMCL or the waterworks is required to conduct monitoring under subdivision B 3 g (1) (c) of this section, at which time the waterworks must revert to routine monitoring.

h. Bromate.

(1) Each community and nontransient noncommunity waterworks treatment plant using ozone, for disinfection or oxidation, must take one sample per month and analyze it for bromate. Waterworks must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(2) Waterworks required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the waterworks demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for one year. The waterworks may

---

# Final Regulations

---

remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L based upon representative monthly measurements. If the running annual average source water bromide concentration is equal to or greater than 0.05 mg/L, the waterworks must resume routine monitoring required by subdivision B 3 h (1) of this section.

(3) Bromide. Waterworks required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the waterworks demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly measurements for one year. The waterworks must continue bromide monitoring to remain on reduced bromate monitoring.

i. Monitoring requirements for disinfectant residuals.

(1) Chlorine and chloramines.

(a) Waterworks that use chlorine or chloramines must measure the residual disinfectant level in the distribution system at the same point in the distribution system and at the same time as total coliforms are sampled, as specified in 12 VAC 5-590-370 A. Waterworks that use surface water or groundwater under the direct influence of surface water may use the results of residual disinfectant concentration sampling found in 12 VAC 5-590-370 B 7 c (1) in lieu of taking separate samples.

(b) Residual disinfectant level monitoring may not be reduced.

(2) Chlorine dioxide.

(a) Waterworks that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL in Table 2.12, the waterworks must take samples in the distribution system the following day at the locations required by subdivision B 3 i (2) (b) of this section, in addition to the sample required at the entrance to the distribution system.

(b) On each day following a routine sample monitoring result that exceeds the MRDL in Table 2.12, the waterworks is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the waterworks must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance

to the distribution system (i.e., booster chlorination), the waterworks must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(c) Chlorine dioxide monitoring may not be reduced.

j. Monitoring requirements for disinfection byproduct precursors (DBPP).

(1) Community or nontransient noncommunity waterworks using surface water or groundwater under the direct influence of surface water and using conventional filtration treatment (as defined in 12 VAC 5-590-10) must monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. All waterworks required to monitor under this subdivision (B 3 j (1)) must also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, all waterworks must monitor for alkalinity in the source water prior to any treatment. Waterworks must take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(2) Community or nontransient noncommunity waterworks that use surface water or groundwater under the direct influence of surface water with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The waterworks must revert to routine monitoring in the month following the quarter when the annual average treated water TOC equal to or greater than 2.0 mg/L.

k. Each waterworks required to monitor under subdivision B 3 of this section must develop and implement a monitoring plan. The waterworks must maintain the plan and make it available for inspection by the commissioner and the general public no later than 30 days following the applicable compliance dates in subdivision B 3 b of this section. All community or nontransient noncommunity waterworks that use surface water or groundwater under the direct influence of surface water serving more than 3,300 people must submit a copy of the monitoring plan to the commissioner no later than the date of the first report required under 12 VAC 5-590-530 A. The commissioner may also require the plan to be submitted by any other waterworks. After review, the commissioner may require changes in any plan elements. The plan must include at least the following elements:

(1) *Specific locations and schedules for collecting samples for any parameters included in subdivision B 3 of this section.*

(2) *How the waterworks will calculate compliance with PMCLs, MRDLs, and treatment techniques.*

(3) *The sampling plan for a consecutive waterworks must reflect the entire consecutive distribution system.*

**REGISTRAR'S NOTICE:** There are no changes to subdivisions B 4 through B 6 of this section. Due to their length, the text for those subdivisions is not set out.

**7. ~~Waterworks required to filter~~ Monitoring filtration and disinfection.**

a. The owner of a waterworks that uses a surface water source or a groundwater source under the direct influence of surface water and provides filtration treatment must monitor in accordance with this section beginning June 29, 1993, or when filtration is installed, whichever is later.

~~a.~~ b. Turbidity measurements as required by 12 VAC 5-590-410 ~~G~~ F shall be performed on representative samples of the filtered water every four hours (or more frequently) that the waterworks serves water to the public. A waterworks owner may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the division. For any waterworks using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the division may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. For waterworks serving 500 or fewer persons, the division may reduce the turbidity sampling frequency to once per day, regardless of the type of filtration treatment used, if the division determines that less frequent monitoring is sufficient to indicate effective filtration performance.

(1) *In addition to the above, a waterworks serving at least 10,000 people supplied by surface water or groundwater under the direct influence of surface water that provides conventional filtration treatment or direct filtration must conduct continuous monitoring of turbidity for each individual filter, using an approved method in 12 VAC 5-590-440, and must calibrate turbidimeters using the procedure specified by the manufacturer. Waterworks must record the results of individual filter monitoring every 15 minutes.*

(2) *If there is a failure in the continuous turbidity monitoring equipment, the waterworks must conduct grab sampling every four hours in lieu of continuous monitoring but for no more than five working days following the failure of the equipment.*

~~b.~~ c. The residual disinfectant concentration of the water entering the distribution system shall be monitored continuously, and the lowest value shall be recorded each day, except that if there is a failure in the continuous monitoring equipment, grab sampling every four hours

may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment, and owners of waterworks serving 3,300 or fewer persons may take grab samples in lieu of continuous monitoring on an ongoing basis at the frequencies each day prescribed below:

Waterworks size by population	Samples/Day <sup>1</sup>
500 or less	1
501 to 1,000	2
1,000 to 2,500	3
2,501 to 3,300	4

<sup>1</sup>The day's samples cannot be taken at the same time. The sampling intervals are subject to commissioner's review and approval.

If at any time the residual disinfectant concentration falls below 0.2 mg/L in a waterworks using grab sampling in lieu of continuous monitoring, the waterworks owner shall take a grab sample every four hours until the residual disinfectant concentration is equal to or greater than 0.2 mg/L.

(1) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in subsection A of this section, except that the division may allow a waterworks owner which uses both a surface water source or a groundwater source under direct influence of surface water, and a groundwater source to take disinfectant residual samples at points other than the total coliform sampling points if the division determines that such points are more representative of treated (disinfected) water quality within the distribution system. Heterotrophic bacteria, measured as heterotrophic plate count (HPC) as specified in 12 VAC 5-590-420 B may be measured in lieu of residual disinfectant concentration.

(2) If the division determines, based on site-specific considerations, that a waterworks has no means for having a sample transported and analyzed for HPC by a certified laboratory under the requisite time and temperature conditions and that the waterworks is providing adequate disinfection in the distribution system, the requirements of subdivision B 7 (1) of this section do not apply to that waterworks.

~~c.~~ d. The following information on the samples taken in the distribution system in conjunction with total coliform monitoring pursuant to 12 VAC 5-590-420 B shall be reported monthly to the division by the waterworks owner:

- (1) Number of instances where the residual disinfectant concentration is measured;
- (2) Number of instances where the residual disinfectant concentration is not measured but HPC is measured;
- (3) Number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

---

# Final Regulations

---

(4) Number of instances where no residual disinfectant concentration is detected and where the HPC is greater than 500/mL;

(5) Number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/mL.

(6) For the current and previous month the waterworks serves water to the public, the value of "V" in percent in the following formula:

$$V = [(c + d + e) / (a + b)] \times 100$$

where

a = the value in subdivision B 7 e d (1) of this section,

b = the value in subdivision B 7 e d (2) of this section,

c = the value in subdivision B 7 e d (3) of this section,

d = the value in subdivision B 7 e d (4) of this section,

e = the value in subdivision B 7 e d (5) of this section,

(7) If the division determines, based on site-specific considerations, that a waterworks owner has no means for having a sample transported and analyzed for HPC by a certified laboratory within the requisite time and temperature conditions and that the waterworks is providing adequate disinfection in the distribution system, the requirements of subdivision B 7 b c (1) of this section do not apply.

~~e.~~ A waterworks owner need not report the data listed in 12 VAC 5-590-530 C 2 a if all data listed in 12 VAC 5-590-530 C 2 a through c remain on file at the waterworks and the division determines that the waterworks owner has submitted all the information required by 12 VAC 5-590-530 C 2 a through c for at least 12 months.

8. Operational. Waterworks owners may be required by the division to collect additional samples to provide quality control for any treatment processes that are employed.

C. Physical. All samples for turbidity analysis shall be taken at a representative entry point or points to the water distribution system unless otherwise specified. Turbidity samples shall be analyzed, at least once per day at all waterworks that use surface water sources or groundwater sources under the direct influence of surface water.

D. Radiological. The frequency of radiological sampling shall be accordance with 12 VAC 5-590-400.

## 12 VAC 5-590-410. Determination of compliance.

For the purposes of determining compliance with a PMCL or action level, the following criteria shall be used:

A. Bacteriological results. Compliance with the PMCL for coliform bacteria shall be determined as specified in 12 VAC 5-590-380 C. Repeat samples shall be used as a basis for determining compliance with these regulations.

B. Inorganic chemicals.

1. Antimony, asbestos, barium, beryllium, cadmium, cyanide (as free cyanide), chromium, fluoride, mercury, nickel, selenium, and thallium. Where the results of sampling for antimony, asbestos, barium, beryllium, cadmium, cyanide (as free cyanide), chromium, fluoride, mercury, nickel, selenium, or thallium exceed the PMCL, the waterworks shall take a confirmation sample, at the same sampling point, within two weeks of notification of the analytical results of the first sample.

a. The results of the initial and confirmation samples shall be averaged to determine compliance with subdivision 1 c of this subsection. The commissioner has the discretion to delete results of obvious sampling errors.

b. The commissioner may require more frequent monitoring.

c. Compliance with antimony, asbestos, barium, beryllium, cadmium, cyanide (as free cyanide), chromium, fluoride, mercury, nickel, selenium, and thallium in Table 2.2 shall be determined based on the analytical result(s) obtained at each sampling point.

(1) For waterworks which are conducting monitoring more frequently than annually, compliance with the PMCL for antimony, asbestos, barium, beryllium, cadmium, cyanide (as free cyanide), chromium, fluoride, mercury, nickel, selenium, and thallium is determined by a running annual average at each sampling point. If the average at any sampling point is greater than the PMCL, then the waterworks is out of compliance. If any one sample would cause the annual average to be exceeded, then the waterworks is out of compliance immediately. Any sample below the detection limit shall be calculated at zero for the purpose of determining the annual average. (NOTE: Refer to detection definition at 12 VAC 5-590-370 B 2 h.)

(2) For waterworks which are monitoring annually, or less frequently, the waterworks is out of compliance with the PMCL for antimony, asbestos, barium, beryllium, cadmium, cyanide (as free cyanide), chromium, fluoride, mercury, nickel, selenium, and thallium if the average of the original sample and a confirmation sample of a contaminant at any sampling point is greater than the PMCL. However, if the confirmation sample is not collected, the waterworks is in violation of the PMCL for antimony, asbestos, barium, beryllium, cadmium, cyanide (as free cyanide), chromium, fluoride, mercury, nickel, selenium, or thallium.

2. Nitrate and nitrite. Compliance with the PMCL is determined based on one sample from each sampling point if the levels of these contaminants are below the PMCLs. Where nitrate or nitrite sample results exceed the PMCL, the waterworks owner shall take a confirmation sample from the same sampling point that exceeded the PMCL within 24 hours of the waterworks' receipt of the analytical results of the first sample. The results of the initial and confirmation sample shall be averaged to determine compliance with this subdivision. Waterworks owners unable to comply with the

24-hour sampling requirement must immediately notify the consumers in the area served by the waterworks in accordance with 12 VAC 5-590-540. Waterworks exercising this option must take and analyze a confirmation sample within two weeks of notification of the analytical results of the first sample. The commissioner may require more frequent monitoring. The commissioner has the discretion to delete results of obvious sampling errors.

3. Compliance with the PMCL for arsenic is determined by the average of four analyses made pursuant to 12 VAC 5-590-370 B 1 d (6). When the average is rounded off to the same number of significant figures as the PMCL and exceeds the PMCL the owner shall notify the commissioner and give notice to the public pursuant to 12 VAC 5-590-540. Monitoring after public notification shall be at a frequency designated by the commissioner and shall continue until the PMCL has not been exceeded in two successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

## C. Organic chemicals.

1. VOCs and SOCs. A confirmation sample shall be required for positive results for contaminants listed in Table 2.3. The commissioner has the discretion to delete results of obvious sampling errors from this calculation.

a. The results of the initial and confirmation sample shall be averaged to determine the waterworks' compliance in accordance with subdivision 1 b of this subsection.

b. Compliance with Table 2.3 shall be determined based on the analytical results obtained at each sampling point.

(1) For waterworks which are conducting monitoring more frequently than annually, compliance is determined by a running annual average of all samples taken at each sampling point. If the annual average of any sampling point is greater than the PMCL, then the waterworks is out of compliance. If the initial sample or a subsequent sample would cause the annual average to be exceeded, then the waterworks is out of compliance immediately. Any samples below the detection limit shall be calculated as zero for purposes of determining the annual average. (Note: Refer to detection definition at 12 VAC 5-590-370 B 2 h.)

(2) If monitoring is conducted annually, or less frequently, the waterworks is out of compliance if the level of a contaminant at any sampling point is greater than the PMCL. The determination of compliance will be based on the average of the initial and confirmation sample.

2. *Disinfectant residuals, disinfection byproducts and disinfection byproduct precursors.*

a. Trihalomethanes. Compliance with 12 VAC 5-590-370 B 3 a shall be determined based on a running annual average of quarterly samples taken in accordance with 12 VAC 5-590-370 B 3 a (1) through B 3 a (10) (e).

b. Compliance with 12 VAC 5-590-370 B 3 b through B 3 k is as follows:

### (1) General requirements.

(a) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the waterworks fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the waterworks' failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(b) All samples taken and analyzed under the provisions of this subpart must be included in determining compliance, even if that number is greater than the minimum required.

(c) If during the first year of monitoring under 12 VAC 5-590-370 B 3 b, any individual quarter's average will cause the running annual average of that waterworks to exceed the PMCL in Table 2.13, the waterworks is out of compliance at the end of that quarter.

### (2) Disinfection byproducts.

#### (a) TTHMs and HAA5.

(i) For waterworks monitoring quarterly, compliance with PMCLs in Table 2.13 must be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the waterworks as prescribed by 12 VAC 5-590-370 B 3 f (1).

(ii) For waterworks monitoring less frequently than quarterly, the waterworks demonstrate PMCL compliance if the average of samples taken that year under the provisions of 12 VAC 5-590-370 B 3 f (1) does not exceed the PMCLs in Table 2.13. If the average of these samples exceeds the PMCL, the waterworks must increase monitoring to once per quarter per treatment plant and such a waterworks is not in violation of the PMCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarter of monitoring will cause the running annual average to exceed the PMCL, in which case the waterworks is in violation at the end of that quarter. Waterworks required to increase monitoring frequency to quarterly monitoring must calculate compliance by including the sample that triggered the increase monitoring plus the following three quarter of monitoring.

(iii) If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the PMCL in Table 2.13, the waterworks is in violation of the PMCL and must notify the public pursuant to

---

# Final Regulations

---

12 VAC 5-590-540 in addition to reporting to the commissioner pursuant to 12 VAC 5-590-530.

(iv) If a waterworks fails to complete four consecutive quarters of monitoring, compliance with the PMCL in Table 2.13 for the last four-quarter compliance period must be based on an average of the available data.

(b) Bromate. Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the waterworks takes more than one sample, the average of all samples taken during the month) collected by the waterworks as prescribed by 12 VAC 5-590-370 B 3 h. If the average of samples covering any consecutive four-quarter period exceeds the PMCL in Table 2.13, the waterworks is in violation of the PMCL and must notify the public pursuant to 12 VAC 5-590-540, in addition to reporting to the commissioner pursuant to 12 VAC 5-590-530. If a waterworks fails to complete 12 consecutive months' monitoring, compliance with the PMCL for the last four-quarter compliance period must be based on an average of the available data.

(c) Chlorite. Compliance must be based on an arithmetic average of each three sample set taken in the distribution system as prescribed by 12 VAC 5-590-370 B 3 g (1) (b) and (c). If the arithmetic average of any three sample set exceeds the PMCL in Table 2.13, the waterworks is in violation of the PMCL and must notify the public pursuant to 12 VAC 5-590-540, in addition to reporting to the commissioner pursuant to 12 VAC 5-590-530.

(3) Disinfectant residuals.

(a) Chlorine and chloramines.

(i) Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the waterworks under 12 VAC 5-590-370 B 3 i (1) (a). If the average covering any consecutive four-quarter period exceeds the MRDL in Table 2.12, the waterworks is in violation of the MRDL and must notify the public pursuant to 12 VAC 5-590-540, in addition to reporting to the commissioner pursuant to 12 VAC 5-590-530.

(ii) In cases where waterworks switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted pursuant to 12 VAC 5-590-530 must clearly indicate which residual disinfectant was analyzed for each sample.

(b) Chlorine dioxide.

(i) Acute violations. Compliance must be based on consecutive daily samples collected by the waterworks under 12 VAC 5-590-370 B 3 i (2) (a). If any daily sample taken at the entrance to the distribution system exceeds the MRDL in Table 2.12, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the waterworks is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL and must notify the public pursuant to the procedures for acute health risks in 12 VAC 5-590-540 B 3 d in addition to reporting to the commissioner in pursuant to 12 VAC 5-590-530. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the waterworks must notify the public of the violation in accordance with the provisions for acute violations under 12 VAC 5-590-540 B 3 e in addition to reporting to the commissioner in pursuant to 12 VAC 5-590-530.

(ii) Nonacute violations. Compliance must be based on consecutive daily samples collected by the waterworks under 12 VAC 5-590-370 B 3 i (2) (a). If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL in Table 2.12 and all distribution system samples taken are below the MRDL, the waterworks is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and shall notify the public pursuant to the procedures for nonacute health risks in Appendix F Paragraph 78 in addition to reporting to the commissioner in pursuant to 12 VAC 5-590-530. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the waterworks must notify the public of the violation in accordance with the provisions for nonacute violations under Appendix F Paragraph 78 in addition to reporting to the commissioner in pursuant to 12 VAC 5-590-530.

(c) Disinfection byproduct precursors (DBPP). Compliance must be determined as specified by 12 VAC 5-590-420 H 3. Waterworks may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the waterworks. This monitoring is not required and failure to monitor during this period is not a violation. However, any waterworks that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements in 12 VAC 5-590-420 H 2 b and must therefore apply for alternate minimum TOC removal

*(Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed pursuant to 12 VAC 5-590-420 H 2 c and is in violation. Waterworks may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For waterworks required to meet Step 1 TOC removals, if the value calculated under 12 VAC 5-590-420 H 3 a (5) is less than 1.00, the waterworks is in violation of the treatment technique requirements and must notify the public pursuant to 12 VAC 5-590-540 in addition to reporting to the commissioner pursuant to 12 VAC 5-90-530.*

D. Radiological results (gross alpha, total radium and man-made radioactivity). Compliance with the radiological Primary Maximum Contaminant Levels shall be based on the annual average results. Primary Maximum Contaminant Levels are indicated in Table 2.5. Sampling for radiological analysis shall be in compliance with 12 VAC 5-590-400 A 1 and A 2. Furthermore, compliance shall be determined by rounding off results to the same number of significant figures as the Primary Maximum Contaminant Level for the substance in question.

E. Lead and copper action levels.

1. The lead action level is exceeded if the concentration of lead in more than 10% of tap water samples collected during any monitoring period conducted in accordance with 12 VAC 5-590-370 B 6 a is greater than 0.015 mg/L (i.e., if the "90th percentile" lead level is greater than 0.015 mg/L).

2. The copper action level is exceeded if the concentration of copper in more than 10% of tap water samples collected during any monitoring period conducted in accordance with 12 VAC 5-590-370 B 6 a is greater than 1.3 mg/L (i.e., if the "90th percentile" copper level is greater than 1.3 mg/L).

3. The 90th percentile lead and copper levels shall be computed as follows:

a. The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

b. The number of samples taken during the monitoring period shall be multiplied by 0.9.

c. The contaminant concentration in the numbered sample yielded by the calculation in subdivision 3 b of this subsection is the 90th percentile contaminant level.

d. For waterworks serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

F. Turbidity. The requirements in this subsection apply to filtered waterworks until June 29, 1993. The requirements in

this section apply to unfiltered waterworks with surface water sources or groundwater sources under the direct influence of surface water that are required to install filtration equipment until June 29, 1993, or until filtration is installed, whichever is later. When a sample exceeds the PMCL for turbidity a confirmation sample shall be collected for analysis as soon as possible. In cases where a turbidimeter is required at the waterworks, the preferable resampling time is within one hour of the initial sampling. The repeat sample shall be the sample used for the purpose of calculating the monthly average. Compliance for public notification purposes shall be based on the monthly averages of the daily samples. However, public notification is also required if the average of samples taken on two consecutive days exceeds five NTU.

G. All analyses for PMCL and action level compliance determinations shall be consistent with current Environmental Protection Agency Regulations found at 40 CFR 141.

### **12 VAC 5-590-420. Treatment technique requirements.**

This section establishes treatment technique requirements in lieu of maximum contaminant levels for specified contaminants. Failure to meet any requirement of this section after the applicable date specified is a treatment technique violation.

A. Beginning June 29, 1993, the filtration and disinfection provisions of this section are required treatment techniques for any waterworks supplied by a surface water source and waterworks supplied by a groundwater source under the direct influence of surface water. Prior to that date, waterworks are governed by the disinfection requirements of 12 VAC 5-590-500. In addition, this section establishes treatment technique requirements in lieu of PMCL's for the following contaminants: *Giardia lamblia*, viruses, heterotrophic bacteria (HPC), *Legionella* *Cryptosporidium* (for waterworks serving at least 10,000 people and using surface water or groundwater under the direct influence of surface water), and turbidity. Each waterworks with a surface water source or a groundwater source under the direct influence of surface water shall provide treatment of that source water that complies with these treatment technique requirements. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

1. At least 99.9% (3-log) removal and/or inactivation of *Giardia lamblia* cysts between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer; and

2. At least 99.99% (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

3. Beginning January 1, 2002, waterworks serving at least 10,000 people shall also reliably achieve at least 99% (2-log) removal of *Cryptosporidium* between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

---

# Final Regulations

---

B. A waterworks using a surface water source or a groundwater source under the direct influence of surface water is considered to be in compliance with the requirements of subsection A of this section if it meets the following disinfection and filtration requirements:

1. Disinfection. Waterworks with a surface water source or a groundwater source under the direct influence of surface water must provide disinfection treatment in accordance with this section by June 29, 1993.

a. The disinfection treatment must be sufficient to ensure that the total treatment processes of that waterworks achieve at least 99.9% (3-log) inactivation and/or removal of *Giardia lamblia* cysts and at least 99.99% (4-log) inactivation and/or removal of viruses.

b. The residual disinfectant concentration in the water entering the distribution system cannot be less than 0.2 mg/L for more than four hours.

c. The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide cannot be undetectable in more than 5.0% of the samples each month, for any two consecutive months that the waterworks serves water to the public. Water in the distribution system with a heterotrophic bacteria concentration less than or equal to 500/mL, measured as heterotrophic plate count (HPC) is deemed to have a detectable disinfectant residual for purposes of determining compliance with this requirement. Thus, the value "V" in percent in the following formula cannot exceed 5.0% in one month, for any two consecutive months.

$$V = [(c + d + e) / (a + b)] \times 100$$

a = number of instances where the residual disinfectant concentration is measured;

b = number of instances where the residual disinfectant concentration is not measured but HPC is measured;

c = number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

d = number of instances where no residual disinfectant concentration is detected and where the HPC is greater than 500/mL; and

e = number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/mL.

d. The division may determine, based on site-specific considerations, that a waterworks owner has no means for having a sample transported and analyzed for HPC by a certified laboratory under the requisite time and temperature conditions and the waterworks is providing adequate disinfection in the distribution system, that the requirements of subdivision B 1 c of this section does not apply.

2. Filtration. (Also see 12 VAC 5-590-880.) All waterworks that use a surface water source or a groundwater source

under the direct influence of surface water shall provide filtration treatment by June 29, 1993, by using one of the following methods:

a. Conventional filtration or direct filtration.

(1) The turbidity level of representative samples of a waterworks' filtered water shall be less than or equal to 0.5 NTU in at least 95% of the measurements taken each month, except that if the division determines that the system is capable of achieving at least 99.9% removal (3-log) and/or inactivation of *Giardia lamblia* cysts at some turbidity level higher than 0.5 NTU in at least 95% of the measurements taken each month, the division may substitute this higher turbidity limit for that waterworks. However, in no case may the division approve a turbidity limit that allows more than one NTU in more than 5.0% of the samples taken each month.

(2) The turbidity level of representative samples of a waterworks' filtered water shall at no time exceed five NTU.

(3) *Beginning January 1, 2002, waterworks serving at least 10,000 people that use conventional filtration treatment or direct filtration must:*

(a) *Achieve a filtered water turbidity of less than or equal to 0.3 NTU in at least 95% of the measurements taken each month. Samples must be representative of the waterworks' filtered water.*

(b) *The turbidity level of representative samples of a system's filtered water must at no time exceed 1 NTU, measured as specified in 12 VAC 5-590-440.*

(c) *A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the commissioner.*

b. Slow sand filtration.

(1) The turbidity level of representative samples of a waterworks' filtered water must be less than or equal to one NTU in at least 95% of the measurements taken each month, except that if the division determines there is no significant interference with disinfection at a higher turbidity level, the division may substitute this higher turbidity limit for that waterworks.

(2) The turbidity level of representative samples of a waterworks' filtered water shall at no time exceed five NTU.

c. Diatomaceous earth filtration.

(1) The turbidity level of representative samples of a waterworks' filtered water shall be less than or equal to one NTU in at least 95% of the measurements taken each month.

(2) The turbidity level of representative samples of a waterworks' filtered water shall at no time exceed five NTU.

d. Other filtration technologies. A waterworks owner may use a filtration technology not listed in subdivisions 2 a



through c of this subsection if the owner demonstrates to the division (by pilot plant studies or other means) that the alternative filtration technology, in combination with disinfection treatment, achieves 99.9% removal (3-log) and/or inactivation of *Giardia lamblia* cysts and 99.99% removal (4-log) and/or inactivation of viruses, and beginning January 1, 2002, for waterworks serving at least 10,000 people, 99% of *Cryptosporidium* oocysts. For a waterworks owner that makes this demonstration, ~~the requirements of subdivision B 2 b of this section also apply~~ a turbidity limit will be established by the commissioner, which the waterworks must meet at least 95% of the time. In addition, the commissioner will establish a maximum turbidity limit that the waterworks must not exceed at any time. These turbidity limits shall consistently achieve the removal rates and/or inactivation rates stated in this subdivision.

e. Each waterworks using a surface water source or groundwater source under the direct influence of surface water shall be operated by licensed operators of the appropriate classification as per the Virginia Board for Waterworks and Wastewater Works Operators Regulations (18 VAC 155-20-10 et seq.).

f. If the division has determined that a waterworks has a surface water source or a groundwater source under the direct influence of surface water, filtration is required. The waterworks shall provide disinfection during the interim before filtration is installed as follows:

(1) The residual disinfectant concentration in the distribution system cannot be less than 2.0 mg/L for more than four hours.

(2) The waterworks owner shall issue continuing boil water notices through the public notification procedure in 12 VAC 5-590-540 until such time as the required filtration equipment is installed.

(3) As an alternative to subdivisions B f 2 (1) and (2) of this section, the waterworks owner may demonstrate that the source can meet the appropriate C-T values shown in Appendix L and be considered to satisfy the requirements for 99.9% removal of *Giardia* cysts and virus, respectively. In addition, the waterworks owner must comply with the following:

(a) Justify that other alternative sources of supply meeting these regulations are not immediately available.

(b) Analysis of the source is performed quarterly for the contaminants listed in Tables 2.2, 2.3, and 2.4. The primary maximum contaminant levels shall not be exceeded.

(c) Daily turbidity monitoring and maintenance of the turbidity level not to exceed five NTU.

(d) MPN analysis of the raw water based on the minimum sample frequency chart below:

Population Served	Coliform Samples/Week
less than or equal to 500	1
501 - 3,300	2
3,301 - 10,000	3
10,001 - 25,000	4
>25,000	5

Note: Must be taken on separate days.

(e) Bacteriological sampling of the distribution system at a frequency of twice that required by Table 2.1.

## C. Lead and copper corrosion control techniques.

1. Corrosion control treatment requirements. The owners of all community and nontransient noncommunity waterworks shall install and operate optimum corrosion control treatment by completing the corrosion control treatment requirements described below which are applicable to such waterworks owners under subdivision C 2 of this section.

a. Waterworks owners proposal regarding corrosion control treatment. Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, the owners of small and medium-size waterworks exceeding the lead or copper action level shall propose installation of one or more of the corrosion control treatments listed in subdivision C 1 c (1) of this section which the waterworks owner believes constitutes optimal corrosion control for that waterworks. The commissioner may require the waterworks owner to conduct additional water quality parameter monitoring in accordance with 12 VAC 5-590-370 B 6 b (2) of this section to assist the commissioner in reviewing the proposal.

b. Applicability of studies of corrosion control treatment (applicable to small and medium-size waterworks). The commissioner may require the owner of any small or medium-size waterworks that exceeds the lead or copper action level to perform corrosion control studies under subdivision C 1 c of this section to identify optimal corrosion control treatment for the waterworks.

### c. Corrosion control studies.

(1) The owner of any waterworks required by the commissioner to perform corrosion control studies shall evaluate the effectiveness of each of the following treatments, and, if appropriate, combinations of the following treatments to identify the optimal corrosion control treatment for that waterworks:

(a) Alkalinity and pH adjustment;

(b) Calcium hardness adjustment; and

(c) The addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective corrosion inhibitor residual concentration in all test tap samples.

(2) The waterworks owner shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other waterworks of similar size, water chemistry and distribution system configuration.

---

# Final Regulations

---

(3) The waterworks owner shall measure the following water quality parameters in any tests conducted under this paragraph before and after evaluating the corrosion control treatments listed above:

- (a) Lead;
- (b) Copper;
- (c) pH;
- (d) Alkalinity;
- (e) Calcium;
- (f) Conductivity;
- (g) Orthophosphate (when an inhibitor containing a phosphate compound is used);
- (h) Silicate (when an inhibitor containing a silicate compound is used);
- (i) Water temperature.

(4) The waterworks owner shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and document such constraints with at least one of the following:

- (a) Data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another waterworks with comparable water quality characteristics; and/or
- (b) Data and documentation demonstrating that the waterworks has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(5) The waterworks owner shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

(6) On the basis of an analysis of the data generated during each evaluation, the waterworks owner shall propose to the field office in writing, the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that waterworks. The owner shall provide a rationale for its recommendation along with all supporting documentation specified in subdivision C 1 c (1) through (5) of this section.

d. Approval of optimal corrosion control treatment.

(1) Based upon consideration of available information including, where applicable, studies performed under subdivision C 1 c of this section and a waterworks' owner's proposed treatment alternative, the commissioner shall either approve the corrosion control treatment option recommended by the owner, or designate alternative corrosion control treatment(s) from among those listed in subdivision C 1 c (1) of this section. When approving optimal treatment the commissioner shall consider the effects that additional

corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

(2) The commissioner shall notify the waterworks owner of its determination on optimal corrosion control treatment in writing and explain the basis for this determination. If the commissioner requests additional information to aid a review, the owner shall provide the information.

e. Installation of optimal corrosion control. Each waterworks owner shall properly install and operate throughout the waterworks the optimal corrosion control treatment approved by the commissioner under subdivision C 1 d of this section and under 12 VAC 5-590-190.

f. Commissioner's review of treatment and specification of optimal water quality control parameters.

(1) The commissioner shall evaluate the results of all lead and copper tap samples and water quality parameter samples submitted by the waterworks owner and determine whether the owner has properly installed and operated the optimal corrosion control treatment approved by the commissioner in subdivision C 1 d of this section. Upon reviewing the results of tap water and water quality parameter monitoring by the owner, both before and after the waterworks installs optimal corrosion control treatment, the commissioner shall designate:

- (a) A minimum value or a range of values for pH measured at each entry point to the distribution system;
- (b) A minimum pH value, measured in all tap samples. Such value shall be equal to or greater than 7.0, unless the commissioner determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the waterworks owner to optimize corrosion control;
- (c) If a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the commissioner determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;
- (d) If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;
- (e) if calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

(2) The values for the applicable water quality control parameters listed above shall be those that the commissioner determines to reflect optimal corrosion

control treatment for the waterworks. The commissioner may designate values for additional water quality control parameters determined by the commissioner to reflect optimal corrosion control for the waterworks. The commissioner shall notify the waterworks owner in writing of these determinations and explain the basis for its decisions.

g. Continued operation and monitoring. The owners of all waterworks shall maintain water quality parameter values at or above minimum values or within ranges designated by the commissioner under subdivision C 1 f of this section in each sample collected under 12 VAC 5-590-370 B 6 b (4). If the water quality parameter value of any sample is below the minimum value or outside the range designated by the commissioner, then the waterworks is out of compliance with this paragraph. As specified in 12 VAC 5-590-370 B 6 b (4), the waterworks owner may take a confirmation sample for any water quality parameter value no later than three days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under this paragraph. The commissioner has the discretion to delete results of obvious sampling errors from this calculation.

h. Modification of the commissioner's treatment decisions. Upon his own initiative or in response to a request by a waterworks owner or other interested party, the commissioner may modify its determination of the optimal corrosion control treatment under ~~12 VAC 5-590-420 subdivision C 1 d of this section~~ or optimal water quality control parameters under ~~12 VAC 5-590-420 subdivision C 1 f of this section~~. A request for modification by an owner or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The commissioner may modify the determination where it is concluded that such change is necessary to ensure that the waterworks continues to optimize corrosion control treatment. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the commissioner's decision, and provide an implementation schedule for completing the treatment modifications.

## 2. Corrosion control treatment steps.

a. Waterworks owners shall complete the applicable corrosion control treatment requirements described in ~~12 VAC 5-590-420 subdivision C 1 of this section~~ by the deadlines established in this section.

(1) The owner of a large waterworks (serving greater than 50,000 persons) shall complete the corrosion control treatment steps specified in ~~12 VAC 5-590-420 subdivision C 2 d of this section~~, unless the owner is deemed to have optimized corrosion control under ~~12 VAC 5-590-420 subdivision C 2 b (2) of this section~~ or ~~12 VAC 5-590-420 C 2 b (3) of this section~~.

(2) The owner of a small waterworks (serving less than 3,300 persons) and a medium-size waterworks (serving greater than 3,300 and less than 50,000 persons) shall

complete the corrosion control treatment steps specified in ~~12 VAC 5-590-420 subdivision C 2 e of this section~~, unless the owner is deemed to have optimized corrosion control under ~~12 VAC 5-590-420 subdivision C 2 b (1) through (3) of this section~~.

b. A waterworks owner is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the waterworks satisfies one of the following criteria:

(1) The owner of a small or medium-size waterworks is deemed to have optimized corrosion control if the waterworks meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with 12 VAC 5-590-370 B 6 a.

(2) Any waterworks owner may be deemed by the commissioner to have optimized corrosion control treatment if the owner demonstrates to the satisfaction of the commissioner that the owner has conducted activities equivalent to the corrosion control steps applicable to such waterworks under this section. If the commissioner makes this determination, the owner shall be provided with a written notice explaining the basis for the decision and the notice shall specify the water quality control parameters representing optimal corrosion control in accordance with ~~12 VAC 5-590-420 subdivision C 1 f of this section~~. A waterworks owner shall provide the commissioner with the following information in order to support a determination under this paragraph:

(a) The results of all test samples collected for each of the water quality parameters in ~~12 VAC 5-590-420 subdivision C 1 c (3) of this section~~.

(b) A report explaining the test methods used by the waterworks owner to evaluate the corrosion control treatments listed in ~~12 VAC 5-590-420 subdivision C 1 c (1) of this section~~, the results of all tests conducted, and the basis for the owner's selection of optimal corrosion control treatment;

(c) A report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

(d) The results of tap water samples collected in accordance with 12 VAC 5-590-370 B 6 a at least once every six months for one year after corrosion control has been installed.

(3) Any waterworks is deemed to have optimized corrosion control if the owner submits results of tap water monitoring conducted in accordance with 12 VAC 5-590-370 B 6 a and source water monitoring conducted in accordance with 12 VAC 5-590-370 B 6 c that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under 12 VAC 5-590-410 E, and the highest source water

---

# Final Regulations

---

lead concentration, is less than the P Q L for lead (0.005 mg/L).

c. The owner of any small or medium-size waterworks that is required to complete the corrosion control steps due to the exceedance of the lead or copper action level may cease completing the treatment steps whenever the waterworks meets both action levels during each of two consecutive monitoring periods conducted pursuant to 12 VAC 5-590-370 B 6 a and submits the results to the field office. If any such waterworks thereafter exceeds the lead or copper action level during any monitoring period, the owner shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The commissioner may require the owner to repeat treatment steps previously completed where the commissioner determines that this is necessary to properly implement the treatment requirements of this section. The commissioner shall notify the owner in writing of such a determination and explain the basis for its decision. The requirement for the owner of any small- or medium-sized waterworks to implement corrosion control treatment steps in accordance with subdivision 2 e of this subsection (including waterworks deemed to have optimized corrosion control under subdivision 2 b (1) of this subsection) is triggered whenever any small- or medium-sized waterworks exceeds the lead or copper action level.

d. Treatment steps and deadlines for large waterworks. Except as provided in ~~12 VAC 5-590-420 subdivisions C 2 b (2) and 12 VAC 5-590-420 C 2 b (3) of this section,~~ owners of large waterworks shall complete the following corrosion control treatment steps (described in the referenced portions of ~~12 VAC 5-590-420 subdivision C 1 of this section,~~ 12 VAC 5-590-370 B 6 a and b) by the indicated dates.

(1) Step 1: The waterworks owner shall conduct initial monitoring (12 VAC 5-590-370 B 6 a (4) (a) and ~~12 VAC 5-590-370 B 6 b (2)~~) during two consecutive six-month monitoring periods by January 1, 1993.

(2) Step 2: The waterworks owner shall complete corrosion control studies (12 VAC 5-590-420 C 1 c) and submit the study and recommendations to the commissioner (12 VAC 5-590-200) by July 1, 1994.

(3) Step 3: The commissioner shall approve optimal corrosion control treatment (12 VAC 5-590-420 C 1 d) by January 1, 1995.

(4) Step 4: The waterworks owner shall install optimal corrosion control treatment (12 VAC 5-590-420 C 1 e) by January 1, 1997.

(5) Step 5: The waterworks owner shall complete follow-up sampling (12 VAC 5-590-370 B 6 a (4) (b) and ~~12 VAC 5-590-370 B 6 b (3)~~) by January 1, 1998.

(6) Step 6: The commissioner shall review installation of treatment and designate optimal water quality control parameters (12 VAC 5-590-420 C 1 f) by July 1, 1998.

(7) Step 7: The waterworks owner shall operate the waterworks in compliance with the commissioner-specified optimal water quality control parameters (12 VAC 5-590-420 C 1 g) and continue to conduct tap sampling (12 VAC 5-590-370 B 6 a (4) (c) and ~~12 VAC 5-590-370 B 6 b (4)~~).

e. Treatment steps and deadlines for small and medium-size waterworks. Except as provided in 12 VAC 5-590-420 C 2 b, owners of small- and medium-size waterworks shall complete the following corrosion control treatment steps (described in the referenced portions of 12 VAC 5-590-420 C 1, 12 VAC 5-590-370 B 6 a and ~~12 VAC 5-590-370 B 6 b~~) by the indicated time periods.

(1) Step 1: The waterworks owner shall conduct initial tap sampling (12 VAC 5-590-370 B 6 a (4) (a) and ~~12 VAC 5-590-370 B 6 b (2)~~) until the waterworks either exceeds the lead or copper action level or becomes eligible for reduced monitoring under 12 VAC 5-590-370 B 6 a (4) (d). The owner of a waterworks exceeding the lead or copper action level shall propose optimal corrosion control treatment (12 VAC 5-590-420 C 1 a) within six months after it exceeds one of the action levels.

(2) Step 2: Within 12 months after a waterworks exceeds the lead or copper action level, the commissioner may require the waterworks owner to perform corrosion control studies (12 VAC 5-590-420 C 1 b). If the commissioner does not require the owner to perform such studies, the commissioner shall specify optimal corrosion control treatment (12 VAC 5-590-420 C 1 d) within the following timeframes:

(a) For medium-size waterworks, within 18 months after such waterworks exceeds the lead or copper action level,

(b) For small waterworks, within 24 months after such waterworks exceeds the lead or copper action level.

(3) Step 3: If the commissioner requires a waterworks owner to perform corrosion control studies under Step 2, the waterworks owner shall complete the studies (12 VAC 5-590-420 C 1 c) and submit the study and recommendations to the commissioner (12 VAC 5-590-200) within 18 months after the commissioner requires that such studies be conducted.

(4) Step 4: If the waterworks has performed corrosion control studies under Step 2, the commissioner shall designate optimal corrosion control treatment (12 VAC 5-590-420 C 1 d) within six months after completion of Step 3.

(5) Step 5: The waterworks shall install optimal corrosion control treatment (12 VAC 5-590-420 C 1 e) within 24 months after the commissioner designates such treatment.

(6) Step 6: The waterworks owner shall complete follow-up sampling (12 VAC 5-590-370 B 6 a (4) (b) and ~~12 VAC 5-590-370 B 6 b (3)~~) within 36 months

after the commissioner designates optimal corrosion control treatment.

(7) Step 7: The commissioner shall review the waterworks owner's installation of treatment and designate optimal water quality control parameters (12 VAC 5-590-420 C 1 f) within six months after completion of Step 6.

(8) Step 8: The waterworks owner shall operate in compliance with the commissioner designated optimal water quality control parameters (12 VAC 5-590-420 C 1 g) and continue to conduct tap sampling (12 VAC 5-590-370 B 6 a (4) (c) and ~~12 VAC 5-590-370 B 6 b(4)~~).

D. Water supply (source water) treatment requirements for lead and copper. The owner of any waterworks exceeding the lead or copper action level shall complete the applicable water supply monitoring and treatment requirements (described in the referenced portions of ~~12 VAC 5-590-420 subdivision D 2 of this section~~, and in 12 VAC 5-590-370 B 6 a, and ~~12 VAC 5-590-370 B 6 c~~) by the following deadlines.

1. Deadlines for completing water supply treatment steps.

a. Step 1: The owner of a waterworks exceeding the lead or copper action level shall complete lead and copper water supply monitoring (12 VAC 5-590-370 B 6 c (2)) and make a treatment proposal to the appropriate field office within six months after exceeding the lead or copper action level.

b. Step 2: The commissioner shall make a determination regarding the need for water supply treatment (12 VAC 5-590-420 D 2 b) within six months after submission of monitoring results under step 1.

c. Step 3: If the commissioner requires installation of water supply treatment, the waterworks owner shall install the treatment (12 VAC 5-590-420 D 3) within 24 months after completion of step 2.

d. Step 4: The waterworks owner shall complete follow-up tap water monitoring (12 VAC 5-590-370 B 6 a (4) (b)) and water supply lead and copper monitoring (12 VAC 5-590-370 B 6 c (3)) within 36 months after completion of step 2.

e. Step 5: The commissioner shall review the waterworks owner's installation and operation of water supply treatment and specify maximum permissible water supply lead and copper levels (12 VAC 5-590-420 D 4) within six months after completion of step 4.

f. Step 6: The waterworks owner shall operate in compliance with the commissioner-specified maximum permissible lead and copper water supply levels (12 VAC 5-590-420 D 4) and continue water supply monitoring (12 VAC 5-590-370 B 6 c (4) (a)).

2. Description of water supply treatment requirements.

a. Waterworks treatment recommendation. The owner of any waterworks which exceeds the lead or copper action level shall propose in writing to the appropriate field

office, the installation and operation of one of the water supply treatments listed in ~~12 VAC 5-590-420 subdivision D 2 b of this section~~. An owner may propose that no treatment be installed based upon a demonstration that water supply treatment is not necessary to minimize lead and copper levels at users' taps.

b. Commissioner's determination regarding water supply treatment. The commissioner shall complete an evaluation of the results of all water supply samples submitted by the waterworks owner to determine whether water supply treatment is necessary to minimize lead or copper levels in water delivered to users' taps. If the division determines that treatment is needed, the commissioner shall either require installation and operation of the water supply treatment recommended by the waterworks (if any) or require the installation and operation of another water supply treatment from among the following: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the commissioner requests additional information to aid in the review, the waterworks shall provide the information by the date specified by the commissioner in the request. The commissioner shall notify the waterworks in writing of the determination and set forth the basis for the decision.

3. Installation of water supply treatment. Each waterworks owner shall properly install and operate the water supply treatment designated by the commissioner under ~~12 VAC 5-590-420 subdivision D 2 b of this section~~.

4. Commissioner's review of water supply treatment and specification of maximum permissible water supply lead and copper levels. The commissioner shall review the water supply samples taken by the waterworks owner both before and after the waterworks owner installs water supply treatment, and determine whether the owner has properly installed and operated the water supply treatment designated by the commissioner. Based upon the review, the commissioner shall designate the maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment properly operated and maintained. The commissioner shall notify the owner in writing and explain the basis for the decision.

5. Continued operation and maintenance. Each waterworks shall be operated to maintain lead and copper levels below the maximum permissible concentrations designated by the commissioner at each sampling point monitored in accordance with 12 VAC 5-590-370 B 6 c. The waterworks is out of compliance with this subdivision if the level of lead or copper at any sampling point is greater than the maximum permissible concentration designated by the commissioner.

6. Modification of the commissioner's treatment decisions. Upon his own initiative or in response to a request by a waterworks owner or other interested party, the commissioner may modify its determination of the water supply treatment under ~~12 VAC 5-590-420 D 2 b of this section~~, or may modify the maximum permissible lead and copper concentrations for finished water entering the

---

# Final Regulations

---

distribution system under ~~12 VAC 5-590-420 subdivision D 4 of this section~~. A request for modification by an owner or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The commissioner may modify the determination where he concludes that such change is necessary to ensure that the waterworks continues to minimize lead and copper concentrations in water supplies. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the commissioner's decision, and provide an implementation schedule for completing the treatment modifications.

## E. Lead service line replacement requirements.

1. Owners of waterworks that fail to meet the lead action level in tap samples taken pursuant to 12 VAC 5-590-370 B 6 a (4) (b), after installing corrosion control and/or water supply treatment (whichever sampling occurs later), shall replace lead service lines in accordance with the requirements of this section. If a waterworks is in violation of ~~12 VAC 5-590-420 subdivision C 2 of this section~~ or ~~12 VAC 5-590-420 subsection D of this section~~ for failure to install water supply or corrosion control treatment, the commissioner may require the owner to commence lead service line replacement under this section after the date by which the owner was required to conduct monitoring under 12 VAC 5-590-370 B 6 a (4) (b) has passed.

2. A waterworks owner shall replace annually at least 7.0% of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The waterworks owner shall identify the initial number of lead service lines in its distribution system based upon a materials evaluation, including the evaluation required under 12 VAC 5-590-370 B 6 a (1) (a). The first year of lead service line replacement shall begin on the date the action level was exceeded in tap sampling referenced in ~~12 VAC 5-590-420 subdivision E 1 of this section~~.

3. A waterworks owner is not required to replace an individual lead service line if the lead concentration in all service line samples from that line, taken pursuant to 12 VAC 5-590-370 B 6 a (2) (c), is less than or equal to 0.015 mg/L.

4. A waterworks owner shall replace the entire service line (up to the building inlet) unless the owner demonstrates to the satisfaction of the commissioner under ~~12 VAC 5-590-420 subdivision E 5 of this section~~ that it controls less than the entire service line. In such cases, the owner shall replace the portion of the line which the commissioner determines is under the owner's control. The owner shall notify the user served by the line that the waterworks owner will replace the portion of the service line under the waterworks owner's control and shall offer to replace the building owner's portion of the line, but is not required to bear the cost of replacing the building owner's portion of the line. For buildings where only a portion of the lead service line is replaced, the waterworks owner shall inform the resident(s) that the waterworks owner will collect a first flush tap water sample after partial replacement of the

service line is completed if the resident(s) so desire. In cases where the resident(s) accept the offer, the waterworks owner shall collect the sample and report the results to the resident(s) within 14 days following partial lead service line replacement.

5. A waterworks owner is presumed to control the entire lead service line (up to the building inlet) unless the owner demonstrates to the satisfaction of the commissioner, in a letter submitted under 12 VAC 5-590-530 D 5 d, that the owner does not have any of the following forms of control over the entire line (as defined by state statutes, municipal ordinances, public service contracts or other applicable legal authority): authority to set standards for construction, repair, or maintenance of the line, authority to replace, repair, or maintain the service line, or ownership of the service line. The commissioner shall review the information supplied by the owner and determine whether the owner controls less than the entire service line and, in such cases, shall determine the extent of the waterworks owner's control. The commissioner's determination shall be in writing and explain the basis for the decision.

6. The commissioner shall require a waterworks owner to replace lead service lines on a shorter schedule than that required by this section, taking into account the number of lead service lines in the waterworks, where such a shorter replacement schedule is feasible. The commissioner shall make this determination in writing and notify the owner of the findings within 6 months after the waterworks is triggered into lead service line replacement based on monitoring referenced in ~~12 VAC 5-590-420 subdivision E 1 of this section~~.

7. Any waterworks owner may cease replacing lead service lines whenever first draw tap samples collected pursuant to 12 VAC 5-590-370 B 6 a (2) (b) meet the lead action level during each of two consecutive monitoring periods and the owner submits the results to the appropriate field office. If the first draw tap samples collected in any such waterworks thereafter exceeds the lead action level, the owner shall recommence replacing lead service lines, pursuant to ~~12 VAC 5-590-420 subdivision E 2 of this section~~.

8. To demonstrate compliance with ~~12 VAC 5-590-420 subdivisions E 1 through E 4 of this section~~, a waterworks owner shall report to the appropriate field office the information specified in 12 VAC 5-590-530 D 5.

F. Lead public education requirements. The owner of a waterworks that exceeds the lead action level based on tap water samples collected in accordance with 12 VAC 5-590-370 B 6 a shall deliver the public education materials contained in ~~12 VAC 5-590-420 subdivisions F 1 and F 2 of this section~~ in accordance with the requirements in ~~12 VAC 5-590-420 subdivision F 3 of this section~~.

1. Content of written materials. A waterworks owner shall include the following text in all of the printed materials distributed through the lead public education program. Any additional information presented by the owner shall be consistent with the information below and be in plain English that can be understood by laypersons.

a. Introduction. The United States Environmental Protection Agency (EPA) and (insert name of waterworks) are concerned about lead in your drinking water. Although most homes have very low levels of lead in their drinking water, some homes in the community have lead levels above the EPA action level of 15 parts per billion (ppb), or 0.015 milligrams of lead per liter of water (mg/L). Under Federal law we are required to have a program in place to minimize lead in your drinking water by (insert date when corrosion control will be completed for your waterworks). This program includes corrosion control treatment, source water treatment, and public education. We are also required to replace each lead service line that we control if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead regulation please give us a call at (insert waterworks phone number). This brochure explains the simple steps you can take to protect you and your family by reducing your exposure to lead in drinking water.

b. Health effects of lead. Lead is a common metal found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery porcelain and pewter, and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that will not hurt adults can slow down normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination like dirt and dust that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths.

c. Lead in drinking water.

(1) Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that drinking water can make up 20% or more of a person's total exposure to lead.

(2) Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome plated brass faucets, and in some cases, pipes made of lead that connect your house to the water main (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2% lead, and restricted the lead content of faucets, pipes and other plumbing materials to 8.0%.

(3) When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon after returning from work or school, can contain fairly high levels of lead.

d. Steps you can take in the home to reduce exposure to lead in drinking water.

(1) Despite our best efforts mentioned earlier to control water corrosivity and remove lead from the water supply, lead levels in some homes or buildings can be high. To find out whether you need to take action in your own home, have your drinking water tested to determine if it contains excessive concentrations of lead. Testing the water is essential because you cannot see, taste, or smell lead in drinking water. Some local laboratories that can provide this service are listed at the end of this booklet. (The waterworks owners should contact the Division of Consolidated Laboratory Service at (804) 786-3411 for a list of certified laboratories in their area). For more information on having your water tested, please call (insert phone number of waterworks).

(2) If a water test indicates that the drinking water drawn from a tap in your home contains lead above 15 ppb, then you should take the following precautions:

(a) Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than six hours. The longer water resides in your home's plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about 15-30 seconds. If your house has a lead service line to the water main, you may have to flush the water for a longer time, perhaps one minute, before drinking. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your family's health. It usually uses less than one or two gallons of water and costs less than (insert a cost estimate based on flushing two times a day for 30 days) per month. To conserve water, fill a couple of bottles for drinking water after flushing the tap, and whenever possible use the first flush water to wash the dishes or water the plants. If you live in a high-rise building, letting the water flow before using it may not work to lessen your risk from lead. The plumbing systems have more, and sometimes larger pipes than smaller buildings. Ask your landlord for help in locating the source of the lead and for advice on reducing the lead level.

(b) Try not to cook with, or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it on the stove or microwave.

---

# Final Regulations

---

(c) Remove loose lead solder and debris from the plumbing materials installed in newly constructed homes, or homes in which the plumbing has recently been replaced, by removing the faucet strainers from all taps and running the water from ~~3~~ *three* to ~~5~~ *five* minutes. Thereafter, periodically remove the strainers and flush out any debris that has accumulated over time.

(d) If your copper pipes are joined with lead solder that has been installed illegally since it was banned in 1986, notify the plumber who did the work and request that he ~~or she~~ replace the lead solder with lead-free solder. Lead solder looks dull gray, and when scratched with a key looks shiny. In addition, notify the local building official in your city or county.

(e) Determine whether ~~or not~~ the service line that connects your home or apartment to the water main is made of lead. The best way to determine if your service line is made of lead is by either hiring a licensed plumber to inspect the line or by contacting the plumbing contractor who installed the line. You can identify the plumbing contractor by checking your localities' record of building permits which should be maintained in the files of the (insert name of department that issues building permits). A licensed plumber can at the same time check to see if your home's plumbing contains lead solder, lead pipes, or pipe fittings that contain lead. The waterworks that delivers water to your home should also maintain records of the materials located in the distribution system. If the service line that connects your dwelling to the water main contributes more than 15 ppb to drinking water, after our comprehensive treatment program is in place, we are required to replace the line. Since the line is only partially controlled by the (insert name of the city, county, or waterworks that controls the line), we are required to provide you with information on how to replace your portion of the service line, and offer to replace that portion of the line at your expense and take a follow-up tap water sample within 14 days of the replacement. Acceptable replacement alternatives include copper, steel, iron, and plastic pipes and must comply with local plumbing codes.

(f) Have an electrician check your wiring. If grounding wires from the electrical system are attached to your pipes, corrosion may be greater. Check with a licensed electrician or your local electrical code to determine if your wiring can be grounded elsewhere. DO NOT attempt to change the wiring yourself because improper grounding can cause electrical shock and fire hazards.

(3) The steps described above will reduce the lead concentrations in your drinking water. However, if a water test indicates that the drinking water coming from your tap contains lead concentrations in excess of 15 ppb after flushing, or after we have completed our actions to minimize lead levels, then you may want to take the following additional measures.

(a) Purchase or lease a home treatment device. Home treatment devices are limited in that each unit treats only the water that flows from the faucet to which it is connected, and all of the devices require periodic maintenance and replacement. Devices such as reverse osmosis systems or distillers can effectively remove lead from your drinking water. Some activated carbon filters may reduce lead levels at the tap, however all lead reduction claims should be investigated. Be sure to check the actual performance of a specific home treatment device before and after installing the unit.

(b) Purchase bottled water for drinking and cooking.

(4) You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include:

(a) (Insert the name of the waterworks) at (insert phone number) can provide you with information about your community's waterworks and a list of local laboratories that have been certified by Division of Consolidated Laboratory Services for testing water quality.

(b) (Insert the name of city or county department that issues building permits) at (insert phone number) can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home.

(c) The Medical Director of (Insert the name of the city or county) Health Department, and the Virginia Department of Health Division of Maternal and Child Health, Lead Programs Director at 1-800-523-4019 can provide you with information about the health effects of lead and how you can have your child's blood tested.

(5) The following is a list of some state-approved laboratories in your area that you can call to have your water tested for lead. (Insert names and phone numbers of at least two laboratories.)

2. Content of broadcast materials. A waterworks owner shall include the following information in all public service announcements submitted under the lead public education program to television and radio stations for broadcasting:

a. Why should everyone want to know the facts about lead and drinking water? Because unhealthy amounts of lead can enter drinking water through the plumbing in your home. That's why I urge you to do what I did. I had my water tested for (insert free or \$ per sample). You can contact the (insert the name of the waterworks) for information on testing and on simple ways to reduce your exposure to lead in drinking water.

b. To have your water tested for lead, or to get more information about this public health concern, please call (insert the phone number of the waterworks).



### 3. Delivery of a public education program.

a. In communities where a significant proportion of the population speaks a language other than English, public education materials shall be communicated in the appropriate language(s).

b. The owner of a community waterworks that fails to meet the lead action level on the basis of tap water samples collected in accordance with 12 VAC 5-590-370 B 6 a shall, within 60 days:

(1) Insert notices in each customer's water utility bill containing the information in ~~12 VAC 5-590-420 subdivision F 1 of this section~~, along with the following alert on the water bill itself in large print: "SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION."

(2) Submit the information in ~~12 VAC 5-590-420 subdivision F 1 of this section~~ to the editorial departments of the major daily and weekly newspapers circulated throughout the community.

(3) Deliver pamphlets and/or brochures that contain the public education materials in ~~12 VAC 5-590-420 subdivisions F 1 b and 12 VAC 5-590-420 F 4 d of this section~~ to facilities and organizations, including the following:

- (a) Public schools and/or local school boards;
- (b) City or county health department;
- (c) Women, Infants, and Children and/or Head Start Program(s) whenever available;
- (d) Public and private hospitals and/or clinics;
- (e) Pediatricians;
- (f) Family planning clinics; and
- (g) Local welfare agencies.

(4) Submit the public service announcement in ~~12 VAC 5-590-420 subdivision F 2 of this section~~ to at least five of the radio and television stations with the largest audiences that broadcast to the community served by the waterworks.

c. The owner of a community waterworks shall repeat the tasks contained in ~~12 VAC 5-590-420 subdivisions F 3 b (1), (2), and (3) of this section~~ every 12 months, and the tasks contained in ~~12 VAC 5-590-420 subdivision F 3 b (4) of this section~~ every six months for as long as the waterworks exceeds the lead action level.

d. Within 60 days after it exceeds the lead action level, the owner of a nontransient noncommunity waterworks shall deliver the public education materials contained in ~~12 VAC 5-590-420 subdivisions F 1 a, b, and d of this section~~ as follows:

(1) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the waterworks, and

(2) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the nontransient noncommunity waterworks.

e. The owner of a nontransient noncommunity waterworks shall repeat the tasks contained in ~~12 VAC 5-590-420 subdivision F 3 d of this section~~ at least once during each calendar year in which the waterworks exceeds the lead action level.

f. A waterworks owner may discontinue delivery of public education materials if the waterworks has met the lead action level during the most recent six-month monitoring period conducted pursuant to 12 VAC 5-590-370 B 6 a. The owner shall recommence public education in accordance with this section if the waterworks subsequently exceeds the lead action level during any monitoring period.

4. Supplemental monitoring and notification of results. The owner of a waterworks that fails to meet the lead action level on the basis of tap samples collected in accordance with 12 VAC 5-590-370 B 6 a shall offer to sample the tap water of any customer who requests it. The owner is not required to pay for collecting or analyzing the sample, nor is the owner required to collect and analyze the sample itself.

G. Beginning January 1, 1993, each waterworks owner shall certify annually in writing to the commissioner (using third party or manufacturer's certification) that, when polymers containing acrylamide or epichlorohydrin are used by the waterworks in drinking water systems, the combination (or product) of dose and monomer level does not exceed the following specified levels: Acrylamide = 0.05% dosed at 1 ppm (or equivalent) of polymer. Epichlorohydrin = 0.01% dosed at 20 ppm (or equivalent) of polymer. Certifications may rely on manufacturers or third parties, as approved by the commissioner.

H. Treatment technique for control of disinfection byproduct (DBPP) precursors.

#### 1. Applicability.

a. Waterworks that use surface water or groundwater under the direct influence of surface water using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the TOC percent removal levels specified in subdivision H 2 of this section unless the waterworks meets at least one of the alternative compliance criteria listed in subdivision H 1 b or c of this section.

b. Alternative compliance criteria for enhanced coagulation and enhanced softening waterworks. Waterworks that use surface water or groundwater under the direct influence of surface water provided with conventional filtration treatment may use the alternative compliance criteria in subdivisions H 1 b (1) through (6) of this section to comply with this section in lieu of complying with subdivision H 2 of this section.

# Final Regulations

Waterworks must still comply with monitoring requirements in 12 VAC 5-590-370 B 3 j.

(1) The waterworks' source water TOC level, measured according to 12 VAC 5-590-440, is less than 2.0 mg/L, calculated quarterly as a running annual average.

(2) The waterworks' treated water TOC level, measured according to 12 VAC 5-590-440, is less than 2.0 mg/L, calculated quarterly as a running annual average.

(3) The waterworks' source water TOC level, measured according to 12 VAC 5-590-440, is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity, measured according to 12 VAC 5-590-440, is greater than 60 mg/L (as CaCO<sub>3</sub>), calculated quarterly as a running annual average; and either the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or prior to the effective date for compliance in 12 VAC 590-370 B 3 b, the waterworks has made a clear and irrevocable financial commitment not later than the effective date for compliance in 12 VAC 590-370 B 3 b to use of technologies that will limit the levels of TTHMs and HAA5 to no more than 0.040 mg/L and 0.030 mg/L, respectively. Waterworks must submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the commissioner for approval not later than the effective date for compliance in 12 VAC 590-370 B 3 b. These technologies must be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule will constitute a violation of these regulations.

(4) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the waterworks uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(5) The waterworks' source water SUVA, prior to any treatment and measured monthly according to 12 VAC 5-590-440, is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(6) The waterworks' finished water SUVA, measured monthly according to 12 VAC 5-590-440, is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

c. Additional alternative compliance criteria for softening waterworks. Waterworks practicing enhanced softening that cannot achieve the TOC removals required by subdivision H 2 b of this section may use the alternative compliance criteria in subdivisions H 1 c (1) and of this section in lieu of complying with subdivision H 2 of this section. Waterworks must still comply with monitoring requirements in 12 VAC 5-590-370 B 3 f (1).

(1) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO<sub>3</sub>), measured monthly according to 12 VAC 5-590-440 and calculated quarterly as a running annual average.

(2) Softening that results in removing at least 10 mg/L of magnesium hardness (as CaCO<sub>3</sub>), measured monthly and calculated quarterly as an annual running average.

2. Enhanced coagulation and enhanced softening performance requirements.

a. Waterworks must achieve the percent reduction of TOC specified in subdivision H 2 b of this section between the source water and the combined filter effluent, unless the commissioner approves a waterworks' request for alternate minimum TOC removal (Step 2) requirements under subdivision H 2 c of this section.

b. Required Step 1 TOC reductions, indicated in the following table, are based upon specified source water parameters measured in accordance with 12 VAC 5-590-440. Waterworks practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity greater than 120 mg/L) for the specified source water TOC:

Step 1 Required Removal of TOC by Enhanced Coagulation and Enhanced Softening for Community or Nontransient Noncommunity Waterworks That Use Surface Water or Groundwater Under the Direct Influence of Surface Water Using Conventional Treatment <sup>1,2</sup>			
Source-water TOC, mg/L	Source-water alkalinity, mg/L as CaCO <sub>3</sub>		
	0-60	>60-120	>120 <sup>3</sup>
>2.0-4.0	35.0%	25.0%	15.0%
>4.0-8.0	45.0%	35.0%	25.0%
>8.0	50.0%	40.0%	30.0%

<sup>1</sup>Waterworks meeting at least one of the conditions in subdivisions H 1 b (1) through (6) of this section are not required to operate with enhanced coagulation.

<sup>2</sup>Softening waterworks meeting one of the alternative compliance criteria in subdivision H 1 c of this section are not required to operate with enhanced softening.

<sup>3</sup>Waterworks practicing softening must meet the TOC removal requirements in this column.

c. Waterworks that use surface water or groundwater under the direct influence of surface water with conventional treatment systems that cannot achieve the Step 1 TOC removals required by subdivision H 2 b of this section due to water quality parameters or operational constraints must apply to the commissioner, within three months of failure to achieve the TOC removals required by subdivision H 2 b of this section, for approval of alternative minimum TOC (Step 2) removal requirements submitted by the waterworks. If the commissioner approves the alternative minimum TOC removal (Step 2) requirements, the commissioner may make those requirements retroactive for the purposes of determining compliance. Until the commissioner approves the alternate minimum TOC removal (Step 2) requirements, the waterworks must meet the Step 1 TOC removals contained in subdivision H 2 b of this section.

d. Alternate minimum TOC removal (Step 2) requirements. Applications, made to the commissioner by waterworks using enhanced coagulation, for approval of alternative minimum TOC removal (Step 2) requirements under subdivision H 2 c of this section must include, at a minimum, results of bench- or pilot-scale testing conducted under subdivision H 2 d (1) of this section. The submitted bench- or pilot-scale testing must be used to determine the alternate enhanced coagulation level.

(1) Alternate enhanced coagulation level is defined as coagulation at a coagulant dose and pH as determined by the method described in subdivisions H 2 d (1) through (5) of this section such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of equal to or less than 0.3 mg/L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the waterworks. Once approved by the commissioner, this minimum requirement supersedes the minimum TOC removal required by the table in subdivision H 2 b of this section. This requirement will be effective until such time as the commissioner approves a new value based on the results of a new bench- and pilot-scale test. Failure to achieve the alternative minimum TOC removal levels set by the commissioner is a violation of these regulations.

(2) Bench- or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH shown in the following table:

Enhanced Coagulation Step 2 target pH	
Alkalinity (mg/L as CaCO <sub>3</sub> )	Target pH
0-60	5.5
>60-120	6.3
>120-240	7.0
>240	7.5

(3) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the waterworks must add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalent addition of iron coagulant) is reached.

(4) The waterworks may operate at any coagulant dose or pH necessary (consistent with other sections of these regulations) to achieve the minimum TOC percent removal approved under subdivision H 2 c of this section.

(5) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalent addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The waterworks may then apply to the commissioner for a waiver of enhanced coagulation requirements.

3. Compliance calculations.

a. Waterworks that use surface water or groundwater under the direct influence of surface water other than those identified in subdivision H 1 b or H 1 c of this section must comply with requirements contained in subdivision H 2 b or H 2 c of this section. Waterworks must calculate compliance quarterly, beginning after the waterworks has collected 12 months of data, by determining an annual average using the following method:

(1) Determine actual monthly TOC percent removal, equal to:

$$(1 - (\text{treated water TOC} / \text{source water TOC})) \times 100$$

(2) Determine the required monthly TOC percent removal (from either the table in subdivision H 2 b of this section or from subdivision H 2 c of this section).

(3) Divide the value in subdivision H 3 a (1) of this section by the value in subdivision H 3 a (2) of this section.

(4) Add together the results of subdivision H 3 a (3) of this section for the last 12 months and divide by 12.

(5) If the value calculated in subdivision H 3 a (4) of this section is less than 1.00, the waterworks is not in compliance with the TOC percent removal requirements.

---

# Final Regulations

---

b. Waterworks may use the provisions in subdivisions H 3 b (1) through (5) of this section in lieu of the calculations in subdivisions H 3 a (1) through (5) of this section to determine compliance with TOC percent removal requirements.

(1) In any month that the waterworks' treated or source water TOC level, measured according to 12 VAC 5-590-440, is less than 2.0 mg/L, the waterworks may assign a monthly value of 1.0 (in lieu of the value calculated in subdivision H 3 a (3) of this section) when calculating compliance under the provisions of subdivision H 3 a of this section.

(2) In any month that a waterworks practicing softening removes at least 10 mg/L of magnesium hardness (as CaCO<sub>3</sub>), the waterworks may assign a monthly value of 1.0 (in lieu of the value calculated in subdivision H 3 a (3) of this section) when calculating compliance under the provisions of subdivision H 3 a of this section.

(3) In any month that the waterworks' source water SUVA, prior to any treatment and measured according to 12 VAC 5-590-440, is equal to or less than 2.0 L/mg-m, the waterworks may assign a monthly value of 1.0 (in lieu of the value calculated in subdivision H 3 a (3) of this section) when calculating compliance under the provisions of subdivision H 3 a of this section.

(4) In any month that the waterworks' finished water SUVA, measured according to 12 VAC 5-590-440, is equal to or less than 2.0 L/mg-m, the waterworks may assign a monthly value of 1.0 (in lieu of the value calculated in subdivision H 3 a (3) of this section) when calculating compliance under the provisions of subdivision H 3 a of this section.

(5) In any month that a waterworks practicing enhanced softening lowers alkalinity below 60 mg/L (as CaCO<sub>3</sub>), the waterworks may assign a monthly value of 1.0 (in lieu of the value calculated in subdivision H 3 a (3) of this section) when calculating compliance under the provisions of subdivision H 3 a of this section.

c. Waterworks that use surface water or groundwater under the direct influence of surface water and using conventional treatment may also comply with the requirements of this section by meeting the criteria in subdivision H 1 b or H 1 c of this section.

4. Enhanced coagulation or enhanced softening is the treatment technique required to control the level of DBP precursors in drinking water treatment and distribution systems for waterworks using surface water or groundwater under the direct influence of surface water and using conventional treatment.

I. The best technology, treatment techniques, or other means available for achieving compliance with the maximum

contaminant levels for disinfection byproducts show in Table 2.13 are listed below:

1. Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant is the best available technology for achieving compliance with the maximum contaminant level for TTHM or HAA5.

2. Control of ozone treatment process to reduce production of bromate is the best available technology for achieving compliance with the maximum contaminant level for bromate.

3. Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels is the best available technology for achieving compliance with the maximum contaminant level for chlorite.

4. A waterworks that is installing GAC or membrane technology to comply with Table 2.13 may apply to the commissioner for an extension of up to 24 months past the dates in 12 VAC 5-590-370 B 3 b, but not beyond December 31, 2003. In granting the extension, the commissioner must set a schedule for compliance and may specify any interim measures that the waterworks must take. Failure to meet the schedule or interim treatment requirements constitutes a violation of 12 VAC 5-590-410.

J. The best technology, treatment techniques, or other means available for achieving compliance with the maximum residual disinfectant levels identified in Table 2.12 is the control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

## 12 VAC 5-590-440. Analytical methods.

Analytical methods to determine compliance with the requirements of this chapter shall be those specified in the applicable edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation; "Methods for Chemical Analysis of Water and Wastes," Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974; and "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water" (Sept 1986), EPA, Environmental Monitoring and Support Laboratory, Cincinnati, OH 45268 or in the case of primary maximum contaminant levels, those methods shall be followed by the Division of Consolidated Laboratory Services and consistent with current U.S. Environmental Protection Agency regulations found at 40 CFR Part 141 (4994). All laboratories seeking certification to perform drinking water analyses must comply with 1 VAC 30-40-40 et seq. promulgated by the Department of General Services, Division of Consolidated Laboratory Services.

Table 2.2  
Inorganic Chemicals.

Substance	Primary Maximum Contaminant Level (mg/L)
Antimony	0.006
Arsenic (As)	0.05
Asbestos	7 Million Fibers/Liter (longer than 10 um)
Barium (Ba)	2
Beryllium	0.004
Cadium (Cd)	0.005
Chromium (Cr)	0.1
Cyanide (as free Cyanide)	0.2
Fluoride (F)	4.0 #
Mercury (Hg)	0.002
Nickel	0.1
Nitrate (as N)	10**
Nitrite (as N)	1
Total Nitrate and Nitrite (as N)	10
Selenium (Se)	0.05
Thallium	0.002
Substance	Secondary Maximum Contaminant Level (mg/L)
Chloride (Cl)	250.0
Corrosivity	Non-Corrosive, See Appendix B
Fluoride	2.0
Foaming Agents	0.5*
Iron (Fe)	0.3
Manganese (Mn)	0.05
Sodium (Na)	No Limits Designated
Sulfate (SO <sub>4</sub> )	250.0
Zinc (Zn)	5.0
Substance	Action Level (mg/L)
Lead (Pb)	0.015
Copper (Cu)	1.3

# Note. For artificially fluoridated waterworks the minimum concentration of fluoride should be 0.8 mg/L and the maximum should be 1.0 mg/L. The optimum control limit is 0.9 mg/L. (See Appendix B)

\* Note. Concentration reported in terms of Methylene Blue Active Substances.

\*\*Note. See Appendix B for Exception Regarding Noncommunity Waterworks.

# Final Regulations

Table 2.3 Organic Chemicals.	
Substance	Primary Maximum Contaminant Levels (mg/L)
<b>VOC</b>	
1. Vinyl Chloride	0.002
2. Benzene	0.005
3. Carbon Tetrachloride	0.005
4. 1,2-Dichloroethane	0.005
5. Trichloroethylene (TCE)	0.005
6. 1,1-Dichloroethylene	0.007
7. 1,1,1-Trichloroethane	0.2
8. para-Dichlorobenzene	0.075
9. cis-1,2-Dichloroethylene	0.07
10. 1,2-Dichloropropane	0.005
11. Ethylbenzene	0.7
12. Monochlorobenzene	0.1
13. o-Dichlorobenzene	0.6
14. Styrene	0.1
15. Tetrachloroethylene	0.005
16. Toluene	1
17. trans-1,2-Dichloroethylene	0.1
18. Xylene (total)	10
19. Dichloromethane	0.005
20. 1,2,4-Trichlorobenzene	0.07
21. 1,1,2-Trichloroethane	0.05
<b>THM</b>	
Total Trihalomethanes	0.10
<b>SOC</b>	
1. Alachlor	0.002
2. Atrazine	0.003
3. Carbofuran	0.04
4. Chlordane	0.002
5. Heptachlor	0.0004
6. Heptachlor epoxide	0.0002
7. Polychlorinated biphenyls (PCBs)	0.0005
8. Dibromochloropropane (DBCP)	0.0002
9. Ethylene dibromide (EDB)	0.00005
10. Lindane	0.0002
11. Methoxychlor	0.04
12. Toxaphene	0.003
13. 2,4-Dichlorophenoxyacetic Acid (2,4-D)	0.07
14. 2,4,5-Trichlorophenoxypropionic Acid (2,4,5-TP or Silvex)	0.05
15. Reserved	
16. Reserved	
17. Reserved	
18. Pentachlorophenol	0.001
19. Benzo(a)pyrene	0.0002
20. Dalapon	0.2

21. Di(2-ethylhexy)adipate	0.4
22. Di(2-ethylhexy)phthalate	0.006
23. Dinoseb	0.007
24. Diquat	0.02
25. Endothall	0.1
26. Endrin	0.002
27. Glyphosate	0.7
28. Hexachlorobenzene	0.001
29. Hexachlorocyclopentadiene	0.05
30. Oxamyl (Vydate)	0.2
31. Picloram	0.5
32. Simazine	0.004
33. 2,3,7,8-TCDD (Dioxin)	3 X 10 <sup>-8</sup>

Table 2.4 Physical Quality.		
Parameter	MAXIMUM CONTAMINANT LEVEL	Concentration
Color	Secondary	15 Color Units
Odor	Secondary	3 Threshold odor numbers
pH	Secondary	6.5-8.5
Total Dissolved	Secondary	500 mg/L Solids (TDS)
Turbidity	Primary	*1 Turbidity Unit

\* See Appendix B for operational requirements. ~~The PMCL for turbidity is being phased out of existence. This PMCL will apply to waterworks that filter with surface water sources or groundwater sources under the direct influence of surface water until June 29, 1993. This PMCL will apply to waterworks that do not filter and have surface water sources or groundwater sources under direct influence of surface water until June 29, 1993, or until filtration is installed, whichever is later.~~

Table 2.5 Radiological Quality.		
SUBSTANCE	Primary Maximum Contaminant Level	
A. Total Radium (Radium-226 and Radium-228)	5 pCi/L	
B. Gross Alpha Activity (including Radium-226 and excluding Radon and Uranium)	15 pCi/L	
Primary Maximum Contaminant Levels for Beta Particle and Photon Radioactivity from Man-Made Radionuclides 1. The average annual concentration of Beta particle and Photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year. 2. Except for the radionuclides listed in Schedule I, the concentration of man-made radionuclides causing 4 MREM total body or organ dose equivalents shall be calculated on the basis of a 2 liter per day drinking water intake using the 168 hour data listed in "Maximum Permissible Body Burdens and Water for Occupational Exposure," MBS Handbook 69 as amended August 1963, U.S. Department of Commerce. If two or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ exceed 4 millirem/year.		
Schedule I Average annual concentrations assumed to produce a total body organ dose of 4 MREM/year.		
Radionuclide	Critical Organ	pCi/liter
Tritium	Total Body	20,000
Strontium-90	Bone Marrow	8

\*See Appendix B

# Final Regulations

Table 2.6 Unregulated Contaminant Organics to be Monitored.	
Group A	
1. Chloroform	12. Chloromethane
2. Bromodichloromethane	13. Bromoethane
3. Chlorodibromomethane	14. 1,2,3-Trichloropropane
4. Bromoform	15. 1,1,1,2-Tetrachloroethane
5. Chlorobenzene	16. Chloroethane
6. m-Dichlorobenzene	17. 2,2-Dichloropropane
7. Dibromomethane	18. o-Chlorotoluene
8. 1,1-Dichloropropene	19. p-Chlorotoluene
9. 1,1-Dichloroethane	20. Bromobenzene
10. 1,1,2,2-Tetrachloroethane	21. 1,3-Dichloropropene
11. 1,3-Dichloropropane	
Group B	
1. Aldrin	8. Metoachlor
2. Butachlor	9. Metribuzin
3. Carbaryl	10. Propachlor
4. Dicamba	11. Aldicarb
5. Dieldrin	12. Aldicarb sulfone
6. Methomyl	13. Aldicarb sulfoxide
7. 3-Hyposycarbofuran	

Table 2.7 Organic Chemical Monitoring Implementation Schedule Inorganics to be Monitored.
1. Sulfate

Table 2.8 Organic Chemical Monitoring Implementation Schedule.	
Number of Persons Served	Monitoring to Begin During the Quarter that Begins
over 10,000	January 1, 1988
3,300 to 10,000	January 1, 1989
less than 3,300	January 1, 1991

Table 2.9 PMCL Effective Dates.	
Table 2.3, Organics Chemicals, VOC 1 through 8 (Phase I)	January 9, 1989
Total Trihalomethanes and Fluoride	July 1, 1991
Table 2.3, Organics Chemicals, VOC 9 through 18 and SOC 1 through 14 (Phase II VOCs and SOCs)	July 30, 1992
Asbestos, Cadmium, Chromium, Mercury, Nitrate, Nitrite, Total Nitrate+Nitrite, Selenium (Phase II IOCs)	July 30, 1992
Table 2.3, Organics Chemicals, SOC 15 through 18 and Table 2.2, Inorganic Chemicals, Barium (Phase II SOCs and IOCs)	January 1, 1993



Table 2.3, Organics Chemicals, VOC 19 through 21, SOC 19 through 33 and  
 Table 2.2, Inorganic Chemicals; antimony, beryllium, cyanide (as free cyanide), nickel, and thallium

January 17, 1994

Contaminant	MCLG
<i>Giardia lamblia</i>	zero
Viruses	zero
<i>Legionella</i>	zero
Total coliforms (including fecal coliforms and <i>Escherichia coli</i> )	zero
<i>Cryptosporidium</i>	zero

Disinfection byproduct	MCLG (mg/L)
Chloroform	Zero
Bromodichloromethane	Zero
Bromoform	Zero
Bromate	Zero
Dichloroacetic acid	Zero
Trichloroacetic acid	0.3
Chlorite	0.8
Dibromochloromethane	0.06

Disinfectant residual	MRDLG(mg/L)	MRDL (mg/L)
Chlorine	4 (as Cl <sub>2</sub> ).	4.0 (as Cl <sub>2</sub> ).
Chloramines	4 (as Cl <sub>2</sub> ).	4.0 (as Cl <sub>2</sub> )
Chlorine dioxide	0.8 (as ClO <sub>2</sub> )	0.8 (as ClO <sub>2</sub> )

Notwithstanding the MRDLs in Table 2.12, waterworks may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as, but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross-connection events.

Disinfection byproduct	Current PMCL <sup>1</sup> (mg/L)	Future PMCL <sup>2</sup> (mg/L)
Total trihalomethanes (TTHM)	0.10	0.080
Haloacetic acids (five) (HAA5)		0.060
Bromate		0.010
Chlorite		1.0

<sup>1</sup>The primary maximum contaminant level (PMCL) of 0.10 mg/L for total trihalomethanes (the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)) applies to community waterworks using surface water or groundwater under the direct influence of surface water that serve a population of

---

# Final Regulations

---

10,000 people or more until December 31, 2001. This level applies to community waterworks that use only groundwater not under the direct influence of surface water and that serve a population of 10,000 people or more until December 31, 2003. Compliance with the primary maximum contaminant level for total trihalomethanes is calculated pursuant to 12 VAC 5-590-370 C 2 b (2) (a) (i). After December 31, 2003, this PMCL is no longer applicable.

<sup>2</sup>Community or nontransient noncommunity waterworks that use surface water or groundwater under the direct influence of surface water and serving 10,000 or more persons, must comply with this PMCL beginning January 1, 2002. Community or nontransient noncommunity waterworks that use surface water or groundwater under the direct influence of surface water serving fewer than 10,000 persons and waterworks using only groundwater not under the direct influence of surface water must comply with this PMCL beginning January 1, 2004.

## 12 VAC 5-590-500. Disinfection by chlorination.

A. All water supplies derived from surface water sources in whole or in part shall be disinfected in accordance with 12 VAC 5-590-1000 until June 29, 1993. It is recommended that a chlorine residual be maintained. Beginning June 29, 1993, every owner of a waterworks shall comply with the disinfection requirements of 12 VAC 5-590-420.

B. Waterworks utilizing surface waters as a water supply shall practice prechlorination. The requirement for prechlorination may be waived by the division when warranted.

C. Waterworks utilizing groundwater as a water supply that has been determined by the division to be under the direct influence of surface water, as provided in 12 VAC 5-590-430, will be required to disinfect. If the division determines that the groundwater supply is surface influenced, the waterworks owner shall provide disinfection during the interim before filtration is installed in accordance with 12 VAC 5-590-420 B 2 f. If filtration is installed prior to June 29, 1993, the owner shall comply with the disinfection requirements of 12 VAC 5-590-1000 until June 29, 1993. By June 29, 1993, all waterworks owners using a groundwater source determined to be under the direct influence of surface water must comply with the disinfection requirements of 12 VAC 5-590-420.

D. Any waterworks utilizing groundwater as a water supply that is not governed by 12 VAC 5-590-500 will be required to disinfect in accordance with 12 VAC 5-590-1000 if a sanitary survey reveals a potential source of contamination or if the water fails to meet the bacteriological quality standards set forth in Article 1, (12 VAC 5-590-340 et seq.) of Part II of this chapter.

### E. Disinfection profile data and disinfection benchmark data.

1. Any waterworks that has disinfection profile data must retain this data in graphic form, as a spreadsheet, or in some other format acceptable to the commissioner for review as part of sanitary surveys conducted by the commissioner.

### 2. Disinfection benchmarking.

a. Any waterworks that has developed a disinfection profile and that decides to make a significant change to its disinfection practice must consult with the commissioner prior to making such change. Significant changes to disinfection practice are:

(1) Changes to the point of disinfection;

(2) Changes to the disinfectants used in the treatment plant;

(3) Changes to the disinfection process; and

(4) Any other modification identified by the commissioner.

b. Any waterworks that is modifying its disinfection practice must calculate its disinfection benchmark using the following procedure:

(1) For each year of profiling data collected, the waterworks must determine the lowest average monthly *Giardia lamblia* inactivation in each year of profiling data. The waterworks must determine the average *Giardia lamblia* inactivation for each calendar month for each year of profiling data by dividing the sum of daily *Giardia lamblia* inactivation by the number of values calculated for that month.

(2) The disinfection benchmark is the lowest monthly average value (for waterworks with one year of profiling data) or average of lowest monthly average values (for waterworks with more than one year of profiling data) of the monthly logs of *Giardia lamblia* inactivation in each year of profiling data.

(3) A waterworks that uses either chloramines or ozone for primary disinfection must also calculate the disinfection benchmark for viruses using a method approved by the commissioner.

c. The waterworks must submit the following information to the commissioner as part of the waterworks' consultation process.

(1) A description of the proposed change;

(2) The disinfection profile for *Giardia lamblia* (and, if necessary, viruses) and benchmark listed in subdivision E 2 b of this section; and

(3) An analysis of how the proposed change will affect the current levels of disinfection.

## 12 VAC 5-590-530. Reporting.

A. The results of any required monitoring activity shall be reported by the waterworks owner to the appropriate field office no later than the 10th day of the month following the month during which the tests were taken.

1. *Waterworks required to sample quarterly must report to the appropriate field office within 10 days after the end of each quarter in which samples were collected.*

2. *Waterworks required to sample less frequently than quarterly must report to the appropriate field office within 10 days after the end of each monitoring period in which samples were collected.*

B. It shall be the duty and responsibility of an owner to report to the appropriate field office in the most expeditious manner (usually by telephone) under the following circumstances. If it is done by telephone a confirming report shall be mailed as soon as practical.

1. When a bacteriological examination shows a repeat sample is required (see 12 VAC 5-590-380 D), a report shall be made within 48 hours. A waterworks owner must report a total coliform PMCL violation to the appropriate field office no later than the end of the next business day.

2. When the daily average of turbidity testing exceeds 5 NTU a report shall be made within 48 hours.

3. When a Primary Maximum Contaminant Level of an inorganic or organic chemical is exceeded for a single sample the owner shall report same within seven days. If any one sample result would cause the compliance average to be exceeded the owner shall report same in 48 hours.

4. When the average value of samples collected pursuant to 12 VAC 5-590-410 exceeds the Primary Maximum Contaminant Level of any organic or inorganic chemical the owner shall report same within 48 hours.

5. When the maximum contaminant level for radionuclides has been exceeded as determined by Table 2.5 the results shall be reported within 48 hours.

6. The waterworks owner shall report to the appropriate field office within 48 hours the failure to comply with the monitoring and sanitary survey requirements of this chapter.

7. The waterworks owner shall report to the appropriate field office within 48 hours the failure to comply with the requirements of any schedule prescribed pursuant to a variance or exemption.

C. *Reporting requirements for filtration treatment and disinfection treatment.*

~~C~~. 1. The owner of a waterworks that provides filtration treatment shall report monthly to the division the following specified information beginning June 29, 1993, or when filtration is installed, whichever is later.

~~1~~. a. Turbidity measurements as required by 12 VAC 5-590-370 B 7 a shall be reported within 10 days after the end of each month the waterworks serves water to the public. Information that shall be reported includes:

~~a~~. (1) The total number of filtered water turbidity measurements taken during the month.

~~b~~. (2) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in

12 VAC 5-590-420 B 2 for the filtration technology being used.

~~e~~. (3) The date and value of any turbidity measurements taken during the month which exceed 5 NTU.

b. *In addition, a waterworks serving at least 10,000 people using surface water or groundwater under the direct influence of surface water that provides conventional filtration treatment or direct filtration must report monthly to the commissioner the information specified in subdivisions C 1 b (1) and (2) of this section beginning January 1, 2002. Also, a waterworks that provides filtration approved under 12 VAC 5-590-420 B 2 d must report monthly to the commissioner the information specified in subdivision C 1 b (1) of this section beginning January 1, 2002. The reporting in subdivision C 1 b (1) of this section is in lieu of the reporting specified in C 1 a.*

(1) *Turbidity measurements as required by 12 VAC 5-590-420 B 2 a (3) must be reported within 10 days after the end of each month the system serves water to the public. Information that must be reported includes:*

(a) *The total number of filtered water turbidity measurements taken during the month.*

(b) *The number and percentage of filtered water turbidity measurements taken during the month that are less than or equal to the turbidity limits specified in 12 VAC 5-590-420 B 2 a (3) or 12 VAC 5-590-420 B 2 d.*

(c) *The date and value of any turbidity measurements taken during the month that exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or that exceed the maximum level set by the commissioner under 12 VAC 590-420 B 2 d.*

(2) *Waterworks must maintain the results of individual filter monitoring taken under 12 VAC 5-590-370 B 7 b (1) for at least three years. Waterworks must report that they have conducted individual filter turbidity monitoring under 12 VAC 5-590-370 B 7 b (1) within 10 days after the end of each month the waterworks system serves water to the public. Waterworks must report individual filter turbidity measurement results taken under 12 VAC 5-590-370 B 7 b (1) within 10 days after the end of each month the waterworks serves water to the public only if measurements demonstrate one or more of the conditions in subdivisions C 1 b (2) (a) through (d) of this section. Waterworks that use lime softening may apply to the commissioner for alternative exceedance levels for the levels specified in subdivisions C 1 b (2) (a) through (d) of this section if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.*

(a) *For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two*

---

# Final Regulations

---

consecutive measurements taken 15 minutes apart, the waterworks must report the filter number, the turbidity measurement, and the date, or dates, on which the exceedance occurred. In addition, the waterworks must either produce a filter profile for the filter within seven days of the exceedance (if the waterworks is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(b) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the waterworks must report the filter number, the turbidity, and the date, or dates, on which the exceedance occurred. In addition, the waterworks must either produce a filter profile for the filter within seven days of the exceedance (if the waterworks is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(c) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the waterworks must report the filter number, the turbidity measurement, and the date, or dates, on which the exceedance occurred. In addition, the waterworks must conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self-assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(d) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the waterworks must report the filter number, the turbidity measurement, and the date, or dates, on which the exceedance occurred. In addition, the waterworks must arrange for the conduct of a comprehensive performance evaluation by the commissioner or a third party approved by the commissioner no later than 30 days following the exceedance and have the evaluation completed and submitted to the commissioner no later than 90 days following the exceedance.

2. Disinfection information specified below shall be reported to the division within 10 days after the end of each month the waterworks serves water to the public. Information that shall be reported includes:

a. For each day, the lowest measurement of residual disinfectant concentration in mg/L in water entering the distribution system.

b. The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.2 mg/L and when the division was notified of the occurrence.

c. The following information on the samples taken in the distribution system in conjunction with total coliform monitoring pursuant to 12 VAC 5-590-420 B.

(1) Number of instances where the residual disinfectant concentration is measured;

(2) Number of instances where the residual disinfectant concentration is not measured but HPC is measured;

(3) Number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;

(4) Number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/mL;

(5) Number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/mL;

(6) For the current and previous month the system serves water to the public, the value of "V" in percent in the following formula:

$$V = \frac{c + d + e}{a + b} \times 100$$

-----

a + b

a = the value in subdivision C 2 c (1) of this section.

b = the value in subdivision C 2 c (2) of this section

c = the value in subdivision C 2 c (3) of this section

d = the value in subdivision C 2 c (4) of this section

e = the value in subdivision C 2 c (5) of this section.

(7) If the division determines, based on site specific considerations, that a waterworks owner has no means for having a sample transported and analyzed for HPC by a certified laboratory within the requisite time and temperature conditions and that the waterworks is providing adequate disinfection in the distribution system, the requirements of ~~12 VAC 5-590-530~~ subdivision C 2 c (1) through (6) of this section do not apply.

d. A waterworks owner need not report the data listed in ~~12 VAC 5-590-530~~ subdivision C 2 a of this section if all data listed in ~~12 VAC 5-590-530~~ subdivisions C 2 a through c of this section remain on file at the waterworks and the division determines that the waterworks owner has submitted all of the information required by ~~12 VAC 5-590-530~~ subdivisions C 2 a through c of this section for the last 12 months.

3. Additional reporting requirements.

a. Each waterworks owner, upon discovering that a waterborne disease outbreak potentially attributable to that waterworks has occurred, shall report that occurrence to the division as soon as possible, but no later than by the end of the next business day.

b. If at any time the turbidity exceeds 5 NTU, the waterworks owner shall inform the division as soon as possible, but no later than the end of the next business day.

(4) c. Additional reporting requirements for waterworks serving at least 10,000 people.

*(1) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a waterworks using conventional filtration treatment or direct filtration, the waterworks must inform the commissioner as soon as possible, but no later than the end of the next business day.*

*(2) If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the commissioner in 12 VAC 5-590-420 B 2 d for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the waterworks must inform the commissioner as soon as possible, but no later than the end of the next business day.*

c. If at any time the chlorine residual falls below 0.2 mg/L in the water entering the distribution system, the waterworks owner shall notify the division as soon as possible, but no later than by the end of the next business day. The waterworks owner also shall notify the division by the end of the next business day whether or not the residual was restored to at least 0.2 mg/L within four hours.

D. Reporting requirements for lead and copper. All waterworks owners shall report all of the following information to the appropriate field office in accordance with this section.

1. Reporting requirements for tap water monitoring for lead and copper and for water quality parameter monitoring.

a. A waterworks owner shall report the information specified below for all tap water samples within the first 10 days following the end of each applicable monitoring period specified in 12 VAC 5-590-370 B 6 a, 12 VAC 5-590-370 B 6 b and 12 VAC 5-590-370 B 6 c (i.e., every six months, annually, or every three years).

(1) The results of all tap samples for lead and copper including location or a location site code and the criteria under 12 VAC 5-590-370 B 6 a (1) (c), (d), (e), (f) and/or (g) under which the site was selected for the waterworks' sampling pool;

(2) A certification that each first draw sample collected by the waterworks is one-liter in volume and, to the best of their knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours;

(3) Where residents collected samples, a certification that each tap sample collected by the residents was taken after the waterworks owner informed them of proper sampling procedures specified in 12 VAC 5-590-370 B 6 a (2) (b);

(4) The 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with 12 VAC 5-590-410 E 3);

(5) With the exception of initial tap sampling conducted pursuant to 12 VAC 5-590-370 B 6 a (4) (a), the waterworks owner shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed;

(6) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under 12 VAC 5-590-370 B 6 b (2) through (5);

(7) The results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under 12 VAC 5-590-370 B 6 (2) through (5).

b. By the applicable date in 12 VAC 5-590-370 B 6 a (4) (a) for commencement of monitoring, the owner of each community waterworks which does not complete the targeted sampling pool with tier 1 sampling sites meeting the criteria in 12 VAC 5-590-370 B 6 a (1) (c) shall send a letter to the appropriate field office justifying the selection of tier 2 and/or tier 3 sampling sites under 12 VAC 5-590-370 B 6 a (1) (d) and/or 12 VAC 5-590-370 B 6 a (1) (e).

c. By the applicable date in 12 VAC 5-590-370 B 6 a (4) (a) for commencement of monitoring, the owner of each nontransient, noncommunity waterworks which does not complete the sampling pool with tier 1 sampling sites meeting the criteria in 12 VAC 5-590-370 B 6 a (1) (f) shall send a letter to the appropriate field office justifying the selection of sampling sites under 12 VAC 5-590-370 B 6 a (1) (5).

d. By the applicable date in 12 VAC 5-590-370 B 6 a (4) (a) for commencement of monitoring, the owner of each waterworks with lead service lines that is not able to locate the number of sites served by such lines required under 12 VAC 5-590-370 B 6 a (1) (b) (i) shall send a letter to the appropriate field office demonstrating why the owner was unable to locate a sufficient number of such sites based upon the information listed in 12 VAC 5-590-370 B 6 a (1) (b).

e. Each waterworks owner who requests that the commissioner reduce the number and frequency of sampling shall provide the information required under 12 VAC 5-590-370 B 6 a (4) (d).

2. Water supply (source water) monitoring reporting requirements.

---

# Final Regulations

---

- a. A waterworks owner shall report the sampling results for all source water samples collected in accordance with 12 VAC 5-590-370 B 6 c within the first 10 days following the end of each source water monitoring period (i.e., annually, per compliance period, per compliance cycle) specified in 12 VAC 5-590-370 B 6 c.
  - b. With the exception of the first round of source water sampling conducted pursuant to 12 VAC 5-590-370 B 6 c(2), the waterworks owner shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.
3. Corrosion control treatment reporting requirements. By the applicable dates under 12 VAC 5-590-420 C 2, waterworks owners shall report the following information:
- a. For waterworks demonstrating that they have already optimized corrosion control, information required in 12 VAC 5-590-420 C 2 b (2) or 12 VAC 5-590-420 C 2 b (3).
  - b. For waterworks required to optimize corrosion control, the owner's recommendation regarding optimal corrosion control treatment under 12 VAC 5-590-420 C 1 a.
  - c. For waterworks required to evaluate the effectiveness of corrosion control treatments under 12 VAC 5-590-420 C 1 c, the information required by that paragraph.
  - d. For waterworks required to install optimal corrosion control designated by the commissioner under 12 VAC 5-590-420 C 1 d (1), a letter certifying that the owner has completed installing that treatment.
4. Water supply source water treatment reporting requirements. By the applicable dates in 12 VAC 5-590-420 D, waterworks owners shall provide the following information to the appropriate field office:
- a. If required under 12 VAC 5-590-420 D 2 a, the owner's recommendation regarding source water treatment;
  - b. For waterworks required to install source water treatment under 12 VAC 5-590-420 D 2 b, a letter certifying that the waterworks has completed installing the treatment designated by the commissioner within 24 months after the commissioner designated the treatment.
5. Lead service line replacement reporting requirements. Waterworks owners shall report the following information to the appropriate field office to demonstrate compliance with the requirements of 12 VAC 5-590-420 E:
- a. Within 12 months after a waterworks exceeds the lead action level in sampling referred to in 12 VAC 5-590-420 E 1, the owner shall demonstrate in writing to the appropriate field office that the owner has conducted a materials evaluation, including the evaluation in 12 VAC 5-590-370 B 6 a(1), to identify the initial number of lead service lines in the distribution system, and shall provide the appropriate field office with the waterworks' schedule for replacing annually at least 7.0% of the initial number of lead service lines in its distribution system.
  - b. Within 12 months after a waterworks exceeds the lead action level in sampling referred to in 12 VAC 5-590-420 E 1, and every 12 months thereafter, the waterworks owner shall demonstrate to the appropriate field office in writing that the waterworks owner has either:
    - (1) Replaced in the previous 12 months at least 7.0% of the initial lead service lines (or a greater number of lines specified by the commissioner under 12 VAC 5-590-420 E 6) in the distribution system, or
    - (2) Conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to 12 VAC 5-590-370 B 6 a(7)(c), is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and/or which meet the criteria in 12 VAC 5-590-420 E 3 shall equal at least 7.0% of the initial number of lead lines identified under ~~paragraph 12 VAC 5-590-512 subdivision D 5 a of this section~~ (or the percentage specified by the commissioner under 12 VAC 5-590-420 E 6).
  - c. The annual letter submitted to the appropriate field office under ~~12 VAC 5-590-510 subdivision D 5 b of this section~~ shall contain the following information:
    - (1) The number of lead service lines scheduled to be replaced during the previous year of the waterworks' replacement schedule;
    - (2) The number and location of each lead service line replaced during the previous year of the waterworks' replacement schedule;
    - (3) If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.
  - d. As soon as practicable, but in no case later than three months after a waterworks exceeds the lead action level in sampling referred to in 12 VAC 5-590-420 E 1, any waterworks owner seeking to rebut the presumption that it has control over the entire lead service line pursuant to 12 VAC 5-590-420 E 4 shall submit a letter to the appropriate field office describing the legal authority (e.g., state statutes, municipal ordinances, public service contracts or other applicable legal authority) which limits the waterworks owner's control over the service lines and the extent of the waterworks owner's control.
6. Public education program reporting requirements. By December 31st of each year, the owner of any waterworks that is subject to the public education requirements in 12 VAC 5-590-420 F shall submit a letter to the appropriate field office demonstrating that the waterworks owner has delivered the public education materials that meet the content requirements in 12 VAC 5-590-420 F 1 and 12 VAC 5-590-420 F 2 and the delivery requirements in 12 VAC 5-590-420 F 3. This information shall include a list of all the newspapers, radio stations, television stations, facilities and organizations to which the owner delivered public education materials during the previous year. The owner shall submit the letter required by this paragraph annually for as long as it exceeds the lead action level.

7. Reporting of additional monitoring data. The owner of any waterworks which collects sampling data in addition to that required by this subpart shall report the results to the appropriate field office within the first 10 days following the end of the applicable monitoring period under 12 VAC 5-590-370 B 6 a, 12 VAC 5-590-370 B 6 b and 12 VAC 5-590-370 B 6 c during which the samples are collected.

*E. Reporting requirements for disinfection byproducts. Waterworks must report the following information in accordance with subsection A of this section. (The field office may choose to perform calculations and determine whether the PMCL was violated, in lieu of having the waterworks report that information):*

1. A waterworks monitoring for TTHM and HAA5 under the requirements of 12 VAC 5-590-370 B 3 b on a quarterly or more frequent basis must report:

- a. The number of samples taken during the last quarter.
- b. The location, date, and result of each sample taken during the last quarter.
- c. The arithmetic average of all samples taken in the last quarter.
- d. The annual arithmetic average of the quarterly arithmetic averages of this section for the last four quarters.
- e. Whether, based on 12 VAC 5-590-390 C 2 b (2), the PMCL was violated.

2. A waterworks monitoring for TTHMs and HAA5 under the requirements of 12 VAC 5-590-370 B 3 b less frequently than quarterly (but at least annually) must report:

- a. The number of samples taken during the last year.
- b. The location, date, and result of each sample taken during the last monitoring period.
- c. The arithmetic average of all samples taken over the last year.
- d. Whether, based on 12 VAC 5-590-390 C 2 b (2), the PMCL was violated.

3. A waterworks monitoring for TTHMs and HAA5 under the requirements of 12 VAC 5-590-370 B 3 b less frequently than annually must report:

- a. The location, date, and result of the last sample taken.
- b. Whether, based on 12 VAC 5-590-390 C 2 b (2), the PMCL was violated.

4. A waterworks monitoring for chlorite under the requirements of 12 VAC 5-590-370 B 3 b must report:

- a. The number of entry point samples taken each month for the last three months.
- b. The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter.

c. For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system.

d. Whether, based on 12 VAC 5-590-390 C 2 b (2) (c), the PMCL was violated, in which month and how many times it was violated each month.

5. A waterworks monitoring for bromate under the requirements of 12 VAC 5-590-370 B 3 b must report:

- a. The number of samples taken during the last quarter.
- b. The location, date, and result of each sample taken during the last quarter.
- c. The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.
- d. Whether, based on 12 VAC 5-590-390 C 2 b (2) (b), the PMCL was violated.

*F. Reporting requirements for disinfectants. Waterworks must report the information specified below in accordance with subsection A of this section. (The field office may choose to perform calculations and determine whether the MRDL was violated, in lieu of having the waterworks report that information):*

1. A waterworks monitoring for chlorine or chloramines under the requirements of 12 VAC 5-590-370 B 3 b must report:

- a. The number of samples taken during each month of the last quarter.
- b. The monthly arithmetic average of all samples taken in each month for the last 12 months.
- c. The arithmetic average of all monthly averages for the last 12 months.
- d. Whether, based on 12 VAC 5-590-410 C 2 b (3) (a), the MRDL was violated.

2. A waterworks monitoring for chlorine dioxide under the requirements of 12 VAC 5-590-370 B 3 b must report:

- a. The dates, results, and locations of samples taken during the last quarter.
- b. Whether, based on 12 VAC 5-590-410 C 2 b (3) (b), the MRDL was violated.
- c. Whether the MRDL was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

*G. Reporting requirements for disinfection byproduct precursors and enhanced coagulation or enhanced softening. Waterworks must report the following information in accordance with subsection A of this section. (The field office may choose to perform calculations and determine whether the treatment technique was met, in lieu of having the waterworks report that information):*

1. A waterworks monitoring monthly or quarterly for TOC under the requirements of 12 VAC 5-590-370 B 3 b and required to meet the enhanced coagulation or enhanced

---

# Final Regulations

---

softening requirements in 12 VAC 5-590-420 H 2 b or 12 VAC 5-590-420 H 2 c must report:

a. The number of paired (source water and treated water) samples taken during the last quarter.

b. The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.

c. For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal.

d. Calculations for determining compliance with the TOC percent removal requirements, as provided in 12 VAC 5-590-420 H 3 a.

e. Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in 12 VAC 5-590-420 H 2 a for the last four quarters.

2. A waterworks monitoring monthly or quarterly for TOC under the requirements of 12 VAC 5-590-370 B 3 b and meeting one or more of the alternative compliance criteria in 12 VAC 5-590-420 H 1 b or 12 VAC 5-590-420 H 1 c must report:

a. The alternative compliance criterion that the system is using.

b. The number of paired samples taken during the last quarter.

c. The location, date, and result of each paired sample and associated alkalinity taken during the last quarter.

d. The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in 12 VAC 5-590-420 H 1 b (2) or (3) or of treated water TOC for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (2).

e. The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (5) or of treated water SUVA for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (6).

f. The running annual average of source water alkalinity for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (3) and of treated water alkalinity for systems meeting the criterion in 12 VAC 5-590-420 H 1 c (1).

g. The running annual average for both TTHM and HAA5 for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (3) or 12 VAC 5-590-420 H 1 b (4).

h. The running annual average of the amount of magnesium hardness removal (as CaCO<sub>3</sub>, in mg/L) for systems meeting the criterion in 12 VAC 5-590-420 H 1 c (2).

i. Whether the system is in compliance with the particular alternative compliance criterion in 12 VAC 5-590-420 H 1 b or 12 VAC 5-590-420 H 1 c.

~~E.~~ H. Reporting of analytical results to the appropriate field office will not be required in instances where the state laboratory performs the analysis and reports same to that office.

~~F.~~ I. Information to be included on the operation monthly report shall be determined by the division for each waterworks on an individual basis. Appendix G contains suggested monthly operation report requirements.

## **12 VAC 5-590-540. Public notification (Reference Appendix F for checklist and sample format).**

A. It shall be the duty and responsibility of the owner to give public notification under the following circumstances. (See Appendix F for mandatory health effects language.)

1. When any applicable PMCL or MRDL has been exceeded as set forth in 12 VAC 5-590-370.

2. Failure to comply with an applicable treatment technique.

3. Failure to comply with the requirements of any schedule prescribed pursuant to a variance or exemption.

4. Failure to do the prescribed monitoring as required.

5. Failure to comply with an applicable testing procedure as prescribed in 12 VAC 5-590-440.

6. Having been granted or having in effect a variance or exemption from an applicable PMCL.

7. Special public notification requirements for fluoride. Notice of violations of the Primary or Secondary Maximum Contaminant Level for fluoride, notices of variances and exemptions from the Primary Maximum Contaminant Level for fluoride, and notices of failure to comply with variance and exemption schedules for the Primary Maximum Contaminant Level for fluoride shall consist of the public notice in Appendix H plus a description of the nature of the violation and a description of any steps which the waterworks is taking to come into compliance.

8. General lead notification as required by PL 100-572 (LCCA).

a. In addition to the requirements of subdivisions A 1 through 6 of this section, the owner of each community waterworks and each nontransient noncommunity waterworks shall issue notice to persons served by that system that may be affected by lead contamination of their waterworks. The division may require subsequent notices. The owner shall provide notice under this section even if there is no exceedance of the Lead Action Level as defined in 12 VAC 5-590-410 E 1.

b. Notice under subdivision A 8 of this section is not required if the waterworks demonstrates to the division that the waterworks including the residential and nonresidential portions connected to the water system are lead free. For the purposes of this paragraph, the term "lead free" when used with respect to solders and flux refers to solders and flux containing not more than 0.2% lead, and when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0% lead.



c. Manner of notice. Notice shall be given to persons served by the waterworks either by (i) three newspaper notices (one for each of three consecutive months) as directed by the division; or (ii) once by mail notice with the water bill or in a separate mailing as directed by the division; or (iii) once by hand delivery. For nontransient noncommunity waterworks, notices may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the waterworks and continue for three months as directed by the division.

d. General content of notice. Notices issued under this section shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the waterworks is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any. The notice shall include the mandatory health effects language set out in Appendix F. In addition, each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the waterworks owner, operator, or designee as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual; and

9. Availability of unregulated contaminant results. The owner shall notify persons served by the waterworks of the availability of the results of sampling conducted for unregulated contaminants under 12 VAC 5-590-370 B 4 by including a notice in the first set of water bills issued by the waterworks after the receipt of the results or written notice within three months. The notice shall identify a person and the telephone number for information on the monitoring results. For surface water source waterworks which provide this public notice after the first quarter of monitoring, the notice must include a statement that additional monitoring will be conducted for three more quarters with the results available upon request.

B. Tier I. The owner of a waterworks in violation as described in subdivisions A 1, 2, and 3 of this section shall give notice as follows:

1. Newspaper. By publication in a daily newspaper of general circulation in the area served by the system as soon as possible but in no case later than 14 days after the violation or failure. If the area served by a waterworks is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

2. Mail or hand delivery. By mail delivery (by direct mail or with the water bill) or by hand delivery not later than 45 days after the violation or failure. The division may waive mail or hand delivery if it determines that the owner of the

waterworks in violation has corrected the violation or failure within the 45-day period. The division must make the waiver in writing and within the 45-day period; and

3. Imminent health threats. For violations of the PMCLs of contaminants *or MRDLs of disinfectants* that may pose an acute risk to human health by furnishing a copy of the notice to the radio and television stations serving the area served by the ~~waterworks~~ *public water system* as soon as possible but in no case later than 72 hours after the violation. The following violations are acute violations:

a. Violation of the bacteriological PMCL.

b. Violation of the nitrate PMCL.

c. Occurrence of a waterborne disease outbreak as determined by the commissioner or the State Epidemiologist in an unfiltered waterworks with a surface source or groundwater source influenced by surface water.

*d. Violation of the MRDL for chlorine dioxide as defined in Table 2.12 and determined according to 12 VAC 5-590-410 C 2 b (3) (b) (i).*

~~e.~~ e. Other violations as determined by the division.

4. Long term violations. Following the initial notice given under ~~12 VAC 5-590-540~~ *subdivisions B 1 or B 2* of this section, the owner must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation or failure exists.

5. Exceptions:

a. In lieu of the requirements of ~~12 VAC 5-590-540~~ *subdivision B 1 of this section*, the owner of a community waterworks in an area that is not served by a daily or weekly newspaper of general circulation shall give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the waterworks. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

b. In lieu of the requirements of ~~12 VAC 5-590-540~~ *subdivisions B 1 and 12 VAC 5-590-540 B 2 of this section*, the owner of a noncommunity waterworks may give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the waterworks. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

C. Tier II. The owner of a waterworks in violation as described in ~~12 VAC 5-590-540~~ *subdivisions A 4, 12 VAC 5-590-540 A 5, or 12 VAC 5-590-540 A 6 of this section* shall give notice as follows:

1. Within three months of the violation or granting of a variance or exemption by publication in a daily newspaper of general circulation in the area served by the waterworks. If the area served by a waterworks is not served by a daily

---

# Final Regulations

---

newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area.

2. For long term violations, the owner shall give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation exists. Repeat notice of the existence of a variance or exemption must be given every three months for as long as the variance or exemption remains in effect.

3. Exceptions:

a. Community waterworks. In lieu of the requirements of ~~12 VAC 5-590-540~~ subdivisions C 1 and ~~12 VAC 5-590-540~~ C 2 of this section, the owner of a community waterworks in an area that is not served by a daily or weekly newspaper of general circulation shall give notice, within three months of the violation or granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the waterworks. Posting must continue for as long as the violation exists or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

b. Noncommunity waterworks. In lieu of the requirements of ~~12 VAC 5-590-540~~ subdivisions C 1 and ~~12 VAC 5-590-540~~ C 2 of this section, the owner of a noncommunity waterworks shall give notice, within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the waterworks. Posting must continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

c. Minor violations. In lieu of the requirements of ~~12 VAC 5-590-540~~ subdivisions C 1 and ~~12 VAC 5-590-540~~ C 2 of this section, the owner of a waterworks, at the discretion of the division, may provide less frequent notice for minor monitoring violations as defined by the division, if approved by EPA. Notice of such violations must be given no less frequently than annually.

D. Notice to new billing units. The owner of a community waterworks must give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, or any maximum residual disinfectant level, or any treatment technique requirement or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

E. General contents of public notice. Each notice required by this section must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the waterworks is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take until the violation is

corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the waterworks as a source of additional information concerning the notice. Where appropriate, the notice shall be multilingual.

F. Mandatory health effects language. When providing the information on potential adverse health effects required by ~~42 VAC 5-540-590~~ subsection E of this section in notices of violations of Maximum Contaminant Levels or treatment techniques requirements, or notices of the granting or the continued existence of exemptions or variances, or notices of failure to comply with a variance or exemption schedule, the owner of a waterworks shall include the language specified in Appendix F as appropriate. If language for a particular contaminant is not specified in Appendix F, this subsection does not apply.

G. Public notification by the division. The division may give notice to the public required by this section on behalf of the owner of the waterworks if the division complies with the requirements of this section. However, the owner of the waterworks remains legally responsible for ensuring that the requirements of this section are met.

H. Within 10 days of completion of each public notice, the waterworks owner shall provide the appropriate field office with a representative copy of each type of notice distributed, published, posted and made available to the consumers or to the media.

## 12 VAC 5-590-550. Recordkeeping.

All waterworks shall retain within their facilities or at a convenient location near their facilities the following records for the minimum time periods specified:

A. Bacteriological Records - Five years

B. Chemical Analyses - 10 years

C. Individual filter monitoring required under 12 VAC 5-590-530 C 1 b (2) three years; and

~~C.~~ D. The following information shall be provided for subsections A and B ~~above~~ of this section:

1. Date, place, and time of sampling as well as the name of the person who collected the sample;

2. Identification of sample (e.g., routine, check sample, raw water, other);

3. Date of analysis;

4. Laboratory and/or person responsible for performing analysis;

5. Analytical method/technique used; and

6. Results of the analysis.

~~D.~~ E. Original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, commissioner determinations, and any other information required by 12 VAC 5-590-420 C 1, ~~C~~ and 2, D, E, and F; and

12 VAC 5-590-370 B 6 a, ~~B-6 b~~, and ~~B-6 c~~ pertaining to lead and copper. Each waterworks owner shall retain the records required by this section for no fewer than 12 years.

~~E.~~ F. Action taken to correct violations of these regulations - three years after last action with respect to violation involved.

~~F.~~ G. Copies of reports, summaries, or communications relating to any sanitary surveys performed - 10 years following inspection.

~~G.~~ H. Variance or exemptions granted (and records related thereto) - five years following expiration of variance or exemption.

~~H.~~ I. Cross connection control program records - 10 years.

~~I.~~ J. All waterworks shall retain the following additional records:

1. Plant operational records
2. Water well completion reports
3. As-built engineering plans and specifications of facilities
4. Shop drawings of major equipment
5. Records of equipment repair or replacement
6. Updated map of water distribution system
7. All accident reports

**APPENDIX B.  
BACKGROUND USED IN DEVELOPING THE CHEMICAL,  
PHYSICAL AND RADIOLOGICAL LIMITS OF THE  
DRINKING WATER STANDARDS.**

## **COPPER**

### **ACTION LEVEL - 1.3 mg/L**

Copper is an essential and beneficial element in human metabolism. The daily copper requirement for adults has been estimated to be 2.0 mg. Preschool age children require about 0.1 mg daily for normal growth. Copper at high doses has, however, been shown to cause stomach and intestinal distress, liver and kidney damage, and anemia.

A primary source of high concentrations of copper in drinking water is from the internal corrosion of copper plumbing within the home. The EPA has established an action level of 1.3 mg/L of copper in first draw tap sample which may result in public waterworks installing measures to control corrosion.

## **CORROSION**

Corrosion is responsible for many problems in the water distribution system including tuberculation with loss of carrying capacity and increased pumping costs, leaks, main ruptures, discoloration and loss of chlorine residual. The corrosivity of drinking water is a parameter which has not only esthetic and economic significance, but is health significant as well. The products of corrosion having the greatest health significance at the present time, cadmium and lead, are addressed as primary maximum contaminants, but there is also a sufficient basis to include corrosivity as a secondary maximum contaminant level.

Corrosivity is controlled by pH adjustment, the use of chemical stabilizers, or other means which are dependent upon the specific conditions of the water. The two major corrosion indicators utilized in Virginia are the Langelier Index (L.I.) and the Aggressive Index (A.I.). Other indicators also exist. The L.I. and A.I. are determined by utilizing some or all of the following parameters:

- pH
- Calcium Hardness
- Alkalinity
- Temperature
- TDS

All waterworks owners will be notified periodically of the corrosivity of their drinking water by the commissioner, either as L.I., A.I. or other appropriate index. Noncorrosive water should be the goal of each waterworks owner.

Furthermore, EPA requires each owner to be aware of type of materials used in the distribution system (including service connections and household plumbing) such as:

<b>LEAD</b>	<b>COPPER</b>
Pipe	Piping
Solder	Service Lines
Caulking	Household Plumbing
Lining of Distribution Mains	
Household Plumbing	
<b>GALVANIZED</b>	Ferrous Piping (cast iron and steel)
	Asbestos Cement Pipe
Service Lines	Vinyl Lined Asbestos Cement Pipe
Household Plumbing	Coal Tar Lined Pipes
	Plastic Pipe
	Piping
	Service Line
	Household Plumbing

## **FLUORIDE**

When the fluoride concentration in drinking water is maintained within the recommended ranges of 0.8 mg/L minimum and 1.0 mg/L maximum with the optimum being 0.9 mg/L, the consumer will realize a reduction in dental caries. When supplemental fluoridation is practiced, it is particularly advantageous to maintain a fluoride concentration at or near the optimum. The reduction in dental caries experienced at optimal fluoride concentrations will be diminished by as much as 50% when the concentration is 0.2 mg/L below the optimum. An approval limit slightly higher than the optimum can be tolerated without any mottling of teeth, so where fluorides are native to the water supply, these concentrations are acceptable. Higher levels should be reduced by treatment or blending with other sources lower in fluoride content. The U.S. Environmental Protection Agency has determined that the PMCL for fluoride is 4.0 mg/L based on long term toxicity data. The EPA has also determined that the SMCL for fluoride is 2.0 mg/L based on the potential formation of cosmetically objectionable dental fluorosis as a result of long term exposure. The level of the SMCL was based on a balancing of the beneficial and undesirable effects of fluoride.

# Final Regulations

## FOAMING AGENTS

Foaming is an undesirable property of drinking water because it is esthetically displeasing and therefore should be absent. Because no convenient standardized formability test exists, and because surfactants are one major class of substances that cause foaming, this property is determined indirectly by measuring the anionic surfactant concentration of substances measured by the methylene blue method and should not exceed 0.5 mg/L as methylene blue active substances (MBAS).

## NITRATE

Nitrate nitrogen (NO<sub>3</sub>-N) levels not exceeding 20 mg/L may be allowed in a noncommunity waterworks if the owner demonstrates:

1. Such water will not be available to children under 6 months of age; and
2. There will be continuous posting of the fact that NO<sub>3</sub>-N levels exceed 10 mg/L and the potential health effects of exposure; and
3. Health officials will be notified annually of NO<sub>3</sub>-N levels that exceed 10 mg/L; and
4. No adverse health effects will result.

NOTE: Nitrite in water poses a greater health hazard but fortunately it seldom occurs in high concentrations. Waters with nitrite-nitrogen concentrations over 1 mg/L should not be used for infant feedings.

## MANMADE RADIONUCLIDES

To determine compliance with Table 2.5, the detection limits shall not exceed the concentrations listed in the following Table.

DETECTION LIMITS FOR MAN-MADE BETA PARTICLE PHOTON EMITTERS	
RADIONUCLIDE	DETECTION LIMIT
Tritium	1,000 pCi/L
Strontium-89	10 pCi/L
Strontium-90	2 pCi/L
Iodine-131	1 pCi/L
Cesium-134	10 pCi/L
Gross Beta	4 pCi/L
Other radionuclides	1/10 of the applicable limit

## TURBIDITY

Operational requirement: *Conventional* water filtration plants utilizing surface waters as a source of supply are capable of producing filtered water with a turbidity consistently less than ~~0.5 TU~~ 0.1 NTU. Therefore, for water filtration plants the filter effluent turbidity for each filter, before any post-filtration chemical addition, operational limit is ~~0.5 TU~~ 0.1 NTU.

### APPENDIX F.

**REGISTRAR'S NOTICE:** Due to its length, Appendix F is not being published in its entirety. The following text shows the

amendments to paragraph 13 and new paragraphs 76 through 81.

MANDATORY HEALTH EFFECTS LANGUAGE FOR PUBLIC NOTIFICATION OF A VIOLATION OF PMCLs, TREATMENT TECHNIQUE REQUIREMENTS, THE GRANTING OF A VARIANCE OR EXEMPTION, OR SCHEDULE OF A VARIANCE OR EXEMPTION.

...

13. Microbiological Contaminants (for use when there is a violation of the treatment technique requirements for filtration and disinfection in ~~Subpart II of this part 12 VAC 5-590-420~~). The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however, are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. EPA has set enforceable requirements for treating drinking water to reduce the risk of those adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet EPA requirements is associated with little to none of this risk and should be considered safe.

...

76. *Chlorine.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chlorine is a health concern at certain levels of exposure. Chlorine is added to drinking water as a disinfectant to kill bacteria and other disease-causing microorganisms and is also added to provide continuous disinfection throughout the distribution system. Disinfection is required for surface water systems. However, at high doses for extended periods of time, chlorine has been shown to affect blood and the liver in laboratory animals. EPA has set a drinking water standard for chlorine to protect against the risk of these adverse effects. Drinking water that meets this EPA standard is associated with little to none of this risk and should be considered safe with respect to chlorine.

77. *Chloramines.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chloramines are a health concern at certain levels of exposure. Chloramines are added to drinking water as a disinfectant to kill bacteria and other disease-causing microorganisms and are also added to provide continuous disinfection throughout the distribution system. Disinfection is required for surface water systems. However, at high doses for extended periods of time, chloramines have been shown to affect blood and the liver in laboratory animals. EPA has set a drinking water standard for chloramines to protect against the risk of these adverse effects. Drinking water that meets this EPA

standard is associated with little to none of this risk and should be considered safe with respect to chloramines.

78. Chlorine dioxide. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chlorine dioxide is a health concern at certain levels of exposure. Chlorine dioxide is used in water treatment to kill bacteria and other disease-causing microorganisms and can be used to control tastes and odors. Disinfection is required for surface water systems. However, at high doses, chlorine dioxide-treated drinking water has been shown to affect blood in laboratory animals. Also, high levels of chlorine dioxide given to laboratory animals in drinking water have been shown to cause neurological effects on the developing nervous system. These neurodevelopmental effects may occur as a result of a short-term excessive chlorine dioxide exposure. To protect against such potentially harmful exposures, EPA requires chlorine dioxide monitoring at the treatment plant, where disinfection occurs, and at representative points in the distribution system serving water users. EPA has set a drinking water standard for chlorine dioxide to protect against the risk of these adverse effects.

Note: In addition to the language in this introductory text of paragraph 78, waterworks must include either the language in paragraph 78 i or 78 ii of this appendix. Waterworks with a violation at the treatment plant, but not in the distribution system, are required to use the language in paragraph 78 i of this appendix and treat the violation as a nonacute violation. Waterworks with a violation in the distribution system are required to use the language in paragraph 78. ii. of this appendix and treat the violation as an acute violation.

i. The chlorine dioxide violations reported today are the result of exceedances at the treatment facility only, and do not include violations within the distribution system serving users of this water supply. Continued compliance with chlorine dioxide levels within the distribution system minimizes the potential risk of these violations to present consumers.

ii. The chlorine dioxide violations reported today include exceedances of the EPA standard within the distribution system serving water users. Violations of the chlorine dioxide standard within the distribution system may harm human health based on short-term exposures. Certain groups, including pregnant women, infants, and young children, may be especially susceptible to adverse effects of excessive exposure to chlorine dioxide-treated water. The purpose of this notice is to advise that such persons should consider reducing their risk of adverse effects from these chlorine dioxide violations by seeking alternate sources of water for human consumption until such exceedances are rectified. Local and state health authorities are the best sources for information concerning alternate drinking water.

79. Disinfection byproducts and treatment technique for DBPs. The United States Environmental Protection Agency (EPA) sets drinking water standards and requires the disinfection of drinking water. However, when used in the treatment of drinking water, disinfectants react with naturally occurring organic and inorganic matter present in water to

form chemicals called disinfection byproducts (DBPs). EPA has determined that a number of DBPs are a health concern at certain levels of exposure. Certain DBPs, including some trihalomethanes (THMs) and some haloacetic acids (HAAs), have been shown to cause cancer in laboratory animals. Other DBPs have been shown to affect the liver and the nervous system, and cause reproductive or developmental effects in laboratory animals. Exposure to certain DBPs may produce similar effects in people. EPA has set standards to limit exposure to THMs, HAAs, and other DBPs.

80. Bromate. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that bromate is a health concern at certain levels of exposure. Bromate is formed as a byproduct of ozone disinfection of drinking water. Ozone reacts with naturally occurring bromide in the water to form bromate. Bromate has been shown to produce cancer in rats. EPA has set a drinking water standard to limit exposure to bromate.

81. Chlorite. The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that chlorite is a health concern at certain levels of exposure. Chlorite is formed from the breakdown of chlorine dioxide, a drinking water disinfectant. Chlorite in drinking water has been shown to affect blood and the developing nervous system. EPA has set a drinking water standard for chlorite to protect against these effects. Drinking water that meets this standard is associated with little to none of these risks and should be considered safe with respect to chlorite.

VA.R. Doc. No. R02-179; Filed May 13, 2002; 2:52 p.m.

---

◆ ————— ◆

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR BRANCH PILOTS

Title of Regulation: **18 VAC 45-10. Public Participation Guidelines (amending 18 VAC 45-10-10, 18 VAC 45-10-20, 18 VAC 45-10-30, 18 VAC 45-10-50, and 18 VAC 45-10-90).**

Statutory Authority: §§ 2.2-4007 and 54.1-902 of the Code of Virginia.

Effective Date: July 8, 2002.

Summary:

The amendments allow the board to accept requests to be placed on a notification list and to notify Public Participation Guidelines list members via electronic means. Currently, only written requests and mailed notifications are permitted.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation,

---

# Final Regulations

---

3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail courtney@dpor.state.va.us.

## 18 VAC 45-10-10. Definitions.

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

"Agency" means any authority, instrumentality, officer, board, or other unit of state government empowered by the basic laws to make regulations or decide cases.

"Notification lists" means lists used by the board to notify persons pursuant to this chapter. Such lists may include electronic mailing lists or regular mailing lists maintained by the board.

"Organization" means any one or more association, advisory council, committee, corporation, partnership, governmental body or legal entity.

"Person" means one or more individuals.

## 18 VAC 45-10-20. ~~Mailing list~~ Notification lists.

The agency will maintain a list of persons and organizations who will be mailed the following documents, *or notified of how to obtain a copy of the documents electronically*, as they become available:

1. "Notice of Intended Regulatory Action" to promulgate, amend or repeal regulations.
2. "Notice of Comment Period" and public hearings.
3. Notice that the final regulations have been adopted.

Failure of these persons and organizations to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.

## 18 VAC 45-10-30. Placement on the mailing list; deletion.

Any person wishing to be placed on ~~the mailing~~ a notification list may do so *by electronic notification* or by writing the agency. In addition, the agency, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in 18 VAC 45-10-20. Individuals and organizations periodically may be requested to indicate their desire to continue to receive documents or be deleted from the list. When mail [ ~~is~~ *or electronic notifications are* ] returned as undeliverable, individuals and organizations will be deleted from the list. [ *When electronic notifications are returned as undeliverable over more than one day, individuals and organizations will be deleted from the list.* ]

## 18 VAC 45-10-50. Notice of intent.

At least 30 days prior to filing the "Notice of Comment Period" and proposed regulations as required by ~~§ 9-6-14-7.4~~ 2.2-4007 of the Code of Virginia, the agency will publish a "Notice of Intended Regulatory Action." This notice will provide for at least a 30-day comment period and shall state whether the

agency intends to hold a public hearing. The agency is required to hold a hearing on the proposed regulation upon request by (i) the Governor or (ii) 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

## 18 VAC 45-10-90. Applicability.

18 VAC 45-10-20, 18 VAC 45-10-30, 18 VAC 45-10-40, 18 VAC 45-10-60, and 18 VAC 45-10-70 shall apply to all regulations promulgated and adopted in accordance with ~~§ 9-6-14-9~~ 2.2-4012 of the Code of Virginia except those regulations promulgated in accordance with ~~§§ 9-6-14-4.4~~ 2.2-4002, 2.2-4006, 2.2-4011, 2.2-4018, and 2.2-4025 of the Administrative Process Act.

VA.R. Doc. No. R01-227; Filed May 14, 2002, 12:46 p.m.



---

# GOVERNOR

---

## EXECUTIVE ORDER NUMBER 12 (2002)

### **CREATING THE GOVERNOR'S COMMISSION ON NATIONAL AND COMMUNITY SERVICE**

Mindful of the importance of national and community service, and by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-134 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on National and Community Service.

The Commission is classified as a gubernatorial advisory commission in accordance with Section 2.2-2100 of the Code of Virginia.

The Commission shall be established to comply with the provisions of the National and Community Services Trust Act of 1993 and to advise the Governor on matters related to promotion and development of national service in the Commonwealth of Virginia. The Commission shall have the following specific duties:

1. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, and the Commissioner of the Department of Social Services on national and community service programs in Virginia and on fulfilling the responsibilities and duties prescribed by the federal Corporation for National Service.
2. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, and the Commissioner of the Department of Social Services on the development, implementation, and evaluation of Virginia's Unified State Plan that outlines strategies for supporting and expanding national and community service throughout the Commonwealth.
3. To promote the expansion of AmeriCorps programs to meet Virginia's most pressing human, educational, environmental, and public safety needs.
4. To collaborate with the Virginia Department of Social Services and the Virginia Volunteerism Leadership Council to recognize and call attention to the significant community service contributions of Virginia citizens and organizations.
5. To encourage Virginians to answer the President's challenge to dedicate two years over the course of a lifetime to service to others.
6. To develop a plan for doubling, within four years, the number of Virginia service programs supported by the Corporation for National Service.
7. To highlight the significant voluntary contributions of Virginia citizens, businesses, and organizations.
8. To advise the Secure Virginia Panel on ways to integrate community service programs into the Commonwealth's preparedness efforts.

9. To promote and coordinate State programs offering opportunities for community service within the Commonwealth.

The Commission shall be comprised of no more than twenty-five voting members appointed by the Governor and serving at his pleasure. No more than 25 percent of voting members may be state employees.

The Governor may appoint additional persons as ex-officio non-voting members. The voting members of the Commission shall elect the Chairman. Commission voting membership shall include representatives for the categories as outlined in federal regulations issued by the Corporation for National Service.

Such staff support as is necessary to support the Commission's work during the term of its existence shall be furnished by the Office of the Secretary of Health and Human Resources, the Department of Social Services, and any other executive branch agencies having definitely and closely related purposes, as the Governor may designate. An estimated 900 hours of staff time will be required to support the work of the Commission.

Funding necessary to support the Commission and its staff shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes as the Commission, authorized by Section 2.2-135 of the Code of Virginia. Direct costs for this Commission are estimated at \$5,000.

Members of the Commission shall serve without compensation and shall receive reimbursement for expenses incurred in the discharge of their official duties.

The Commission shall meet at least quarterly upon the call of the Chairperson. The Commission shall make an annual report to the Governor and shall issue such other reports and recommendations as it deems necessary or as requested by the Governor.

This Executive Order shall be effective upon its signing and shall remain in force and effect until April 23, 2003 unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 23rd day of April 2002.

/s/ Mark R. Warner  
Governor

VA.R. Doc. No. R02-178; Filed May 6, 2002, 10:01 a.m.

---

# GENERAL NOTICES/ERRATA

---

## STATE CORPORATION COMMISSION

### Bureau of Insurance

May 1, 2002

#### Administrative Letter 2002-5

**TO: All Insurers, Health Services Plans, Health Maintenance Organizations (HMOs) and Other Interested Parties**

**RE: Legislation Enacted by the 2002 Virginia General Assembly**

We have attached for your reference staff summaries of certain statutes enacted or amended and re-enacted during the 2002 Session of the Virginia General Assembly. The effective date of these statutes is July 1, 2002, except as otherwise indicated in this letter. Each organization to which this letter is being sent should review the attachments carefully and see that notice of these laws is directed to the proper persons, including appointed representatives, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Copies of individual bills may be obtained at <http://legis.state.va.us/>. You may enter the bill number (not the Chapter number) on the Virginia General Assembly Home Page and you will be linked to the Legislative Information System. You may also link from the Legislative Information System to any existing section of the Code of Virginia.

Please note that this document is a summary of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments affecting insurance-related laws during the 2002 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

/s/ Alfred W. Gross  
Commissioner of Insurance

**NOTE: UNLESS OTHERWISE INDICATED, ALL BILLS ARE EFFECTIVE JULY 1, 2002**

#### PROPERTY AND CASUALTY BILLS

##### Chapter 70 (Senate Bill 182)

This bill adds a new section to the Code of Virginia (§ 38.2-323) in the Provisions Relating to Insurance Policies Chapter. It prohibits insurance companies from including a provision in their policies which makes the policy invalid if the policy is not signed or countersigned by an agent or a company representative.

##### Chapter 76 (Senate Bill 240)

This bill amends §§ 38.2-513.1 in the Unfair Trade Practices Act, 38.2-604 and 38.2-604.1 in the Insurance Information and Privacy Protection Chapter. This is a clean-up of last year's House Bill No. 2157 (enacted as Chapter 371). These changes are being made to be consistent with the federal Gramm-Leach-Bliley Financial Services Modernization Act. Subsection A 10 of § 38.2-513.1 is being amended to clarify

that the notice required by this subsection must be given whenever the bank sells insurance, not just when the bank is selling insurance in connection with a loan. Subsection F of § 38.2-604 is being deleted. Subdivision A 3 of § 38.2-604.1 is being amended by changing the words "not less than once in any consecutive twelve-month period" to "not less than once in each calendar year." Finally, subsection C of § 38.2-604.1 is being amended to clarify that the simplified notice must be sent when the policy is issued and annually.

##### Chapter 145 (Senate Bill 151)

This bill amends §§ 38.2-1902 and 38.2-1904 in the Regulation of Rates Generally Chapter, and, 38.2-2001 and 38.2-2005 in the Regulation of Certain Insurance Rates Chapter by allowing uninsured motorists rates to be regulated under Chapter 19, which is the "file and use" chapter of Title 38.2. Uninsured motorists rates will no longer be subject to the "prior approval" provisions of Chapter 20.

The bill also amends § 38.2-3001 in the Uninsured Motorists Fund Chapter to allow for a more equitable distribution of the refunds from the Uninsured Motorists Fund. Currently, the money is distributed in the proportion that each insurer's premium income for basic uninsured motorists limits coverage bears to the total premium income for basic uninsured motorists limits coverage written in Virginia. The new law will base the distribution in the proportion that each reporting insurer's written car years bears to the total number of written car years by all participating insurers in Virginia.

##### Chapter 316 (House Bill 140)

The bill repeals the third enactment clause of Chapter 590 of the 1998 Acts of Assembly, which would have eliminated the Insurance Fraud Unit of the Department of State Police effective January 1, 2003.

##### Chapter 323 (House Bill 199)

#### EFFECTIVE SEPTEMBER 1, 2002

This bill adds a new subsection to § 38.2-1812 in the Insurance Agents Chapter by requiring insurers to honor each request from a policyholder to change the agent of record. The change is required to be made on the next policy renewal. The new agent must be duly appointed by the insurer, and the insurer must notify the current agent of record in writing before the effective date of the change. This requirement only applies to property and casualty insurance agents. A provision in the law allows insurers to deviate from the requirements of this subsection provided that (i) insureds are permitted to change the agent of record under terms that are at least as favorable to the insured as the provisions of this subsection and (ii) insurers equitably allocate commissions.

##### Chapter 375 (House Bill 440)

This bill amends § 6.1-2.20 of the Consumer Real Estate Settlement Protection Act (CRESPA) in the Banking and Finance Title of the Code of Virginia by changing the definition of "settlement agent." A settlement agent will now also include any person, other than a party to the transaction, who conducts the settlement conference and receives or handles money.



## **Chapter 405 (House Bill 580)**

This bill adds a new section to the Liability Insurance Policies Chapter of the Code of Virginia (§ 38.2-2226.1). It requires motor vehicle liability insurers, when compromising, settling, and discharging claims made by persons other than the named insured, to advise every named insured on the policy of the compromise, settlement, and discharge of the claim. This is only required when a named insured makes such a request.

## **Chapter 437 (Senate Bill 154)**

This bill amends § 38.2-1903.1. This section became effective in 2000 and, with certain exceptions, exempts large commercial risks from the policy form approval and rate filing requirements of Chapter 19. In order to qualify for the exemption, a large commercial risk must have a risk manager and must meet at least two other criteria. One of these other criteria includes paying annual aggregate nationwide insurance premiums in excess of \$100,000. Currently, this aggregate cannot be made up of premiums from professional liability or workers' compensation insurance. Under the new law, the \$100,000 annual aggregate premium may include professional liability and workers' compensation insurance premiums.

## **Chapter 464 (Senate Bill 556)**

This bill amends § 6.1-2.21 of the Consumer Real Estate Settlement Protection Act (CRESPA). A title insurance company's escrow accounts will not have to be audited annually by an independent CPA as long as the title insurance company's financial statements are audited annually by an independent CPA.

## **Chapter 472 (Senate Bill 670)**

This bill amends § 38.2-1916.1 by giving the Attorney General the authority, consistent with his powers to enforce the laws prohibiting restraint of trade, to investigate any violation of subsection D of § 38.2-1919. (Subsection D of § 38.2-1919 requires every rate service organization that has uniform statistical plans, classification systems, experience rating plans, and manual rules, which are filed and approved by the Commission, to compile the experience of its members for workers' compensation insurance. Subsection D of § 38.2-1919 also requires each member insurer to adhere to the uniform plans, systems, and rules of its designated rate service organization in the recording of its experience and the reporting of such information to the rate service organization.)

## **Chapter 599 (Senate Bill 81)**

This bill amends § 6.1-2.13.1 of the Wet Settlement Act in the Banking and Finance Title and § 38.2-4614 of the Title Insurance Chapter by making it clear that employers may pay their employees for making insurance referrals, and the employees do not have to be licensed as agents provided that the provisions of § 38.2-1821.1 B 8 are followed.

## **Chapter 629 (Senate Bill 678)**

This bill adds a new section to the Code of Virginia (§ 38.2-2233). It requires an insurer to disclose conspicuously the new due date for an installment payment whenever the insurer

unilaterally changes the due date. This applies to motor vehicle insurance policies, as defined in § 38.2-2212, issued or renewed on or after October 1, 2002.

## **Chapter 631 (House Bill 81)**

This bill amends § 8.01-66.1 (Article 7, Chapter 3 of the Civil Remedies and Procedures Title) regarding arbitrary refusal to pay a motor vehicle insurance claim. The dollar threshold in the law has been changed from \$2,500 to \$3,500. Consequently, if an insurer refuses to pay a first party or third party motor vehicle insurance claim of \$3,500 or less (in excess of the deductible) and the insurer is found by the courts to have refused to pay the claim in good faith, the insurer will have to pay double the amount otherwise due, plus reasonable attorney's fees. If an insurer refuses to pay a first party claim over \$3,500 (in excess of the deductible) and the insurer is found by the courts to have refused to pay the claim in good faith, the insurer will have to pay the amount otherwise due plus double the interest rate and reasonable attorney's fees.

## **Chapter 657 (Senate Bill 689)**

This bill amends § 38.2-5016 of the Birth-Related Neurological Injury Compensation Act (Chapter 50 of Title 38.2) by requiring the board of directors to report annually on the investment of the Birth-Related Neurological Injury Compensation Fund's assets to the Governor, Clerk of the House of Delegates, and the Clerk of the Senate. This is in addition to the current requirement of reporting to the Speaker of the House of Delegates and the Chairman of the Senate Rules Committee.

## **FINANCIAL REGULATION BILLS**

### **Chapter 72 (Senate Bill 187)**

The bill amends § 38.2-3723 in the Credit Life, Credit Accident and Sickness Insurance Chapter to recognize the Insurance Commissioners 1980 Standard Ordinary (1980 CSO) mortality table (the most current mortality table in use) as the acceptable basis for developing reserves for many types of credit life insurance products. The bill also amends the refunds section (§ 38.2-3729) of the Chapter to specify that in calculating reserves and refunds in the event of termination of insurance coverage prior to the scheduled maturity date of the indebtedness, insurers must calculate refunds using the actuarial method as opposed to the Rule of 78.

### **Chapter 73 (Senate Bill 188)**

The bill amends § 38.2-1413 in the Investments Chapter of Title 38.2 to clarify the treatment of cash and cash equivalents and to increase to 10% of admitted assets the per obligor/per issuer restriction with respect to certain short-term investments.

### **Chapter 147 (Senate Bill 199)**

This bill contains technical clean-up amendments to Title 38.2 as follows:

- The Investments Chapter (Chapter 14 of Title 38.2) is amended in three places: an obsolete reference to an "earnings test" is deleted from § 38.2-1426; an incomplete reference to the Investment Company Act of 1940 in § 38.2-

---

## General Notices/Errata

---

1427.2 is corrected; and filing requirements under § 38.2-1446 are simplified by an amendment which allows the required attestation to be made by an executive officer of the insurer rather than the chief executive officer.

- The Burial Societies Chapter of the Code (Chapter 40 of Title 38.2) is amended to simplify the licensing renewal requirements for a burial society. The burial society still must obtain a surety bond in an amount not less than \$10,000 to secure the performance of the burial society's obligation to its members, but it would no longer be necessary for the burial society to file a certification of the bond with the commission except upon commission request. In addition, an obsolete reference to a requirement for initial licensure is deleted since current law does not permit the licensing of any new burial societies.
- The Fraternal Benefits Societies Chapter of the Code (Chapter 41 of Title 38.2) is amended so that the fraternal benefit societies are no longer required to make filings with the commission every time amendments are made to a society's charter or bylaws unless the Commissioner of Insurance requests the information from the society.

### **Chapter 153 (Senate Bill 289)**

This bill amends § 38.2-4319 in the Health Maintenance Organizations Chapter to subject HMOs to provisions in §§ 38.2-136 (General Provisions Chapter), 38.2-216 (Provisions of a General Nature Chapter), and 38.2-1316.1 through 38.2-1316.8 (Reinsurance Article of the Reports, Reserves and Examinations Chapter). The sweep-in of these provisions will give HMOs clear reinsurance authority while also assuring that accounting for reinsurance will be subject to the credit for reinsurance provisions in Chapter 13 of Title 38.2 and that a domestic HMO's transfer, whether by reinsurance or otherwise, of substantially all risks, property or business in this Commonwealth will be subject to the commission's approval.

### **Chapter 516 (Senate Bill 680)**

This bill amends and reenacts §§ 55-531 and 55-532 in the Property and Conveyances Title of the Code of Virginia relating to the notice a nonprofit and other entities are required to give to the Attorney General concerning asset dispositions. Amendments at § 55-531 amend the definition of "asset disposition" to encompass actions "to convert to a for-profit entity." These amendments also expand the definition of "nonprofit entity" to include persons exempt from taxation under 26 U.S.C 501 (c)(3) OR (4). A technical amendment at § 55-532 substitutes reference to the licensed "nonstock corporation" for the current reference to "health services plan."

### **LIFE AND HEALTH/EXTERNAL APPEALS BILLS**

#### **Chapter 334 (House Bill 1125)**

This bill revises § 38.2-5206 in the Long-Term Care Insurance Chapter of the Code of Virginia. The bill requires the commission's regulation of long-term care insurance to include standards for initial filings and rate increases that are similar to the standards in the model regulation developed by the National Association of Insurance Commissioners. There is a second enactment clause in the bill that requires the SCC to amend the existing long-term care regulation to implement

the provisions of the bill by April 1, 2003. The third enactment clause provides that the bill is effective on January 1, 2003.

#### **Chapter 343 (House Bill 1294)**

This bill adds § 38.2-3115.1 in the Life Insurance Chapter of the Code of Virginia. The bill allows every life insurance policy issued in Virginia to offer a policy provision for accelerated payment of benefits to the insured during the lifetime of the insured. If included in a life insurance policy, the benefit must be provided if a qualified health care provider or a court of competent jurisdiction has determined that the insured (1) is no longer able to perform two of the following activities of daily living (i) bathing, (ii) dressing, (iii) incontinence, (iv) eating, (v) toileting, or (vi) transferring or (2) the insured requires the substantial supervision of another person to protect the insured's safety or another person's safety. The bill requires the commission to adopt rules and regulations to carry out the intent of the bill. The rules and regulations may provide for additional options for the accelerated payment of benefits under any other conditions deemed appropriate by the commission. The bill does not apply to (i) credit life insurance issued pursuant to Chapter 37.1 or (ii) policies or contracts issued prior to July 1, 2002, but will apply to renewals or reissues of group life policies or contracts after July 1, 2002.

#### **Chapter 415 (House Bill 662)**

This bill amends § 38.2-3418.4 in the Accident and Sickness Policies Chapter of the Code of Virginia that requires coverage for reconstructive breast surgery. The bill deletes the language requiring that coverage be included for contracts delivered, issued for delivery or renewed "on or after July 1, 1998." The time period "on or after July 1, 1998" is also deleted from the definition of mastectomy. The bill provides that coverage must be provided in a manner determined by the attending physician and patient. The bill deletes the phrase "as a result of breast cancer" from the definition of mastectomy in the section. The bill defines mastectomy as meaning "the surgical removal of all or part of the breast" and "reconstructive breast surgery" as meaning "surgery performed or (i) coincident with or following a mastectomy or (ii) following a mastectomy for reconstructive breast surgery performed on or after October 21, 1998, and to reestablish symmetry between the two breasts while the patient is or was a covered person under the policy, contract, or plan." The reconstructive surgery includes coverage for prostheses, determined as necessary between physician and patient, and physical complications of mastectomy including treatment of lymphedemas. Notice of availability of this coverage must be given to enrollees upon enrollment. The notice must be prominent. Eligibility for coverage may not be denied solely to avoid the requirements of the section. The attending provider may not be penalized or have reimbursement or other incentives reduced to induce the provider to provide care inconsistent with the bill.

#### **Chapter 745 (Senate Bill 183)**

This bill amends provisions of the Adverse Utilization Review Decisions Chapter (Chapter 59 of Title 38.2) of the Code of Virginia. In accordance with this Chapter, the Commissioner of Insurance has the authority to review and uphold/reverse the decisions of the medical review panels reviewing appeals of

final adverse decisions of managed care health insurance plans (MCHIPS) on behalf of the Bureau of Insurance. The amendments in this bill would simply provide that if an external appeal decision is rendered at a time when the commissioner is away from the office for a period of time, there is authority in the statute to permit a qualified designee to act promptly with regard to the decision in the absence of a commissioner.

## **INSURANCE AGENTS AND CONTINUING EDUCATION**

### **Chapter 296 (House Bill 1195)**

#### **EFFECTIVE SEPTEMBER 1, 2002**

This bill clarifies inconsistencies that were inadvertently created by the substantial revisions to the Agents Chapter of Title 38.2 (2001 Senate Bill 913) of the Code of Virginia. Subsection E of § 38.2-1834.1 is amended to clarify that documents obtained by the commission in an investigation conducted pursuant to any provision of Chapter 18 of Title 38.2 shall be considered confidential. Subsection D of § 38.2-1869 is amended to clarify that an agent must initiate an action to contest the termination of his license for having failed to comply with continuing education (CE) requirements within 60 days or be deemed to have waived the right to contest the license termination. Subsections G and H of § 38.2-1869 are also amended to close a loophole inadvertently created when the termination date for licenses for noncompliance with CE requirements was changed from May to September to permit agents a longer period for an appeal prior to the termination of their license. With the amendments to subsections G and H of § 38.2-1869, no agent will be able to surrender his old license before it is administratively terminated for having failed to comply with CE requirements and obtain a new license of the same type until he has waited 90 days and then successfully completed the written examination.

### **Chapter 456 (Senate Bill 438)**

This bill revises § 38.2-1822 in the Insurance Agents Chapter of the Code of Virginia both as it currently reads and as it will read when the 2001 "business entity" amendments become effective on September 1, 2002. The bill deletes the requirement that specific authority to act as an agent or agency be set forth in the articles of organization for a limited liability company, or articles of incorporation for a corporation, or certificate of limited partnership for a limited partnership. The bill requires a nonresident business entity that is a corporation to obtain a certificate of authority to transact business in the Commonwealth pursuant to Chapter 13.1 (Corporations), or a limited liability company or limited partnership to obtain a certificate of registration pursuant to Title 50 (Partnerships), before the commission issues a license to the entity.

#### **NOTE**

The 2001 Administrative Letter on Law Changes (2001-3, available on the bureau's website, <http://www.state.va.us/scc/division/boi/webpages/administrativeltrs.htm>) outlined Chapter 706 (Senate Bill 913), the rewrite of Chapter 18 (Insurance Agents) of Title 38.2. Many of the provisions of Chapter 706 are effective September 1, 2002.

The bureau will be sending out a series of administrative letters and other communications regarding the changes.

## **STATE BOARD OF SOCIAL SERVICES**

### **Notice of Periodic Review of Regulations**

Pursuant to Executive Order Number Twenty-five (98), the Department of Social Services is currently reviewing the regulation 22 VAC 40-740, Adult Protective Services, to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number Twenty-five (98) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life, essential need of the regulation, less burdensome and intrusive alternatives to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until June 23, 2002, in care of Marjorie Marker, Adult Services Programs Consultant, Virginia Department of Social Services, Adult Protective Services Unit, 730 East Broad Street, Richmond, VA 23219-1849, by facsimile to (804) 692-2215, or by e-mail to [maj2@dss.state.va.us](mailto:maj2@dss.state.va.us).

## **STATE WATER CONTROL BOARD**

### **Proposed Consent Special Order TA Operating Corporation D/B/A Travel Centers of America**

The State Water Control Board proposes to issue a consent special order to TA Operating Corporation to resolve certain alleged violations of environmental laws and regulations occurring at their truck maintenance, retail fueling, and restaurant facility at the intersection of I-95 and Lewistown Road in Hanover County, Virginia. The proposed order requires evaluation and corrective action of the treatment system and payment of a \$4,500 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments until July 3, 2002, related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295; or sent to the e-mail address of [felupini@deq.state.va.us](mailto:felupini@deq.state.va.us). All comments received by e-mail must include name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

---

## General Notices/Errata

---

### STATE WATER CONTROL BOARD/WASTE MANAGEMENT BOARD

#### Consent Order Martinsville Emulsion Products Company, Inc.

The Virginia Department of Environmental Quality, State Water Control Board/Waste Management Board and Martinsville Emulsion Products Company, Inc. have agreed to a Consent Order in settlement of a civil enforcement action under the State Water Control Law and the Virginia Solid Waste Management Regulations, regarding a facility in Henry County, Virginia. The department will consider written comments until 5 p.m. on July 3, 2002. Comments must include your name, address, and phone number and can be e-mailed to [jrford@deq.state.va.us](mailto:jrford@deq.state.va.us) or mailed to Mr. Jerry R. Ford, Jr., DEQ – West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019.

The order is available at [www.deq.state.va.us/enforcement/notices.html](http://www.deq.state.va.us/enforcement/notices.html) and at the above office during regular business hours. You may also request copies from Jerry R. Ford, Jr. at the address above or at (540) 562-6817.

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

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

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**Internet:** Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://legis.state.va.us/codecomm/register/regindex.htm>

#### FORMS:



NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS -  
RR08

---

# CALENDAR OF EVENTS


---

## Symbol Key

-  Location accessible to persons with disabilities  
 Teletype (TTY)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at [www.vipnet.org](http://www.vipnet.org) or contact the organization directly.


For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY , or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION


## EXECUTIVE

### BOARD OF ACCOUNTANCY

**June 5, 2002 - 9 a.m.** -- Open Meeting

Virginia Department of Transportation, Procurement Building, 87 Deacon Road, Fredericksburg, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Enforcement Committee to review pending complaints and compliance policy. Public comment will not be received.

**Contact:** Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY , e-mail [boa@boa.state.va.us](mailto:boa@boa.state.va.us).

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Virginia State Apple Board

**June 19, 2002 - 1 p.m.** -- Open Meeting


Rowe's Restaurant, 74 Rowe Road (intersection of I-81/Route 250), Staunton, Virginia. 

The board will meet to approve the minutes of the last meeting. In addition, the board will review its financial statement. The board is expected to discuss old business arising from the last board meeting and any new business to 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 accommodation in order to participate at the meeting should contact Dave Robishaw at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Dave Robishaw, Secretary, Virginia State Apple Board, 900 Natural Resources Dr., Suite 300, Charlottesville, VA 22903, telephone (434) 984-0573, FAX (434) 984-4156.

#### Virginia Egg Board

**† August 21, 2002 - 7 p.m.** -- Open Meeting


Hotel Roanoke and Conference Center, Roanoke, Virginia.   
(Interpreter for the deaf provided upon request)

A meeting to review financial statements, educational, promotional and research programs. Proposals for future programs will be discussed.

**Contact:** Cecilia Glembocki, Secretary, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102, telephone (703) 790-1984, FAX (703) 821-6748, toll-free (800) 779-7759, e-mail [virginiaeggcouncil@erols.com](mailto:virginiaeggcouncil@erols.com).

#### Virginia Peanut Board

**† June 25, 2002 - 11 a.m.** -- Open Meeting


Virginia Peanut Growers Association, 23020 Main Street, Capron, Virginia. 

The board will meet to hear the chairman's report, elect officers for 2002-2003, and approve the 2002 - 2003 budget. The minutes of the last meeting will be heard and approved. The board's financial statement will be reviewed. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Russell C. Schools at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Russell C. Schools, Program Director, Virginia Peanut Board, P.O. Box 356, Capron, VA. 23829, telephone (434) 658-4573, FAX (434) 658-4531.

### STATE AIR POLLUTION CONTROL BOARD

**June 27, 2002 - 7 p.m.** -- Public Hearing

Pittsylvania County Vocational-Technical Education Center, Route 29, 4 miles south of Chatham, Virginia. 

A public hearing to receive comments on the proposed draft permit for White Oak Power Company, LLC's proposed 680-megawatt simple cycle power plant to be located in Pittsylvania County.

---

## Calendar of Events

---

**Contact:** William S. Shenk, State Air Pollution Control Board, 7705 Timberlake Rd., Lynchburg, VA 24502, telephone (434) 582-5120, (804) 698-4021/TTY ☎, e-mail wsshenk@deq.state.va.us.

† **July 2, 2002 - 7 p.m.** -- Public Hearing  
Radford City Council Chambers, 619 Second Street, Radford, Virginia. ♿

A public hearing to receive comments on an amendment to a state air operating permit for Internet Corporation located in Radford, Virginia. The amendment would extend the schedule of compliance until December 31, 2004.

**Contact:** Steven Dietrich, Department of Environmental Quality, 3019 Peters Creek Rd. Roanoke, VA 24019, telephone (540) 562-6762, e-mail sadietrich@deq.state.va.us.

### ALCOHOLIC BEVERAGE CONTROL BOARD

† **June 4, 2002 - 9:30 a.m.** -- Open Meeting  
† **June 18, 2002 - 9:30 a.m.** -- Open Meeting  
Alcoholic Beverage Control Board, 2901 Hermitage Road, Richmond, Virginia. ♿

Receipt and discussion of reports and activities from staff members. Other matters not yet determined.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4411.

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

**June 6, 2002 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the board. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

### ART AND ARCHITECTURAL REVIEW BOARD

NOTE: CHANGE IN MEETING LOCATION

**June 7, 2002 - 10 a.m.** -- Open Meeting  
**July 12, 2002 - 10 a.m.** -- Open Meeting  
**August 2, 2002 - 10 a.m.** -- Open Meeting

Virginia War Memorial, 601 South Belvidere Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. AARB submittal forms and submittal instructions can be downloaded by visiting the DGS forms center at [www.dgs.state.va.us](http://www.dgs.state.va.us). Request submittal form DGS-30-905 or submittal instructions form DGS-30-906.

**Contact:** Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main St., Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎

### VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

**July 16, 2002 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ♿

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

**Contact:** David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

### ASSISTIVE TECHNOLOGY LOAN FUND AUTHORITY

**June 20, 2002 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, Ratcliffe Building, 8004 Franklin Farms Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Board of Directors. The public is welcome and will have an opportunity to address the board. Following the business meeting, the board will meet in executive session to review loan applications for assistive technology.

**Contact:** Shilpa Joshi, Assistive Technology Loan Fund Authority, P.O. Box K091, Richmond, VA 23288, telephone (804) 662-9000, FAX (804) 662-9533, toll-free (800) 552-5019, (804) 662-9000/TTY ☎, e-mail loanfund@erols.com.

### VIRGINIA AVIATION BOARD

† **June 12, 2002 - 9 a.m.** -- Open Meeting  
Wyndham Hotel, 4700 South Laburnum Avenue, Richmond, Virginia. ♿

A regular bimonthly meeting. Application 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 Carolyn Toth 10 days prior to the meeting if assistance is needed.

**Contact:** Carolyn Toth, Administrative Assistant, Virginia Aviation Board, 502 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, toll-free (800)

292-1034, (804) 236-3624/TTY ☎, e-mail  
toth@doav.state.va.us.

## DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

### Statewide Rehabilitation Council for the Blind

**June 8, 2002 - 10 a.m.** -- Open Meeting  
Administrative Headquarters, 397 Azalea Avenue, Richmond,  
Virginia. ♿ (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail taylorjg@dbvi.state.va.us.

### CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

**† June 17, 2002 - 10 a.m.** -- Open Meeting  
Anchor Inn at Marina Shores, 2100 Marina Shores Drive,  
Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

A general business meeting including review of local Chesapeake Bay Preservation Area programs. Staff will give the board an update on the proposed compliance evaluation procedure. There will be consideration of proposed regulatory guidance. Public comment will be received. A tentative agenda is available.

**Contact:** Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Department, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY ☎, e-mail celliott@cblad.state.va.us.

### CHILD DAY-CARE COUNCIL

**† June 13, 2002 - 9 a.m.** -- Open Meeting  
Department of Social Services, Theater Row Building, 730 East Broad Street, Conference Room II, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss issues and concerns that impact child day centers, camps, school age programs and preschools/nursery schools. Public comment period will be at noon. Please call ahead for possible changes in meeting time.

**Contact:** Arlene Kasper, Program Development Consultant, Child Day-Care Council, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791, FAX (804) 692-2370, (800) 828-1120/TTY ☎

### STATE CHILD FATALITY REVIEW TEAM

**† July 9, 2002 - 10 a.m.** -- Open Meeting  
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond Virginia. ♿

The business portion of the State Child Fatality Review Team meeting, from 10 a.m. to 10:30 a.m., is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

**Contact:** Virginia Powell, Ph.D., Coordinator, State Child Fatality Review Team, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail vpowell@vdh.state.va.us.

### COMPENSATION BOARD

**June 25, 2002 - 11 a.m.** -- Open Meeting  
Compensation Board, 202 North 9th Street, 10th Floor,  
Richmond, Virginia. ♿

A monthly board meeting.

**Contact:** Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

### BOARD OF CONSERVATION AND RECREATION

**† June 26, 2002 - 2 p.m.** -- Open Meeting  
State Capitol, Capitol Square, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

### DEPARTMENT OF CONSERVATION AND RECREATION

**† June 4, 2002 - 7 p.m.** -- Open Meeting  
Smith Mountain Lake State Park, Visitor Center, 1235 State Park Road, Huddleston, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Smith Mountain Lake State Park Master Plan Committee to solicit input about the desired future condition of the park and its purpose, development and direction.

**Contact:** Robert Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rmunson@dcr.state.va.us.

**† June 10, 2002 - 1 p.m.** -- Open Meeting  
Smith Mountain Lake State Park, Visitor Center, 1235 State Park Road, Huddleston, Virginia. ♿ (Interpreter for the deaf provided upon request)


---

## Calendar of Events

---


The Smith Mountain Lake State Park Master Plan Steering Committee will review the findings of the public meeting process and make adjustments to the park master plan accordingly.

**Contact:** Robert Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail [rmunson@dcr.state.va.us](mailto:rmunson@dcr.state.va.us).

**June 12, 2002 - 9 a.m.** -- Open Meeting  
Cumberland Central Bank, 1422 Anderson Highway, Cumberland, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting of the Bear Creek Lake Park Technical Committee regarding the park's master plan.

**Contact:** Jim Guyton, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-2093, FAX (804) 371-7899, e-mail [jguyton@dcr.state.va.us](mailto:jguyton@dcr.state.va.us).

**June 13, 2002 - 7 p.m.** -- Open Meeting  
Gunston Hall, 10709 Gunston Road, Mason Neck, Virginia.  (Interpreter for the deaf provided upon request)


The Mason Neck State Park Technical Advisory Committee will explain the state park master planning process. Public input will be received on the draft park mission statement and draft goals and objectives.

**Contact:** John R. Davy, Director, Division of Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-1119, FAX (804) 371-7899, e-mail [jdavy@dcr.state.va.us](mailto:jdavy@dcr.state.va.us).

**† June 18, 2002 - 7 p.m.** -- Open Meeting  
Mary Bethune Complex, 1030 Crawford Road, 2nd Floor Meeting Room, Halifax, Virginia.  (Interpreter for the deaf provided upon request)

The Staunton River State Park Master Plan Committee will receive public comment concerning future development and plans for Staunton River State Park.

**Contact:** Robert S. Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail [rmunson@dcr.state.va.us](mailto:rmunson@dcr.state.va.us).

**† June 25, 2002 - 7 p.m.** -- Open Meeting  
Southwest Virginia Museum Historical State Park, 10 West First Street, North Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Southwest Virginia Museum Historical State Park Master Plan Advisory Committee to discuss potential park developments to be included in the park master plan.

**Contact:** Janet H. Blevins, Park Manager, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (276) 523-1322, FAX (276) 523-6616, e-mail [jblevins@dcr.state.va.us](mailto:jblevins@dcr.state.va.us).

### Falls of the James Scenic River Advisory Board

**June 6, 2002 - Noon** -- Open Meeting

**July 11, 2002 - Noon** -- Open Meeting


Richmond City Hall, 900 East Broad Street, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss river issues.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, e-mail [rgibbons@dcr.state.va.us](mailto:rgibbons@dcr.state.va.us).

### Virginia Land Conservation Foundation

**† June 12, 2002 - 9 a.m.** -- Open Meeting


General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail [leonapp@dcr.state.va.us](mailto:leonapp@dcr.state.va.us).

### Virginia State Parks Foundation Board of Trustees

**† June 26, 2002 - 10 a.m.** -- Open Meeting


Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

**Contact:** Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail [leonapp@dcr.state.va.us](mailto:leonapp@dcr.state.va.us).

### BOARD FOR CONTRACTORS

**June 5, 2002 - 9 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 regularly scheduled meeting to address policy and procedural issues, review and render case decisions on matured complaints against licensees, and address other matters that may require board action. The meeting is open to the public; however, a portion of the board's business may be discussed in closed meeting. The department fully complies with the Americans for Disabilities Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Eric L. Olson.

**Contact:** Eric L. Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804)



367-2474, (804) 367-9753/TTY ☎, e-mail  
contractors@dpor.state.va.us.

## BOARD OF CORRECTIONAL EDUCATION

† **June 21, 2002 - 10 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenues,  
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon  
request)

A meeting to discuss general business.

**Contact:** Patty Ennis, Board Clerk, Board of Correctional  
Education, 101 N. 14th St., Richmond, VA 23219, telephone  
(804) 225-3314, FAX (804) 786-7642, (804) 371-8647/TTY ☎,  
e-mail paennis@dce.state.va.us.

## CRIMINAL JUSTICE SERVICES BOARD

† **June 11, 2002 - 10 a.m.** -- Open Meeting  
Cardinal Criminal Justice Academy, 917 Central Avenue,  
Salem, Virginia.

A regular meeting of the Private Security Services Advisory  
Board.

**Contact:** Judith Kirkendall, Regulatory Coordinator,  
Department of Criminal Justice Services, Eighth Street Office  
Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219,  
telephone (804) 786-8003, FAX (804) 786-0410, e-mail  
jkirkendall@dcjs.state.va.us.

## BOARD OF COUNSELING

**July 19, 2002** - Public comments may be submitted until this  
date.

Notice is hereby given in accordance with § 2.2-4007 of the  
Code of Virginia that the Board of Counseling is amending  
regulations entitled: **18 VAC 115-60. Regulations  
Governing the Practice of Licensed Substance Abuse  
Treatment Practitioners.** The purpose of the proposed  
action is to adopt a one-year waiver of the licensure  
requirements in the current regulations for individuals who  
hold certain combinations of education and work experience  
in substance abuse.

Statutory Authority: §§ 54.1-2400 and 54.1-3508 of the Code  
of Virginia.

Public comments may be submitted until July 19, 2002, to  
Evelyn B. Brown, Executive Director, Board of Counseling,  
6606 W. Broad St., Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator,  
Department of Health Professions, 6606 W. Broad St.,  
Richmond, VA 23230, telephone (804) 662-9918, FAX (804)  
662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

## DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

**June 18, 2002 - 10 a.m.** -- Open Meeting  
Northern Virginia Resource Center for Deaf and Hard of  
Hearing Persons, 10359 Democracy Lane, Fairfax, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A regular meeting of the Virginia Relay Advisory Council.  
The council will review and discuss the draft Request for  
Proposals for marketing services. Council will recommend  
final changes for the RFP.

**Contact:** Sandra Bocclair, Council Liaison, Department for the  
Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203,  
telephone (804) 662-9789, FAX (804) 662-9718, toll-free (800)  
552-7917, (804) 662-9502/TTY ☎, e-mail  
boclaiss@ddhh.state.va.us.

\*\*\*\*\*

† **July 22, 2002 - 4 p.m.** -- Public Hearing  
Department for the Deaf and Hard-of-Hearing, 1602 Rolling  
Hills Drive, 2nd Floor, Conference Room, Richmond,  
Virginia. ♿ (Interpreter for the deaf provided upon request)

**August 2, 2002** - Public comments may be submitted until this  
date.

Notice is hereby given in accordance with § 2.2-4007 of the  
Code of Virginia that the Department for the Deaf and Hard-  
of-Hearing is amending regulations entitled: **22 VAC 20-20.  
Regulations Governing Eligibility Standards and  
Application Procedures of the Distribution of  
Technological Assistive Devices.** The purpose of the  
proposed actin is to add a requirement for program  
participants to provide proof of income and proof of  
residency. In addition, definitions and language will be  
updated for accuracy and clarify.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

**Contact:** Leslie G. Hutcheson, Regulatory Coordinator,  
Department for the Deaf and Hard-of-Hearing, 1602 Rolling  
Hills Dr., Suite 203, Richmond, VA 23229-5012, telephone  
(804) 662-9703, FAX (804) 662-9718 or e-mail  
hutchelg@ddhh.state.va.us.

## BOARD OF DENTISTRY

**June 13, 2002 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Richmond, Virginia. ♿

A panel of the board will convene a formal hearing to inquire  
into allegations that a certain practitioner may have violated  
laws governing the practice of dentistry. The panel will meet  
in open and closed sessions pursuant to the Code of  
Virginia. Public comment will not be received.

**Contact:** Senita Booker/Cheri Emma-Leigh, Staff,  
Department of Health Professions, 6606 W. Broad St.,  
Richmond, VA 23230, telephone (804) 662-9906, FAX (804)  
662-7246, (804) 662-7197/TTY ☎, e-mail  
denbd@dhp.state.va.us.

---

# Calendar of Events

---

## DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

**June 20, 2002 - 11 a.m.** -- Open Meeting

**July 18, 2002 - 11 a.m.** -- Open Meeting

**August 15, 2002 - 11 a.m.** -- Open Meeting

Virginia War Memorial, 601 South Belvidere Street, Auditorium, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management-type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at [www.dgs.state.va.us](http://www.dgs.state.va.us) under the DGS Forms, Form DGS-30-904.

**Contact:** Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY, e-mail [fadcock@dgs.state.va.us](mailto:fadcock@dgs.state.va.us).

## BOARD OF EDUCATION

† **June 3, 2002 - 10:30 a.m.** -- Open Meeting

Burkholder Administration Center, Conference Room A, 10700 Page Avenue, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

Standards of Quality Committee members will meet with representatives of ESL programs and services regarding suggestions and ideas for the upcoming revisions to the Standards of Quality. This will be a work session and public comment will not be received. Persons requesting the services of an interpreter for the deaf are asked to do so in advance.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

† **June 25, 2002 - 10:30 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A work session of the Advisory Committee on Adult Education and Literacy. Public comment will not be received at this meeting. Persons requesting the services of an interpreter for the deaf are asked to do so in advance.

**Contact:** Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

**June 26, 2002 - 9 a.m.** -- Open Meeting

**July 25, 2002 - 9 a.m.** -- Open Meeting

General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency in advance. Public comment will be received.

**Contact:** Dr. Margaret N. Roberts, Office of Policy, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail [mroberts@mail.vak12ed.edu](mailto:mroberts@mail.vak12ed.edu).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

† **June 11, 2002 - 7 p.m.** -- Public Hearing

Big Island Public Library, 1111 Schooldays Road, Big Island, Virginia.

A public hearing to receive comments on a draft permit amendment to add a groundwater monitoring program for the Georgia-Pacific Industrial Landfill located on Route 613 in Big Island, Virginia. Public comment will be received until June 26, 2002.

**Contact:** Rachel Cole, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4233, e-mail [rbcole@deq.state.va.us](mailto:rbcole@deq.state.va.us).

**June 19, 2002 - 10 a.m.** -- Open Meeting

Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia.

A regular meeting of the Small Business Environmental Compliance Advisory Board.

**Contact:** Richard G. Rasmussen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4394, e-mail [rgrasmusse@deq.state.va.us](mailto:rgrasmusse@deq.state.va.us).

† **June 20, 2002 - 6 p.m.** -- Open Meeting

New River Valley Competitiveness Center, 6580 Valley Center Drive, Radford, Virginia.

A meeting to discuss efforts to locate current or historical sources of PCBs and the status of PCBs in the New River.

**Contact:** Jay Roberts, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6785, e-mail [jaroberts@deq.state.va.us](mailto:jaroberts@deq.state.va.us).


† **June 25, 2002 - 7 p.m.** -- Open Meeting

Floyd County High School, 721 Baker Street, Auditorium, Floyd, Virginia.

A meeting on the development of a fecal coliform TMDL for an approximate 15.4 mile segment of Dodd Creek and an approximate 6.4 mile segment of West Fork Dodd Creek. Public comment will be received from June 17, 2002, through July 18, 2002.

**Contact:** Jay Roberts, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6785 or e-mail jaroberts@deq.state.va.us.

## VIRGINIA FIRE SERVICES BOARD

**June 7, 2002 - 9 a.m.** -- Open Meeting  
Comfort Suites - Southpark, 931 South Avenue, Colonial Heights, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the following committees:


Fire Education and Training - 9 a.m.

Administration and Policy - 10 minutes after Fire Education and Training Committee

Fire Prevention and Control - 10 minutes after Administration and Policy Committee

Finance - 10 minutes after Fire Prevention and Control Committee

**Contact:** Christy L. King, Clerk to the VFSB, Virginia Fire Services Board, 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

**June 8, 2002 - 9 a.m.** -- Open Meeting  
Comfort Suites - Southpark, 931 South Avenue, Colonial Heights, Virginia.  (Interpreter for the deaf provided upon request)


The annual meeting of the board; elections will be held. The Virginia Fallen Firefighter Memorial Service will be held at 1 p.m. on Saturday, June 8, 2002 at the Virginia State Capitol.

**Contact:** Christy L. King, Clerk to the VFSB, Virginia Fire Services Board, 101 North 14th Street, 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.


## BOARD OF FORESTRY

**June 5, 2002 - 8:45 a.m.** -- Open Meeting  
James Edmunds Tract, Off Rt. 792, Halifax County, Virginia. (Interpreter for the deaf provided upon request)


A general business meeting. A map showing location is available upon request.

**Contact:** Donna S. Hoy, Administrative Staff Specialist, Department of Forestry, 900 Natural Resources Dr., Suite 800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 977-7749, (434) 977-6555/TTY , e-mail hoyd@dof.state.va.us.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **June 4, 2002 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia 

A meeting to consider disciplinary and regulatory matters, including adoption of proposed regulations for continuing education. Public comment will be received at the beginning of the meeting.

**Contact:** Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

## BOARD OF GAME AND INLAND FISHERIES

**June 7, 2002 - 9 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to address the Department of Game and Inland Fisheries' Fiscal Year 2002-2003 operating and capital budgets, and possible regulation amendments to 4 VAC 15-380, Watercraft: Motorboat Numbering, for the purpose of establishing increased fees for certificates of motorboat registration and duplicate registrations, as provided for in the 2992 Appropriation Act, Item 392. The board may address the authorized motorboat registration fees increase first through possible adoption of an emergency regulation, as authorized in the Governor's amendment to the 2002 Appropriations Act, Items 392; and second through initiation of the process to promulgate permanent regulation amendments. The board may also discuss general and administrative issues. The board may elect to hold a dinner Thursday evening, June 6, at a location and time to be determined, and it may hold a closed session at some time during the June 7 meeting.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail DGIFRegs@dgif.state.va.us.

† **June 26, 2002 - 7 p.m.** -- Public Hearing  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A public input meeting to discuss and receive public comments regarding season lengths and bag limits for the 2002-2003 dove, woodcock, snipe, rail, September Canada goose, and teal hunting seasons. All interested citizens are invited to attend. DGIF Wildlife Division staff will discuss the population status of these species, and present hunting season frameworks for them provided by the U.S. Fish and Wildlife Service. The public's comments will be solicited in the public hearing portion of the meeting. A summary of the results of this public hearing will be provided to the Virginia Board of Game and Inland Fisheries prior to its scheduled July 18, 2002, meeting. At the July 18 meeting the board will hold another public hearing, after which it intends to set 2002-2003 hunting seasons and bag limits for the above species.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA

---

## Calendar of Events

---

23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail regcomments@dgif.state.va.us.

† **August 7, 2002 - 7 p.m.** -- Public Hearing  
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public input meeting to discuss and receive public comments regarding season lengths and bag limits for the 2002-2003 hunting seasons for migratory waterfowl (ducks and coots, geese and brant, swan, gallinules and moorhens) and falconry. All interested citizens are invited to attend. DGIF Wildlife Division staff will discuss the population status of these species, and present hunting season frameworks for them provided by the U.S. Fish and Wildlife Service. The public's comments will be solicited in the public hearing portion of the meeting. A summary of the results of this public hearing will be presented to the Virginia Board of Game and Inland Fisheries prior to its scheduled August 22, 2002 meeting. At the August 22 meeting the board will hold another public hearing, after which it intends to set 2002-2003 hunting seasons and bag limits for the above species.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail regcomments@dgif.state.va.us.

### STATE BOARD OF HEALTH

**June 21, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to repeal regulations entitled: **12 VAC 5-30. Rules and Regulations Governing Emergency Medical Services** and adopt regulations entitled: **12 VAC 5-31. Virginia Emergency Medical Services Regulations**. The purpose of the proposed action is to consolidate diverse provisions and place them in a logical order, remove outdated provision, and reflect current technological standards.

Statutory Authority: §§ 32.1-12 and 32.1-111.4 of the Code of Virginia.

**Contact:** Dave Cullen, Compliance Manager, Office of EMS, Department of Health, 1538 E. Parham Rd., Richmond, VA, telephone (804) 371-3500, FAX (804) 371-3543, toll-free 1-800-523-6019, or e-mail dcullen@vdh.state.va.us.

\* \* \* \* \*

**July 8, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-90. Regulations for Disease Reporting and Control**. The purpose of the proposed action is to adopt a provision required by law

regarding notification of patients reported to the state cancer registry.

Statutory Authority: §§ 32.1-12 and 32.1-70.2 of the Code of Virginia.

**Contact:** Diane Wollard, Ph.D., Director, Division of Surveillance and Investigation, Office of Epidemiology, Department of Health, 1500 E. Main St., Suite 123, Richmond, VA 23219, telephone (804) 786-6261, FAX (804) 786-1076, e-mail dwollard@vdh.state.va.us.

\* \* \* \* \*

**July 22, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-220. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations**.

**12 VAC 5-230. State Medical Facilities Plan.**

**12 VAC 5-240. General Acute Care Services.**

**12 VAC 5-250. Perinatal Services.**

**12 VAC 5-260. Cardiac Services.**

**12 VAC 5-270. General Surgical Services.**

**12 VAC 5-280. Organ Transplantation Services.**

**12 VAC 5-290. Psychiatric and Substance Abuse Treatment Services.**

**12 VAC 5-300. Mental Retardation Services.**

**12 VAC 5-310. Medical Rehabilitation Services.**

**12 VAC 5-320. Diagnostic Imaging Services.**

**12 VAC 5-340. Radiation Therapy Services.**

**12 VAC 5-360. Nursing Home Services.**

The purpose of the proposed action is to respond to legislative changes in the law as a result of the 1999 and 2000 sessions of the General Assembly. The overall impact of the changes is a reduction in the scope of the Certificate of Public Need program. In addition, a provision of the State Medical Facilities Plan regarding liver transplantation services was found to be outdated, inadequate and otherwise inapplicable and in need of revision. The current volume standard (12) for liver transplantation procedures to ensure a successful liver transplantation program is far below the nationally recommended number of procedures (20).

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

**Contact:** Carrie Eddy, Policy Analyst, Department of Health, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 368-2149 or e-mail cedly@vdh.state.va.us.

## DEPARTMENT OF HEALTH

**June 7, 2002 - 10 a.m.** -- Open Meeting  
Fontaine Research Park, Natural Resources Building, 900  
Natural Resources Drive, Charlottesville, Virginia.

A meeting of the Biosolids Use Regulations Advisory Committee to discuss issues involving the land application and agricultural uses of biosolids as governed by the Biosolids Use Regulations and proposed revisions to those regulations.


**Contact:** Cal Sawyer, Director of Wastewater Engineering, Department of Health, Main Street Station, 1500 E. Main St., Room 109, Richmond, Virginia 23219, telephone (804) 786-1755, e-mail csawyer@vdh.state.va.us.

**June 7, 2002 - 1 p.m.** -- Open Meeting  
Fontaine Research Park, Natural Resources Building, 900  
Natural Resources Drive, Charlottesville, Virginia.


A meeting of the Biosolids Use Information Committee to discuss issues involving land application and agricultural uses of biosolids as governed by the Biosolids Use Regulations.


**Contact:** Cal Sawyer, Director of Wastewater Engineering, Department of Health, Main Street Station, 1500 E. Main St., Room 109, Richmond, Virginia 23219, telephone (804) 786-1755, e-mail csawyer@vdh.state.va.us.

## BOARD OF HEALTH PROFESSIONS


† **June 4, 2002 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. 


The Enforcement Committee will be receiving an interim report on the Sanction Reference Study. Public comment will be received at the beginning of the meeting.

**Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.


† **June 4, 2002 - 11:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. 

The Executive Committee will hear reports on the agency budget and an overview of agency operations from the director. Public comment will be received at the beginning of the meeting.

**Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.


† **June 4, 2002 - 1:30 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. 

The board will receive committee reports and discuss the agency's upcoming 25th anniversary. Public comment will be received at the beginning of the meeting.


**Contact:** Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.

## DEPARTMENT OF HISTORIC RESOURCES


### State Review Board and Historic Resources Board

**June 12, 2002 - 10 a.m.** -- Open Meeting  
Virginia Historical Society Auditorium, 428 North Boulevard,  
Richmond, Virginia. 

A meeting to place nominations on the National Register of Historic Places and Virginia Landmarks Register, and to approve highway markers and easements.

**Contact:** Marc Wagner, Register Manager, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY , e-mail mwagner@dhr.state.va.us.


## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**June 4, 2002 - 9 a.m.** -- Open Meeting  
† **July 2, 2002 - 9 a.m.** -- Open Meeting  
† **August 6, 2002 - 9 a.m.** -- Open Meeting  
† **September 3, 2002 - 9 a.m.** -- Open Meeting  
Hopewell Community Center, 100 West City Point Road,  
Hopewell, Virginia.  (Interpreter for the deaf provided upon request)


The Local Emergency Preparedness Committee will meet as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, Hopewell Industrial Safety Council, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.


## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**June 17, 2002 - 10 a.m.** -- Open Meeting  
Department of Housing and Community Development, 501  
North Second St., Richmond, Virginia. 

A regular business meeting.

**Contact:** Steve Calhoun, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015 or (804) 371-7089/TTY 

### State Building Code Technical Review Board

**June 21, 2002 - 10 a.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, Richmond,  
Virginia.  (Interpreter for the deaf provided upon request)

---

## Calendar of Events


---

The Review Board hears administrative appeals concerning building and fire codes and other regulations of the department. The board also issues interpretations and formalizes recommendations to the Board of Housing and Community Development concerning future changes to the regulations.


**Contact:** Vernon W. Hodge, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA, telephone (804) 371-7150.

### VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **June 18, 2002 - 9 a.m.** -- Open Meeting


Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. 

A regular meeting of the Board of Commissioners to review and, if appropriate, approve the minutes from the prior monthly meeting; consider for approval and ratification mortgage loan commitments under its various programs; review the authority's operations for the prior month; and consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Operations Committee, the Policy Committee, and the Committee of the Whole, may also meet during the day preceding the regular meeting and before and after the regular meeting and may consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY 

### VIRGINIA INTERAGENCY COORDINATING COUNCIL

**June 12, 2002 - 9:30 a.m.** -- Open Meeting


Children's Hospital, 2924 Brook Road, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A quarterly meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part C (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion will focus on issues related to Virginia's implementation of the Part C program.


**Contact:** LaKeishia L. White, Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710 or FAX (804) 371-7959.

### VIRGINIA ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS


† **June 5, 2002 - 10 a.m.** -- Open Meeting

Capitol Building, House Room 4, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)


The focus of the meeting will be action on recommendations for the SJR 218/2000 Study of the Condition and Future of Virginia's Cities and the ACIR Work Plan for the remainder of 2002.

**Contact:** Adele MacLean or Alda Wilkinson, Secretary, Virginia Advisory Commission on Intergovernmental Relations, 900 E. Main St., Suite 103, Richmond, VA, telephone (804) 786-6508, FAX (804) 371-7999, (804) 828-1120/TTY , e-mail amaclean@clg.state.va.us.

† **June 5, 2002 - 2 p.m.** -- Open Meeting

Capitol Building, House Room 4, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A Visual Quality Committee meeting to focus on House Bill 1630/2000 and possible improvements to the bill. This bill would give localities authority to establish scenic overlay districts to protect visual resources.

**Contact:** Adele Maclean or Alda Wilkinson, Secretary, Virginia Advisory Commission on Intergovernmental Relations, 900 E. Main St., Suite 103, telephone (804) 786-6508, FAX (804) 371-7999, (804) 828-1120/TTY , e-mail amaclean@clg.state.va.us.

### STATE BOARD OF JUVENILE JUSTICE

† **June 14, 2002 - 9 a.m.** -- Open Meeting

Fairfax Detention Home, 10650 Page Avenue, Fairfax, Virginia.


Committees of the board (secure services and nonsecure services) will receive certification audit reports. Full board meets following committee business. Agenda includes certification action based on audit reports and adoption of final regulations (6 VAC 35-150 governing nonresidential programs and 6 VAC 35-60 governing offices on youth). Also, the board will consider publishing for public comment proposed amendments to its Certification Regulations (6 VAC 35-20).

**Contact:** Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773, e-mail carigndr@djj.va.state.us.

### DEPARTMENT OF LABOR AND INDUSTRY

NOTE: CHANGE IN MEETING DATE

† **June 13, 2002 - 10 a.m.** -- Open Meeting

J. Sargeant Reynolds Community College, North Run Business Park, 1630 E. Parham Road, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A quarterly meeting of the Virginia Apprenticeship Council.

**Contact:** Beverley Donati, Assistant Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail bgd@doli.state.va.us.

## LIBRARY OF VIRGINIA BOARD

**June 10, 2002 - 7:30 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

Meetings of the board to discuss matters pertaining to The Library of Virginia and the board. Committees of the board will meet as follows:

7:30 a.m. - Executive Committee, Conference Room B.

8:15 a.m. - Public Library Development Committee, Orientation Room;  
Publications and Educational Services Committee, Conference Room B;  
Records Management Committee, Conference Room C.

9:30 a.m. - Archival and Information Services Committee, Orientation Room;  
Collection Management Services Committee, Conference Room B;  
Legislative and Finance Committee, Conference Room C.

10:30 a.m. - Library Board, Conference Room 2M.

**Contact:** Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

## LONGWOOD COLLEGE

† **June 14, 2002 - 9 a.m.** -- Open Meeting  
Founders Inn, 5641 Indian River Road, James Madison Meeting Room, Virginia Beach, Virginia. ♿

A meeting to conduct routine business of the Board of Visitors.

**Contact:** Jeanne Hayden, Administrative Staff Assistant, Longwood College, Office of the President, Longwood College, 201 High St., Farmville, VA 23909, telephone (434) 395-2004, e-mail jhayden@longwood.edu.

† **June 14, 2002 - 1 p.m.** -- Open Meeting  
† **June 15, 2002 - 9 a.m.** -- Open Meeting  
Founders Inn, 5641 Indian River Road, James Madison Meeting Room, Virginia Beach, Virginia. ♿

A retreat for the Board of Visitors.

**Contact:** Jeanne Hayden, Administrative Staff Assistant, Longwood College, Office of the President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2004, e-mail jhayden@longwood.edu.

## VIRGINIA MANUFACTURED HOUSING BOARD

**June 20, 2002 - 10 a.m.** -- Open Meeting  
Jackson Center, 501 North 2nd Street, 1st Floor, Board Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting to address claims and complaints against manufactured housing licensees and carry out other board functions and duties under the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

**Contact:** Curtis L. McIver, State Building Code Administrator, Virginia Manufactured Housing Board, State Building Code Administrative Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160, FAX (804) 371-7092, (804) 371-7089/TTY ☎, e-mail cmciver@dhcd.state.va.us.

## MARINE RESOURCES COMMISSION

**June 25, 2002 - 9:30 a.m.** -- Open Meeting  
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. ♿

A monthly meeting.

**Contact:** Stephanie Montgomery, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., Newport News, VA 23607, telephone (757) 247-8088, FAX (757) 247-2020, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, e-mail smont@mrc.state.va.us.

## BOARD OF MEDICAL ASSISTANCE SERVICES

**June 11, 2002 - 10 a.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Board Room, Suite 1300, Richmond, Virginia. ♿

A general meeting. An agenda is available by contacting Nancy Malczewski.

**Contact:** Nancy Malczewski, Communications Office, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4626, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail nmalczewskir@dmas.state.va.us.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**July 5, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-120. Waivered Services (Mental Retardation)**. The purpose of the proposed action is to significantly amend the mental retardation waiver program in response to issues raised by the Health Care Financing Administration and affected constituent groups.

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

---


# Calendar of Events

---


Public comments may be submitted until July 5, 2002, to Sherry Confer, Analyst, LTC Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.


**Contact:** Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

## BOARD OF MEDICINE


**June 6, 2002 - 8 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)

The board will conduct general board business, receive committee and board reports, and discuss any other items that may come before the board. The board will also meet on Friday and Saturday, June 7 and 8, to review reports, interview licensees/applicants, conduct administrative proceedings, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comments during the first 15 minutes on agenda items.

**Contact:** William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail wharp@dhp.state.va.us.

**June 7, 2002 - 1 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 of the Credentials Committee will be held in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and discuss any other items which may come before the committee.

**Contact:** William L. Harp, MD, Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-7005, FAX (804) 662-9517, (804) 662-7197/TTY 

\* \* \* \* \*

**June 21, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-80. Regulations Governing the Practice of Occupational Therapy.** The purpose of the proposed action is to address concerns about the adequacy of supervision for unlicensed assistants and to provide greater clarity about practice by graduates waiting for examination results. Minor changes are proposed for greater accuracy and consistency.

Statutory Authority: §§ 54.1-2400, 54.1-2956.1, and 54.1-2956.2 of the Code of Virginia.

Public comments may be submitted until June 21, 2002, to William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St. Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

\* \* \* \* \*

**June 21, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-101. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited.** The purpose of the proposed action is to provide an additional credential qualifying an applicant to be licensed as a radiologic technologist-limited in bone densitometry and to recognize the training course, examination and certification by the International Society for Clinical Densitometry for a limited license in that anatomical area. The proposed regulations would also clarify that a licensee who performs bone densitometry would have to get additional training and pass ARRT examinations in order to add other anatomical areas. Finally, an amendment would allow the board to accept other approved entities offering continuing education courses for bone densitometry.


Statutory Authority: §§ 54.1-2400 and 54.1-2956.8:1 of the Code of Virginia.

Public comments may be submitted until June 21, 2002, to William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

## Informal Conference Committee

**June 19, 2002 - 8:45 a.m.** -- Open Meeting  
**July 24, 2002 - 9:15 a.m.** -- Open Meeting  
Williamsburg Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia.

**June 13, 2002 - 9:30 a.m.** -- Open Meeting  
**† July 18, 2002 - 9:15 a.m.** -- Open Meeting  
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. 

**July 10, 2002 - 8:45 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in



Virginia. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

**Contact:** Peggy Sadler or Renee Dixon, Staff, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail Peggy.Sadler@dhp.state.va.us.

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

**June 5, 2002 - 6:30 p.m.** -- Public Hearing  
Dumbarton Area Library, 6800 Staples Mill Road, Richmond, Virginia.

**June 21, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to amend regulations entitled: **12 VAC 35-190. Regulations Establishing Procedures for Voluntarily Admitting Persons who are Mentally Retarded to State Mental Retardation Facilities.** The purpose of the proposed action is to amend the regulations to update current provisions in order to reflect current practice and promote appropriate admissions to state training centers.

Statutory Authority: §§ 37.1-10 and 37.1-65.1 of the Code of Virginia.

**Contact:** Wendy V. Brown, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 225-2252, FAX (804) 371-0092 or e-mail wbrown@dmhmrsas.state.va.us.

## DEPARTMENT OF MOTOR VEHICLES

**June 12, 2002 - 8 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the Medical Advisory Board.

**Contact:** Jacquelin Branche, Assistant Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond VA 23220, telephone (804) 367-0531, FAX (804) 367-1604, e-mail dmvj3b@dmv.state.va.us.

**June 13, 2002 - 9 a.m.** -- Open Meeting  
**August 8, 2002 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ♿

A meeting of the Digital Signature Implementation Workgroup. Meetings will be held on the second Thursday of every other month from 9 a.m. until noon at the location noted above unless otherwise noted. The room will be open for coffee and pre-session business at 8:30 a.m.; the business session will begin at 9.

**Contact:** Vivian Cheatham, Executive Staff Assistant, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-6870, FAX (804) 367-6631, toll-free (866) 68-5463, e-mail dmvrc@dmv.state.va.us.

## VIRGINIA MUSEUM OF FINE ARTS

**June 20, 2002 - Noon** -- Open Meeting  
Virginia Museum of Fine Arts, CEO 2nd Floor Meeting Room, 2800 Grove Avenue, Richmond, Virginia ♿

A meeting of the Executive/Finance Committee to approve the annual budget. Public comment will not be received.

**Contact:** Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us

## BOARD OF NURSING

† **June 3, 2002 - 9 a.m.** -- Open Meeting  
Buchanan County Vocational School, Route 5, Box 110, Conference Room, Grundy, Virginia. ♿

† **June 24, 2002 - 9 a.m.** -- Open Meeting  
Department of Social Services, 210 Church Street, S.W., Suite 100, Roanoke, Virginia. ♿

**July 15, 2002 - 9 a.m.** -- Open Meeting  
**July 17, 2002 - 9 a.m.** -- Open Meeting  
**July 18, 2002 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

† **July 16, 2002 - 1:30 p.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

The Board of Nursing will receive public comment on proposed regulations for prescriptive authority for nurse practitioners.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail ndurrett@dhp.state.va.us.

## Special Conference Committee

**June 4, 2002 - 8:30 a.m.** -- Open Meeting  
**June 10, 2002 - 8:30 a.m.** -- Open Meeting  
**June 12, 2002 - 8:30 a.m.** -- Open Meeting  
**June 18, 2002 - 8:30 a.m.** -- Open Meeting  
**June 20, 2002 - 8:30 a.m.** -- Open Meeting

---

# Calendar of Events

---

**June 25, 2002 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia. ♿

**June 26, 2002 - 8:30 a.m.** -- Open Meeting

**July 30, 2002 - 9 a.m.** -- Open Meeting

**August 1, 2002 - 9 a.m.** -- Open Meeting

**August 5, 2002 - 9 a.m.** -- Open Meeting

**August 6, 2002 - 9 a.m.** -- Open Meeting

**August 12, 2002 9 a.m.** -- Open Meeting

**August 13, 2002 - 9 a.m.** -- Open Meeting

† **August 29, 2002 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia. ♿

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees or certificate holders. Public comment will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ♿, e-mail nursebd@dhp.state.va.us.

## BOARD OF NURSING HOME ADMINISTRATORS

† **June 5, 2002 - 9:30 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia. ♿

A meeting of the Legislative/Regulatory Committee to consider issues related to the qualifications for licensure, especially the administrator-in-training program and any other issues as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

**Contact:** Sandra Reen, Executive Director, Board of Nursing Home Administrators, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY ♿, e-mail sandra\_reen@dhp.state.va.us.

## BOARDS OF NURSING AND MEDICINE

† **July 16, 2002 - 1:30 p.m.** -- Public Hearing

Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. ♿

**August 2, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Boards of Nursing and Medicine are amending regulations entitled: **18 VAC 90-40. Regulations for Prescriptive Authority for Nurse Practitioners.** The purpose of the proposed action is to provide less burdensome requirements for site visits and chart reviews by supervising physicians, to make certain changes related to expanded prescriptive authority, and to clarify requirements or terminology that are not easily understood.

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the Code of Virginia.

Public comments may be submitted until August 2, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad Street, Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

## BOARD OF PHARMACY

**June 4, 2002 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia. ♿

The Special Conference Committee will discuss disciplinary matters. Public comments 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, FAX (804) 662-9313.

† **June 5, 2002 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. ♿

A general business meeting, including possible adoption of regulations and consideration of disciplinary matters. Public comment will be received at the beginning of the meeting.

**Contact:** Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ♿, e-mail erussell@dhp.state.va.us.

## BOARD OF PHYSICAL THERAPY

**July 12, 2002 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia. ♿

**July 19, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Physical Therapy intends to amend regulations entitled: **18 VAC 112-20. Regulations Governing the Practice of Physical.** The purpose of the proposed action is to establish requirements to ensure continuing competency in accordance with a statutory mandate. Proposed regulations will replace emergency regulations currently in effect.

Statutory Authority: §§ 54.1-2400, 54.1-3474 and 54.1-3480.1 of the Code of Virginia.


Public comments may be submitted until July 19, 2002, to Elizabeth Young, Executive Director, Board of Physical Therapy, 6606 W. Broad St., Richmond, VA 23230.

**Contact:** Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St.,

Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail [elaine.yeatts@dhp.state.va.us](mailto:elaine.yeatts@dhp.state.va.us).

## POLYGRAPH EXAMINERS ADVISORY BOARD

**June 19, 2002 - 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 meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail [polygraph@dpor.state.va.us](mailto:polygraph@dpor.state.va.us).

## BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† **June 7, 2002 - 10 a.m.** -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Conference Room 5W, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the board.

**Contact:** Judy Spiller, Executive Secretary, Board for Professional and Occupational Regulation, 3600 West Broad St., Richmond VA 23230, telephone (804) 367-8519, FAX (804) 367-8537, (804) 367-9753/TTY , e-mail [spiller@dpor.state.va.us](mailto:spiller@dpor.state.va.us).

## VIRGINIA RACING COMMISSION

† **June 19, 2002 - 9:30 a.m.** -- Open Meeting

State Corporation Commission, Tyler Building, Courtroom B, 1300 East Main Street, Richmond, Virginia. 

A monthly meeting including a segment for public participation. The commission will hear a report from Colonial Downs on the live Thoroughbred race meeting that opens June 21 at the New Kent racetrack.


**Contact:** William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418, e-mail [Anderson@vrc.state.va.us](mailto:Anderson@vrc.state.va.us).

## VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

† **June 18, 2002 - 10 a.m.** -- Open Meeting

Virginia Department of Transportation, Materials Division, Central Office, 6200 Elko Tract Road, Sandston, Virginia.

A regular meeting. Subcommittee meetings may be held prior to or after the general council meeting; call Bill Bailey at (804) 328-3106 for details.

**Contact:** William K. Norris, Division of Environmental Enhancement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4022, FAX (804) 698-4224, toll-free (800) 592-5482, (804) 698-4021/TTY 

## DEPARTMENT OF REHABILITATIVE SERVICES

**June 5, 2002 - 9:30 a.m.** -- Open Meeting

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the Commonwealth Neurotrauma Initiative Advisory Board with presentations by two grant recipients.

**Contact:** Sandra Prince, Program Specialist, Brain Injury/Spinal Cord Injury Services, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7021, FAX (804) 662-7122, toll-free (800) 552-5019, (804) 662-9040/TTY , e-mail [princesw@drs.state.va.us](mailto:princesw@drs.state.va.us).

## VIRGINIA RESOURCES AUTHORITY


**June 11, 2002 - 9 a.m.** -- Open Meeting

NOTE: CHANGE IN MEETING LOCATION

McGuire Woods, L.L.P., World Trade Center, Norfolk, Virginia.

**July 9, 2002 - 9 a.m.** -- Open Meeting

**August 13, 2002 - 9 a.m.** -- Open Meeting

Virginia Resources Authority, 707 East Main Street, 2nd Floor Conference Room, Richmond, Virginia. 

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.


**Contact:** Bonnie R.C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail [bmcr@a.vra.state.va.us](mailto:bmcr@a.vra.state.va.us).

---


# Calendar of Events

---

## DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

**June 18, 2002 - 4 p.m.** -- Public Hearing  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

This public hearing relates to the Governor's intent to redesignate Virginia's Protection and Advocacy System. Individuals wishing to make public comment on the redesignation can do so at the public hearing between 4 p.m. and 6 p.m. Individuals requiring special accommodations or assistance should contact DRVD at least five business days prior to the hearing date. For more information on the intent to redesignate contact DRVD at 1-800-552-3962 or 804-225-2061, or e-mail [wareka@drvd.state.va.us](mailto:wareka@drvd.state.va.us).

**Contact:** Kimberly Ware, Program Operations Coordinator, Department for Rights of Virginians with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2061, FAX (804) 225-3221, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail [wareka@drvd.state.va.us](mailto:wareka@drvd.state.va.us).

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**† June 25, 2002 - 10 a.m.** -- Open Meeting  
Department of Business Assistance, 707 East Main Street, 3rd Floor, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and to conduct general business of the board. Time is subject to change depending upon the agenda of the board.

**Contact:** Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254, FAX (804) 225-3384, e-mail [sparsons@dba.state.va.us](mailto:sparsons@dba.state.va.us).

## STATE BOARD OF SOCIAL SERVICES

**June 7, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Social Services intends to adopt regulations entitled: **22 VAC 40-730. Investigation of Child Abuse and Neglect in Out of Family Complaints.** The purpose of the proposed action is to emphasize that child protective services out of family investigations are to be conducted as joint investigations in cases involving an employee at a state licensed facility for children, or an employee of a public or private school.

Statutory Authority: §§ 63.1-25, 63.1-248.6 and 63.1-248.7:1 of the Code of Virginia.

**Contact:** Jesslyn Cobb, CPS Program Consultant, State Board of Social Services, 730 E. Broad St., 2nd Floor, Richmond, VA 23219, telephone (804) 692-1255 or FAX (804) 692-2215.

\* \* \* \* \*

**June 7, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-720. Child Protective Services Release of Information to Family Advocacy Representatives of the United States Armed Forces.** The regulation mandates sharing of information in founded cases of child abuse between social services and the Family Advocacy Program; the definition of "founded" is being amended to conform with the definition of "founded" in the Child Protective Services regulation (22 VAC 40-705).

Statutory Authority: §§ 63.1-25 and 63.248.6 of the Code of Virginia.

**Contact:** Jesslyn Cobb, CPS Program Consultant, State Board of Social Services, 730 E. Broad St., 2nd Floor, Richmond, VA 23219, telephone (804) 692-1255 or FAX (804) 692-2215.

\* \* \* \* \*

**June 12, 2002 - 1 p.m.** -- Public Hearing  
Department of Social Services, 730 East Broad Street, Lower Level 1, Richmond, Virginia.

**July 19, 2002** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-705. Child Protective Services.** The purpose of the proposed action is to establish in the permanent regulations the provisions of the current emergency regulations, which allow for statewide implementation of a CPS differential response system. Other changes strengthen the regulations or reflect recent legislation.

Statutory Authority: §§ 63.1-25 and 63.1-248.6 of the Code of Virginia.

**Contact:** Betty Jo Zarris, CPS Policy Specialist, Department of Social Services, 730 E. Broad St., 2nd Floor, Richmond, VA 23219, telephone (804) 692-1220, FAX (804) 692-2215 or e-mail [bjz900@dss.state.va.us](mailto:bjz900@dss.state.va.us).


**June 19, 2002 - 9 a.m.** -- Open Meeting

**June 20, 2002 - 9 a.m.** -- Open Meeting  
Lampighter Restaurant, 201 Virginia Avenue, Clarksville, Virginia.

A formal business meeting.

**Contact:** Pat Rengnerth, State Board Liaison, State Board of Social Services, 730 E. Broad St., Suite 812, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962.

**June 21, 2002 - 10 a.m.** -- Open Meeting

Department of Social Services, 730 East Broad Street, 8th Floor, Conference Room, Richmond, Virginia. 

A regular business meeting of the Board of Trustees of the Family and Children's Trust Fund.

**Contact:** Nan McKenney, Executive Director, State Board of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219-1849, telephone (804) 692-1823, FAX (804) 692-1869.

\* \* \* \* \*

**August 2, 2002** - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-71. Standards and Regulations for Licensed Assisted Living Facilities.** The purpose of the proposed action is to rename "adult care residence" to "assisted living facility," allow for a shared administrator for an assisted living facility and a nursing home, and establish requirements for special care units for residents with serious cognitive impairments due to dementia.

Statutory Authority: §§ 63.1-25 and 63.1-174 of the Code of Virginia.

**Contact:** Judy McGreal, Program Development Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1792, FAX (804) 692-2370 or e-mail [ajm7@dss.state.va.us](mailto:ajm7@dss.state.va.us).


## DEPARTMENT OF TECHNOLOGY PLANNING

### Wireless E-911 Services Board

† **June 12, 2002 - 9 a.m.** -- Open Meeting  
110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. 

A meeting of the Wireless E-911 Services Board CMRS Subcommittee. A request will be made to hold the meeting in closed session.


**Contact:** Steve Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, e-mail [smarzolf@ntp.state.va.us](mailto:smarzolf@ntp.state.va.us).

† **June 12, 2002 - 10 a.m.** -- Open Meeting  
110 South 7th Street, 3rd floor conference room, Richmond, Virginia. 

A regular monthly board meeting.

**Contact:** Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th Street, Richmond, VA, telephone (804) 371-0015, e-mail [smarzolf@ntp.state.va.us](mailto:smarzolf@ntp.state.va.us).


## JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† **June 18, 2002 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

An organizational meeting to adopt a workplan for 2002-2003.

**Contact:** Eric Link, Staff Attorney, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591 or e-mail [jlots@leg.state.va.us](mailto:jlots@leg.state.va.us).


## COUNCIL ON TECHNOLOGY SERVICES

**June 13, 2002 - 9:15 a.m.** -- Open Meeting  
Department of Technology Planning, 110 South 7th Street, Suite 135, Conference Room, Richmond, Virginia. 

A monthly meeting of the Dashboard Project Workgroup. To expedite security procedures, please contact George Williams at the Department of Technology Planning at [gwilliams@ntp.state.va.us](mailto:gwilliams@ntp.state.va.us) or (804) 371-2771 to include your name on the list of attendees that will be given to building security.


**Contact:** Chris Saneda, Chief Information Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4483, FAX (804) 213-4486, e-mail [chris.saneda@abc.state.va.us](mailto:chris.saneda@abc.state.va.us).

## COMMONWEALTH TRANSPORTATION BOARD

† **June 19, 2002 - 2 p.m.** -- Open Meeting  
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

**Contact:** Katherine Tracy, Assistant Secretary to the Board, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2713, FAX (804) 786-6683, e-mail [Mathis\\_ca@vdot.state.va.us](mailto:Mathis_ca@vdot.state.va.us).

† **June 20, 2002 - 10 a.m.** -- Open Meeting  
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A monthly meeting of the Commonwealth Transportation 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 VDOT Public Affairs at (804) 786-2715 for schedule.

---

# Calendar of Events

---

**Contact:** Carol A. Mathis, Administrative Assistant, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2713, FAX (804) 786-6683, e-mail Mathis\_ca@vdot.state.va.us.

## VIRGINIA VOLUNTARY FORMULARY BOARD

† **July 8, 2002 - 10 a.m.** -- Public Hearing  
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. ☎

A public hearing to consider the adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Virginia Voluntary Formulary add drugs to the Formulary that became effective April 9, 2001, and the most recent supplement to that revision. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, 101 North 14th Street, Room S-45, P.O. Box 2448, Richmond, Virginia 23218. Written comments sent to the above address and received prior to 5 p.m. on July 8, 2002, will be made a part of the hearing record and considered by the Formulary Board.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 N. 14th St., Room S-45, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-4326.

† **August 8, 2002 - 10:30 a.m.** -- Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. ☎

A meeting to consider public hearing comments and evaluate data submitted by pharmaceutical manufacturers and distributors for products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 N. 14th St., Room S-45, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-4326.

## STATE WATER CONTROL BOARD

**June 11, 2002 - 2 p.m.** -- Public Hearing  
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia.

**June 11, 2002 - 2 p.m.** -- Public Hearing  
Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

**July 8, 2002** - Public comments will be received until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-180. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Storm Water from Construction Activities.** The purpose of the proposed action is to amend the existing construction general permit regulation to add coverage for storm water discharges from small construction activities. A question

and answer period will be held one half hour prior to the public hearing at each location.

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

**Contact:** Burton Tuxford, Storm Water Coordinator, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4086, FAX (804) 698-4032, e-mail brtuxford@deq.state.va.us.

\* \* \* \* \*

**June 11, 2002 - 2 p.m.** -- Public Hearing  
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia.

**June 11, 2002 - 2 p.m.** -- Public Hearing  
Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

**July 8, 2002** - Public comments will be received until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-750. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Storm Water from Small Municipal Separate Storm Sewer Systems.** The purpose of the proposed action is to adopt a general permit regulation to authorize storm water discharges from small regulated municipal separate storm sewer systems. A question and answer period will be held one half hour prior to the public hearing at each location.

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

**Contact:** Burton Tuxford, Storm Water Coordinator, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4086, FAX (804) 698-4032, e-mail brtuxford@deq.state.va.us.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**June 20, 2002 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ☎


A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

**Contact:** David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.state.va.us.


## VIRGINIA WORKFORCE COUNCIL

NOTE: CHANGE IN MEETING TIME

**June 12, 2002 - 2:30 p.m.** -- Open Meeting

Holiday Inn University Area and Conference Center, 1901 Emmet Street, Monroe and Madison Rooms, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)


Agenda items are WIA local strategic plans, training provider waivers, council strategic plan, and local WIB report. Public comment will be received at 3:30 p.m. The council requests that speakers limit their comments to five minutes and provide a written copy of their remarks.

**Contact:** Gail Robinson, Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358, telephone (804) 225-3070, FAX (804) 225-2190, (800) 828-1120/TTY , e-mail grobinson@vec.state.va.us.

## INDEPENDENT

### STATE LOTTERY BOARD

**June 19, 2002 - 9:30 a.m.** -- Open Meeting


Pocahontas Building, 900 East Main Street, Richmond, Virginia. 

A regular meeting. Public comment will be received at the beginning of the meeting.


**Contact:** Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105, FAX (804) 692-7775, e-mail brobertson@valottery.state.va.us.

### VIRGINIA RETIREMENT SYSTEM


**August 13, 2002 - Noon** -- Open Meeting

VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Optional Retirement Plan Advisory Committee.

**Contact:** Darla K. Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.

**August 14, 2002 - Noon** -- Open Meeting

VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

Meetings of the following committees:


Audit and Compliance Committee - Noon

Benefits and Actuarial Committee - 1 p.m.


Administration and Personnel Committee - 2:30 p.m.

Investment Advisory Committee - 3 p.m.


**Contact:** Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888)

827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.

**August 15, 2002 - 9 a.m.** -- Open Meeting

VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 


A regular meeting of the Board of Trustees.

**Contact:** Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.


## LEGISLATIVE

### STANDING JOINT COMMITTEE ON BLOCK GRANTS

† **July 10, 2002 - 10 a.m.** -- Open Meeting


General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 

A regular meeting. Individuals requiring interpreter services or other assistance should contact Tommy Gilman.

**Contact:** Tommy Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

### VIRGINIA CODE COMMISSION

**June 19, 2002 - 10 a.m.** -- Open Meeting


General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. 

A regular meeting.


**Contact:** Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

### CONSUMER ADVISORY BOARD OF THE VIRGINIA ELECTRIC UTILITY RESTRUCTURING ACT

**June 18, 2002 - 10 a.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

A regular meeting. Individuals requiring interpreter services or other assistance should contact Tommy Gilman.


**Contact:** Tommy Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

---


# Calendar of Events

---


## LEGISLATIVE TRANSITION TASK FORCE OF THE VIRGINIA ELECTRICAL UTILITIES RESTRUCTURING ACT

† **June 21, 2002 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

A regular meeting. Individuals requiring interpreter services or other assistance should contact Tommy Gilman.

**Contact:** Tommy Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

## VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

† **June 12, 2002 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

**Contact:** Maria J.K. Everett, Executive Director, Virginia Freedom of Information Advisory Council, General Assembly Bldg, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 225-3056, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail foiacouncil@leg.state.va.us.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### June 3

- † Education, Board of
- † Nursing, Board of

#### June 4

- † Alcoholic Beverage Control Board
- † Conservation and Recreation, Department of
- † Funeral Directors and Embalmers, Board of
- † Health Professions, Board of
  - Enforcement Committee
  - Executive Committee
- Hopewell Industrial Safety Council
- Nursing, Board of
  - Special Conference Committee
- Pharmacy, Board of
  - Special Conference Committee

#### June 5

- Accountancy, Board of
  - Enforcement Committee
- Contractors, Board for
- Forestry, Board of
- † Intergovernmental Relations, Virginia Advisory Commission on
- † Nursing Home Administrators, Board of
  - Legislative/Regulatory Committee
- † Pharmacy, Board of
- Rehabilitative Services, Department of

- Commonwealth Neurotrauma Initiative Advisory Board

#### June 6

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects, Board for
- Conservation and Recreation, Department of
  - Falls of the James Scenic River Advisory Board
- Medicine, Board of

#### June 7

- Art and Architectural Review Board
- Fire Services Board, Virginia
  - Administration and Policy Committee
  - Finance Committee
  - Fire Education and Training Committee
  - Fire Prevention and Control Committee
- Game and Inland Fisheries, Board of
- Health, Department of
  - Biosolids Use Information Committee
  - Biosolids Use Regulations Advisory Committee
- Medicine, Board of
  - Credentials Committee
- † Professional and Occupational Regulation, Board of

#### June 8

- Blind and Vision Impaired, Department for the
  - Statewide Rehabilitation Council for the Blind
- Fire Services Board, Virginia

#### June 10

- † Conservation and Recreation, Department of
  - Smith Mountain Lake State Park Master Plan Steering Committee
- Library of Virginia
  - Archival and Information Services Committee
  - Collection Management Services Committee
  - Executive Committee
  - Legislative and Finance Committee
  - Publications and Educational Services Committee
  - Public Library Development Committee
  - Records Management Committee
- Nursing, Board of
  - Special Conference Committee

#### June 11

- † Criminal Justice Services Board
  - Private Security Services Advisory Board
- Medical Assistance Services, Board of
- Resources Authority, Virginia
  - Board of Directors

#### June 12

- † Aviation Board, Virginia
- † Conservation and Recreation, Department of
  - Bear Creek Lake State Park Technical Advisory Committee
  - Virginia Land Conservation Foundation
- † Freedom of Information Advisory Council, Virginia
- Historic Resources, Department of
  - State Review Board and Historic Resources Board
- Interagency Coordinating Council, Virginia
- Motor Vehicles, Department of
  - Medical Advisory Board
- Nursing, Board of
  - Special Conference Committee
- † Technology Planning, Department of
  - Wireless E-911 Services Board



Workforce Council, Virginia

## June 13

† Child Day-Care Council  
Conservation and Recreation, Department of  
- Mason Neck State Park Technical Advisory Committee  
Dentistry, Board of  
Labor and Industry, Department of  
- Virginia Apprenticeship Council  
Medicine, Board of  
- Informal Conference Committee  
Motor Vehicles, Department of  
- Digital Signature Implementation Workgroup  
Technology Services, Council on  
- Dashboard Project Workgroup

## June 14

† Juvenile Justice, State Board of  
† Longwood College  
- Board of Visitors

## June 15

† Longwood College  
- Board of Visitors

## June 17

† Chesapeake Bay Local Assistance Board  
Housing and Community Development, Board of

## June 18

† Alcoholic Beverage Control Board  
† Conservation and Recreation, Department of  
Deaf and Hard-of-Hearing, Department for the  
- Virginia Relay Advisory Council  
Electrical Utility Restructuring Act, Consumer Advisory  
Board of the Virginia  
† Housing Development Authority, Virginia  
- Board of Commissioners  
Nursing, Board of  
- Special Conference Committee  
† Recycling Markets Development Council, Virginia  
Rights of Virginian's with Disabilities, Department for  
† Technology and Science, Joint Commission on

## June 19

Agriculture and Consumer Services, Department of  
- Virginia State Apple Board  
Code Commission, Virginia  
Environmental Quality, Department of  
- Small Business Environmental Compliance Advisory  
Board  
Lottery Board, State  
Medicine, Board of  
- Informal Conference Committee  
Polygraph Examiners Advisory Board  
† Racing Commission, Virginia  
Social Services, State Board of  
† Transportation Board, Commonwealth

## June 20

Assistive Technology Loan Fund Authority  
Design-Build/Construction Management Review Board  
† Environmental Quality, Department of  
- New River PCB Source Study Citizen's Committee  
Manufactured Housing Board, Virginia  
Museum of Fine Arts, Virginia  
- Executive/Finance Committee  
Nursing, Board of  
- Special Conference Committee

Social Services, State Board of  
† Transportation Board, Commonwealth  
Waterworks and Wastewater Works Operators, Virginia  
Board for

## June 21

† Correctional Education, Board of  
† Electrical Utilities Restructuring Act, Legislative Transition  
Task Force of the Virginia  
Housing and Community Development, Department of  
- State Building Code Technical Review Board  
Social Services, State Board of  
- Family and Children's Trust Fund Board of Trustees

## June 24

† Nursing, Board of

## June 25

† Agriculture and Consumer Services, Department of  
- Virginia Peanut Board  
Compensation Board  
† Conservation and Recreation, Department of  
- Southwest Virginia Museum Historical State Park Master  
Plan Advisory Committee  
† Education, Board of  
- Advisory Committee on Adult Education and Literacy  
† Environmental Quality, Department of  
Marine Resources Committee  
Nursing, Board of  
- Special Conference Committee  
† Small Business Financing Authority, Virginia

## June 26

† Conservation and Recreation, Board of  
- Virginia State Parks Foundation Board of Trustees  
Education, Board of  
Nursing, Board of  
- Special Conference Committee

## July 2

† Hopewell Industrial Safety Council

## July 9

† Child Fatality Review Team, State  
Resources Authority, Virginia  
- Board of Directors

## July 10

† Block Grants, Standing Joint Subcommittee on  
Medicine, Board of  
- Informal Conference Committee

## July 11

Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board

## July 12

Art and Architectural Review Board  
Physical Therapy, Board of

## July 15

Nursing, Board of

## July 16

Asbestos, Lead, and Home Inspectors, Virginia Board for

## July 17

Nursing, Board of

## July 18

Design-Build/Construction Management Review Board  
† Medicine, Board of  
- Informal Conference Committee  
Nursing, Board of

---

# Calendar of Events

---

**July 24**

Medicine, Board of  
- Informal Conference Committee

**July 25**

Education, Board of

**July 30**

Nursing, Board of  
- Special Conference Committee

**August 1**

Nursing, Board of  
- Special Conference Committee

**August 2**

Art and Architectural Review Board  
Nursing, Board of  
- Special Conference Committee

**August 5**

Nursing, Board of  
- Special Conference Committee

**August 6**

† Hopewell Industrial Safety Council  
Nursing, Board of  
- Special Conference Committee

**August 8**

Motor Vehicles, Department of  
- Digital Signature Implementation Workgroup  
† Voluntary Formulary Board, Virginia

**August 12**

Nursing, Board of  
- Special Conference Committee

**August 13**

Nursing, Board of  
- Special Conference Committee  
Resources Authority, Virginia  
- Board of Directors  
Retirement System, Virginia  
- Optional Retirement Plan Advisory Committee

**August 14**

Retirement System, Virginia  
- Administration and Personnel Committee  
- Audit and Compliance Committee  
- Benefits and Actuarial Committee  
- Investment Advisory Committee

**August 15**

Design-Build/Construction Management Review Board  
Retirement System, Virginia

**August 21**

† Agriculture and Consumer Services, Department of  
- Virginia Egg Board

**August 29**

† Nursing, Board of  
- Special Conference Committee

**September 3**

† Hopewell Industrial Safety Council

**June 12**

Social Services, State Board of

**June 26**

† Game and Inland Fisheries, Department of

**June 27**

Air Pollution Control Board, State

**July 2**

† Air Pollution Control Board, State

**July 8**

† Voluntary Formulary Board, Virginia

**July 16**

† Medicine Board, of  
† Nursing, Board of

**July 22**

† Deaf and Hard-of-Hearing, Department for the

**August 7**

† Game and Inland Fisheries, Department of

## PUBLIC HEARINGS

**June 5**

Mental Health, Mental Retardation and Substance Abuse  
Services Board, State

**June 11**

† Environmental Quality, Department of  
Water Control Board, State