http://register.dls.virginia.gov Virginia Code Commission

# Virginia Register of Regulations

VOL. 25 ISS. 18 PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION MAY 11, 2009

## TABLE OF CONTENTS



THE VIRGINIA REGISTER OF REGULATIONS (USPS-001831) is published biweekly, with quarterly cumulative indices published in January, April, July and October, for $179.00 per year by LexisNexis Matthew Bender, 1275 Broadway, Albany, NY 12204. Periodical postage is paid at Albany, NY and at additional mailing offices. POSTMASTER: Send address changes to LexisNexis Matthew Bender, 1275 Broadway, Albany, NY 12204.

# THE VIRGINIA REGISTER INFORMATION PAGE

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

**ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

**FAST-TRACK RULEMAKING PROCESS**

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

**EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*.

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

**STATEMENT**

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

**CITATION TO THE *VIRGINIA REGISTER***

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006,** refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

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

# PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register*'s Internet home page (http://register.state.va.us).

**May 2009 through February 2010**

| Volume: Issue | Material Submitted By Noon* | Will Be Published On |
|---|---|---|
| **INDEX 2 Volume 25** | | **April 2009** |
| 25:18 | April 22, 2009 | May 11, 2009 |
| 25:19 | May 6, 2009 | May 25, 2009 |
| 25:20 | May 20, 2009 | June 8, 2009 |
| **INDEX 3 Volume 25** | | **July 2009** |
| 25:21 | June 3, 2009 | June 22, 2009 |
| 25:22 | June 17, 2009 | July 6, 2009 |
| 25:23 | July 1, 2009 | July 20, 2009 |
| 25:24 | July 15, 2009 | August 3, 2009 |
| 25:25 | July 29, 2009 | August 17, 2009 |
| 25:26 | August 12, 2009 | August 31, 2009 |
| **FINAL INDEX Volume 25** | | **October 2009** |
| 26:1 | August 26, 2009 | September 14, 2009 |
| 26:2 | September 9, 2009 | September 28, 2009 |
| 26:3 | September 23, 2009 | October 12, 2009 |
| 26:4 | October 7, 2009 | October 26, 2009 |
| 26:5 | October 21, 2009 | November 9, 2009 |
| 26:6 | November 4, 2009 | November 23, 2009 |
| 26:7 | November 17, 2009 **(Tuesday)** | December 7, 2009 |
| **INDEX 1 Volume 26** | | **January 2010** |
| 26:8 | December 2, 2009 | December 21, 2009 |
| 26:9 | December 15, 2009 **(Tuesday)** | January 4, 2010 |
| 26:10 | December 29, 2009 **(Tuesday)** | January 18, 2010 |
| 26:11 | January 13, 2010 | February 1, 2010 |
| 26:12 | January 27, 2010 | February 15, 2010 |

*Filing deadlines are Wednesdays unless otherwise specified.

# 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 Fall 2008 VAC Supplement includes final regulations published through *Virginia Register* Volume 24, Issue 24, dated August 4, 2008). 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 |
|---|---|---|---|
| **Title 1. Administration** | | | |
| 1 VAC 17-10-10 through 1 VAC 17-10-90 | Repealed | 25:8 VA.R. 1484 | 1/21/09 |
| 1 VAC 17-11-10 through 1 VAC 17-11-110 | Added | 25:8 VA.R. 1484-1487 | 1/21/09 |
| 1 VAC 30-10-10 through 1 VAC 30-10-70 | Repealed | 25:8 VA.R. 1487 | 1/21/09 |
| 1 VAC 30-11-10 through 1 VAC 30-11-110 | Erratum | 25:9 VA.R. 1827 | -- |
| 1 VAC 30-11-10 through 1 VAC 30-11-110 | Added | 25:8 VA.R. 1488-1490 | 1/21/09 |
| 1 VAC 30-45-10 through 1 VAC 30-45-860 | Added | 25:7 VA.R. 1409-1413 | 1/1/09 |
| 1 VAC 30-46-10 through 1 VAC 30-46-210 | Added | 25:7 VA.R. 1413-1417 | 1/1/09 |
| 1 VAC 50-10-60 through 1 VAC 50-10-150 | Repealed | 25:2 VA.R. 119 | 10/29/08 |
| 1 VAC 50-11-10 through 1 VAC 50-11-110 | Added | 25:2 VA.R. 119-122 | 10/29/08 |
| 1 VAC 55-10-10 through 1 VAC 55-10-50 | Repealed | 25:2 VA.R. 122 | 10/29/08 |
| 1 VAC 55-11-10 through 1 VAC 55-11-110 | Added | 25:2 VA.R. 122-125 | 10/29/08 |
| 1 VAC 75-10-10 through 1 VAC 75-10-40 | Repealed | 24:25 VA.R. 3523 | 9/17/08 |
| 1 VAC 75-11-10 through 1 VAC 75-11-110 | Added | 24:25 VA.R. 3523-3526 | 9/17/08 |
| **Title 2. Agriculture** | | | |
| 2 VAC 5-10-10 through 2 VAC 5-10-70 | Repealed | 25:3 VA.R. 342 | 11/12/08 |
| 2 VAC 5-11-10 through 2 VAC 5-11-110 | Added | 25:3 VA.R. 343-345 | 11/12/08 |
| 2 VAC 5-60-10 | Amended | 25:11 VA.R. 1889 | 3/4/09 |
| 2 VAC 5-100-10 through 2VAC5-100-40 | Repealed | 25:16 VA.R. 2831 | 5/13/09 |
| 2 VAC 5-190-30 | Amended | 25:11 VA.R. 1890 | 3/4/09 |
| 2 VAC 5-205-20 | Amended | 25:11 VA.R. 1890 | 3/4/09 |
| 2 VAC 5-206-10 through 2 VAC 5-206-50 | Added | 24:25 VA.R. 3527-3531 | 10/3/08 |
| 2 VAC 5-210-20 | Amended | 25:11 VA.R. 1891 | 3/4/09 |
| 2 VAC 5-230-30 | Amended | 25:11 VA.R. 1892 | 3/4/09 |
| 2 VAC 5-230-50 | Amended | 25:11 VA.R. 1892 | 3/4/09 |
| 2 VAC 5-230-60 | Amended | 25:11 VA.R. 1892 | 3/4/09 |
| 2 VAC 5-300-50 | Amended | 25:11 VA.R. 1924 | 3/4/09 |
| 2 VAC 5-320-10 | Amended | 25:11 VA.R. 1892 | 3/4/09 |
| 2 VAC 5-320-10 | Erratum | 25:13 VA.R. 2565 | -- |
| 2 VAC 5-325-10 | Amended | 25:11 VA.R. 1893 | 3/4/09 |
| 2 VAC 5-325-10 | Erratum | 25:13 VA.R. 2565 | -- |
| 2 VAC 5-330-10 | Amended | 25:11 VA.R. 1893 | 3/4/09 |
| 2 VAC 5-330-30 | Amended | 25:2 VA.R. 126 | 10/15/08 |
| 2 VAC 5-330-30 | Erratum | 25:13 VA.R. 2565 | -- |
| 2 VAC 5-330-30 | Amended | 25:15 VA.R. 2710 | 3/9/09 |
| 2 VAC 5-335-10 through 2 VAC 5-335-130 | Added | 25:2 VA.R. 126-129 | 10/15/08 |
| 2 VAC 5-340-140 | Amended | 25:11 VA.R. 1894 | 3/4/09 |
| 2 VAC 5-340-140 | Erratum | 25:13 VA.R. 2565 | -- |
| 2 VAC 5-340-170 | Amended | 25:11 VA.R. 1895 | 3/4/09 |
| 2 VAC 5-340-170 | Erratum | 25:13 VA.R. 2565 | -- |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 2 VAC 5-340-180 | Amended | 25:11 VA.R. 1896 | 3/4/09 |
| 2 VAC 5-350-10 through 2 VAC 5-350-60 | Amended | 25:11 VA.R. 1896-1898 | 3/4/09 |
| 2 VAC 5-350-20 | Erratum | 25:13 VA.R. 2565 | -- |
| 2 VAC 5-350-80 | Amended | 25:11 VA.R. 1898 | 3/4/09 |
| 2 VAC 5-360-10 | Amended | 25:11 VA.R. 1899 | 3/4/09 |
| 2 VAC 5-360-50 | Amended | 25:11 VA.R. 1900 | 3/4/09 |
| 2 VAC 5-370-10 | Amended | 25:11 VA.R. 1901 | 3/4/09 |
| 2 VAC 5-370-10 | Erratum | 25:13 VA.R. 2566 | -- |
| 2 VAC 5-380-10 | Amended | 25:11 VA.R. 1901 | 3/4/09 |
| 2 VAC 5-380-10 | Erratum | 25:13 VA.R. 2566 | -- |
| 2 VAC 5-380-60 | Amended | 25:11 VA.R. 1901 | 3/4/09 |
| 2 VAC 5-390-20 | Amended | 25:11 VA.R. 1902 | 3/4/09 |
| 2 VAC 5-390-20 | Erratum | 25:13 VA.R. 2566 | -- |
| 2 VAC 5-390-30 | Amended | 25:11 VA.R. 1902 | 3/4/09 |
| 2 VAC 5-390-40 | Amended | 25:11 VA.R. 1903 | 3/4/09 |
| 2 VAC 5-390-60 | Amended | 25:11 VA.R. 1903 | 3/4/09 |
| 2 VAC 5-390-70 | Amended | 25:11 VA.R. 1903 | 3/4/09 |
| 2 VAC 5-390-80 | Amended | 25:11 VA.R. 1904 | 3/4/09 |
| 2 VAC 5-390-80 | Erratum | 25:13 VA.R. 2566 | -- |
| 2 VAC 5-390-100 | Amended | 25:11 VA.R. 1904 | 3/4/09 |
| 2 VAC 5-390-110 | Amended | 25:11 VA.R. 1904 | 3/4/09 |
| 2 VAC 5-390-120 | Amended | 25:11 VA.R. 1906 | 3/4/09 |
| 2 VAC 5-390-160 | Amended | 25:11 VA.R. 1906 | 3/4/09 |
| 2 VAC 5-390-170 | Amended | 25:11 VA.R. 1906 | 3/4/09 |
| 2 VAC 5-390-180 | Amended | 25:11 VA.R. 1906 | 3/4/09 |
| 2 VAC 5-400-10 | Amended | 25:11 VA.R. 1907 | 3/4/09 |
| 2 VAC 5-400-10 | Erratum | 25:13 VA.R. 2566 | -- |
| 2 VAC 5-400-30 | Amended | 25:11 VA.R. 1907 | 3/4/09 |
| 2 VAC 5-400-90 | Amended | 25:11 VA.R. 1908 | 3/4/09 |
| 2 VAC 5-440-20 | Amended | 25:11 VA.R. 1909 | 3/4/09 |
| 2 VAC 5-440-20 | Erratum | 25:13 VA.R. 2566 | -- |
| 2 VAC 5-440-110 | Amended | 25:11 VA.R. 1909 | 3/4/09 |
| 2 VAC 5-450-20 | Amended | 25:11 VA.R. 1909 | 3/4/09 |
| 2 VAC 5-490-10 | Amended | 25:11 VA.R. 1909 | 3/4/09 |
| 2 VAC 5-490-31 | Amended | 25:11 VA.R. 1915 | 3/4/09 |
| 2 VAC 5-501-30 | Amended | 25:11 VA.R. 1917 | 3/4/09 |
| 2 VAC 5-501-60 | Amended | 25:11 VA.R. 1919 | 3/4/09 |
| 2 VAC 5-501-70 | Amended | 25:11 VA.R. 1922 | 3/4/09 |
| 2 VAC 5-570-70 | Amended | 25:11 VA.R. 1923 | 3/4/09 |
| 2 VAC 5-620-20 | Amended | 25:11 VA.R. 1924 | 3/4/09 |
| 2 VAC 5-620-100 | Amended | 25:11 VA.R. 1924 | 3/4/09 |
| 2 VAC 15-11-10 through 2 VAC 15-11-120 | Repealed | 25:4 VA.R. 576 | 11/26/08 |
| 2 VAC 15-12-10 through 2 VAC 15-12-110 | Added | 25:4 VA.R. 577-579 | 11/26/08 |
| 2 VAC 15-20-90 | Amended | 25:10 VA.R. 1847 | 2/18/09 |
| 2 VAC 15-20-110 | Amended | 25:10 VA.R. 1848 | 2/18/09 |
| 2 VAC 15-20-120 | Amended | 25:10 VA.R. 1848 | 2/18/09 |
| 2 VAC 20-10-10 through 2 VAC 20-10-120 | Repealed | 25:5 VA.R. 792 | 12/10/08 |
| 2 VAC 20-11-10 through 2 VAC 20-11-110 | Added | 25:5 VA.R. 792-795 | 12/10/08 |
| 2 VAC 20-20-10 | Amended | 25:12 VA.R. 2041 | 3/18/09 |
| 2 VAC 20-20-30 | Amended | 25:12 VA.R. 2041 | 3/18/09 |
| 2 VAC 20-20-120 | Amended | 25:12 VA.R. 2042 | 3/18/09 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 2 VAC 20-30-10 | Amended | 25:12 VA.R. 2043 | 3/18/09 |
| 2 VAC 20-30-30 | Amended | 25:12 VA.R. 2043 | 3/18/09 |
| 2 VAC 20-30-40 | Amended | 25:12 VA.R. 2043 | 3/18/09 |
| 2 VAC 20-40-10 | Amended | 25:12 VA.R. 2044 | 3/18/09 |
| 2 VAC 20-40-90 | Amended | 25:12 VA.R. 2045 | 3/18/09 |
| 2 VAC 20-51-10 through 2 VAC 20-51-50 | Amended | 25:3 VA.R. 346-350 | 12/1/08 |
| 2 VAC 20-51-70 | Amended | 25:3 VA.R. 350 | 12/1/08 |
| 2 VAC 20-51-90 | Amended | 25:3 VA.R. 351 | 12/1/08 |
| 2 VAC 20-51-100 | Amended | 25:3 VA.R. 351 | 12/1/08 |
| 2 VAC 20-51-160 | Amended | 25:3 VA.R. 351 | 12/1/08 |
| 2 VAC 20-51-170 | Amended | 25:3 VA.R. 352 | 12/1/08 |
| 2 VAC 20-51-200 | Amended | 25:3 VA.R. 352 | 12/1/08 |
| 2 VAC 20-51-210 | Amended | 25:3 VA.R. 352 | 12/1/08 |
| **Title 3. Alcoholic Beverages** | | | |
| 3 VAC 5-10 | Erratum | 25:9 VA.R. 1826 | -- |
| 3 VAC 5-10-480 | Repealed | 25:6 VA.R. 1173 | 12/24/08 |
| 3 VAC 5-11-10 through 3 VAC 5-11-110 | Added | 25:6 VA.R. 1175-1178 | 12/24/08 |
| 3 VAC 5-50-40 | Amended | 25:11 VA.R. 1926 | 3/4/09 |
| 3 VAC 5-50-50 | Amended | 25:11 VA.R. 1926 | 3/4/09 |
| 3 VAC 5-50-80 | Amended | 25:11 VA.R. 1926 | 3/4/09 |
| 3 VAC 5-50-100 | Amended | 25:11 VA.R. 1927 | 3/4/09 |
| 3 VAC 5-50-130 | Amended | 25:11 VA.R. 1928 | 3/4/09 |
| 3 VAC 5-50-140 emer | Amended | 25:11 VA.R. 1925 | 1/9/08-6/30/09 |
| 3 VAC 5-50-140 | Amended | 25:11 VA.R. 1929 | 3/4/09 |
| 3 VAC 5-50-230 emer | Added | 25:11 VA.R. 1929 | 1/13/09-1/12/10 |
| **Title 4. Conservation and Natural Resources** | | | |
| 4 VAC 3-10-10 | Repealed | 25:2 VA.R. 129 | 10/29/08 |
| 4 VAC 3-10-20 | Repealed | 25:2 VA.R. 129 | 10/29/08 |
| 4 VAC 3-10-30 | Repealed | 25:2 VA.R. 129 | 10/29/08 |
| 4 VAC 3-11-10 through 4 VAC 3-11-110 | Added | 25:2 VA.R. 130-132 | 10/29/08 |
| 4 VAC 5-10-10 | Repealed | 25:2 VA.R. 132 | 10/29/08 |
| 4 VAC 5-10-20 | Repealed | 25:2 VA.R. 132 | 10/29/08 |
| 4 VAC 5-10-30 | Repealed | 25:2 VA.R. 132 | 10/29/08 |
| 4 VAC 5-11-10 through 4 VAC 5-11-110 | Added | 25:2 VA.R. 133-136 | 10/29/08 |
| 4 VAC 5-36-50 | Amended | 25:6 VA.R. 1178 | 1/1/09 |
| 4 VAC 5-36-60 | Amended | 25:6 VA.R. 1183 | 1/1/09 |
| 4 VAC 5-36-70 | Amended | 25:6 VA.R. 1184 | 1/1/09 |
| 4 VAC 5-36-90 | Amended | 25:6 VA.R. 1185 | 1/1/09 |
| 4 VAC 5-36-100 | Amended | 25:6 VA.R. 1187 | 1/1/09 |
| 4 VAC 5-36-110 | Amended | 25:6 VA.R. 1191 | 1/1/09 |
| 4 VAC 5-36-115 | Added | 25:6 VA.R. 1192 | 1/1/09 |
| 4 VAC 5-36-120 | Amended | 25:6 VA.R. 1192 | 1/1/09 |
| 4 VAC 5-36-140 | Amended | 25:6 VA.R. 1193 | 1/1/09 |
| 4 VAC 5-36-150 | Amended | 25:6 VA.R. 1195 | 1/1/09 |
| 4 VAC 5-36-180 | Amended | 25:6 VA.R. 1198 | 1/1/09 |
| 4 VAC 5-36-200 | Amended | 25:6 VA.R. 1199 | 1/1/09 |
| 4 VAC 5-36-210 | Amended | 25:6 VA.R. 1204 | 1/1/09 |
| 4 VAC 10-10-10 through 4 VAC 10-10-30 | Repealed | 25:6 VA.R. 1208 | 12/24/08 |
| 4 VAC 10-11-10 through 4 VAC 10-11-110 | Added | 25:6 VA.R. 1209-1212 | 12/24/08 |
| 4 VAC 15-450-10 through 4 VAC 15-450-40 | Added | 25:10 VA.R. 1849-1850 | 1/1/09 |
| 4 VAC 20-20-50 | Amended | 25:6 VA.R. 1212 | 11/1/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 4 VAC 20-252-90 | Amended | 25:6 VA.R. 1213 | 11/1/08 |
| 4 VAC 20-252-100 | Amended | 25:6 VA.R. 1213 | 11/1/08 |
| 4 VAC 20-260-35 emer | Amended | 25:3 VA.R. 353 | 10/1/08-10/31/08 |
| 4 VAC 20-260-35 | Amended | 25:6 VA.R. 1213 | 11/1/08 |
| 4 VAC 20-260-40 emer | Amended | 25:3 VA.R. 353 | 10/1/08-10/31/08 |
| 4 VAC 20-260-40 | Amended | 25:6 VA.R. 1213 | 11/1/08 |
| 4 VAC 20-270-10 emer | Amended | 25:14 VA.R. 2591 | 2/26/09-3/28/09 |
| 4 VAC 20-270-30 emer | Amended | 25:14 VA.R. 2591 | 2/26/09-3/28/09 |
| 4 VAC 20-270-30 | Amended | 25:16 VA.R. 2831 | 3/26/09 |
| 4 VAC 20-270-40 | Amended | 25:12 VA.R. 2048 | 2/1/09 |
| 4 VAC 20-270-40 emer | Amended | 25:14 VA.R. 2592 | 2/26/09-3/28/09 |
| 4 VAC 20-270-40 | Amended | 25:16 VA.R. 2832 | 3/26/09 |
| 4 VAC 20-270-55 emer | Amended | 25:14 VA.R. 2592 | 2/26/09-3/28/09 |
| 4 VAC 20-270-55 | Amended | 25:16 VA.R. 2832 | 3/26/09 |
| 4 VAC 20-270-60 emer | Amended | 25:14 VA.R. 2592 | 2/26/09-3/28/09 |
| 4 VAC 20-490-20 | Amended | 25:14 VA.R. 2593 | 3/1/09 |
| 4 VAC 20-490-30 | Amended | 25:14 VA.R. 2595 | 3/1/09 |
| 4 VAC 20-490-40 | Amended | 25:14 VA.R. 2595 | 3/1/09 |
| 4 VAC 20-490-41 | Amended | 25:14 VA.R. 2595 | 3/1/09 |
| 4 VAC 20-530-10 emer | Amended | 25:14 VA.R. 2596 | 2/26/09-3/28/09 |
| 4 VAC 20-530-20 emer | Amended | 25:14 VA.R. 2596 | 2/26/09-3/28/09 |
| 4 VAC 20-530-31 emer | Amended | 25:14 VA.R. 2597 | 2/26/09-3/28/09 |
| 4 VAC 20-530-31 | Amended | 25:16 VA.R. 2833 | 3/26/09 |
| 4 VAC 20-530-40 emer | Amended | 25:14 VA.R. 2597 | 2/26/09-3/28/09 |
| 4 VAC 20-620-20 | Amended | 25:3 VA.R. 354 | 10/1/08 |
| 4 VAC 20-620-30 | Amended | 25:3 VA.R. 354 | 10/1/08 |
| 4 VAC 20-620-40 | Amended | 25:3 VA.R. 355 | 10/1/08 |
| 4 VAC 20-620-70 | Amended | 25:14 VA.R. 2597 | 3/1/09 |
| 4 VAC 20-700-20 | Amended | 25:14 VA.R. 2598 | 3/1/09 |
| 4 VAC 20-720-20 | Amended | 25:3 VA.R. 357 | 10/1/08 |
| 4 VAC 20-720-40 | Amended | 25:3 VA.R. 359 | 10/1/08 |
| 4 VAC 20-720-50 | Amended | 25:3 VA.R. 360 | 10/1/08 |
| 4 VAC 20-720-60 | Amended | 25:3 VA.R. 360 | 10/1/08 |
| 4 VAC 20-720-70 | Amended | 25:3 VA.R. 360 | 10/1/08 |
| 4 VAC 20-720-75 | Amended | 25:3 VA.R. 361 | 10/1/08 |
| 4 VAC 20-720-80 | Amended | 25:3 VA.R. 361 | 10/1/08 |
| 4 VAC 20-720-95 | Amended | 25:3 VA.R. 361 | 10/1/08 |
| 4 VAC 20-720-100 | Amended | 25:3 VA.R. 361 | 10/1/08 |
| 4 VAC 20-720-106 emer | Amended | 25:1 VA.R. 24 | 9/1/08-9/30/08 |
| 4 VAC 20-720-106 | Amended | 25:3 VA.R. 361 | 10/1/08 |
| 4 VAC 20-751-10 emer | Amended | 25:3 VA.R. 362 | 9/29/08-10/28/08 |
| 4 VAC 20-751-15 emer | Amended | 25:3 VA.R. 362 | 9/29/08-10/28/08 |
| 4 VAC 20-751-20 emer | Amended | 25:3 VA.R. 362 | 9/29/08-10/28/08 |
| 4 VAC 20-751-20 | Amended | 25:6 VA.R. 1214 | 10/29/08 |
| 4 VAC 20-910-45 | Amended | 24:25 VA.R. 3537 | 8/1/08 |
| 4 VAC 20-910-45 | Amended | 25:6 VA.R. 1214 | 11/1/08 |
| 4 VAC 20-950-30 | Amended | 25:16 VA.R. 2833 | 4/1/09 |
| 4 VAC 20-950-47 | Amended | 25:8 VA.R. 1491 | 1/1/09 |
| 4 VAC 20-950-48 | Amended | 25:8 VA.R. 1491 | 1/1/09 |
| 4 VAC 20-1040-20 | Amended | 25:8 VA.R. 1492 | 11/30/08 |
| 4 VAC 20-1040-25 | Added | 25:8 VA.R. 1493 | 11/30/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 4 VAC 20-1150-10 | Added | 24:25 VA.R. 3538 | 8/1/08 |
| 4 VAC 20-1150-20 | Added | 24:25 VA.R. 3538 | 8/1/08 |
| 4 VAC 20-1170-10 | Added | 25:6 VA.R. 1215 | 12/1/08 |
| 4 VAC 20-1170-20 | Added | 25:6 VA.R. 1215 | 12/1/08 |
| 4 VAC 20-1180-10 through 4 VAC 20-1180-60 | Added | 25:9 VA.R. 1680-1681 | 12/22/08 |
| 4 VAC 20-1190-10 | Added | 25:12 VA.R. 2049 | 2/1/09 |
| 4 VAC 20-1190-20 | Added | 25:12 VA.R. 2049 | 2/1/09 |
| 4 VAC 20-1200-10 | Added | 25:16 VA.R. 2834 | 4/1/09 |
| 4 VAC 20-1200-20 | Added | 25:16 VA.R. 2834 | 4/1/09 |
| 4 VAC 20-1200-30 | Added | 25:16 VA.R. 2834 | 4/1/09 |
| 4 VAC 20-1210-10 emer | Added | 25:16 VA.R. 2835 | 3/26/09-4/24/09 |
| 4 VAC 20-1210-20 emer | Added | 25:16 VA.R. 2835 | 3/26/09-4/24/09 |
| 4 VAC 20-1210-30 emer | Added | 25:16 VA.R. 2835 | 3/26/09-4/24/09 |
| 4 VAC 25-10-10 through 4 VAC 25-10-90 | Repealed | 25:5 VA.R. 795 | 12/25/08 |
| 4 VAC 25-11-10 through 4 VAC 25-11-120 | Added | 25:5 VA.R. 797-800 | 12/25/08 |
| 4 VAC 25-31 (Forms) | Amended | 25:16 VA.R. 2835 | -- |
| 4 VAC 25-130 (Forms) | Amended | 25:16 VA.R. 2836 | -- |
| 4 VAC 25-130-816.22 | Amended | 25:12 VA.R. 2049 | 3/18/09 |
| 4 VAC 25-130-816.43 | Amended | 25:12 VA.R. 2051 | 3/18/09 |
| 4 VAC 25-130-816.116 | Amended | 25:12 VA.R. 2052 | 3/18/09 |
| 4 VAC 25-130-817.22 | Amended | 25:12 VA.R. 2054 | 3/18/09 |
| 4 VAC 25-130-817.43 | Amended | 25:12 VA.R. 2055 | 3/18/09 |
| 4 VAC 25-130-817.116 | Amended | 25:12 VA.R. 2057 | 3/18/09 |
| 4 VAC 25-130-842.15 | Amended | 25:12 VA.R. 2058 | 3/18/09 |
| 4 VAC 50-10-10 | Repealed | 25:2 VA.R. 137 | 10/29/08 |
| 4 VAC 50-10-20 | Repealed | 25:2 VA.R. 137 | 10/29/08 |
| 4 VAC 50-10-30 | Repealed | 25:2 VA.R. 137 | 10/29/08 |
| 4 VAC 50-11-10 through 4 VAC 50-11-110 | Added | 25:2 VA.R. 138-141 | 10/29/08 |
| 4 VAC 50-20-20 through 4 VAC 50-20-90 | Amended | 24:25 VA.R. 3539-3554 | 9/26/08 |
| 4 VAC 50-20-51 | Added | 24:25 VA.R. 3544 | 9/26/08 |
| 4 VAC 50-20-52 | Added | 24:25 VA.R. 3545 | 9/26/08 |
| 4 VAC 50-20-54 | Added | 24:25 VA.R. 3545 | 9/26/08 |
| 4 VAC 50-20-58 | Added | 24:25 VA.R. 3546 | 9/26/08 |
| 4 VAC 50-20-59 | Added | 24:25 VA.R. 3546 | 9/26/08 |
| 4 VAC 50-20-100 through 4 VAC 50-20-140 | Repealed | 24:25 VA.R. 3554-3558 | 9/26/08 |
| 4 VAC 50-20-105 | Added | 24:25 VA.R. 3554 | 9/26/08 |
| 4 VAC 50-20-125 | Added | 24:25 VA.R. 3557 | 9/26/08 |
| 4 VAC 50-20-150 through 4 VAC 50-20-240 | Amended | 24:25 VA.R. 3558-3563 | 9/26/08 |
| 4 VAC 50-20-155 | Added | 24:25 VA.R. 3558 | 9/26/08 |
| 4 VAC 50-20-165 | Added | 24:25 VA.R. 3559 | 9/26/08 |
| 4 VAC 50-20-175 | Added | 24:25 VA.R. 3560 | 9/26/08 |
| 4 VAC 50-20-177 | Added | 24:25 VA.R. 3561 | 9/26/08 |
| 4 VAC 50-20-250 | Repealed | 24:25 VA.R. 3564 | 9/26/08 |
| 4 VAC 50-20-260 through 4 VAC 50-20-320 | Amended | 24:25 VA.R. 3564-3565 | 9/26/08 |
| 4 VAC 50-20-330 through 4 VAC 50-20-400 | Added | 24:25 VA.R. 3565-3567 | 9/26/08 |
| 4 VAC 50-60-10 | Amended | 25:16 VA.R. 2838 | 7/1/09 |
| 4 VAC 50-60-1100 through 4VAC50-60-1140 | Amended | 25:16 VA.R. 2849-2851 | 7/1/09 |
| 4 VAC 50-60-1150 | Amended | 25:16 VA.R. 2851 | 5/13/09 |
| 4 VAC 50-60-1160 through 4 VAC 50-60-1180 | Amended | 25:16 VA.R. 2853-2868 | 7/1/09 |
| 4 VAC 50-60-1182 | Added | 25:16 VA.R. 2869 | 7/1/09 |
| 4 VAC 50-60-1184 | Added | 25:16 VA.R. 2869 | 7/1/09 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 4 VAC 50-60-1186 | Added | 25:16 VA.R. 2870 | 7/1/09 |
| 4 VAC 50-60-1188 | Added | 25:16 VA.R. 2871 | 7/1/09 |
| 4 VAC 50-60-1190 | Amended | 25:16 VA.R. 2871 | 7/1/09 |
| **Title 5. Corporations** | | | |
| 5 VAC 5-20-10 | Amended | 25:14 VA.R. 2601 | 3/11/09 |
| 5 VAC 5-20-20 | Amended | 25:14 VA.R. 2601 | 3/11/09 |
| 5 VAC 5-20-80 | Amended | 25:14 VA.R. 2602 | 3/11/09 |
| 5 VAC 5-20-90 | Amended | 25:14 VA.R. 2602 | 3/11/09 |
| 5 VAC 5-20-100 | Amended | 25:14 VA.R. 2602 | 3/11/09 |
| 5 VAC 5-20-120 through 5 VAC 5-20-150 | Amended | 25:14 VA.R. 2603-2604 | 3/11/09 |
| 5 VAC 5-20-170 | Amended | 25:14 VA.R. 2604 | 3/11/09 |
| 5 VAC 5-20-180 | Amended | 25:14 VA.R. 2605 | 3/11/09 |
| 5 VAC 5-20-240 through 5 VAC 5-20-280 | Amended | 25:14 VA.R. 2605-2608 | 3/11/09 |
| **Title 6. Criminal Justice and Corrections** | | | |
| 6 VAC 15-10-10 through 6 VAC 15-10-100 | Repealed | 25:3 VA.R. 363 | 11/15/08 |
| 6 VAC 15-11-10 through 6 VAC 15-11-110 | Added | 25:3 VA.R. 363-366 | 11/15/08 |
| 6 VAC 15-31-320 | Amended | 24:25 VA.R. 3568 | 9/18/08 |
| 6 VAC 15-70-10 | Amended | 25:3 VA.R. 367 | 11/15/08 |
| 6 VAC 15-70-40 through 6 VAC 15-70-130 | Amended | 25:3 VA.R. 367-372 | 11/15/08 |
| 6 VAC 15-70-160 | Amended | 25:3 VA.R. 372 | 11/15/08 |
| 6 VAC 20-10-10 through 6 VAC 20-10-50 | Repealed | 25:10 VA.R. 1850 | 2/20/09 |
| 6 VAC 20-11-10 through 6 VAC 20-11-110 | Added | 25:10 VA.R. 1851-1853 | 2/20/09 |
| 6 VAC 20-160-10 | Amended | 25:2 VA.R. 141 | 10/29/08 |
| 6 VAC 20-160-20 | Amended | 25:2 VA.R. 142 | 10/29/08 |
| 6 VAC 20-160-30 | Amended | 25:2 VA.R. 142 | 10/29/08 |
| 6 VAC 20-160-40 | Amended | 25:2 VA.R. 143 | 10/29/08 |
| 6 VAC 20-160-60 | Amended | 25:2 VA.R. 144 | 10/29/08 |
| 6 VAC 20-160-70 | Amended | 25:2 VA.R. 144 | 10/29/08 |
| 6 VAC 20-160-80 | Amended | 25:2 VA.R. 144 | 10/29/08 |
| 6 VAC 20-160-100 | Amended | 25:2 VA.R. 145 | 10/29/08 |
| 6 VAC 20-160-120 | Amended | 25:2 VA.R. 145 | 10/29/08 |
| 6 VAC 35-10-10 through 6 VAC 35-10-150 | Repealed | 24:25 VA.R. 3573 | 9/17/08 |
| 6 VAC 35-11-10 through 6 VAC 35-11-110 | Added | 24:25 VA.R. 3574-3576 | 9/17/08 |
| 6 VAC 35-20-37 emer | Amended | 25:3 VA.R. 373 | 8/1/07-1/31/09 |
| 6 VAC 35-20-37 | Amended | 25:4 VA.R. 626 | 12/12/08 |
| 6 VAC 35-51-10 through 6 VAC 35-51-1100 | Added | 24:25 VA.R. 3577-3610 | 9/17/08 |
| 6 VAC 35-140-46 | Added | 25:3 VA.R. 376 | 12/12/08 |
| 6 VAC 40-10-10 through 6 VAC 40-10-90 | Repealed | 25:2 VA.R. 146 | 10/30/08 |
| 6 VAC 40-11-10 through 6 VAC 40-110 | Added | 25:2 VA.R. 147-149 | 10/30/08 |
| 6 VAC 40-20-30 | Amended | 24:26 VA.R. 3718 | 10/16/08 |
| 6 VAC 40-20-120 | Amended | 24:26 VA.R. 3718 | 10/16/08 |
| 6 VAC 40-20-130 | Amended | 24:26 VA.R. 3718 | 10/16/08 |
| 6 VAC 40-20-160 | Amended | 24:26 VA.R. 3718 | 10/16/08 |
| **Title 7. Economic Development** | | | |
| 7 VAC 10-20-10 through 7 VAC 10-20-350 | Repealed | 24:26 VA.R. 3719 | 9/1/08 |
| 7 VAC 10-21-10 through 7 VAC 10-21-610 | Added | 24:26 VA.R. 3719-3729 | 9/1/08 |
| **Title 8. Education** | | | |
| 8 VAC 20-10-10 | Repealed | 25:11 VA.R. 1930 | 3/19/09 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 8 VAC 20-11-10 through 8 VAC 20-11-110 | Added | 25:11 VA.R. 1932-1935 | 3/19/09 |
| 8 VAC 20-80-10 through 8VAC20-80-190 | Repealed | 25:16 VA.R. 2872 | ***** |
| 8 VAC 20-81-10 through 8VAC20-81-340 | Added | 25:16 VA.R. 2872-2967 | ***** |
| 8 VAC 35-60-20 | Amended | 25:5 VA.R. 800 | 11/10/08 |
| 8 VAC 40-10-10 through 8 VAC 40-10-90 | Repealed | 25:3 VA.R. 376 | 1/1/09 |
| 8 VAC 40-11-10 through 8 VAC 40-11-110 | Added | 25:3 VA.R. 377-379 | 1/1/09 |
| **Title 9. Environment** | | | |
| 9 VAC 5-5-10 through 9 VAC 5-5-110 | Added | 25:5 VA.R. 801-804 | 1/1/09 |
| 9 VAC 5-10-20 | Amended | 25:12 VA.R. 2060 | 4/2/09 |
| 9 VAC 5-20-21 | Amended | 25:12 VA.R. 2068 | 3/18/09 |
| 9 VAC 5-30-55 | Amended | 25:12 VA.R. 2072 | 3/18/09 |
| 9 VAC 5-30-56 | Added | 25:12 VA.R. 2072 | 3/18/09 |
| 9 VAC 5-30-65 | Amended | 25:12 VA.R. 2072 | 3/18/09 |
| 9 VAC 5-40-5600 through 9 VAC 5-40-5645 | Repealed | 25:12 VA.R. 2088-2097 | 3/18/09 |
| 9 VAC 5-50-400 | Amended | 25:12 VA.R. 2073 | 3/18/09 |
| 9 VAC 5-50-410 | Amended | 25:12 VA.R. 2074 | 3/18/09 |
| 9 VAC 5-60-60 | Amended | 25:12 VA.R. 2079 | 3/18/09 |
| 9 VAC 5-60-90 | Amended | 25:12 VA.R. 2080 | 3/18/09 |
| 9 VAC 5-60-100 | Amended | 25:12 VA.R. 2080 | 3/18/09 |
| 9 VAC 5-80-5 | Added | 25:6 VA.R. 1231 | 12/31/08 |
| 9 VAC 5-80-15 | Added | 25:6 VA.R. 1234 | 12/31/08 |
| 9 VAC 5-80-25 | Added | 25:6 VA.R. 1234 | 12/31/08 |
| 9 VAC 5-80-35 | Added | 25:6 VA.R. 1235 | 12/31/08 |
| 9 VAC 5-80-150 | Amended | 25:6 VA.R. 1237 | 12/31/08 |
| 9 VAC 5-80-230 | Amended | 25:6 VA.R. 1237 | 12/31/08 |
| 9 VAC 5-80-270 | Amended | 25:6 VA.R. 1238 | 12/31/08 |
| 9 VAC 5-80-510 | Amended | 25:6 VA.R. 1239 | 12/31/08 |
| 9 VAC 5-80-590 | Amended | 25:6 VA.R. 1241 | 12/31/08 |
| 9 VAC 5-80-670 | Amended | 25:6 VA.R. 1241 | 12/31/08 |
| 9 VAC 5-80-670 | Erratum | 25:8 VA.R. 1644 | -- |
| 9 VAC 5-80-860 | Amended | 25:6 VA.R. 1243 | 12/31/08 |
| 9 VAC 5-80-990 | Amended | 25:6 VA.R. 1243 | 12/31/08 |
| 9 VAC 5-80-1020 | Amended | 25:6 VA.R. 1244 | 12/31/08 |
| 9 VAC 5-80-1100 | Amended | 25:6 VA.R. 1258 | 12/31/08 |
| 9 VAC 5-80-1110 | Amended | 25:6 VA.R. 1259 | 12/31/08 |
| 9 VAC 5-80-1160 | Amended | 25:6 VA.R. 1244 | 12/31/08 |
| 9 VAC 5-80-1170 | Amended | 25:6 VA.R. 1245 | 12/31/08 |
| 9 VAC 5-80-1290 | Amended | 25:6 VA.R. 1246 | 12/31/08 |
| 9 VAC 5-80-1320 | Amended | 25:6 VA.R. 1264 | 12/31/08 |
| 9 VAC 5-80-1450 | Amended | 25:6 VA.R. 1247 | 12/31/08 |
| 9 VAC 5-80-1450 | Erratum | 25:8 VA.R. 1644 | -- |
| 9 VAC 5-80-1460 | Amended | 25:6 VA.R. 1248 | 12/31/08 |
| 9 VAC 5-80-1615 | Amended | 25:6 VA.R. 1218 | 12/31/08 |
| 9 VAC 5-80-1695 | Amended | 25:6 VA.R. 1229 | 12/31/08 |
| 9 VAC 5-80-1765 | Amended | 25:6 VA.R. 1249 | 12/31/08 |
| 9 VAC 5-80-1773 | Added | 25:6 VA.R. 1251 | 12/31/08 |
| 9 VAC 5-80-1775 | Amended | 25:6 VA.R. 1251 | 12/31/08 |
| 9 VAC 5-80-1955 | Amended | 25:6 VA.R. 1253 | 12/31/08 |
| 9 VAC 5-80-2060 | Amended | 25:6 VA.R. 1254 | 12/31/08 |

***** Regulatory process suspended in 25:16 VA.R. 2968

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

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 9 VAC 5-80-2070 | Amended | 25:6 VA.R. 1255 | 12/31/08 |
| 9 VAC 5-80-2230 | Amended | 25:6 VA.R. 1256 | 12/31/08 |
| 9 VAC 5-91-20 | Amended | 25:6 VA.R. 1268 | 12/31/08 |
| 9 VAC 5-130-10 through 9 VAC 5-130-100 | Added | 25:12 VA.R. 2097-2106 | 3/18/09 |
| 9 VAC 5-140-900 | Amended | 25:6 VA.R. 1275 | 12/31/08 |
| 9 VAC 5-140-920 | Amended | 25:6 VA.R. 1275 | 12/31/08 |
| 9 VAC 5-140-930 | Amended | 25:6 VA.R. 1275 | 12/31/08 |
| 9 VAC 5-140-1010 | Amended | 25:12 VA.R. 2107 | 3/18/09 |
| 9 VAC 5-140-1020 | Amended | 25:12 VA.R. 2107 | 3/18/09 |
| 9 VAC 5-140-1060 | Amended | 25:12 VA.R. 2115 | 3/18/09 |
| 9 VAC 5-140-2010 | Amended | 25:12 VA.R. 2116 | 3/18/09 |
| 9 VAC 5-140-2020 | Amended | 25:12 VA.R. 2117 | 3/18/09 |
| 9 VAC 5-140-3010 | Amended | 25:12 VA.R. 2126 | 3/18/09 |
| 9 VAC 5-140-3020 | Amended | 25:12 VA.R. 2126 | 3/18/09 |
| 9 VAC 5-151-10 | Amended | 25:6 VA.R. 1276 | 12/31/08 |
| 9 VAC 5-151-20 | Amended | 25:6 VA.R. 1278 | 12/31/08 |
| 9 VAC 5-151-40 | Amended | 25:6 VA.R. 1279 | 12/31/08 |
| 9 VAC 5-151-61 | Repealed | 25:6 VA.R. 1279 | 12/31/08 |
| 9 VAC 5-151-70 | Amended | 25:6 VA.R. 1280 | 12/31/08 |
| 9 VAC 5-170-20 | Amended | 25:5 VA.R. 804 | 1/1/09 |
| 9 VAC 5-170-30 | Amended | 25:6 VA.R. 1256 | 12/31/08 |
| 9 VAC 5-170-40 | Amended | 25:5 VA.R. 806 | 1/1/09 |
| 9 VAC 5-170-80 | Amended | 25:5 VA.R. 807 | 1/1/09 |
| 9 VAC 5-170-90 | Repealed | 25:5 VA.R. 807 | 1/1/09 |
| 9 VAC 5-170-100 | Repealed | 25:5 VA.R. 807 | 1/1/09 |
| 9 VAC 5-170-110 | Repealed | 25:5 VA.R. 809 | 1/1/09 |
| 9 VAC 5-170-180 | Amended | 25:6 VA.R. 1256 | 12/31/08 |
| 9 VAC 5-170-190 | Amended | 25:6 VA.R. 1257 | 12/31/08 |
| 9 VAC 5-170-200 | Amended | 25:6 VA.R. 1257 | 12/31/08 |
| 9 VAC 10-10-10 | Repealed | 25:4 VA.R. 627 | 11/26/08 |
| 9 VAC 10-10-20 | Repealed | 25:4 VA.R. 627 | 11/26/08 |
| 9 VAC 10-10-30 | Repealed | 25:4 VA.R. 627 | 11/26/08 |
| 9 VAC 10-11-10 through 9 VAC 10-11-110 | Added | 25:4 VA.R. 627-630 | 11/26/08 |
| 9 VAC 15-10-10 through 9 VAC 15-10-40 | Repealed | 25:5 VA.R. 809 | 1/1/09 |
| 9 VAC 15-11-10 through 9 VAC 15-11-110 | Added | 25:5 VA.R. 810-813 | 1/1/09 |
| 9 VAC 20-10-10 through 9 VAC 20-10-40 | Repealed | 25:9 VA.R. 1681 | 2/4/09 |
| 9 VAC 20-11-10 through 9 VAC 20-11-110 | Added | 25:9 VA.R. 1682-1685 | 2/4/09 |
| 9 VAC 20-80-10 | Amended | 25:2 VA.R. 150 | 11/1/08 |
| 9 VAC 20-80-60 | Amended | 25:2 VA.R. 160 | 11/1/08 |
| 9 VAC 20-80-250 | Amended | 25:2 VA.R. 166 | 11/1/08 |
| 9 VAC 20-80-260 | Amended | 25:2 VA.R. 176 | 11/1/08 |
| 9 VAC 20-80-270 | Amended | 25:2 VA.R. 183 | 11/1/08 |
| 9 VAC 20-80-280 | Amended | 25:2 VA.R. 191 | 11/1/08 |
| 9 VAC 20-80-485 | Amended | 25:2 VA.R. 193 | 11/1/08 |
| 9 VAC 20-80-500 | Amended | 25:2 VA.R. 200 | 11/1/08 |
| 9 VAC 20-80-510 | Amended | 25:2 VA.R. 203 | 11/1/08 |
| 9 VAC 25-10-10 through 9 VAC 25-10-40 | Repealed | 25:5 VA.R. 813 | 1/1/09 |
| 9 VAC 25-11-10 through 9 VAC 25-11-110 | Added | 25:5 VA.R. 813-816 | 1/1/09 |
| 9 VAC 25-32-480 | Erratum | 25:15 VA.R. 2804 | -- |
| 9 VAC 25-210-10 | Amended | 25:5 VA.R. 894 | 12/10/08 |
| 9 VAC 25-210-50 | Amended | 25:5 VA.R. 898 | 12/10/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 9 VAC 25-210-60 | Amended | 25:5 VA.R. 898 | 12/10/08 |
| 9 VAC 25-210-130 | Erratum | 25:9 VA.R. 1826 | -- |
| 9 VAC 25-210-130 | Amended | 25:5 VA.R. 902 | 12/10/08 |
| 9 VAC 25-210-220 | Amended | 25:5 VA.R. 903 | 12/10/08 |
| 9 VAC 25-260-10 | Amended | 25:12 VA.R. 2134 | * |
| 9 VAC 25-260-20 | Amended | 25:12 VA.R. 2135 | * |
| 9 VAC 25-260-30 | Amending | 24:26 VA.R. 3747 | 8/12/08 |
| 9 VAC 25-260-30 | Amended | 25:5 VA.R. 904 | 10/22/08 |
| 9 VAC 25-260-30 | Amended | 25:12 VA.R. 2136 | * |
| 9 VAC 25-260-50 | Amended | 25:12 VA.R. 2139 | * |
| 9 VAC 25-260-55 | Repealed | 25:12 VA.R. 2139 | * |
| 9 VAC 25-260-90 | Amended | 25:12 VA.R. 2140 | * |
| 9 VAC 25-260-140 | Amended | 25:12 VA.R. 2140 | * |
| 9 VAC 25-260-160 | Amended | 25:12 VA.R. 2162 | * |
| 9 VAC 25-260-170 | Amended | 25:12 VA.R. 2162 | * |
| 9 VAC 25-260-185 | Amended | 25:12 VA.R. 2163 | * |
| 9 VAC 25-260-187 | Amended | 25:12 VA.R. 2167 | * |
| 9 VAC 25-260-290 | Repealed | 25:12 VA.R. 2170 | * |
| 9 VAC 25-260-310 | Amended | 25:12 VA.R. 2170 | * |
| 9 VAC 25-260-320 | Repealed | 25:12 VA.R. 2173 | * |
| 9 VAC 25-260-350 | Amended | 25:12 VA.R. 2173 | * |
| 9 VAC 25-260-360 | Amended | 25:12 VA.R. 2174 | * |
| 9 VAC 25-260-380 | Amended | 25:12 VA.R. 2175 | * |
| 9 VAC 25-260-390 | Amended | 25:12 VA.R. 2175 | * |
| 9 VAC 25-260-400 | Amended | 25:12 VA.R. 2179 | * |
| 9 VAC 25-260-410 | Amended | 25:12 VA.R. 2189 | * |
| 9 VAC 25-260-415 | Amended | 25:12 VA.R. 2190 | * |
| 9 VAC 25-260-420 | Amended | 25:12 VA.R. 2191 | * |
| 9 VAC 25-260-430 | Amended | 25:12 VA.R. 2197 | * |
| 9 VAC 25-260-440 | Amended | 25:12 VA.R. 2210 | * |
| 9 VAC 25-260-450 | Amended | 25:12 VA.R. 2213 | * |
| 9 VAC 25-260-460 | Amended | 25:12 VA.R. 2220 | * |
| 9 VAC 25-260-470 | Amended | 25:12 VA.R. 2221 | * |
| 9 VAC 25-260-480 | Amended | 25:12 VA.R. 2224 | * |
| 9 VAC 25-260-490 | Amended | 25:12 VA.R. 2224 | * |
| 9 VAC 25-260-500 | Amended | 25:12 VA.R. 2225 | * |
| 9 VAC 25-260-510 | Amended | 25:12 VA.R. 2228 | * |
| 9 VAC 25-260-520 | Amended | 25:12 VA.R. 2233 | * |
| 9 VAC 25-260-530 | Amended | 25:12 VA.R. 2235 | * |
| 9 VAC 25-260-540 | Amended | 25:12 VA.R. 2236 | * |
| 9 VAC 25-640 Appendices I through IX | Amended | 25:2 VA.R. 217-231 | 11/1/08 |
| 9 VAC 25-640-10 | Amended | 25:2 VA.R. 206 | 11/1/08 |
| 9 VAC 25-640-20 | Amended | 25:2 VA.R. 209 | 11/1/08 |
| 9 VAC 25-640-30 | Amended | 25:2 VA.R. 209 | 11/1/08 |
| 9 VAC 25-640-50 | Amended | 25:2 VA.R. 210 | 11/1/08 |
| 9 VAC 25-640-70 through 9 VAC 25-640-120 | Amended | 25:2 VA.R. 210-213 | 11/1/08 |
| 9 VAC 25-640-130 | Repealed | 25:2 VA.R. 213 | 11/1/08 |
| 9 VAC 25-640-150 through 9 VAC 25-640-230 | Amended | 25:2 VA.R. 213-217 | 11/1/08 |
| 9 VAC 25-640-250 | Amended | 25:2 VA.R. 217 | 11/1/08 |

* Effective upon filing notice of U.S. EPA approval

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 9 VAC 25-720-120 | Amended | 25:12 VA.R. 2250 | 4/2/09 |
| 9 VAC 25-740-10 through 9 VAC 25-740-210 | Added | 24:26 VA.R. 3748-3773 | 10/1/08 |
| 9 VAC 25-790 (Forms) | Added | 25:6 VA.R. 1285 | -- |
| 9 VAC 25-860-10 through 9 VAC 25-860-70 | Added | 25:6 VA.R. 1285-1295 | 12/24/08 |
| **Title 10. Finance and Financial Institutions** | | | |
| 10 VAC 5-160-10 | Amended | 24:26 VA.R. 3775 | 8/10/08 |
| 10 VAC 5-160-70 | Added | 24:26 VA.R. 3776 | 8/10/08 |
| 10 VAC 5-160-80 | Added | 24:26 VA.R. 3776 | 8/10/08 |
| 10 VAC 5-200-10 | Amended | 25:4 VA.R. 637 | 1/1/09 |
| 10 VAC 5-200-20 | Amended | 25:4 VA.R. 637 | 1/1/09 |
| 10 VAC 5-200-33 | Added | 25:4 VA.R. 638 | 1/1/09 |
| 10 VAC 5-200-35 | Added | 25:4 VA.R. 639 | 1/1/09 |
| 10 VAC 5-200-40 | Amended | 25:4 VA.R. 641 | 1/1/09 |
| 10 VAC 5-200-60 | Amended | 25:4 VA.R. 642 | 1/1/09 |
| 10 VAC 5-200-60 | Amended | 25:14 VA.R. 2609 | 3/1/09 |
| 10 VAC 5-200-70 | Amended | 25:4 VA.R. 642 | 1/1/09 |
| 10 VAC 5-200-80 | Amended | 25:4 VA.R. 643 | 1/1/09 |
| 10 VAC 5-200-110 | Added | 25:4 VA.R. 646 | 1/1/09 |
| 10 VAC 5-200-110 | Amended | 25:14 VA.R. 2609 | 3/1/09 |
| 10 VAC 5-200-115 | Added | 25:4 VA.R. 651 | 1/1/09 |
| 10 VAC 5-200-120 | Added | 25:4 VA.R. 650 | 1/1/09 |
| 10 VAC 5-200-130 | Added | 25:14 VA.R. 2613 | 3/1/09 |
| **Title 11. Gaming** | | | |
| 11 VAC 10-10-10 through 11 VAC 10-10-70 | Repealed | 25:5 VA.R. 904 | 12/10/08 |
| 11 VAC 10-11-10 through 11 VAC 10-11-110 | Added | 25:5 VA.R. 905-907 | 12/10/08 |
| 11 VAC 10-50-30 | Amended | 25:17 VA.R. 3005 | 5/27/09 |
| 11 VAC 10-70-20 | Amended | 25:15 VA.R. 2712 | 4/15/09 |
| 11 VAC 10-70-90 | Amended | 25:15 VA.R. 2712 | 4/15/09 |
| 11 VAC 10-120-80 | Amended | 25:17 VA.R. 3006 | 5/27/09 |
| 11 VAC 10-180-10 | Amended | 25:17 VA.R. 3007 | 5/27/09 |
| 11 VAC 10-180-35 | Amended | 25:17 VA.R. 3007 | 5/27/09 |
| 11 VAC 10-180-70 | Amended | 25:17 VA.R. 3008 | 5/27/09 |
| 11 VAC 10-180-80 | Amended | 25:17 VA.R. 3009 | 5/27/09 |
| 11 VAC 10-180-110 | Amended | 25:17 VA.R. 3010 | 5/27/09 |
| 11 VAC 15-12-10 | Repealed | 25:4 VA.R. 651 | 11/26/08 |
| 11 VAC 15-12-20 | Repealed | 25:4 VA.R. 651 | 11/26/08 |
| 11 VAC 15-13-10 through 11 VAC 15-13-110 | Added | 25:4 VA.R. 652-654 | 11/26/08 |
| **Title 12. Health** | | | |
| 12 VAC 5-10-10 through 12 VAC 5-10-80 | Repealed | 25:4 VA.R. 654 | 1/1/09 |
| 12 VAC 5-11-10 through 12 VAC 5-11-110 | Added | 25:4 VA.R. 655-657 | 1/1/09 |
| 12 VAC 5-67-10 emer | Added | 25:4 VA.R. 658 | 11/1/08-10/31/09 |
| 12 VAC 5-67-20 emer | Added | 25:4 VA.R. 658 | 11/1/08-10/31/09 |
| 12 VAC 5-67-30 emer | Added | 25:4 VA.R. 658 | 11/1/08-10/31/09 |
| 12 VAC 5-90-80 | Amended | 25:11 VA.R. 1935 | 3/4/09 |
| 12 VAC 5-220-110 | Amended | 25:1 VA.R. 26 | 10/15/08 |
| 12 VAC 5-220-160 | Amended | 25:1 VA.R. 25 | 10/15/08 |
| 12 VAC 5-220-200 | Amended | 25:1 VA.R. 26 | 10/15/08 |
| 12 VAC 5-230-10 | Amended | 25:9 VA.R. 1707 | 2/15/09 |
| 12 VAC 5-230-10 | Erratum | 25:11 VA.R. 2018 | -- |
| 12 VAC 5-230-20 | Repealed | 25:9 VA.R. 1711 | 2/15/09 |
| 12 VAC 5-230-30 | Amended | 25:9 VA.R. 1712 | 2/15/09 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 12 VAC 5-230-40 through 12 VAC 5-230-1000 | Added | 25:9 VA.R. 1713-1742 | 2/15/09 |
| 12 VAC 5-230-60 | Erratum | 25:11 VA.R. 2018 | -- |
| 12 VAC 5-230-70 | Erratum | 25:11 VA.R. 2018 | -- |
| 12 VAC 5-230-80 | Erratum | 25:11 VA.R. 2018 | -- |
| 12 VAC 5-230-110 | Erratum | 25:11 VA.R. 2018 | -- |
| 12 VAC 5-230-340 | Erratum | 25:11 VA.R. 2018 | -- |
| 12 VAC 5-230-540 | Amended | 25:13 VA.R. 2316 | 4/1/09 |
| 12 VAC 5-230-550 | Amended | 25:13 VA.R. 2317 | 4/1/09 |
| 12 VAC 5-230-560 | Amended | 25:13 VA.R. 2317 | 4/1/09 |
| 12 VAC 5-230-870 | Erratum | 25:11 VA.R. 2018 | -- |
| 12 VAC 5-240-10 through 12 VAC 5-240-60 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-250-10 through 12 VAC 5-250-120 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-260-10 through 12 VAC 5-260-130 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-270-10 through 12 VAC 5-270-60 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-280-10 through 12 VAC 5-280-70 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-290-10 through 12 VAC 5-290-70 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-300-10 through 12 VAC 5-300-70 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-310-10 through 12 VAC 5-310-70 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-320-10 through 12 VAC 5-320-480 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-330-10 through 12 VAC 5-330-70 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-340-10 through 12 VAC 5-340-120 | Repealed | 25:9 VA.R. 1706 | 2/15/09 |
| 12 VAC 5-350-10 through 12 VAC 5-350-60 | Repealed | 25:9 VA.R. 1707 | 2/15/09 |
| 12 VAC 5-360-10 through 12 VAC 5-360-70 | Repealed | 25:9 VA.R. 1707 | 2/15/09 |
| 12 VAC 5-481-10 | Amended | 25:2 VA.R. 231 | 11/1/08 |
| 12 VAC 5-481-390 | Amended | 25:2 VA.R. 256 | 11/1/08 |
| 12 VAC 5-481-400 | Amended | 25:2 VA.R. 256 | 11/1/08 |
| 12 VAC 5-481-450 | Amended | 25:2 VA.R. 257 | 11/1/08 |
| 12 VAC 5-481-451 | Added | 24:25 VA.R. 3612 | 10/3/08 |
| 12 VAC 5-481-480 | Amended | 25:2 VA.R. 260 | 11/1/08 |
| 12 VAC 5-481-2870 | Amended | 25:2 VA.R. 267 | 11/1/08 |
| 12 VAC 5-481-3160 | Amended | 25:2 VA.R. 267 | 11/1/08 |
| 12 VAC 5-481-3710 | Amended | 25:2 VA.R. 267 | 11/1/08 |
| 12 VAC 5-490-10 | Amended | 25:11 VA.R. 1942 | 3/4/09 |
| 12 VAC 5-490-20 | Amended | 25:11 VA.R. 1942 | 3/4/09 |
| 12 VAC 5-490-30 | Added | 25:11 VA.R. 1939 | 3/4/09 |
| 12 VAC 5-490-40 | Added | 25:11 VA.R. 1939 | 3/4/09 |
| 12 VAC 5-590-10 | Amended | 25:5 VA.R. 908 | 12/10/08 |
| 12 VAC 5-590-370 | Amended | 25:5 VA.R. 916 | 12/10/08 |
| 12 VAC 5-590-410 | Amended | 25:5 VA.R. 955 | 12/10/08 |
| 12 VAC 5-590-420 | Amended | 25:5 VA.R. 959 | 12/10/08 |
| 12 VAC 5-590-440 | Amended | 25:5 VA.R. 994 | 12/10/08 |
| 12 VAC 5-590-500 | Amended | 25:5 VA.R. 998 | 12/10/08 |
| 12 VAC 5-590-530 | Amended | 25:5 VA.R. 999 | 12/10/08 |
| 12 VAC 5-590-540 | Amended | 25:5 VA.R. 1011 | 12/10/08 |
| 12 VAC 5-590-545 | Amended | 25:5 VA.R. 1016 | 12/10/08 |
| 12 VAC 5-590-550 | Amended | 25:5 VA.R. 1021 | 12/10/08 |
| 12 VAC 30-5-10 through 12 VAC 30-5-110 | Added | 25:3 VA.R. 380-383 | 11/12/08 |
| 12 VAC 30-10-150 | Amended | 25:14 VA.R. 2614 | 4/15/09 |
| 12 VAC 30-10-815 | Added | 25:4 VA.R. 662 | 11/26/08 |
| 12 VAC 30-10-930 | Amended | 25:14 VA.R. 2615 | 4/15/09 |
| 12 VAC 30-20-90 | Amended | 25:14 VA.R. 2615 | 4/15/09 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 12 VAC 30-20-500 | Amended | 25:14 VA.R. 2618 | 4/15/09 |
| 12 VAC 30-20-520 | Amended | 25:14 VA.R. 2618 | 4/15/09 |
| 12 VAC 30-40-280 | Amended | 25:11 VA.R. 1945 | 3/19/09 |
| 12 VAC 30-40-290 emer | Amended | 25:1 VA.R. 35 | 8/27/08-2/24/09 ** |
| 12 VAC 30-40-345 | Amended | 25:11 VA.R. 1946 | 3/19/09 |
| 12 VAC 30-50-10 | Amended | 25:14 VA.R. 2618 | 4/15/09 |
| 12 VAC 30-50-130 | Amended | 25:5 VA.R. 1041 | 12/10/08 |
| 12 VAC 30-50-140 emer | Amended | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-50-150 emer | Amended | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-50-180 emer | Amended | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-50-228 emer | Added | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-50-229.1 | Repealed | 25:5 VA.R. 1045 | 12/10/08 |
| 12 VAC 30-50-320 | Amended | 25:8 VA.R. 1515 | 2/5/09 |
| 12 VAC 30-50-330 through 12 VAC 30-50-360 | Added | 25:8 VA.R. 1515-1520 | 2/5/09 |
| 12 VAC 30-50-491 emer | Added | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-50-530 | Amended | 25:5 VA.R. 1049 | 12/10/08 |
| 12 VAC 30-60-180 emer | Added | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-60-185 emer | Added | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-60-500 emer | Added | 25:3 VA.R. 384 | 8/8/07-2/7/09 |
| 12 VAC 30-70-70 | Amended | 25:3 VA.R. 387 | 11/27/08 |
| 12 VAC 30-70-261 | Amended | 25:3 VA.R. 388 | 11/27/08 |
| 12 VAC 30-70-271 | Amended | 25:3 VA.R. 388 | 11/27/08 |
| 12 VAC 30-70-311 | Amended | 24:26 VA.R. 3778 | 10/15/08 |
| 12 VAC 30-70-321 | Amended | 24:26 VA.R. 3778 | 10/15/08 |
| 12 VAC 30-70-500 | Repealed | 25:3 VA.R. 389 | 11/27/08 |
| 12 VAC 30-80-32 emer | Added | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-80-40 emer | Amended | 24:25 VA.R. 3617 | 8/4/08-8/3/09 |
| 12 VAC 30-80-95 | Amended | 25:12 VA.R. 2253 | 4/2/09 |
| 12 VAC 30-80-190 emer | Amended | 25:1 VA.R. 41 | 8/27/08-8/26/09 |
| 12 VAC 30-90-41 | Amended | 24:26 VA.R. 3778 | 10/15/08 |
| 12 VAC 30-90-264 | Amended | 25:3 VA.R. 390 | 11/27/08 |
| 12 VAC 30-100-10 through 12 VAC 30-100-60 | Repealed | 25:3 VA.R. 383-384 | 11/12/08 |
| 12 VAC 30-100-170 | Amended | 24:25 VA.R. 3622 | 10/2/08 |
| 12 VAC 30-110-40 | Amended | 25:14 VA.R. 2619 | 4/15/09 |
| 12 VAC 30-110-370 | Amended | 25:14 VA.R. 2619 | 4/15/09 |
| 12 VAC 30-110-380 | Repealed | 25:14 VA.R. 2619 | 4/15/09 |
| 12 VAC 30-110-670 | Amended | 25:14 VA.R. 2620 | 4/15/09 |
| 12 VAC 30-110-680 | Amended | 25:14 VA.R. 2620 | 4/15/09 |
| 12 VAC 30-110-700 | Amended | 25:14 VA.R. 2620 | 4/15/09 |
| 12 VAC 30-110-720 | Amended | 25:14 VA.R. 2620 | 4/15/09 |
| 12 VAC 30-110-741 | Amended | 25:14 VA.R. 2623 | 4/15/09 |
| 12 VAC 30-110-980 | Amended | 25:14 VA.R. 2623 | 4/15/09 |
| 12 VAC 30-110-990 | Repealed | 25:14 VA.R. 2623 | 4/15/09 |
| 12 VAC 30-110-1000 | Repealed | 25:14 VA.R. 2623 | 4/15/09 |
| 12 VAC 30-110-1040 | Amended | 25:14 VA.R. 2623 | 4/15/09 |
| 12 VAC 30-120-140 | Amended | 25:14 VA.R. 2624 | 4/15/09 |
| 12 VAC 30-120-61 through 12 VAC 30-120-68 | Repealed | 25:8 VA.R. 1520-1526 | 2/5/09 |
| 12 VAC 30-120-100 | Amended | 24:26 VA.R. 3781 | 10/15/08 |
| 12 VAC 30-120-310 emer | Amended | 25:3 VA.R. 393 | 7/1/07-12/29/08 |

** Emergency Regulation Rescinded in 25:15 VA.R. 2613

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 12 VAC 30-120-370 emer | Amended | 25:3 VA.R. 393 | 9/1/07-3/3/09 |
| 12 VAC 30-120-370 | Amended | 25:11 VA.R. 1947 | 3/4/09 |
| 12 VAC 30-120-380 emer | Amended | 25:3 VA.R. 393 | 9/1/07-3/3/09 |
| 12 VAC 30-120-380 emer | Amended | 25:3 VA.R. 393 | 7/1/07-12/29/08 |
| 12 VAC 30-120-380 | Amended | 25:11 VA.R. 1950 | 3/4/09 |
| 12 VAC 30-130-260 | Amended | 25:14 VA.R. 2626 | 4/15/09 |
| 12 VAC 30-130-270 | Amended | 25:14 VA.R. 2626 | 4/15/09 |
| 12 VAC 30-130-290 | Amended | 25:14 VA.R. 2627 | 4/15/09 |
| 12 VAC 30-130-370 | Repealed | 25:14 VA.R. 2628 | 4/15/09 |
| 12 VAC 30-130-380 | Amended | 25:14 VA.R. 2628 | 4/15/09 |
| 12 VAC 30-130-410 | Repealed | 25:14 VA.R. 2628 | 4/15/09 |
| 12 VAC 30-130-540 | Amended | 25:14 VA.R. 2629 | 4/15/09 |
| 12 VAC 30-130-800 | Amended | 25:14 VA.R. 2630 | 4/15/09 |
| 12 VAC 30-130-820 | Amended | 25:14 VA.R. 2632 | 4/15/09 |
| 12 VAC 30-130-890 | Amended | 25:14 VA.R. 2633 | 4/15/09 |
| 12 VAC 30-130-910 | Amended | 25:14 VA.R. 2634 | 4/15/09 |
| 12 VAC 30-135-10 | Amended | 24:26 VA.R. 3783 | 10/16/08 |
| 12 VAC 30-135-20 | Amended | 24:26 VA.R. 3783 | 10/16/08 |
| 12 VAC 30-135-30 | Amended | 24:26 VA.R. 3783 | 10/16/08 |
| 12 VAC 30-135-40 | Amended | 24:26 VA.R. 3783 | 10/16/08 |
| 12 VAC 30-135-70 | Amended | 24:26 VA.R. 3784 | 10/16/08 |
| 12 VAC 30-141-60 | Amended | 25:14 VA.R. 2635 | 4/15/09 |
| 12 VAC 30-141-120 | Amended | 25:14 VA.R. 2635 | 4/15/09 |
| 12 VAC 30-141-660 emer | Amended | 25:10 VA.R. 1854 | 12/22/08-12/21/09 |
| 12 VAC 30-141-660 | Amended | 25:16 VA.R. 2969 | 5/13/09 |
| 12 VAC 30-141-720 | Amended | 25:14 VA.R. 2635 | 4/15/09 |
| 12 VAC 30-141-760 | Amended | 25:14 VA.R. 2635 | 4/15/09 |
| 12 VAC 30-150-40 | Amended | 25:14 VA.R. 2636 | 4/15/09 |
| 12 VAC 35-11-10 through 12 VAC 35-11-110 | Repealed | 25:2 VA.R. 271 | 10/29/08 |
| 12 VAC 35-12-10 through 12 VAC 35-12-110 | Added | 25:2 VA.R. 271-274 | 10/29/08 |
| **Title 13. Housing** | | | |
| 13 VAC 5-10-10 through 13 VAC 5-10-120 | Repealed | 25:4 VA.R. 666 | 11/26/08 |
| 13 VAC 5-11-10 through 13 VAC 5-11-110 | Added | 25:4 VA.R. 667-669 | 11/26/08 |
| 13 VAC 5-51-81 | Amended | 24:25 VA.R. 3622 | 10/1/08 |
| 13 VAC 5-63-220 | Amended | 25:17 VA.R. 3013 | 6/1/09 |
| 13 VAC 5-100-10 | Amended | 25:13 VA.R. 2363 | 2/12/09 |
| 13 VAC 5-100-20 | Amended | 25:13 VA.R. 2364 | 2/12/09 |
| 13 VAC 5-200-10 | Amended | 24:26 VA.R. 3784 | 10/1/08 |
| 13 VAC 5-200-40 through 13 VAC 5-200-80 | Amended | 24:26 VA.R. 3784-3785 | 10/1/08 |
| 13 VAC 5-200-100 | Amended | 24:26 VA.R. 3785 | 10/1/08 |
| 13 VAC 6-10-10 through 13 VAC 6-10-120 | Repealed | 25:3 VA.R. 394 | 11/13/08 |
| 13 VAC 6-11-10 through 13 VAC 6-11-110 | Added | 25:3 VA.R. 394-397 | 11/13/08 |
| 13 VAC 10-20-40 | Amended | 25:9 VA.R. 1743 | 12/15/08 |
| 13 VAC 10-180-40 | Amended | 25:7 VA.R. 1418 | 1/1/09 |
| 13 VAC 10-180-50 | Amended | 25:7 VA.R. 1419 | 1/1/09 |
| 13 VAC 10-180-60 | Amended | 25:7 VA.R. 1421 | 1/1/09 |
| **Title 14. Insurance** | | | |
| 14 VAC 5-323-10 through 14 VAC 5-323-70 | Added | 25:8 VA.R. 1527-1528 | 1/1/09 |
| 14 VAC 5-395-40 | Amended | 24:26 VA.R. 3811 | 8/29/08 |
| **Title 16. Labor and Employment** | | | |
| 16 VAC 15-10-10 through 16 VAC 15-10-100 | Repealed | 25:4 VA.R. 672 | 11/26/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 16 VAC 15-11-10 through 16 VAC 15-11-110 | Added | 25:4 VA.R. 672-675 | 11/26/08 |
| 16 VAC 15-30-40 | Amended | 24:25 VA.R. 3632 | 9/18/08 |
| 16 VAC 20-10-10 through 16 VAC 20-10-100 | Repealed | 25:4 VA.R. 675 | 11/27/08 |
| 16 VAC 20-11-10 through 16 VAC 20-11-110 | Added | 25:4 VA.R. 676-678 | 11/27/08 |
| 16 VAC 25-10-10 through 16 VAC 25-10-120 | Repealed | 24:26 VA.R. 3811 | 10/1/08 |
| 16 VAC 25-11-10 through 16 VAC 25-11-110 | Added | 24:26 VA.R. 3811-3814 | 10/1/08 |
| 16 VAC 25-20-10 | Amended | 25:8 VA.R. 1529 | 2/1/09 |
| 16 VAC 30-11-10 through 16 VAC 30-11-30 | Repealed | 25:6 VA.R. 1307 | 12/24/08 |
| 16 VAC 30-12-10 through 16 VAC 30-12-110 | Added | 25:6 VA.R. 1307-1310 | 12/24/08 |
| 16 VAC 30-90-10 through 16 VAC 30-90-80 | Repealed | 25:11 VA.R. 1951 | 3/4/09 |
| 16 VAC 30-91-10 | Added | 25:11 VA.R. 1951 | 3/4/09 |
| 16 VAC 30-91-20 | Added | 25:11 VA.R. 1952 | 3/4/09 |
| **Title 17. Libraries and Cultural Resources** | | | |
| 17 VAC 5-10-10 through 17 VAC 5-10-40 | Repealed | 25:6 VA.R. 1310 | 12/24/08 |
| 17 VAC 5-11-10 through 17 VAC 5-11-110 | Added | 25:6 VA.R. 1311-1313 | 12/24/08 |
| 17 VAC 10-10-10 through 17 VAC 10-10-40 | Repealed | 25:6 VA.R. 1313 | 12/24/08 |
| 17 VAC 10-11-10 through 17 VAC 10-11-110 | Added | 25:6 VA.R. 1314-1316 | 12/24/08 |
| 17 VAC 15-10-10 | Repealed | 25:5 VA.R. 1064 | 12/10/08 |
| 17 VAC 15-11-10 through 17 VAC 15-11-110 | Added | 25:5 VA.R. 1065-1067 | 12/10/08 |
| 17 VAC 15-120-10 | Added | 25:6 VA.R. 1317 | 12/24/08 |
| 17 VAC 15-120-20 | Added | 25:6 VA.R. 1317 | 12/24/08 |
| 17 VAC 15-120-30 | Added | 25:6 VA.R. 1317 | 12/24/08 |
| **Title 18. Professional and Occupational Licensing** | | | |
| 18 VAC 5-10-10 through 18 VAC 5-10-90 | Repealed | 25:4 VA.R. 678 | 11/26/08 |
| 18 VAC 5-11-10 through 18 VAC 5-11-110 | Added | 25:4 VA.R. 679-682 | 11/26/08 |
| 18 VAC 10-10-10 through 18 VAC 10-10-90 | Repealed | 25:4 VA.R. 682 | 11/27/08 |
| 18 VAC 10-11-10 through 18 VAC 10-11-110 | Added | 25:4 VA.R. 682-685 | 11/27/08 |
| 18 VAC 10-20-10 | Amended | 25:3 VA.R. 397 | 12/1/08 |
| 18 VAC 10-20-120 | Amended | 25:3 VA.R. 399 | 12/1/08 |
| 18 VAC 10-20-120 | Amended | 25:5 VA.R. 1068 | 1/1/09 |
| 18 VAC 10-20-140 | Amended | 25:5 VA.R. 1068 | 1/1/09 |
| 18 VAC 10-20-280 | Amended | 25:3 VA.R. 399 | 12/1/08 |
| 18 VAC 10-20-295 | Amended | 25:3 VA.R. 400 | 12/1/08 |
| 18 VAC 10-20-310 | Amended | 25:3 VA.R. 400 | 12/1/08 |
| 18 VAC 10-20-310 | Erratum | 25:7 VA.R. 1451 | -- |
| 18 VAC 10-20-340 | Amended | 25:3 VA.R. 401 | 12/1/08 |
| 18 VAC 10-20-350 | Amended | 25:3 VA.R. 401 | 12/1/08 |
| 18 VAC 10-20-360 | Amended | 25:3 VA.R. 401 | 12/1/08 |
| 18 VAC 10-20-380 | Amended | 25:3 VA.R. 402 | 12/1/08 |
| 18 VAC 10-20-382 | Added | 25:3 VA.R. 403 | 12/1/08 |
| 18 VAC 10-20-392 | Added | 25:3 VA.R. 404 | 12/1/08 |
| 18 VAC 10-20-395 | Added | 25:3 VA.R. 404 | 12/1/08 |
| 18 VAC 10-20-670 | Amended | 25:12 VA.R. 2258 | 4/1/09 |
| 18 VAC 10-20-680 | Amended | 25:12 VA.R. 2258 | 4/1/09 |
| 18 VAC 10-20-683 | Added | 25:12 VA.R. 2259 | 4/1/09 |
| 18 VAC 10-20-683 | Erratum | 25:15 VA.R. 2804 | -- |
| 18 VAC 10-20-687 | Added | 25:12 VA.R. 2260 | 4/1/09 |
| 18 VAC 10-20-760 | Amended | 25:3 VA.R. 404 | 12/1/08 |
| 18 VAC 10-20-790 | Amended | 25:12 VA.R. 2260 | 4/1/09 |
| 18 VAC 15-10-10 through 18 VAC 15-10-90 | Repealed | 25:1 VA.R. 55 | 10/15/08 |
| 18 VAC 15-11-10 through 18 VAC 15-11-110 | Added | 25:1 VA.R. 55-58 | 10/15/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 18 VAC 25-10-10 through 18 VAC 25-10-90 | Repealed | 25:6 VA.R. 1318 | 12/24/08 |
| 18 VAC 25-11-10 through 18 VAC 25-11-110 | Added | 25:6 VA.R. 1319-1321 | 12/24/08 |
| 18 VAC 25-21-20 | Amended | 25:7 VA.R. 1431 | 2/1/09 |
| 18 VAC 25-21-40 | Amended | 25:7 VA.R. 1432 | 2/1/09 |
| 18 VAC 25-21-50 | Amended | 25:7 VA.R. 1432 | 2/1/09 |
| 18 VAC 25-21-60 | Amended | 25:7 VA.R. 1432 | 2/1/09 |
| 18 VAC 25-21-110 | Amended | 25:7 VA.R. 1433 | 2/1/09 |
| 18 VAC 25-21-120 | Amended | 25:7 VA.R. 1433 | 2/1/09 |
| 18 VAC 25-21-150 | Amended | 25:7 VA.R. 1433 | 2/1/09 |
| 18 VAC 25-21-170 | Amended | 25:7 VA.R. 1434 | 2/1/09 |
| 18 VAC 25-21-180 | Amended | 25:7 VA.R. 1434 | 2/1/09 |
| 18 VAC 25-21-185 | Added | 25:7 VA.R. 1435 | 2/1/09 |
| 18 VAC 30-10-10 through 18 VAC 30-10-120 | Repealed | 25:5 VA.R. 1070 | 12/10/08 |
| 18 VAC 30-11-10 through 18 VAC 30-11-110 | Added | 25:5 VA.R. 1070-1073 | 12/10/08 |
| 18 VAC 30-20 (Forms) | Amended | 24:26 VA.R. 3814 | -- |
| 18 VAC 41-10-10 through 18 VAC 41-10-90 | Repealed | 25:6 VA.R. 1321 | 12/24/08 |
| 18 VAC 41-11-10 | Erratum | 25:9 VA.R. 1826 | -- |
| 18 VAC 41-11-20 | Erratum | 25:9 VA.R. 1826 | -- |
| 18 VAC 41-11-10 through 18 VAC 41-11-110 | Added | 25:6 VA.R. 1322-1325 | 12/24/08 |
| 18 VAC 45-10-10 through 18 VAC 45- 10-90 | Repealed | 24:26 VA.R. 3815 | 10/2/08 |
| 18 VAC 45-11-10 through 18 VAC 45-11-110 | Added | 24:26 VA.R. 3815-3818 | 10/2/08 |
| 18 VAC 47-10-10 through 18 VAC 47-10-90 | Repealed | 25:6 VA.R. 1325 | 12/24/08 |
| 18 VAC 47-11-10 through 18 VAC 47-11-110 | Added | 25:6 VA.R. 1325-1328 | 12/24/08 |
| 18 VAC 48-10-10 through 18 VAC 48-10-110 | Added | 25:3 VA.R. 411-414 | 11/13/08 |
| 18 VAC 48-20-10 through 18 VAC 48-20-730 emer | Added | 25:5 VA.R. 1074-1093 | 11/13/08-11/12/09 |
| 18 VAC 48-40-10 through 18 VAC 48-40-110 | Added | 25:4 VA.R. 685-688 | 11/27/08 |
| 18 VAC 48-50-10 through 18 VAC 48-50-200 emer | Added | 25:5 VA.R. 1095-1100 | 11/13/08-11/12/09 |
| 18 VAC 48-60-10 through 18 VAC 48-60-60 | Added | 25:4 VA.R. 688-689 | 11/27/08 |
| 18 VAC 48-60-13 | Added | 25:15 VA.R. 2769 | 5/15/09 |
| 18 VAC 48-60-17 | Added | 25:15 VA.R. 2769 | 5/15/09 |
| 18 VAC 48-60-20 | Amended | 25:15 VA.R. 2770 | 5/15/09 |
| 18 VAC 48-60-60 | Amended | 25:15 VA.R. 2770 | 5/15/09 |
| 18 VAC 50-10-10 through 18 VAC 50-10-90 | Repealed | 25:6 VA.R. 1328 | 12/24/08 |
| 18 VAC 50-11-10 through 18 VAC 50-11-110 | Added | 25:6 VA.R. 1328-1331 | 12/24/08 |
| 18 VAC 50-22-40 | Amended | 25:3 VA.R. 415 | 12/1/08 |
| 18 VAC 50-22-50 | Amended | 25:3 VA.R. 415 | 12/1/08 |
| 18 VAC 50-22-60 | Amended | 25:3 VA.R. 416 | 12/1/08 |
| 18 VAC 50-22-300 through 18 VAC 50-22-350 | Added | 25:3 VA.R. 417-418 | 12/1/08 |
| 18 VAC 60-10-10 through 18 VAC 60-10-120 | Repealed | 25:3 VA.R. 418 | 11/12/08 |
| 18 VAC 60-11-10 through 18 VAC 60-11-110 | Added | 25:3 VA.R. 419-422 | 11/12/08 |
| 18 VAC 60-20 (Forms) | Amended | 25:1 VA.R. 58 | -- |
| 18 VAC 60-20-16 | Amended | 25:17 VA.R. 3015 | 7/1/09 |
| 18 VAC 60-20-190 | Amended | 25:16 VA.R. 2970 | 5/13/09 |
| 18 VAC 62-10-10 through 18 VAC 62-10-110 | Added | 25:6 VA.R. 1332-1334 | 12/24/08 |
| 18 VAC 65-10-10 through 18 VAC 65-10-120 | Repealed | 25:2 VA.R. 291 | 10/29/08 |
| 18 VAC 65-11-10 through 18 VAC 65-11-110 | Added | 25:2 VA.R. 291-294 | 10/29/08 |
| 18 VAC 65-20 (Forms) | Amended | 24:26 VA.R. 3818 | -- |
| 18 VAC 65-20-60 | Amended | 25:17 VA.R. 3016 | 7/1/09 |
| 18 VAC 65-30-180 | Amended | 25:17 VA.R. 3016 | 7/1/09 |
| 18 VAC 65-40 (Forms) | Amended | 24:26 VA.R. 3818 | -- |
| 18 VAC 70-10-10 through 18 VAC 70-10-90 | Repealed | 25:5 VA.R. 1100 | 12/10/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 18 VAC 70-11-10 through 18 VAC 70-11-110 | Added | 25:5 VA.R. 1100-1103 | 12/10/08 |
| 18 VAC 75-10-10 through 18 VAC 75-10-120 | Repealed | 25:2 VA.R. 294 | 10/29/08 |
| 18 VAC 75-11-10 through 18 VAC 75-11-110 | Added | 25:2 VA.R. 295-297 | 10/29/08 |
| 18 VAC 75-20 (Forms) | Amended | 24:25 VA.R. 3632 | -- |
| 18 VAC 76-20 (Forms) | Amended | 24:26 VA.R. 3819 | -- |
| 18 VAC 76-20-60 | Amended | 25:16 VA.R. 2971 | 5/13/09 |
| 18 VAC 76-20-70 | Amended | 25:16 VA.R. 2971 | 5/13/09 |
| 18 VAC 76-30-10 through 18 VAC 76-30-120 | Repealed | 24:25 VA.R. 3632 | 9/17/08 |
| 18 VAC 76-31-10 through 18 VAC 76-31-110 | Added | 24:25 VA.R. 3633-3635 | 9/17/08 |
| 18 VAC 76-40 (Forms) | Amended | 24:26 VA.R. 3820 | -- |
| 18 VAC 80-10-10 through 18 VAC 80-10-90 | Repealed | 25:6 VA.R. 1334 | 12/24/08 |
| 18 VAC 80-11-10 through 18 VAC 80-11-110 | Added | 25:6 VA.R. 1335-1338 | 12/24/08 |
| 18 VAC 85-10-10 through 18 VAC 85-10-110 | Repealed | 24:26 VA.R. 3820 | 10/1/08 |
| 18 VAC 85-11-10 through 18 VAC 85-11-110 | Added | 24:26 VA.R. 3820 | 10/1/08 |
| 18 VAC 85-20 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 85-40 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 85-50 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 85-80 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 85-80-10 emer | Amended | 25:5 VA.R. 1104 | 11/1/08-10/31/09 |
| 18 VAC 85-80-26 emer | Amended | 25:5 VA.R. 1104 | 11/1/08-10/31/09 |
| 18 VAC 85-80-40 emer | Amended | 25:5 VA.R. 1104 | 11/1/08-10/31/09 |
| 18 VAC 85-80-45 emer | Amended | 25:5 VA.R. 1105 | 11/1/08-10/31/09 |
| 18 VAC 85-80-50 emer | Amended | 25:5 VA.R. 1105 | 11/1/08-10/31/09 |
| 18 VAC 85-80-61 emer | Repealed | 25:5 VA.R. 1105 | 11/1/08-10/31/09 |
| 18 VAC 85-80-65 emer | Amended | 25:5 VA.R. 1105 | 11/1/08-10/31/09 |
| 18 VAC 85-80-70 emer | Amended | 25:5 VA.R. 1105 | 11/1/08-10/31/09 |
| 18 VAC 85-80-72 emer | Amended | 25:5 VA.R. 1105 | 11/1/08-10/31/09 |
| 18 VAC 85-80-73 emer | Amended | 25:5 VA.R. 1106 | 11/1/08-10/31/09 |
| 18 VAC 85-80-80 emer | Amended | 25:5 VA.R. 1106 | 11/1/08-10/31/09 |
| 18 VAC 85-80-90 emer | Amended | 25:5 VA.R. 1106 | 11/1/08-10/31/09 |
| 18 VAC 85-80-100 emer | Amended | 25:5 VA.R. 1107 | 11/1/08-10/31/09 |
| 18 VAC 85-80-110 emer | Amended | 25:5 VA.R. 1107 | 11/1/08-10/31/09 |
| 18 VAC 85-80-111 emer | Added | 25:5 VA.R. 1108 | 11/1/08-10/31/09 |
| 18 VAC 85-101 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 85-110 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 85-120 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 85-130 (Forms) | Amended | 24:26 VA.R. 3823 | -- |
| 18 VAC 90-10-10 through 18 VAC 90-10-120 | Repealed | 24:25 VA.R. 3635 | 9/17/08 |
| 18 VAC 90-11-10 through 18 VAC 90-11-110 | Added | 24:25 VA.R. 3636-3639 | 9/17/08 |
| 18 VAC 90-20 (Forms) | Amended | 25:1 VA.R. 59 | -- |
| 18 VAC 90-20-35 | Amended | 25:17 VA.R. 3017 | 7/1/09 |
| 18 VAC 90-25 (Forms) | Amended | 25:1 VA.R. 59 | -- |
| 18 VAC 90-25-15 | Amended | 25:17 VA.R. 3017 | 7/1/09 |
| 18 VAC 90-30 (Forms) | Amended | 25:1 VA.R. 59 | -- |
| 18 VAC 90-30-10 | Amended | 25:5 VA.R. 1111 | 12/25/08 |
| 18 VAC 90-30-20 | Amended | 25:5 VA.R. 1112 | 12/25/08 |
| 18 VAC 90-30-30 | Amended | 25:5 VA.R. 1112 | 12/25/08 |
| 18 VAC 90-30-80 | Amended | 25:5 VA.R. 1112 | 12/25/08 |
| 18 VAC 90-30-85 | Amended | 25:5 VA.R. 1112 | 12/25/08 |
| 18 VAC 90-30-100 | Amended | 25:5 VA.R. 1113 | 12/25/08 |
| 18 VAC 90-30-100 | Amended | 25:17 VA.R. 3017 | 7/1/09 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 18 VAC 90-30-105 | Amended | 25:5 VA.R. 1113 | 12/25/08 |
| 18 VAC 90-30-110 | Amended | 25:5 VA.R. 1113 | 12/25/08 |
| 18 VAC 90-30-120 | Amended | 25:5 VA.R. 1114 | 12/25/08 |
| 18 VAC 90-30-121 | Amended | 25:5 VA.R. 1114 | 12/25/08 |
| 18 VAC 90-30-220 | Amended | 25:5 VA.R. 1115 | 12/25/08 |
| 18 VAC 90-30-230 | Amended | 25:5 VA.R. 1115 | 12/25/08 |
| 18 VAC 90-40 (Forms) | Amended | 25:1 VA.R. 59 | -- |
| 18 VAC 90-40-10 | Amended | 25:5 VA.R. 1115 | 12/25/08 |
| 18 VAC 90-40-20 | Amended | 25:5 VA.R. 1116 | 12/25/08 |
| 18 VAC 90-40-40 | Amended | 25:5 VA.R. 1116 | 12/25/08 |
| 18 VAC 90-40-50 | Amended | 25:5 VA.R. 1116 | 12/25/08 |
| 18 VAC 90-40-55 | Amended | 25:5 VA.R. 1116 | 12/25/08 |
| 18 VAC 90-40-60 | Amended | 25:5 VA.R. 1117 | 12/25/08 |
| 18 VAC 90-40-90 | Amended | 25:5 VA.R. 1117 | 12/25/08 |
| 18 VAC 90-40-100 | Amended | 25:5 VA.R. 1117 | 12/25/08 |
| 18 VAC 90-40-121 | Added | 25:5 VA.R. 1118 | 12/25/08 |
| 18 VAC 90-40-130 | Amended | 25:5 VA.R. 1118 | 12/25/08 |
| 18 VAC 90-40-140 | Amended | 25:5 VA.R. 1118 | 12/25/08 |
| 18 VAC 90-50 (Forms) | Amended | 25:1 VA.R. 59 | -- |
| 18 VAC 90-50-10 | Amended | 25:4 VA.R. 691 | 12/11/08 |
| 18 VAC 90-50-20 | Amended | 25:17 VA.R. 3017 | 7/1/09 |
| 18 VAC 90-50-40 | Amended | 25:4 VA.R. 691 | 12/11/08 |
| 18 VAC 90-50-75 | Amended | 25:4 VA.R. 691 | 12/11/08 |
| 18 VAC 90-50-80 | Amended | 25:4 VA.R. 692 | 12/11/08 |
| 18 VAC 90-50-90 | Amended | 25:4 VA.R. 692 | 12/11/08 |
| 18 VAC 90-60 (Forms) | Amended | 25:1 VA.R. 59 | -- |
| 18 VAC 90-60-20 | Amended | 25:17 VA.R. 3018 | 7/1/09 |
| 18 VAC 90-60-90 | Amended | 25:16 VA.R. 2972 | 5/13/09 |
| 18 VAC 90-60-91 | Added | 25:16 VA.R. 2972 | 5/13/09 |
| 18 VAC 90-60-92 | Added | 25:16 VA.R. 2973 | 5/13/09 |
| 18 VAC 95-10-10 through 18 VAC 95-10-120 | Repealed | 25:6 VA.R. 1338 | 12/24/08 |
| 18 VAC 95-11-10 through 18 VAC 95-11-110 | Added | 25:6 VA.R. 1338-1341 | 12/24/08 |
| 18 VAC 95-20 (Forms) | Amended | 24:26 VA.R. 3827 | -- |
| 18 VAC 95-20-80 | Amended | 24:16 VA.R. 2264 | 5/14/08 |
| 18 VAC 95-20-225 | Amended | 25:6 VA.R. 1341 | 12/24/08 |
| 18 VAC 95-30 (Forms) | Amended | 24:26 VA.R. 3827 | -- |
| 18 VAC 100-10-10 through 18 VAC 100-10-90 | Repealed | 25:6 VA.R. 1342 | 12/24/08 |
| 18 VAC 100-11-10 through 18 VAC 100-11-110 | Added | 25:6 VA.R. 1342-1345 | 12/24/08 |
| 18 VAC 105-10-10 through 18 VAC 105-10-120 | Repealed | 24:26 VA.R. 3828 | 10/1/08 |
| 18 VAC 105-11-10 through 18 VAC 105-11-110 | Added | 24:26 VA.R. 3828-3831 | 10/1/08 |
| 18 VAC 105-20 (Forms) | Amended | 24:25 VA.R. 3639 | -- |
| 18 VAC 110-10-10 through 18 VAC 110-10-120 | Repealed | 25:2 VA.R. 298 | 10/29/08 |
| 18 VAC 110-11-10 through 18 VAC 110-11-110 | Added | 25:2 VA.R. 298-301 | 10/29/08 |
| 18 VAC 110-20 (Forms) | Amended | 24:25 VA.R. 3640 | -- |
| 18 VAC 110-20-10 emer | Amended | 25:17 VA.R. 3018 | 4/10/09-4/9/10 |
| 18 VAC 110-20-20 emer | Amended | 25:3 VA.R. 464 | 9/23/08-9/22/09 |
| 18 VAC 110-20-21 | Added | 25:17 VA.R. 3025 | 7/1/09 |
| 18 VAC 110-20-220 | Amended | 25:4 VA.R. 694 | 12/11/08 |
| 18 VAC 110-20-230 | Repealed | 25:4 VA.R. 695 | 12/11/08 |
| 18 VAC 110-20-400 emer | Amended | 25:17 VA.R. 3021 | 4/10/09-4/9/10 |
| 18 VAC 110-20-740 emer | Added | 25:17 VA.R. 3021 | 4/10/09-4/9/10 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 18 VAC 110-20-750 emer | Added | 25:17 VA.R. 3021 | 4/10/09-4/9/10 |
| 18 VAC 110-20-760 emer | Added | 25:17 VA.R. 3021 | 4/10/09-4/9/10 |
| 18 VAC 110-20-770 emer | Added | 25:17 VA.R. 3022 | 4/10/09-4/9/10 |
| 18 VAC 110-20-780 emer | Added | 25:17 VA.R. 3022 | 4/10/09-4/9/10 |
| 18 VAC 110-20-790 emer | Added | 25:17 VA.R. 3022 | 4/10/09-4/9/10 |
| 18 VAC 110-20-800 emer | Added | 25:17 VA.R. 3022 | 4/10/09-4/9/10 |
| 18 VAC 110-30 (Forms) | Amended | 24:25 VA.R. 3640 | -- |
| 18 VAC 110-50 (Forms) | Amended | 24:25 VA.R. 3640 | -- |
| 18 VAC 110-50-20 emer | Amended | 25:3 VA.R. 466 | 9/23/08-9/22/09 |
| 18 VAC 112-10-10 through 18 VAC 112-10-120 | Repealed | 25:1 VA.R. 61 | 10/15/08 |
| 18 VAC 112-11-10 through 18 VAC 112-11-110 | Added | 25:1 VA.R. 62-64 | 10/15/08 |
| 18 VAC 112-20 (Forms) | Amended | 24:26 VA.R. 3831 | -- |
| 18 VAC 112-20-25 | Amended | 25:17 VA.R. 3025 | 7/1/09 |
| 18 VAC 112-20-81 emer | Added | 25:3 VA.R. 467 | 11/1/07-4/29/09 |
| 18 VAC 112-20-90 emer | Amended | 25:3 VA.R. 467 | 11/1/07-4/29/09 |
| 18 VAC 112-20-130 emer | Amended | 25:3 VA.R. 467 | 11/1/07-4/29/09 |
| 18 VAC 112-20-131 emer | Amended | 25:3 VA.R. 467 | 11/1/07-4/29/09 |
| 18 VAC 112-20-150 emer | Amended | 25:3 VA.R. 467 | 11/1/07-4/29/09 |
| 18 VAC 115-10-10 through 18 VAC 115-10-120 | Repealed | 24:26 VA.R. 3832 | 10/1/08 |
| 18 VAC 115-11-10 through 18 VAC 115-11-110 | Added | 24:26 VA.R. 3832-3835 | 10/1/08 |
| 18 VAC 115-20 (Forms) | Amended | 25:1 VA.R. 65 | -- |
| 18 VAC 115-30 (Forms) | Amended | 25:1 VA.R. 65 | -- |
| 18 VAC 115-40 (Forms) | Amended | 25:1 VA.R. 65 | -- |
| 18 VAC 115-50 (Forms) | Amended | 25:1 VA.R. 65 | -- |
| 18 VAC 115-60 (Forms) | Amended | 25:1 VA.R. 65 | -- |
| 18 VAC 120-10-100 through 18 VAC 120-10-180 | Repealed | 24:26 VA.R. 3835 | 10/2/08 |
| 18 VAC 120-11-10 through 18 VAC 120-11-110 | Added | 24:26 VA.R. 3836-3838 | 10/2/08 |
| 18 VAC 120-40-15 | Amended | 25:15 VA.R. 2774 | 5/14/09 |
| 18 VAC 120-40-85 | Added | 25:15 VA.R. 2774 | 5/14/09 |
| 18 VAC 120-40-240 | Amended | 25:15 VA.R. 2774 | 5/14/09 |
| 18 VAC 120-40-411.1 | Amended | 25:15 VA.R. 2775 | 5/14/09 |
| 18 VAC 125-10-10 through 18 VAC 125-10-120 | Repealed | 25:4 VA.R. 699 | 11/26/08 |
| 18 VAC 125-11-10 through 18 VAC 125-11-110 | Added | 25:4 VA.R. 699-702 | 11/26/08 |
| 18 VAC 125-20 (Forms) | Amended | 25:1 VA.R. 66 | -- |
| 18 VAC 125-20-120 | Amended | 25:17 VA.R. 3026 | 7/1/09 |
| 18 VAC 125-30 (Forms) | Amended | 25:1 VA.R. 66 | -- |
| 18 VAC 125-30-80 | Amended | 25:17 VA.R. 3026 | 7/1/09 |
| 18 VAC 130-10-10 through 18 VAC 130-10-90 | Repealed | 25:6 VA.R. 1345 | 12/24/08 |
| 18 VAC 130-11-10 through 18 VAC 130-11-110 | Added | 25:6 VA.R. 1345-1348 | 12/24/08 |
| 18 VAC 130-20-30 | Erratum | 25:15 VA.R. 2804 | -- |
| 18 VAC 135-10-10 through 18 VAC 135-10-90 | Repealed | 25:6 VA.R. 1348 | 12/24/08 |
| 18 VAC 135-11-10 through 18 VAC 135-11-110 | Added | 25:6 VA.R. 1348-1351 | 12/24/08 |
| 18 VAC 140-10-10 through 18 VAC 140-10-120 | Repealed | 24:25 VA.R. 3641 | 9/17/08 |
| 18 VAC 140-11-10 through 18 VAC 140-11-110 | Added | 24:25 VA.R. 3641-3644 | 9/17/08 |
| 18 VAC 140-20 (Forms) | Amended | 25:1 VA.R. 67 | -- |
| 18 VAC 140-20-10 | Amended | 25:4 VA.R. 703 | 11/26/08 |
| 18 VAC 140-20-40 | Amended | 25:4 VA.R. 703 | 11/26/08 |
| 18 VAC 140-20-50 | Amended | 25:4 VA.R. 703 | 11/26/08 |
| 18 VAC 140-20-51 | Added | 25:4 VA.R. 705 | 11/26/08 |
| 18 VAC 140-20-60 | Amended | 25:4 VA.R. 705 | 11/26/08 |
| 18 VAC 140-20-105 | Amended | 25:4 VA.R. 706 | 11/26/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 18 VAC 140-20-140 | Repealed | 25:4 VA.R. 707 | 11/26/08 |
| 18 VAC 140-20-150 | Amended | 25:4 VA.R. 707 | 11/26/08 |
| 18 VAC 140-20-160 | Amended | 25:4 VA.R. 709 | 11/26/08 |
| 18 VAC 145-10-10 through 18 VAC 145-10-90 | Repealed | 25:6 VA.R. 1351 | 12/24/08 |
| 18 VAC 145-11-10 through 18 VAC 145-11-110 | Added | 25:6 VA.R. 1352-1355 | 12/24/08 |
| 18 VAC 150-10-10 through 18 VAC 150-10-120 | Repealed | 25:1 VA.R. 68 | 10/15/08 |
| 18 VAC 150-11-10 through 18 VAC 150-11-110 | Added | 25:1 VA.R. 68-71 | 10/15/08 |
| 18 VAC 150-20 (Forms) | Amended | 24:26 VA.R. 3838 | -- |
| 18 VAC 155-10-5 through 18 VAC 155-10-80 | Repealed | 25:6 VA.R. 1355 | 12/24/08 |
| 18 VAC 155-11-10 through 18 VAC 155-11-110 | Added | 25:6 VA.R. 1355-1358 | 12/24/08 |
| 18 VAC 160-10-10 through 18 VAC 160-10-90 | Repealed | 25:4 VA.R. 709 | 11/26/08 |
| 18 VAC 160-11-10 through 18 VAC 160-11-110 | Added | 25:4 VA.R. 709-712 | 11/26/08 |
| **Title 19. Public Safety** | | | |
| 19 VAC 15-10-10 through 19 VAC 15-10-50 | Repealed | 25:5 VA.R. 1118 | 12/10/08 |
| 19 VAC 15-11-10 through 19 VAC 15-11-110 | Added | 25:5 VA.R. 1119-1121 | 12/10/08 |
| 19 VAC 30-10-10 through 19 VAC 30-10-40 | Repealed | 24:26 VA.R. 3839 | 10/1/08 |
| 19 VAC 30-11-10 through 19 VAC 30-11-110 | Added | 24:26 VA.R. 3839-3842 | 10/1/08 |
| 19 VAC 30-20-40 | Amended | 25:11 VA.R. 1968 | 3/4/09 |
| 19 VAC 30-20-60 | Amended | 25:11 VA.R. 1968 | 3/4/09 |
| 19 VAC 30-20-80 | Amended | 25:11 VA.R. 1968 | 3/4/09 |
| 19 VAC 30-20-270 through 19 VAC 30-20-300 | Added | 25:11 VA.R. 1968-1969 | 3/4/09 |
| 19 VAC 30-200-10 | Added | 25:12 VA.R. 2273 | 4/2/09 |
| **Title 20. Public Utilities and Telecommunications** | | | |
| 20 VAC 5-200-30 | Repealed | 25:9 VA.R. 1768 | 1/1/09 |
| 20 VAC 5-201-10 through 20 VAC 5-201-110 | Added | 25:9 VA.R. 1768-1816 | 1/1/09 |
| 20 VAC 5-302-10 through 20 VAC 5-302-35 | Amended | 25:10 VA.R. 1859-1863 | 1/15/09 |
| 20 VAC 5-312-10 | Amended | 25:8 VA.R. 1534 | 1/1/09 |
| 20 VAC 5-312-20 | Amended | 25:8 VA.R. 1535 | 1/1/09 |
| 20 VAC 5-312-60 | Amended | 25:8 VA.R. 1537 | 1/1/09 |
| 20 VAC 5-312-80 | Amended | 25:8 VA.R. 1538 | 1/1/09 |
| 20 VAC 5-312-90 | Amended | 25:8 VA.R. 1540 | 1/1/09 |
| 20 VAC 5-312-120 | Repealed | 25:8 VA.R. 1542 | 1/1/09 |
| 20 VAC 5-313-10 | Amended | 25:8 VA.R. 1543 | 1/1/09 |
| 20 VAC 5-313-20 | Amended | 25:8 VA.R. 1543 | 1/1/09 |
| 20 VAC 5-313-30 | Repealed | 25:8 VA.R. 1544 | 1/1/09 |
| 20 VAC 5-315-10 | Amended | 24:26 VA.R. 3845 | 8/25/08 |
| 20 VAC 5-315-20 | Amended | 24:26 VA.R. 3845 | 8/25/08 |
| 20 VAC 5-315-40 | Amended | 24:26 VA.R. 3846 | 8/25/08 |
| 20 VAC 5-315-50 | Amended | 24:26 VA.R. 3847 | 8/25/08 |
| 20 VAC 5-403-70 | Amended | 25:9 VA.R. 1816 | 1/1/09 |
| 20 VAC 5-414-10 through 20 VAC 5-414-70 | Added | 25:7 VA.R. 1437-1438 | 12/1/08 |
| **Title 22. Social Services** | | | |
| 22 VAC 5-10-10 through 22 VAC 5-10-110 | Repealed | 25:5 VA.R. 1122 | 1/1/09 |
| 22 VAC 5-11-10 through 22 VAC 5-11-110 | Added | 25:5 VA.R. 1122-1125 | 1/1/09 |
| 22 VAC 5-30-10 through 22 VAC 5-30-60 | Added | 24:25 VA.R. 3665-3669 | 1/1/09 |
| 22 VAC 15-10-10 through 22 VAC 15-10-70 | Repealed | 25:4 VA.R. 712 | 1/1/09 |
| 22 VAC 15-11-10 through 22 VAC 15-11-110 | Added | 25:4 VA.R. 713-715 | 1/1/09 |
| 22 VAC 20-10-10 through 22 VAC 20-10-100 | Repealed | 25:7 VA.R. 1438 | 1/7/09 |
| 22 VAC 20-11-10 through 22 VAC 20-11-110 | Added | 25:7 VA.R. 1439-1441 | 1/7/09 |
| 22 VAC 27-10-10 through 22 VAC 27-10-110 | Added | 25:7 VA.R. 1442-1445 | 1/7/09 |
| 22 VAC 30-10-10 | Repealed | 25:1 VA.R. 71 | 10/15/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| 22 VAC 30-10-20 | Repealed | 25:1 VA.R. 71 | 10/15/08 |
| 22 VAC 30-10-40 | Repealed | 25:1 VA.R. 71 | 10/15/08 |
| 22 VAC 30-10-50 | Repealed | 25:1 VA.R. 71 | 10/15/08 |
| 22 VAC 30-10-60 | Repealed | 25:1 VA.R. 71 | 10/15/08 |
| 22 VAC 30-11-10 through 22 VAC 30-11-110 | Added | 25:1 VA.R. 72-74 | 10/15/08 |
| 22 VAC 40-11-10 through 22 VAC 40-11-70 | Repealed | 25:1 VA.R. 74 | 1/1/09 |
| 22 VAC 40-12-10 through 22 VAC 40-12-110 | Added | 25:1 VA.R. 74-78 | 1/1/09 |
| 22 VAC 40-72-10 | Amended | 25:8 VA.R. 1592 | 2/5/09 |
| 22 VAC 40-72-30 | Repealed | 25:8 VA.R. 1598 | 2/5/09 |
| 22 VAC 40-72-50 | Amended | 25:8 VA.R. 1598 | 2/5/09 |
| 22 VAC 40-72-90 | Amended | 25:8 VA.R. 1599 | 2/5/09 |
| 22 VAC 40-72-100 | Amended | 25:8 VA.R. 1600 | 2/5/09 |
| 22 VAC 40-72-150 | Amended | 25:8 VA.R. 1600 | 2/5/09 |
| 22 VAC 40-72-190 | Repealed | 25:8 VA.R. 1600 | 2/5/09 |
| 22 VAC 40-72-191 | Added | 25:8 VA.R. 1601 | 2/5/09 |
| 22 VAC 40-72-200 | Repealed | 25:8 VA.R. 1601 | 2/5/09 |
| 22 VAC 40-72-201 | Added | 25:8 VA.R. 1602 | 2/5/09 |
| 22 VAC 40-72-210 | Amended | 25:8 VA.R. 1603 | 2/5/09 |
| 22 VAC 40-72-220 | Amended | 25:8 VA.R. 1603 | 2/5/09 |
| 22 VAC 40-72-230 | Amended | 25:8 VA.R. 1605 | 2/5/09 |
| 22 VAC 40-72-260 | Amended | 25:8 VA.R. 1606 | 2/5/09 |
| 22 VAC 40-72-290 | Amended | 25:8 VA.R. 1606 | 2/5/09 |
| 22 VAC 40-72-340 | Amended | 25:8 VA.R. 1607 | 2/5/09 |
| 22 VAC 40-72-390 | Amended | 25:8 VA.R. 1609 | 2/5/09 |
| 22 VAC 40-72-420 | Amended | 25:8 VA.R. 1610 | 2/5/09 |
| 22 VAC 40-72-430 | Amended | 25:8 VA.R. 1610 | 2/5/09 |
| 22 VAC 40-72-440 | Amended | 25:8 VA.R. 1611 | 2/5/09 |
| 22 VAC 40-72-630 | Amended | 25:8 VA.R. 1612 | 2/5/09 |
| 22 VAC 40-72-660 | Amended | 25:8 VA.R. 1613 | 2/5/09 |
| 22 VAC 40-72-670 | Amended | 25:8 VA.R. 1613 | 2/5/09 |
| 22 VAC 40-72-910 | Amended | 25:8 VA.R. 1615 | 2/5/09 |
| 22 VAC 40-72-920 | Amended | 25:8 VA.R. 1615 | 2/5/09 |
| 22 VAC 40-72-930 | Amended | 25:8 VA.R. 1615 | 2/5/09 |
| 22 VAC 40-72-950 | Amended | 25:8 VA.R. 1616 | 2/5/09 |
| 22 VAC 40-72-960 | Amended | 25:8 VA.R. 1616 | 2/5/09 |
| 22 VAC 40-72-970 | Amended | 25:8 VA.R. 1617 | 2/5/09 |
| 22 VAC 40-72-1010 | Amended | 25:8 VA.R. 1617 | 2/5/09 |
| 22 VAC 40-72-1120 | Amended | 25:8 VA.R. 1618 | 2/5/09 |
| 22 VAC 40-151-10 through 22 VAC 40-151-1020 | Added | 25:3 VA.R. 482-512 | 1/1/09 |
| 22 VAC 40-705-10 | Amended | 25:11 VA.R. 1993 | 3/4/09 |
| 22 VAC 40-705-30 | Amended | 25:11 VA.R. 1996 | 3/4/09 |
| 22 VAC 40-705-40 | Amended | 25:11 VA.R. 1997 | 3/4/09 |
| 22 VAC 40-705-50 | Amended | 25:11 VA.R. 1999 | 3/4/09 |
| 22 VAC 40-705-70 | Amended | 25:11 VA.R. 2000 | 3/4/09 |
| 22 VAC 40-705-80 | Amended | 25:11 VA.R. 2000 | 3/4/09 |
| 22 VAC 40-705-120 | Amended | 25:11 VA.R. 2001 | 3/4/09 |
| 22 VAC 40-705-140 | Amended | 25:11 VA.R. 2002 | 3/4/09 |
| 22 VAC 40-705-150 | Amended | 25:11 VA.R. 2003 | 3/4/09 |
| 22 VAC 40-705-180 | Amended | 25:11 VA.R. 2003 | 3/4/09 |
| 22 VAC 45-11-10 through 22 VAC 45-11-90 | Repealed | 25:5 VA.R. 1125 | 12/1/08 |
| 22 VAC 45-12-10 through 22 VAC 45-12-110 | Added | 25:5 VA.R. 1125-1128 | 12/1/08 |

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| **Title 23. Taxation** | | | |
| 23 VAC 10-10-10 through 23 VAC 10-10-80 | Repealed | 25:4 VA.R. 730 | 1/10/09*** |
| 23 VAC 10-11-10 through 23 VAC 10-11-110 | Added | 25:4 VA.R. 732-735 | 1/10/09*** |
| 23 VAC 10-20-155 | Added | 24:26 VA.R. 3848 | 10/1/08 |
| 23 VAC 10-20 (Forms) | Amended | 25:5 VA.R. 1128 | -- |
| 23 VAC 10-20-20 | Amended | 25:11 VA.R. 2004 | 3/4/09 |
| 23 VAC 10-20-80 | Amended | 25:11 VA.R. 2004 | 3/4/09 |
| 23 VAC 10-20-90 | Amended | 25:11 VA.R. 2004 | 3/4/09 |
| 23 VAC 10-20-110 | Amended | 25:11 VA.R. 2004 | 3/4/09 |
| 23 VAC 10-20-130 | Amended | 25:11 VA.R. 2005 | 3/4/09 |
| 23 VAC 10-20-160 | Amended | 25:8 VA.R. 1620 | 3/8/09 |
| 23 VAC 10-20-165 | Added | 25:8 VA.R. 1622 | 3/8/09 |
| 23 VAC 10-20-170 | Repealed | 25:8 VA.R. 1627 | 3/8/09 |
| 23 VAC 10-20-180 | Amended | 25:8 VA.R. 1628 | 3/8/09 |
| 23 VAC 10-20-190 | Amended | 25:8 VA.R. 1628 | 3/8/09 |
| 23 VAC 10-20-200 | Amended | 25:11 VA.R. 2005 | 3/4/09 |
| 23 VAC 10-55 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-60 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-65 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-75 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-210 (Forms) | Amended | 25:6 VA.R. 1358 | -- |
| 23 VAC 10-210-20 | Repealed | 24:26 VA.R. 3849 | 10/1/08 |
| 23 VAC 10-210-170 | Repealed | 25:4 VA.R. 736 | 11/26/08 |
| 23 VAC 10-210-220 | Amended | 25:11 VA.R. 2006 | 3/4/09 |
| 23 VAC 10-210-250 | Amended | 25:11 VA.R. 2007 | 3/4/09 |
| 23 VAC 10-210-595 | Added | 25:4 VA.R. 736 | 11/26/08 |
| 23 VAC 10-210-870 | Repealed | 25:4 VA.R. 736 | 11/26/08 |
| 23 VAC 10-210-3080 | Amended | 25:11 VA.R. 2007 | 3/4/09 |
| 23 VAC 10-210-4010 | Repealed | 25:4 VA.R. 736 | 11/26/08 |
| 23 VAC 10-210-6060 | Amended | 25:8 VA.R. 1632 | 3/8/09 |
| 23 VAC 10-220 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-230 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-230-20 | Amended | 25:8 VA.R. 1633 | 3/8/09 |
| 23 VAC 10-230-30 | Amended | 25:8 VA.R. 1633 | 3/8/09 |
| 23 VAC 10-230-40 | Amended | 25:8 VA.R. 1635 | 3/8/09 |
| 23 VAC 10-230-71 | Added | 25:8 VA.R. 1637 | 3/8/09 **** |
| 23 VAC 10-230-75 | Added | 25:8 VA.R. 1637 | 3/8/09 |
| 23 VAC 10-230-80 | Amended | 25:8 VA.R. 1637 | 3/8/09 |
| 23 VAC 10-230-90 | Amended | 25:8 VA.R. 1638 | 3/8/09 |
| 23 VAC 10-230-110 | Amended | 25:8 VA.R. 1639 | 3/8/09 |
| 23 VAC 10-230-120 | Amended | 25:8 VA.R. 1639 | 3/8/09 |
| 23 VAC 10-240 (Forms) | Amended | 25:6 VA.R. 1359 | -- |
| 23 VAC 10-300 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-310 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-330 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-350 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-370 (Forms) | Amended | 25:5 VA.R. 1129 | -- |
| 23 VAC 10-390 (Forms) | Amended | 25:5 VA.R. 1130 | -- |

*** See erratum (25:6 VA.R. 1375) for effective date

**** See erratum (25:14 VA.R. 2682)

| SECTION NUMBER | ACTION | CITE | EFFECTIVE DATE |
|---|---|---|---|
| **Title 24. Transportation and Motor Vehicles** | | | |
| 24 VAC 20-10-10 through 24 VAC 20-10-140 | Repealed | 25:6 VA.R. 1360 | 12/24/08 |
| 24 VAC 20-11-10 through 24 VAC 20-11-110 | Added | 25:6 VA.R. 1361-1364 | 12/24/08 |
| 24 VAC 22-10-10 through 24 VAC 22-10-140 | Repealed | 25:4 VA.R. 752 | 11/26/08 |
| 24 VAC 22-11-10 through 24 VAC 22-11-110 | Added | 25:4 VA.R. 753-755 | 11/26/08 |
| 24 VAC 25-5-10 through 24 VAC 25-5-110 | Added | 25:7 VA.R. 1445-1448 | 1/7/09 |
| 24 VAC 25-10-10 | Repealed | 25:3 VA.R. 519 | 10/13/08 |
| 24 VAC 25-20-10 | Repealed | 25:3 VA.R. 519 | 10/13/08 |
| 24 VAC 27-10-10 through 24 VAC 27-10-120 | Repealed | 25:6 VA.R. 1364 | 12/24/08 |
| 24 VAC 27-11-10 through 24 VAC 27-11-110 | Added | 25:6 VA.R. 1364-1367 | 12/24/08 |
| 24 VAC 27-30-10 through 24 VAC 27-30-190 | Added | 25:1 VA.R. 78-89 | 10/15/08 |
| 24 VAC 30-10-10 through 24 VAC 30-10-70 | Repealed | 25:6 VA.R. 1367 | 12/24/08 |
| 24 VAC 30-11-10 through 24 VAC 30-11-110 | Added | 25:6 VA.R. 1367-1370 | 12/24/08 |
| 24 VAC 30-15-10 | Repealed | 25:10 VA.R. 1863 | 2/18/09 |
| 24 VAC 30-16-10 | Repealed | 25:3 VA.R. 520 | 11/12/08 |
| 24 VAC 30-92-10 through 24 VAC 30-92-150 | Added | 25:15 VA.R. 2777-2801 | 3/9/09 |
| 24 VAC 30-380-10 | Amended | 25:5 VA.R. 1130 | 10/22/08 |
| 24 VAC 35-10-10 through 24 VAC 35-10-70 | Repealed | 25:5 VA.R. 1131 | 12/10/08 |
| 24 VAC 35-11-10 through 24 VAC 35-11-110 | Added | 25:5 VA.R. 1132-1134 | 12/10/08 |

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF COUNSELING

#### Initial Agency Notice

Titles of Regulations: **18VAC115-20. Regulations Governing Licensed Professional Counselors.**

**18VAC115-50. Regulations Governing Marriage and Family Therapists.**

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

Name of Petitioner: Dr. Roy Woodruff.

Nature of Petitioner's Request: To amend regulations to recognize the American Association of Pastoral Counselors as a professional organization that can provide education and training required to qualify a licensee as a supervisor of residents.

Agency's Plan for Disposition of Request: The petition will be published in the Virginia Register of Regulations and circulated to interested parties for comment until June 10, 2009. Following the comment period, the board will consider the request for amendments at its next meeting scheduled for August 7, 2009.

Public Comments: Comments may be submitted until June 10, 2009.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4441, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R09-22; Filed April 23, 2009, 12:28 p.m.

### BOARD OF SOCIAL WORK

#### Initial Agency Notice

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

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

Name of Petitioner: Carol A. Gauzens.

Nature of Petitioner's Request: To amend qualifications for supervisors to require a licensee wishing to provide supervision for a resident to complete and keep record of a one-time only (or renewable every 10 years, or must be renewed if supervisor has been inactive as a supervisor for five or more years) 14-contact hour or three-credit course in supervision. The supervisor shall be responsible for keeping on record proof of such course being completed.

Agency's Plan for Disposition of Request: The petition will be published in the Virginia Register of Regulations and circulated to interested parties for comment until June 10, 2009. Following the comment period, the board will consider the request for amendments at its next meeting scheduled for July 17, 2009.

Public Comments: Comments may be submitted until June 10, 2009.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4441, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R09-21; Filed April 14, 2009, 9:33 a.m.

#### Agency Decision

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

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

Name of Petitioner: Michael Beattie.

Nature of Petitioner's Request: To require social workers to perform 25 hours of public service and 25 hours of social justice service each biennium or pay a $1,000 fee that would be earmarked for awards to social workers who exemplify commitment to public service and social justice.

Agency Decision: Request denied.

Statement of Reasons for Decision: The board was advised that it did not have statutory authority to charge a fee for failure to perform hours of service each biennium and to designate the fees to grant awards to social workers for service.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4441, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R09-16; Filed April 20, 2009, 2:46 p.m.

## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### DEPARTMENT (BOARD) OF JUVENILE JUSTICE

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Juvenile Justice intends to consider promulgating the following regulation: **6VAC35-41, Regulation Governing Juvenile Group Homes and Halfway Houses.** The purpose of the proposed action is to develop a comprehensive regulation containing the minimum standards for juvenile residential facilities covering program operations, health care, personnel, facility safety, and physical environment, and to contain additional provisions for halfway houses, family group homes, and independent living programs.

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

Statutory Authority: §§ 16.1-309.9 and 66-24 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on June 12, 2009.

Agency Contact: Janet P. Van Cuyk, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 East Franklin Street, 4th Floor, Richmond, VA 23219, telephone (804) 371-4097, FAX (804) 371-0773, or email janet.vancuyk@djj.virginia.gov.

VA.R. Doc. No. R09-1817; Filed April 14, 2009, 9:24 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department (Board) of Juvenile Justice intends to consider promulgating the following regulations: **6VAC35-71, Regulation Governing Juvenile Correctional Centers.** The purpose of the proposed action is to develop a comprehensive regulation containing the minimum standards for juvenile correctional facilities covering program operations, health care, personnel, facility safety, physical environment, and to include provisions for secure custody facilities, boot camps, work camps, juvenile industries, and independent living programs. The current requirements for these facilities are contained in 6VAC35-51 and 6VAC35-140. This regulation will incorporate those provisions deemed appropriate and necessary after a comprehensive review.

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

Statutory Authority: §§ 66-10 and 66-13 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on June 12, 2009.

Agency Contact: Janet P. Van Cuyk, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 East Franklin Street, 4th Floor, Richmond, VA 23219, telephone (804) 371-4097, FAX (804) 371-0773, or email janet.vancuyk@djj.virginia.gov.

VA.R. Doc. No. R09-1820; Filed April 14, 2009, 9:25 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department (Board) of Juvenile Justice intends to consider promulgating the following regulations: **6VAC35-101, Regulation Governing Juvenile Secure Detention Centers.** The purpose of the proposed action is to develop a comprehensive regulation containing the minimum standards for juvenile secure detention centers covering program operations, health care, personnel, facility safety, physical environment, and post-dispositional detention programs. The current requirements for these facilities are contained in 6VAC35-51 and 6VAC35-140. This regulation will incorporate those provisions deemed appropriate and necessary after a comprehensive review.

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

Statutory Authority: §§ 16.1-322.7 and 66-10 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on June 12, 2009.

Agency Contact: Janet P. Van Cuyk, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 East Franklin Street, 4th Floor, Richmond, VA 23219, telephone (804) 371-4097, FAX (804) 371-0773, or email janet.vancuyk@djj.virginia.gov.

VA.R. Doc. No. R09-1816; Filed April 14, 2009, 9:24 a.m.

## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD FOR HEARING AID SPECIALISTS

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Hearing Aid Specialists intends to consider amending the following regulations: **18VAC80-20, Board for Hearing Aid Specialists Regulations.** The purpose of the proposed action is to increase licensing fees for regulants of the Board for Hearing Aid Specialists.

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

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

Public Comments: Public comments may be submitted until 5 p.m. on June 11, 2009.

Agency Contact: William H. Ferguson, Executive Director, Board for Hearing Aid Specialists, 9960 Mayland Drive, Richmond, VA 23233, telephone (804) 367-8590, FAX (804) 527-4295, or email hearingaidspec@dpor.virginia.gov.

VA.R. Doc. No. R09-1925; Filed April 20, 2009, 9:08 a.m.

## BOARD OF MEDICINE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Medicine intends to consider amending the following regulations: **18VAC85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic.** The purpose of the proposed action is to update regulations consistent with current practices of the professions and policies of the board. While Chapter 20 of the Board of Medicine regulations has not had a periodic review since 2004, it has been amended 19 times in the interim. Therefore, the board does not intend to adopt substantive changes to the regulations but will respond to issues raised by comments on the Notice of Intended Regulatory Action.

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

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

Public Comments: Public comments may be submitted until 5 p.m. on June 10, 2009.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4621, FAX (804) 527-4429, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. R09-1755; Filed April 9, 2009, 2:21 p.m.

## TITLE 2. AGRICULTURE

### STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

### Proposed Regulation

REGISTRAR'S NOTICE: The State Board of Agriculture is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 13 of the Code of Virginia, which excludes the Board of Agriculture and Consumer Services when promulgating regulations pursuant to § 3.2-5121, which conform, insofar as practicable, with the federal Food and Drug Administration's Food Code. Pursuant to § 3.2-5121 C of the Code of Virginia, this regulatory action is exempt from portions of the Administrative Process Act provided the State Board of Health adopts the same version and both agency's regulations have the same effective date. Both agencies are working toward that goal.

Title of Regulation: **2VAC5-585. Retail Food Establishment Regulations (amending 2VAC5-585-40, 2VAC5-585-60, 2VAC5-585-70, 2VAC5-585-80, 2VAC5-585-90, 2VAC5-585-100, 2VAC5-585-140, 2VAC5-585-180, 2VAC5-585-360, 2VAC5-585-370, 2VAC5-585-400, 2VAC5-585-410, 2VAC5-585-430, 2VAC5-585-440, 2VAC5-585-450, 2VAC5-585-490, 2VAC5-585-500, 2VAC5-585-540, 2VAC5-585-570, 2VAC5-585-680, 2VAC5-585-700, 2VAC5-585-730, 2VAC5-585-740, 2VAC5-585-760, 2VAC5-585-780, 2VAC5-585-790, 2VAC5-585-800, 2VAC5-585-820, 2VAC5-585-830, 2VAC5-585-850, 2VAC5-585-860, 2VAC5-585-870, 2VAC5-585-900, 2VAC5-585-950, 2VAC5-585-980, 2VAC5-585-1200, 2VAC5-585-1230, 2VAC5-585-1260, 2VAC5-585-1310, 2VAC5-585-1420, 2VAC5-585-1550, 2VAC5-585-1560, 2VAC5-585-1690, 2VAC5-585-1980, 2VAC5-585-2040, 2VAC5-585-2190, 2VAC5-585-2230, 2VAC5-585-2280, 2VAC5-585-2310, 2VAC5-585-2520, 2VAC5-585-2630, 2VAC5-585-2790, 2VAC5-585-2810, 2VAC5-585-2920, 2VAC5-585-2950, 2VAC5-585-2960, 2VAC5-585-3020, 2VAC5-585-3030, 2VAC5-585-3040, 2VAC5-585-3045, 2VAC5-585-3080, 2VAC5-585-3180, 2VAC5-585-3240, 2VAC5-585-3360, 2VAC5-585-3460, 2VAC5-585-3860, 2VAC5-585-4040, 2VAC5-585-4050, 2VAC5-585-4070; repealing 2VAC5-585-110, 2VAC5-585-120, 2VAC5-585-150, 2VAC5-585-750, 2VAC5-585-1020, 2VAC5-585-1030, 2VAC5-585-1440, 2VAC5-585-1880, 2VAC5-585-2510, 2VAC5-585-2590, 2VAC5-585-3010, 2VAC5-585-3050, 2VAC5-585-3060, 2VAC5-585-3110, 2VAC5-585-3120, 2VAC5-585-3160).**

Statutory Authority: § 3.2-5121 of the Code of Virginia.

Public Hearing Information:

May 21, 2009 - 10 a.m. - Virginia Department of Agriculture and Consumer Services, Oliver Hill Bldg., 2nd Floor, Board Room, Richmond, Virginia.

Public Comments: Public comments may be submitted until July 10, 2009.

Agency Contact: Ryan Davis, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, FAX (804) 371-7792, TTY (800) 828-1120, or email ryan.davis@vdacs.virginia.gov.

Basis: Section 3.2-5121 of the Code of Virginia provides the legal basis for the promulgation of this proposed regulation. Specifically, subsections B and C identify the authority and certain requirements for the expedited adoption of the FDA's Food Code.

Purpose: This proposed regulatory action is essential to the protection of the health and welfare of citizens in that it sets the necessary standards of operation for the retail segment of Virginia's food industry to (i) provide a system of prevention and overlapping safeguards designed to minimize foodborne illness; (ii) ensure employee health, industry manager knowledge, safe food, nontoxic and cleanable equipment and acceptable levels of sanitation on food establishment premises; and (iii) promote fair dealings with the consumer.

The first goal of the amended regulation is to maintain a scientifically sound basis for regulation of the retail food industry. The proposed amended regulation contains certain additions and modifications that reflect current science and additional provisions that address new, emerging food safety issues that have surfaced since the regulation was previously adopted. Adoption of the amended regulation will thus enable the Virginia Department of Agriculture and Consumer Services (VDACS) to provide regulations to the retail food industry that are based on the most current, sound science available.

The second goal of the proposed amended regulation is to ensure a regulatory approach that is uniform throughout the retail segment of Virginia's food industry by administering standards that are equivalent to those administered by the Virginia Department of Health (VDH) in restaurants and food service establishments. In years past, VDH have enforced different regulations in similar types of food establishments. Although the basic requirements of those regulations were the

same, there were enough differences in the regulations to sometimes be confusing to the retail segment of the food industry. The previous, simultaneous adoption of our current regulation (a modified version of FDA's 2001 Model Food Code and 2003 Supplement) in October 2007 resolved these concerns. In order to continue to provide uniform regulations, both VDACS and VDH are on course to concurrently adopt these proposed amended regulations. Once both regulations are finalized, they will have the same effective date, and at that point VDACS and VDH will be administering the same food safety standards within all portions of the retail segment of Virginia's food industry.

Foodborne disease in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. The U.S. Centers for Disease Control and Prevention estimate that foodborne diseases cause approximately 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year. Adoption of these amended regulations will help to ensure that food provided to consumers in Virginia is safe and does not become a vehicle in a disease outbreak or in the transmission of communicable disease.

Adoption of these proposed, amended regulations will have no environmental impact.

Substance: The proposed regulation contains the latest science relative to food safety and addresses newer food safety issues that have emerged since the adoption of the previous regulation. It contains additional interventions to reduce foodborne disease risk factors and provides for more flexibility for the retail segment of the food industry in how they choose to alleviate food safety problems or foodborne disease risk factors.

Substantive changes include:

1. A revised, more inclusive definition of potentially hazardous foods that includes any food product that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

2. A definition of food allergen that is now consistent with the Food Allergen Labeling and Consumer Protection Act of 2004.

3. The inclusion of the viral pathogen Norovirus in the list of diseases that require a food employee to be excluded from a food establishment as well as the inclusion of Norovirus in the list of employee diseases that food establishment managers or owners must report to the regulatory authority.

4. Amended handwashing procedures including new protocols relative to the washing of hands as well as protocols to avoid recontamination of the hands after handwashing. The new procedures are now consistent with the recommended handwashing procedures in CDC's Hygienic Practice Guidelines for Health Care Workers.

5. Refocused date-marking provisions on foods that present a higher risk of contamination. Deli salads (e.g., ham, chicken, egg, seafood, pasta, potato and macaroni) prepared and packaged in a food processing plant as well as cultured dairy products and certain types of hard and semi-soft cheeses will now be exempt from date marking.

6. Amended procedures for reduced oxygen packaging (ROP). New requirements have been added relative to specific temperature controls for cook-chill and sous vide packaging.

7. Additional labeling requirements for food products packaged in a food establishment. Labels on foods packaged in a food establishment will include the name of each major food allergen contained in the food, unless it is already part of the common name or ingredients.

8. Additional options for freezing to control parasites as well as exemptions for certain fish that are aqua cultured.

9. Additional provisions allowing time to be used as a food safety control measure for six hours if certain requirements are met.

10. The addition of sprouted beans or seeds to the list of products that require a HACCP plan if the products are sprouted at the retail establishment.

Issues:

Public. The proposed amended regulation will enhance the safety of food products sold through the retail segment of the food industry. Because the proposal is based on the most current sound science and addresses newer food safety issues and concerns that have surfaced since adoption of the prior regulations, consumers purchasing food products from retail establishments should develop greater confidence in the safety of the retail food supply.

There are no disadvantages to the public.

Regulated Entities. This amended regulation is an advantage to the industry in that it contains well written, easily understandable and scientifically sound retail food safety requirements. The regulation is significantly educational in nature and provides the industry with knowledge sufficient to ensure that food products processed, held and/or offered for sale are safe. Additionally, the regulation allows the industry additional options and greater flexibility with respect to both food processing (souse-vide and cook-chill) and date marking as well as parasite control. Updated employee health provisions including better ways to protect public health, based on new science on pathogens that are most likely to be transmitted from an infected worker through food products are also provided so that the retail industry can ensure the safety of the foods it produces. This proposed amended

regulation is an important part of the strategy for achieving uniform standards both within the Commonwealth as well as the nation.

The primary disadvantage of this proposal to the retail food segment of the food industry is the need to understand, implement, and conform to both modified and new requirements, which may require additional training of employees as well as periodic monitoring to ensure adherence to the new requirements.

Commonwealth. This amended regulation will be an advantage to the Commonwealth in that it will be able to provide safe and wholesome food products for the citizens of Virginia. Ensuring the safety of the food supply and reducing the level of foodborne illness will ensure a greater degree of health and safety for the citizens of Virginia.

There are no disadvantages to the Commonwealth.

The Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The current Retail Food Establishment Regulations are based on the federal Food and Drug Administration's (FDA) 2001 Food Code and the 2003 Food Code Supplement. The Virginia Department of Agriculture and Consumer Services (VDACS) proposes several changes to these regulations for consistency with the current 2005 FDA Food Code, as well as the 2007 Food Code Supplement.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The U.S. Centers for Disease Control and Prevention estimate that food borne diseases cause approximately 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year.[1] These comprehensive regulations establish minimum sanitary standards for retail food establishments such as supermarkets, grocery stores, and convenience stores. These standards address such topics as the safe and sanitary maintenance, storage, operation, and use of equipment, the safe preparation, handling, protection, and preservation of food including necessary refrigeration or heating methods, procedures for vector and pest control, requirements for toilet and hand washing facilities for employees, requirements for appropriate lighting and ventilation, requirements for an approved water supply and sewage disposal system, personal hygiene standards for employees, and the appropriate use of precautions to prevent the transmission of communicable diseases.

VDACS proposes to add sprouted beans or seeds to the list of products that require a HACCP plan if the products are sprouted at the retail establishment. The regulations define HACCP plan as a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods. The FDA has found that there are significant health risks due to the ingestion of products such as bean sprouts if correct procedures are not followed. The FDA and VDACS believe that the development of the HACCP plan by retail establishments which sprout such products will significantly reduce the health risk. Less than five of the approximately 4,804 of retail food stores in Virginia sprout beans or seeds. VDACS estimates that it would cost less than $100 for each establishment to pay for an outside entity to prepare an HACCP, or less than one day of research and writing for establishments to produce their own HACCP. Since it is likely that the benefits of producing the HACCP plan are relatively significant and the costs are relatively small, the proposal to require the HACCP plan likely produces a net benefit.

Advances in scientific research have enabled the FDA to determine that certain reductions in restrictions can be made without significant health risks. This includes exempting deli salads prepared and packaged in a food processing plant as well as cultured dairy products and certain types of hard and semi-soft cheeses from the date-marking requirements. Also, VDACS proposes per the FDA Food Code to allow additional options for freezing to control parasites as well as exemptions for certain fish that are aqua cultured. These reductions in restrictions will lower costs for retailers while to the best of our knowledge will not significantly add to health risks. Thus, these proposed amendments will also likely be net beneficial for the public.

VDACS also proposes additional labeling requirements for food products packaged in a food establishment. Under the proposed regulations labels on foods packaged in a food establishment will include the name of each major food allergen contained in the food, unless it is already part of the common name or ingredients. This may involve a small initial time cost for retailers, but will likely reduce the incidence of individuals accidentally consuming foods for which they know they are allergic. Food allergies can induce anaphylactic shock, which is potentially fatal. Given the potentially large benefit of preventing seriously adverse health results for some members of the public and fairly small time costs in adding information to labels, this proposed change produces a net benefit.

Businesses and Entities Affected. The proposed amendments affect the 8,932 retail food stores in the Commonwealth and their customers. Approximately 4,804 of the retail food stores are small businesses.[2]

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. None of the proposed amendments are likely to significantly affect employment.

Effects on the Use and Value of Private Property. Some of the proposes changes such as exempting deli salads prepared and packaged in a food processing plant as well as cultured dairy products and certain types of hard and semi-soft cheeses from the date-marking requirements and allowing additional options for freezing to control parasites will allow retailers to change some of their procedures, resulting in moderate cost savings and a commensurate moderate increase in value. Other proposed amendments such as requiring more extensive allergen labeling will modestly increase costs. None of the proposed changes are expected to produce large changes in the value of private property.

Small Businesses: Costs and Other Effects. Some of the proposes changes such as exempting deli salads prepared and packaged in a food processing plant as well as cultured dairy products and certain types of hard and semi-soft cheeses from the date-marking requirements and allowing additional options for freezing to control parasites will allow small retailers to change some of their procedures, resulting in moderate cost savings. Other proposed amendments such as requiring more extensive allergen labeling will modestly increase costs.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Most of the proposed amendments are either beneficial or neutral to small businesses. The few changes that moderately increase costs, such as requiring more extensive allergen labeling or requiring a HACCP plan for retailers who sprout beans or seeds at their establishment, produce significant benefit for the public. There is no apparent alternative method that would produce this benefit at a lower cost.

Real Estate Development Costs. The proposed amendments are unlikely to significantly affect real estate development costs.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

[1] Source: Virginia Department of Agriculture and Consumer Services

[2] Data source: Virginia Department of Agriculture and Consumer Services

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

Summary:

*The Retail Food Establishment Regulations establish minimum sanitary standards for retail food establishments such as supermarkets, grocery stores, and convenience stores. Those standards include the safe and sanitary maintenance, storage, operation, and use of equipment; the safe preparation, handling, protection, and preservation of food including necessary refrigeration or heating methods; procedures for vector and pest control; requirements for toilet and handwashing facilities for employees, appropriate lighting and ventilation, and an approved water supply and sewage disposal system; personal hygiene standards for employees, and the appropriate use of precautions to prevent the transmission of communicable diseases. The current regulations are based on the Food and Drug Administrations (FDA) 2001 Food Code and the 2003 Food Code Supplement.*

*The proposed amendments update the regulations to provide consistency with the current 2005 FDA Food Code and the 2007 Food Code Supplement. Significant changes include:*

*1. Revising the definition of "potentially hazardous foods" to make it more inclusive by including any food product that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation;*

*2. Defining "food allergen" for consistency with the Food Allergen Labeling and Consumer Protection Act of 2004;*

*3. Including the viral pathogen Norovirus in the list of diseases that require a food employee to be excluded from a food establishment as well as including Norovirus in the list of employee diseases that food establishment managers or owners must report to the regulatory authority;*

*4. Amending handwashing procedures to include new protocols relative to the washing of hands and protocols to avoid recontamination of the hands after handwashing, which will provide consistency with the recommended*

*handwashing procedures in the Center for Disease Control's Hygienic Practice Guidelines for Health Care Workers;*

*5. Amending the date-marking provisions on foods that present a higher risk of contamination, and exempting deli salads (e.g., ham, chicken, egg, seafood, pasta, potato and macaroni) prepared and packaged in a food processing plant, as well as cultured dairy products and certain types of hard and semi-soft cheeses, from date marking;*

*6. Amending procedures for reduced oxygen packaging (ROP) by adding requirements relative to specific temperature controls for cook-chill and sous vide packaging;*

*7. Expanding the labeling requirements for food products packaged in a food establishment to require such labels to include the name of each major food allergen contained in the food, unless it is already part of the common name or ingredients;*

*8. Adding options for freezing to control parasites as well as exemptions for certain fish that are aquacultured;*

*9. Allowing time to be used as a food safety control measure for six hours if certain requirements are met; and*

*10. Adding sprouted beans or seeds to the list of products that require a HACCP plan if the products are sprouted at the retail establishment.*

Article 2
Definitions

**2VAC5-585-40. Definitions.**

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

"Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals. "Accredited program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, recertification, discipline and grievance procedures; and test development and administration. "Accredited program" does not refer to training functions or educational programs.

"Additive" means either a (i) "food additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, 21 USC § 321(s) and 21 CFR Part 170 or (ii) "color additive" having the meaning stated in the Federal Food, Drug, and Cosmetic Act, 21 USC § 321(t) and 21 CFR Part 70.

"Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, 21 USC § 342.

"Approved" means acceptable to the department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Asymptomatic" means without obvious symptoms; not showing or producing indication of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

"$a_w$" means water activity that is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol $a_w$.

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

"Beverage" means a liquid for drinking, including water.

"Board" means the Board of Agriculture and Consumer Services.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. "CIP" does not include the cleaning of equipment such as band saws, slicers or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

"CFR" means Code of Federal Regulations. Citations in this regulation to the CFR refer sequentially to the title, part, and section numbers, such as 21 CFR 178.1010 refers to Title 21, Part 178, Section 1010.

"Code of Federal Regulations" means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government that:

1. Is published annually by the U.S. Government Printing Office; and

2. Contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

"Commingle" means:

1. To combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or

2. To combine shucked shellfish from containers with different container codes or different shucking dates.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. "Comminuted" includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Commissioner" means the Commissioner of Agriculture and Consumer Services, his duly designated officer or his agent.

"Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

"Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative organism or chemical and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

"Corrosion-resistant materials" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Counter-mounted equipment" means equipment that is not easily movable and is designed to be mounted off the floor on a table, counter, or shelf.

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Critical item" means a provision of this regulation that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard. "Critical item" is an item that is denoted in this regulation with an asterisk (*).

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

"Dealer" means a person who is authorized by a shellfish control authority for the activities of a shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Disclosure" means a written statement that clearly identifies the animal-derived foods that are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens in their entirety, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Drinking water" means water that meets the "water quality standards" requirements for bacteria and nitrates of the Virginia Waterworks Regulations (12VAC5-590). Drinking water is traditionally known as "potable water." Drinking water includes the term water except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

"Easily cleanable" means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods;

2. Is dependent on the material, design, construction, and installation of the surface; and

3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

"Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified above in this definition to different situations in which varying degrees of cleanability are required such as:

1. The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for

stainless steel to be used for floors or for tables used for consumer dining; or

2. The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

"Easily movable" means:

1. Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

2. Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"Egg" means the shell egg of ~~the domesticated chicken, turkey, duck, goose, or guinea~~ avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. Egg does not include a balut, egg of the reptile species such as alligator, or an egg product.

"Egg product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen, or liquid eggs. Egg product does not include food that contains eggs only in a relatively small proportion such as cake mixes.

"Employee" means the person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

"Enterohemorrhagic *Escherichia coli* (EHEC)" means *E. coli*, which cause hemorrhagic colitis, meaning bleeding enterically or bleeding from the intestine. The term is typically used in association with *E. coli* that have the capacity to produce Shiga toxins and to cause attaching and effacing lesion in the intestine. EHEC is a subset of Shiga toxin-producing Escherichia coli (STEC), whose members produce additional virulence factors. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic euremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Examples of serotypes of EHEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; or *E. coli* O111:NM. Also see Shiga toxin-producing *E. coli*.

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of a food establishment. "Equipment" includes, but is not limited to, items such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

"Equipment" does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks and skids.

"Exclude" means to prevent a person from working as a food employee in a food establishment or entering a food establishment ~~except for those areas open to the general public~~ as an employee.

"°F" means degrees Fahrenheit.

"FDA" means the U.S. Food and Drug Administration.

"Fish" means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals; all mollusks, if such animal life is intended for human consumption; and includes any edible human food product derived in whole or in part from fish, including fish that has been processed in any manner.

"Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

"Food-contact surface" means a surface of equipment or a utensil with which food normally comes into contact, or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food establishment," as used in this regulation, means an operation that stores, prepares, packages, serves, vends, or otherwise offers for retail sale food for human consumption (i) such as a market; restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; ~~market;~~ vending location; conveyance used to transport people; institution; or food bank and (ii) that relinquishes possession of a food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant take out orders, or delivery service that is provided by common carriers.

"Food establishment," as used in this regulation, includes (i) an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location and (ii) an operation that is

conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises.

"Food establishment," as used in this regulation, does not include:

1. An establishment that offers only prepackaged foods that are not potentially hazardous;

2. A produce stand that only offers whole, uncut fresh fruits and vegetables;

3. A food processing plant;

4. A food warehouse;

5. A kitchen in a private home;

6. A private home that receives catered or home delivered food.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and ~~does not provide food directly to a consumer~~ provides food for sale or distribution to other business entities such as food processing plants or food establishments. "Food processing plant" does not include a "food establishment" as previously defined in this section.

"Game animal" means an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 CFR Part 301, Definitions, as Poultry in 9 CFR Part 381, Poultry Products Inspection Regulations, or as fish as previously defined in this section. "Game animal" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes. "Game animal" does not include ratites such as ostrich, emu, and rhea.

"General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

"Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance (2003)" and "Grade A Condensed and Dry Milk Ordinance (1995)" with which certain fluid and dry milk and milk products comply.

"HACCP Plan" means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

"Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of hands. Handwashing sink includes an automatic handwashing facility.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical profession.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are (i) immunocompromised; preschool age children, or older adults; and (ii) obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Injected" means tenderizing a meat with deep penetration or injecting the meat such as with juices that may be referred to as "injecting," "pinning," or "stitch pumping." During injection infectious or toxigenic microorganisms may be introduced from its surface to its interior.

~~"Juice," when used in the context of food safety,~~ "Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée. Juice ~~includes juice as a whole beverage, an ingredient of a beverage and a purée as an ingredient of a beverage~~ does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means food preparation and storage utensils.

"Law" means applicable local, state, and federal statutes, regulations, and ordinances.

"Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments, including cloth gloves.

"Major food allergen" means milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient

that contains protein derived from one of these foods. Major food allergen does not include any highly refined oil derived from a major food allergen in this definition and any ingredient derived from such highly refined oil; or any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (P. L. 108-282, Title II, Sec. 201).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under 2VAC5-585-330 A 3 and 4.

"mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

"Operator" means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person.

"Packaged" means bottled, canned, cartoned, securely bagged, or securely packaged in a food establishment or a food processing plant. "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

"Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. Personal care items include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution.

"Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

1. Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

2. Pesticides, which include substances such as insecticides and rodenticides;

3. Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants, paints, and personal care items that may be deleterious to health; and

4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

~~"Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:~~

~~1. The rapid and progressive growth of infectious or toxigenic microorganisms;~~

~~2. The growth and toxin production of Clostridium botulinum; or~~

~~3. In raw shell eggs, the growth of Salmonella enteritidis.~~

~~"Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic in oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified above in this definition.~~

~~"Potentially hazardous food" does not include:~~

~~1. An air-cooled hard-boiled egg with shell intact or a shell egg that is not hard-boiled, but has been treated to destroy all viable Salmonellae;~~

~~2. A food with an aw value of 0.85 or less;~~

~~3. A food with a pH level of 4.6 or below when measured at 75°F (24°C);~~

~~4. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain~~

~~commercial sterility under conditions of nonrefrigerated storage and distribution;~~

~~5. A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of Salmonella enteritidis in eggs or Clostridium botulinum cannot occur, such as a food that has an aw and a pH that are above the levels specified in this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or~~

~~6. A food that does not support the growth of microorganisms as specified above in this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.~~

"Potentially hazardous food (time/temperature control for safety food)" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation:

1. Potentially hazardous food (time/temperature control for safety food) includes an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut tomatoes, or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support pathogenic microorganism growth or toxin formation; and except as specified in subdivision 2 of this definition, a food that because of the interaction of its $A_w$ and pH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

Table A. Interaction of pH and Aw for control of spores in food heat treated to destroy vegetative cells and subsequently packaged.

| Aw values | pH values | | |
|---|---|---|---|
| | 4.6 or less | >4.6-5.6 | >5.6 |
| <0.92 | non-PHF*/non-TCS food** | non-PHF/non-TCS food | non-PHF/non-TCS food |
| >0.92-0.95 | non-PHF/non-TCS food | non-PHF/non-TCS food | PA*** |
| >0.95 | non-PHF/non-TCS food | PA | PA |

*PHF means Potentially Hazardous Food

**TCS means Time/Temperature Control for Safety Food

***PA means Product Assessment required

Table B. Interaction of pH and Aw for control of vegetative cells and spores in food not heat treated or heat treated but not packaged.

| Aw values | pH values | | | |
|---|---|---|---|---|
| | <4.2 | 4.2- 4.6 | >4.6-5.0 | >5.0 |
| <0.88 | non-PHF*/ non-TCS food** | non-PHF/ non-TCS food | non-PHF/ non-TCS food | non-PHF/ non-TCS food |
| 0.88-0.90 | non-PHF/ non-TCS food | non-PHF/ non-TCS food | non-PHF/ non-TCS food | PA*** |
| >0.90-0.92 | non-PHF/ non-TCS food | non-PHF/ non-TCS food | PA | PA |
| >0.92 | non-PHF/ non-TCS food | PA | PA | PA |

*PHF means Potentially Hazardous Food

**TCS means Time/Temperature Control for Safety Food

***PA means Product Assessment required

2. Potentially hazardous food (time/temperature control for safety food) does not include:

a. An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard boiled, but has been pasteurized to destroy all viable *Salmonellae;*

b. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;

c. A food that because of its pH or $A_w$ value, or interaction of $A_w$ and pH values, is designated as a non-PHF/non-TCS food in Table A or B of this definition;

d. A food that is designated as Product Assessment required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the

growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(1) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;

(2) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf-life and use, or temperature range of storage and use; or

(3) A combination of intrinsic and extrinsic factors; or

e. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subdivisions 2 a through 2 d of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

"Poultry" means any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead, as defined in 9 CFR Part 381, Poultry Products Inspection Regulations, and any migratory waterfowl, game bird, or squab such as pheasant, partridge, quail, grouse, or guineas, or pigeon or squab, whether live or dead, as defined in 9 CFR Part 362, Voluntary Poultry Inspection Regulations. "Poultry" does not include ratites.

"Premises" means the physical facility, its contents, and the contiguous land or property under the control of the operator or person in charge.

"Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank or veal breast.

"Public water system" has the meaning stated in 40 CFR Part 141, National Primary Drinking Water Regulations.

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Ready-to-eat food" means food that:

1. (i) Is in a form that is edible without additional preparation to achieve food safety, as specified under subsections A through C of 2VAC5-585-700 or 2VAC5-585-710 or 2VAC5-585-730; (ii) is a raw or partially cooked animal food and the consumer is advised as specified under subdivisions D 1 and D 2 of 2VAC5-585-700; or (iii) is prepared in accordance with a variance that is granted as specified under subdivisions D 1 and D 3 of 2VAC5-585-700; and

2. May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

"Ready-to-eat food" includes:

1. Raw animal food that is cooked as specified under 2VAC5-585-700 or 2VAC5-585-710, or frozen as specified under 2VAC5-585-730;

2. Raw fruits and vegetables that are washed as specified under 2VAC5-585-510;

3. Fruits and vegetables that are cooked for hot holding, as specified under 2VAC5-585-720;

4. All potentially hazardous food that is cooked to the temperature and time required for the specific food under Article 4 (2VAC5-585-700 et seq.) of Part III of this regulation and cooled as specified in 2VAC5-585-800;

5. Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed;

6. Substances derived from plants such as spices, seasonings, and sugar;

7. A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;

8. The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and

9. Food manufactured according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

"Reduced oxygen packaging" means (i) the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the ~~surrounding, 21% oxygen~~ atmosphere (approximately 21% at sea level); and (ii) a process as specified in clause (i) of this definition that involves a food for which ~~Clostridium botulinum is identified as a microbiological hazard in the final packaged form~~ the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

"Reduced oxygen packaging" includes:

1. Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide;

2. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its

composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; ~~and~~

3. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material~~.~~;

4. Cook chill packaging, in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotrophic pathogens; or

5. Sous vide packaging, in which raw or partially cooked food is placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotrophic pathogens.

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" means local, state, or federal enforcement body or their authorized representative having jurisdiction over the food establishment.

"Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without being processed to eliminate pathogens.

"Reservice" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, and unwrapped single-service or single-use articles.

"Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR Part 590.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 (pesticides classified for restricted use) and that is limited to use by or under the direct supervision of a certified applicator.

"Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

"Safe material" means an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in § 409 or 706 of the Federal Food, Drug, and Cosmetic Act (21 USC §§ 348 and 376); or other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of five logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

"Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

"Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

"Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

"Shellstock" means raw, in-shell molluscan shellfish.

"Shiga toxin-producing Escherichia coli" (STEC) means any E. coli capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). ~~This includes, but is not limited to, E. coli reported as serotype O157:H7, O157:NM, and O157:H .~~ Examples of serotypes of STEC include both O157 and non-O157 *E. coli*. Also see Enterohemorrhagic *Escherichia coli*.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. Single-use articles includes items such as wax

paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans that do not meet the materials, durability, strength and cleanability specifications under 2VAC5-585-960, 2VAC5-585-1080, and 2VAC5-585-1100 for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

"Smooth" means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number three stainless steel; a nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

~~"Table-mounted equipment" means equipment that is not easily movable and is designed to be mounted off the floor on a table, counter, or shelf.~~

"Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

"Temporary food establishment" means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single service, or single use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

"Variance" means a written document issued by the department that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used in conjunction with the vending machines.

"Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

**2VAC5-585-60. Demonstration.***

Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the department knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this regulation. The person in charge shall demonstrate this knowledge by:

1. Complying with this regulation by having no violations during the current inspection;

2. Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program; or

3. Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

a. Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;

b. Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;

c. Describing the symptoms associated with the diseases that are transmissible through food;

d. Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food (time/temperature control for safety food) and the prevention of foodborne illness;

e. Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

f. Stating the required food temperatures and times for safe cooking of potentially hazardous food (time/temperature control for safety food) including meat, poultry, eggs, and fish;

g. Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food (time/temperature control for safety food);

h. Describing the relationship between the prevention of foodborne illness and the management and control of the following:

(1) Cross contamination;

(2) Hand contact with ready-to-eat foods;

(3) Handwashing; and

(4) Maintaining the food establishment in a clean condition and in good repair;

i. Describing the foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction;

~~i.~~ j. Explaining the relationship between food safety and providing equipment that is:

(1) Sufficient in number and capacity; and

(2) Properly designed, constructed, located, installed, operated, maintained, and cleaned;

~~j.~~ k. Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;

~~k.~~ l. Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;

~~l.~~ m. Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;

~~m.~~ n. Identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this regulation;

~~n.~~ o. Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this regulation, or an agreement between the department and the establishment; and

~~o.~~ p. Explaining the responsibilities, rights, and authorities assigned by this regulation to the:

(1) Food employee;

(2) Person in charge; and

(3) Department.

q. Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and the exclusion or restriction of food employees.

**2VAC5-585-70. ~~Person~~ Duties of person in charge.**

The person in charge shall ensure that:

1. Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under 2VAC5-585-2990;

2. Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;

3. Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this regulation;

4. Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

5. Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

6. Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under 2VAC5-585-1180 and 2VAC5-585-1730 B;

7. Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

8. Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under 2VAC5-585-930 that the food is not cooked sufficiently to ensure its safety;

9. Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure

time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;

10. Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under 2VAC5-585-590;

11. Except when otherwise approved as specified in 2VAC5-585-450 B, employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment; ~~and~~

12. Employees are properly trained in food safety as it relates to their assigned duties~~.~~; and

13. Food employees and conditional employees are informed of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under 2VAC5-585-80.

Article 2
Employee Health

**2VAC5-585-80. Responsibility of the person in charge ~~to require reporting by food employees and applicants~~ and conditional employees.***

A. The person in charge shall require food ~~employee applicants to whom a conditional offer of employment is made and food~~ employees and conditional employees to report to the person in charge~~,~~ information about their health and activities as they relate to diseases that are transmissible through food. A food employee or ~~applicant~~ conditional employee shall report the information in a manner that allows the person in charge to ~~prevent the likelihood~~ reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of ~~jaundice or of~~ symptoms and an illness ~~specified in subdivision 3 of this section~~, or of a diagnosis without symptoms, if the food employee or ~~applicant~~ conditional employee:

~~1. Is diagnosed with an illness due to:~~

~~a. Salmonella typhi;~~

~~b. Shigella spp.;~~

~~c. Shiga toxin-producing Escherichia coli; or~~

~~d. Hepatitis A virus;~~

~~2. Has a symptom caused by illness, infection, or other source that is:~~

~~a. Associated with an acute gastrointestinal illness such as:~~

~~(1) Diarrhea;~~

~~(2) Fever;~~

~~(3) Vomiting;~~

~~(4) Jaundice; or~~

~~(5) Sore throat with fever; or~~

~~b. A lesion containing pus such as a boil or infected wound that is open or draining and is:~~

~~(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;~~

~~(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or~~

~~(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;~~

~~3. Had a past illness from:~~

~~a. S. typhi within the past three months;~~

~~b. Shigella spp. within the past month;~~

~~c. Shiga Toxin-Producing Escherichia coli, within the past month; or~~

~~d. Hepatitis A virus;~~

~~4. Meets one or more of the following high-risk conditions:~~

~~a. Is suspected of causing, or being exposed to, a confirmed disease outbreak caused by S. typhi, Shigella spp., Shiga toxin-producing Escherichia coli, or hepatitis A virus including an outbreak at an event such as a family meal, church supper, or festival because the food employee or applicant:~~

~~(1) Prepared food implicated in the outbreak;~~

~~(2) Consumed food implicated in the outbreak; or~~

~~(3) Consumed food at the event prepared by a person who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent;~~

~~b. Lives in the same household as a person who is diagnosed with a disease caused by S. typhi, Shigella spp., Shiga Toxin-Producing Escherichia coli, or hepatitis A virus; or~~

~~c. Lives in the same household as a person who attends or works in a setting where there is a confirmed disease outbreak caused by S. typhi, Shigella spp., Shiga toxin-producing Escherichia coli, or hepatitis A virus.~~

1. Has any of the following symptoms:

a. Vomiting;

b. Diarrhea;

c. Jaundice;

d. Sore throat with fever; or

e. A lesion containing pus such as a boil or infected wound that is open or draining and is:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover,

(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or

(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

2. Has an illness diagnosed by a health practitioner due to:

a. Norovirus;

b. Hepatitis A virus;

c. Shigella spp.;

d. Enterohemorrhagic or Shiga-toxin producing Escherichia coli; or

e. Salmonella Typhi;

3. Had a previous illness, diagnosed by a health practitioner, within the past three months due to Salmonella Typhi, without having received antibiotic therapy, as determined by a health practitioner;

4. Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:

a. Norovirus within the past 48 hours of the last exposure;

b. Enterohemorrhagic or Shiga-toxin producing Escherichia coli, or Shigella spp. within the past three days of the last exposure;

c. Salmonella Typhi within the past 14 days of the last exposure; or

d. Hepatitis A virus within the past 30 days of the last exposure; or

5. Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:

a. Norovirus within the past 48 hours of exposure;

b. Enterohemorragic or Shiga-toxin producing Escherichia coli, or Shigella spp. within the past three days of the last exposure;

c. Salmonella Typhi within the past 14 days of the last exposure; or

d. Hepatitis A virus within the past 30 days of the last exposure.

B. The person in charge shall notify the regulatory authority when a food employee is:

1. Jaundiced; or

2. Diagnosed with an illness due to a pathogen as specified under subdivisions A 2 a through e of this section.

C. The person in charge shall ensure that a conditional employee:

1. Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under subdivisions A 2 a through e of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under 2VAC5-585-100; and

2. Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under subdivisions A 4 and 5 of this section, is prohibited from becoming a food employee until the conditional employee meets the criteria specified under subdivision 9 of 2VAC5-585-100.

D. The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or history of exposure as specified under subdivision A 1 through 5 of this section is:

1. Excluded as specified under subdivisions 1 through 3 and 4 a, 5 a, 6 a, or 7 a of 2VAC5-585-90 and in compliance with the provisions specified under subdivisions 1 through 7 of 2VAC5-585-100; or

2. Restricted as specified under subdivisions 4 b, 5 b, 6 b, 7 b, 8, or 9 of 2VAC5-585-90 and in compliance with the provisions specified under subdivisions 4 through 12 of 2VAC5-585-100.

E. A food employee or conditional employee shall report to the person in charge the information as specified under subsection A of this section.

F. A food employee shall:

1. Comply with an exclusion as specified under subdivisions 1 through 3 and 4 a, 5 a, 6 a, or 7 a of 2VAC5-585-90, and with the provisions specified under subdivisions 1 through 7 of 2VAC5-585-100; or

2. Comply with a restriction as specified under subdivisons 4 b, 5 b, 6 b, 7 b, 8, or 9 of 2VAC5-585-90 and comply with the provisions specified under subdivisons 4 through 12 of 2VAC5-585-100.

**2VAC5-585-90. Exclusions and restrictions.***

~~A. The person in charge shall exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent specified in subdivision 1 of 2VAC5-585-80.~~

~~B. Except as specified under subsection C or D of this section, the person in charge shall restrict a food employee from working with exposed food; clean equipment, utensils, and linens; and unwrapped single service and single use articles in a food establishment if the food employee is:~~

~~1. Suffering from a symptom specified under subdivision 2 a (1), (2), (3) or (5) of 2VAC5-585-80; or~~

~~2. Not experiencing a symptom of acute gastroenteritis specified in subdivision 2 a of 2VAC5-585-80, but has a stool that yields a specimen culture that is positive for S. typhi, Shigella spp., or Shiga toxin-producing Escherichia coli.~~

~~C. If the population served is a highly susceptible population, the person in charge shall exclude a food employee who:~~

~~1. Is experiencing a symptom of acute gastrointestinal illness specified under subdivisions 2 a (1), (2), (3) or (5) of 2VAC5-585-80 and meets a high-risk condition specified in subdivision 4 of 2VAC5-585-80;~~

~~2. Is not experiencing a symptom of acute gastroenteritis specified in subdivision 2 a of 2VAC5-585-80, but has a stool that yields a specimen culture that is positive for S. typhi, Shigella spp., or Shiga toxin-producing Escherichia coli;~~

~~3. Had a past illness from S. typhi within the last three months; or~~

~~4. Had a past illness from Shigella spp. or Shiga toxin-producing Escherichia coli within the last month.~~

~~D. For a food employee who is jaundiced:~~

~~1. If the onset of jaundice occurred within the last seven calendar days, the person in charge shall exclude the food employee from the food establishment; or~~

~~2. If the onset of jaundice occurred more than seven calendar days before, the person in charge shall:~~

~~a. Exclude the food employee from a food establishment that serves a highly susceptible population; or~~

~~b. Restrict the food employee from activities specified in subsection B of this section, if the food establishment does not serve a highly susceptible population.~~

The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:

1. Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

a. Symptomatic with vomiting or diarrhea; or

b. Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, Shigella spp., or Enterohemorrhagic or Shiga-toxin producing Escherichia coli.

2. Exclude a food employee who is:

a. Jaundiced and the onset of jaundice occurred within the last seven calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by Hepatitis A virus or other fecal-orally transmitted infection;

b. Diagnosed with an infection from Hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within seven calendar days of the onset of jaundice; or

c. Diagnosed with an infection from Hepatitis A virus without developing symptoms.

3. Exclude a food employee who is diagnosed with an infection from Salmonella Typhi, or reports a previous infection with Salmonella Typhi within the past three months as specified in 2VAC5-585-80 A 3.

4. If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.

5. If a food employee is diagnosed with an infection from Shigella spp. and is asymptomatic:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.

6. If a food employee is diagnosed with an infection from Enterohemorrhagic or Shiga-toxin producing E. coli, and is asymptomatic:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.

7. If a food employee is ill with symptoms of acute onset of sore throat with fever:

a. Exclude the food employee who works in a food establishment serving a highly susceptible population; or

b. Restrict the food employee who works in a food establishment not serving a highly susceptible population.

8. If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under 2VAC5-585-80 A 1 e, restrict the food employee.

9. If a food employee is exposed to a foodborne pathogen as specified under 2VAC5-585-80 A 4 or 5, restrict the food employee who works in a food establishment serving a highly susceptible population.

**2VAC5-585-100. Removal of exclusions and restrictions.**

~~A. The person in charge may remove an exclusion specified under 2VAC5-585-90 A if:~~

~~1. The person in charge obtains approval from the department; and~~

~~2. The person excluded as specified under 2VAC5-585-90 A provides to the person in charge written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, that specifies that the excluded person may work in an unrestricted capacity in a food establishment, including an establishment that serves a highly susceptible population, because the person is free of the infectious agent of concern as specified in 2VAC5-585-4070.~~

~~B. The person in charge may remove a restriction specified under:~~

~~1. Subdivision B 1 of 2VAC5-585-90 if the restricted person:~~

~~a. Is free of the symptoms specified under subdivision 2 a (1), (2), (3), (5), or 2 b of 2VAC5-585-80 and no foodborne illness occurs that may have been caused by the restricted person;~~

~~b. Is suspected of causing foodborne illness but:~~

~~(1) Is free of the symptoms specified under subdivision 2 a (1), (2), (3), (5), or 2 b of 2VAC5-585-80; and~~

~~(2) Provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the restricted person is free of the infectious agent that is suspected of causing the person's symptoms or causing foodborne illness, as specified in 2VAC5-585-4070; or~~

~~c. Provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis; or~~

~~2. Subdivision B 2 of 2VAC5-585-90 if the restricted person provides written medical documentation from a physician, licensed to practice medicine, or, if allowed by law, a nurse practitioner or physician assistant, according to the criteria specified in 2VAC5-585-4070 that indicates the stools are free of Salmonella typhi, Shigella spp., or Shiga toxin-producing Escherichia coli, whichever is the infectious agent of concern.~~

~~C. The person in charge may remove an exclusion specified under 2VAC5-585-90 C if the excluded person provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant:~~

~~1. That specifies that the person is free of the infectious agent of concern as specified in 2VAC5-585-4070; or~~

~~2. If the person is excluded under 2VAC5-585-90 C 1, that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis.~~

~~D. The person in charge may remove an exclusion specified under 2VAC5-585-90 D 1 and 2VAC5-585-90 D 2 a and a restriction specified under 2VAC5-585-90 D 2 b if:~~

~~1. No foodborne illness occurs that may have been caused by the excluded or restricted person and the person provides written medical documentation from a physician licensed to practice medicine stating that the person is free of hepatitis A virus as specified in subdivision 4 a of 2VAC5-585-4070; or~~

~~2. The excluded or restricted person is suspected of causing foodborne illness and complies with subdivisions 4 a and 4 b of 2VAC5-585-4070.~~

The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

1. Except when a food employee is diagnosed with an infection from Hepatitis A virus or Salmonella Typhi:

a. Reinstate a food employee who was excluded as specified under subdivision 1 a of 2VAC5-585-90 if the food employee:

(1) Is asymptomatic for at least 24 hours; or

(2) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.

b. If a food employee was diagnosed with an infection from Norovirus and excluded as specified under 2VAC5-585-90 1 b:

(1) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population until the conditions for reinstatement as specified in subdivision 4 a or b of this section are met; or

(2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 4 a or b of this section are met.

c. If a food employee was diagnosed with an infection from Shigella spp. and excluded as specified under subdivision 1 b of 2VAC5-585-90:

(1) Restrict the food employee, who is asymptomatic, for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subdivision 5 a or b of this section are met; or

(2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 5 a or b, or 5 a and c (1) of this section are met.

d. If a food employee was diagnosed with an infection from Enterohemorrhagic or Shiga-toxin producing Escherichia coli and excluded as specified under subdivision 1 b of 2VAC5-585-90:

(1) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subdivision 6 a or b of this section are met; or

(2) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subdivision 6 a or b are met.

2. Reinstate a food employee who was excluded as specified under subdivision 2 of 2VAC5-585-90 if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

a. The food employee has been jaundiced for more than seven calendar days;

b. The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; or

c. The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Hepatitis A virus infection.

3. Reinstate a food employee who was excluded as specified under subdivision 3 of 2VAC5-585-90 if:

a. The person in charge obtains approval from the regulatory authority; and

b. The food employee provides to the person in charge written medical documentation from a health practitioner that states the employee is free from S. Typhi infection.

4. Reinstate a food employee who was excluded as specified under subdivision 1 b or 4 a of 2VAC5-585-90, who was restricted under subdivision 4 b of 2VAC5-585-90 if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;

b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became symptomatic; or

c. The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.

5. Reinstate a food employee who was excluded as specified under subdivision 1 b or 5 a of 2VAC5-585-90 or who was restricted under subdivision 5 b of 2VAC5-585-90 if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Shigella spp. infection based on test results showing two consecutive negative stool specimen cultures that are taken:

(1) Not earlier than 48 hours after discontinuance of antibiotics; and

(2) At least 24 hours apart;

b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more

than seven calendar days have passed since the food employee became asymptomatic; or

c. The food employee was excluded or restricted and did not develop symptoms and more than seven calendar days have passed since the food employee was diagnosed.

6. Reinstate a food employee who was excluded or restricted as specified under subdivision 1 b or 6 a of 2VAC5-585-90 or who was restricted under subdivision 6 b of 2VAC5-585-90 if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

a. The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Enterohemorrhagic or Shiga-toxin producing Escherichia coli based on test results that show two consecutive negative stool specimen cultures that are taken:

(1) Not earlier than 48 hours after the discontinuance of antibiotics; and

(2) At least 24 hours apart;

b. The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven calendar days have passed since the employee became asymptomatic; or

c. The food employee was excluded or restricted and did not develop symptoms and more than seven days have passed since the employee was diagnosed.

7. Reinstate a food employee who was excluded or restricted as specified under subdivision 7 a or b of 2VAC5-585-90 if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

a. Has received antibiotic therapy for Streptococcus pyogenes infection for more than 24 hours;

b. Has at least one negative throat specimen culture for Streptococcus pyogenes infection; or

c. Is otherwise determined by a health practitioner to be free of Streptococcus pyogenes infection.

8. Reinstate a food employee who was restricted as specified under subdivision 8 of 2VAC5-585-90 if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

a. An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;

b. An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or

c. A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

9. Reinstate a food employee who was restricted as specified under subdivision 9 of 2VAC5-585-90 and was exposed to one of the following pathogens as specified under 2VAC5-585-80 A 4 or 5:

a. Norovirus and one of the following conditions is met:

(1) More than 48 hours have passed since the last day the food employee was potentially exposed; or

(2) More than 48 hours have passed since the food employee's household contact became asymptomatic.

b. Shigella spp. or Enterohemorrhagic or Shiga-toxin producing Escherichia coli and one of the following conditions is met:

(1) More than three calendar days have passed since the last day the food employee was potentially exposed; or

(2) More than three calendar days have passed since the food employee's household contact became asymptomatic.

c. S. Typhi and one of the following conditions is met:

(1) More than 14 calendar days have passed since the last day the food employee was potentially exposed; or

(2) More than 14 calendar days have passed since the food employee's household contact became asymptomatic.

d. Hepatitis A virus and one of the following conditions is met:

(1) The food employee is immune to Hepatitis A virus infection because of prior illness from Hepatitis A;

(2) The food employee is immune to Hepatitis A virus infection because of vaccination against Hepatitis A;

(3) The food employee is immune to Hepatitis A virus infection because of IgG administration;

(4) More than 30 calendar days have passed since the last the food employee was potentially exposed;

(5) More than 30 calendar days have passed since the food employee's household contact became jaundiced; or

(6) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least 30 days after the potential exposure, as specified in subdivision 9 d (4) and (5) of this section, and the food employee receives additional training about:

(a) Hepatitis A symptoms and preventing the transmission of infection;

(b) Proper handwashing procedures; and

(c) Protecting ready-to-eat food from contamination introduced by bare hand contact.

**2VAC5-585-110. ~~Responsibility of a food employee or an applicant to report to the person in charge.*~~ (Repealed.)**

~~A food employee or a person who applies for a job as a food employee shall:~~

~~1. In a manner specified under 2VAC5-585-80, report to the person in charge the information specified under subdivisions 1 through 4 of 2VAC5-585-80; and~~

~~2. Comply with exclusions and restrictions that are specified under subsections A through D of 2VAC5-585-90.~~

**2VAC5-585-120. ~~Reporting by the person in charge.*~~ (Repealed.)**

~~The person in charge shall notify the department that a food employee is diagnosed with an illness due to Salmonella typhi, Shigella spp., Shiga toxin-producing Escherichia coli, or hepatitis A virus.~~

**2VAC5-585-140. Cleaning procedure of hands and arms.***

A. Except as specified in subsection ~~B~~ D of this section, food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hands or arms) for at least 20 seconds, using a cleaning compound in a lavatory that is equipped as specified under 2VAC5-585-2190.

B. Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

~~1. Vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands and arms (or by vigorously rubbing the surrogate prosthetic devices for hands or arms) for at least 10 to 15 seconds, followed by;~~

~~2. Thorough rinsing under clean, running warm water; and~~

~~3. Immediately follow the cleaning procedure with thorough drying of cleaned hands and arms (or surrogate prosthetic devices) using a method as specified under 2VAC5-585-3030.~~

1. Rinse under clean, running warm water;

2. Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;

3. Rub together vigorously for at least 10 to 15 seconds while:

a. Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and

b. Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;

4. Thoroughly rinsing under clean, running warm water; and

5. Immediately follow the cleaning procedure with thorough drying using a method as specified under 2VAC5-585-3030.

~~C. Food employees shall pay particular attention to the areas underneath the fingernails during the cleaning procedure.~~

C. To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

D. If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.

**2VAC5-585-150. ~~(Reserved.)~~ (Repealed.)**

**2VAC5-585-180. Hand ~~sanitizers~~ antiseptics.**

A. A hand ~~sanitizer and a chemical hand sanitizing solution~~ antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

1. Comply with one of the following:

a. Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness; or

b. Have active antimicrobial ingredients that are listed in the FDA tentative final monograph for over the counter (OTC) Health-Care Antiseptic Drug Products, 59 FR 31402-31452 (June 17, 1994) as an antiseptic handwash; and

2. ~~Consist of components that are~~ Comply with one of the following:

~~a. Listed for such use in contact with food in 21 CFR Part 178, Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; or~~

~~b. Exempt from regulation as food additives under 21 CFR 170.39, Threshold of Regulation for Substances Used in Food-Contact Articles; or~~

~~c. Generally recognized as safe (GRAS) for the intended use in contact with food within the meaning of the Federal Food, Drug and Cosmetic Act (FFDCA); or~~

~~d. Permitted for such use by an effective Food Contact Substance Notification as defined by paragraph 409(h) of~~

~~the FFDCA and listed in FDA's Inventory of Effective Premarket Notifications for Food Contact Substances; and~~

a. Have components that are exempted from the requirement of being listed in the federal Food Additive regulations as specified in 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles; or

b. Comply with and be listed in:

(1) 21 CFR Part 178, Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use; or

(2) 21 CFR Part 182, Substances Generally Recognized as Safe; 21 CFR Part 184, Direct Food Substances Affirmed as Generally Recognized as Safe; or 21 CFR Part 186, Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; and

3. Be applied only to hands that are cleaned as specified under 2VAC5-585-140.

B. If a hand ~~sanitizer or a chemical hand sanitizing~~ antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under subdivision A 2 of this section, use shall be:

1. Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or

2. Limited to situations that involve no direct contact with food by the bare hands.

C. A ~~chemical hand sanitizing~~ hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to 100 ppm (mg/l) chlorine or above.

**2VAC5-585-360. Shell eggs.***

Shell eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in ~~7 CFR Part 56, Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs, and 7 CFR Part 59, Regulations Governing the Inspection of Eggs and Egg Products~~ United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA.

**2VAC5-585-370. Eggs and milk products, pasteurized.***

A. ~~Liquid, frozen, and dry eggs and egg~~ Egg products shall be obtained pasteurized.

B. Fluid and dry milk and milk products ~~complying with Grade A standards as specified in law shall be obtained pasteurized.~~ shall:

1. Be obtained pasteurized; and

2. Comply with Grade A standards as specified in law.

C. Frozen milk products, such as ice cream, shall be obtained pasteurized in accordance with 21 CFR Part 135, Frozen Desserts.

D. Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are provided for in the Code of Federal Regulations, such as 21 CFR Part 133, Cheeses and Related Cheese Products, for curing certain cheese varieties.

**2VAC5-585-400. Shucked shellfish, packaging and identification.**

A. Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies the:

1. Name, address, and certification number of the ~~shucker-packer~~ shucker, packer, or repacker of the molluscan shellfish; and

2. The "sell by" or "best if used by" date for packages with a capacity of less than one-half gallon (1.87 L) or the date shucked for packages with a capacity of one-half gallon (1.87 L) or more.

B. A package of raw shucked shellfish that does not bear a label or which bears a label that does not contain all the information as specified under subsection A of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR 1240.60(d), Subpart D, Specific Administrative Decisions Regarding Interstate Shipments.

**2VAC5-585-410. Shellstock identification.***

A. Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and each dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program ~~Manual of Operations, Part II Sanitation of the Harvesting, Processing and Distribution of Shellfish, 1995 Revision,~~ Guide for the Control of Molluscan Shellfish (2007) and that list:

1. Except as specified under subsection C of this section, on the harvester's tag or label, the following information in the following order:

a. The harvester's identification number that is assigned by the shellfish control authority;

b. The date of harvesting;

c. The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested;

d. The type and quantity of shellfish; and

e. The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days"; and

2. Except as specified under subsection D of this section, on each dealer's tag or label, the following information in the following order:

a. The dealer's name and address, and the certification number assigned by the shellfish control authority;

b. The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested;

c. The same information as specified for a harvester's tag under subdivisions 1 b through d of this subsection; and

d. The following statement in bold, capitalized type: "~~This tag is required to be attached until container is empty and thereafter kept on file for 90 days.~~" "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

B. A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under subsection A of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR 1240.60(d), Subpart D, Specific Administrative Decisions Regarding Interstate Shipments.

C. If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

D. If the harvester's tag or label is designed to accommodate each dealer's identification as specified under subdivisions A 2 a and b of this section, individual dealer tags or labels need not be provided.

**2VAC5-585-430. Molluscan shellfish; original container.**

A. Except as specified in subsections B and C of this section, molluscan shellfish may not be removed from the container in which they were received other than immediately before sale or preparation for service.

B. For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

1. The source of the shellstock on display is identified as specified under 2VAC5-585-410 and recorded as specified under 2VAC5-585-440; and

2. The shellstock are protected from contamination.

C. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

1. The labeling information for the shellfish on display as specified under 2VAC5-585-400 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

2. The shellfish are protected from contamination.

D. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

1. The labeling information for the shellfish is on each consumer self-service container as specified under 2VAC5-585-400 and 2VAC5-585-900 A and B 1 through 5;

2. The labeling information as specified under 2VAC5-585-400 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

3. The labeling information and dates specified under subdivision 2 of this subsection are maintained for 90 days; and

4. The shellfish are protected from contamination.

**2VAC5-585-440. Shellstock; maintaining identification.***

A. Except as specified under subdivision ~~B~~ C 2 of this section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty.

B. The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.

~~B.~~ C. The identity of the source of ~~shellstock~~ shellfish that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date ~~the container is emptied~~ that is recorded on the tag or label as specified in subsection B of this section by:

1. Using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date ~~when, or dates during which, the shellstock are sold or served~~ that is recorded on the tag or label, as specified under subsection B of this section; and

2. If shellstock are removed from ~~their~~ its tagged or labeled container:

a. Preserving source identification by using a recordkeeping system as specified under subdivision 1 of this subsection; and

b. Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with certification numbers; different

harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer.

Article 3
Protection from Contamination after Receiving

**2VAC5-585-450. Preventing contamination from hands.***

A. Food employees shall wash their hands as specified under 2VAC5-585-140.

B. Except when washing fruits and vegetables as specified under 2VAC5-585-510 or as specified in subsection C of this section, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

~~C. When otherwise approved, food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands.~~

~~D.~~ C. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.[S]

D. Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:

1. The operator obtains prior approval from the regulatory authority;

2. Written procedures are maintained in the food establishment and made available to the regulatory authority upon request that include:

a. For each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands.

b. Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under 2VAC5-585-2230, 2VAC5-585-2280, 2VAC5-585-2310, 2VAC5-585-3020, 2VAC5-585-3030, and 2VAC5-585-3045, are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;

3. A written employee health policy that details how the food establishment complies with 2VAC5-585-80, 2VAC5-585-90, and 2VAC5-585-100 including:

a. Documentation that the food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under 2VAC5-585-80 A;

b. Documentation that food employees and conditional employees acknowledge their responsibilities as specified under 2VAC5-585-80 E and F; and

c. Documentation that the person in charge acknowledges the responsibilities as specified under 2VAC5-585-80 B, C, and D, 2VAC5-585-90, and 2VAC5-585-100;

4. Documentation that the food employees acknowledge that they have received training in:

a. The risks of contacting the specific ready-to-eat foods with their bare hands,

b. Proper handwashing as specified under 2VAC5-585-140,

c. When to wash their hands as specified under 2VAC5-585-160,

d. Where to wash their hands as specified under 2VAC5-585-170,

e. Proper fingernail maintenance as specified under 2VAC5-585-190,

f. Prohibition of jewelry as specified under 2VAC5-585-200, and

g. Good hygienic practices as specified under 2VAC5-585-220 and 2VAC5-585-230;

5. Documentation that hands are washed before food preparation and as necessary to prevent cross-contamination by food employees as specified under 2VAC5-585-130, 2VAC5-585-140, 2VAC5-585-160, and 2VAC5-585-170 during all hours of operation when the specific ready-to-eat foods are prepared;

6. Documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

a. Double handwashing,

b. Nail brushes,

c. A hand antiseptic after handwashing as specified under 2VAC5-585-180,

d. Incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill, or

e. Other control measures approved by the regulatory authority; and

7. Documentation that corrective action is taken when subdivisions 1 through 6 of this subsection are not followed.

**2VAC5-585-490. Pasteurized eggs; substitute for raw shell eggs for certain recipes and populations.***

Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, and egg-fortified beverages that are not:

1. Cooked as specified under subdivisions A 1 or 2 of 2VAC5-585-700; or

2. Included in 2VAC5-585-700 D.

**2VAC5-585-500. Protection from unapproved additives.***

A. ~~As specified in 2VAC5-585-350, food~~ Food shall be protected from contamination that may result from the addition of, as specified in 2VAC5-585-350:

1. Unsafe or unapproved food or color additives; and

2. Unsafe or unapproved levels of approved food and color additives.

B. A food employee may not:

1. Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or

2. ~~Serve~~ Except for grapes, serve or sell food specified in subdivision 1 of this subsection that is treated with sulfiting agents before receipt by the food establishment~~, except that grapes need not meet the provisions of this subsection~~.

**2VAC5-585-540. Food contact with equipment and utensils.***

Food shall only contact surfaces of ~~equipment and utensils that are cleaned as specified under 2VAC5-585-1770 through 2VAC5-585-1870 and sanitized as specified under 2VAC5-585-1880 through 2VAC5-585-1900.~~:

1. Equipment and utensils that are cleaned as specified under 2VAC5-585-1770 through 2VAC5-595-1870 and sanitized as specified under 2VAC5-585-1890 through 2VAC5-585-1900; or

2. Single-service and single-use articles.

**2VAC5-585-570. Wiping cloths, use limitation.**

A. Cloths ~~that are~~ in use for wiping food spills ~~shall be used for no other purpose~~ from tableware and carry-out containers that occur as food is being served shall be:

1. Maintained dry; and

2. Used for no other purpose.

B. Cloths ~~used~~ in use for wiping ~~food spills shall be~~ counters and other equipment surfaces shall be:

1. ~~Dry and used for wiping food spills from tableware and carry-out containers; or~~ Held between uses in a chemical sanitizer solution at a concentration specified in 2VAC5-585-3380; and

2. ~~Wet and cleaned as specified under 2VAC5-585-1920 D, stored in a chemical sanitizer at a concentration specified in 2VAC5-585-1700, and used for wiping spills from food-contact and nonfood-contact surfaces of equipment~~ Laundered daily as specified under 2VAC5-585-1920 D.

C. ~~Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and moist cloths used with raw animal foods shall be kept in a separate sanitizing solution~~ Cloths in use for wiping surfaces in contact with raw animal foods shall be kept separate from other cloths used for other purposes.

D. Wet wiping cloths ~~used with a freshly made sanitizing solution and dry wiping cloths~~ and the chemical sanitizing solutions specified in subdivision B 1 of this section in which wet wiping cloths are held between uses shall be free of food debris and visible soil.

E. ~~Working containers of sanitizing solutions for storage of in-use wiping cloths may be placed above the floor and used in a manner to prevent~~ Containers of chemical sanitizing solutions specified in subdivision B 1 of this section in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.

F. Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

**2VAC5-585-680. Returned food and reservice of food.***

A. Except as specified under subsection B of this section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.

B. ~~A~~ Except as specified in subdivision 8 of 2VAC5-585-950, a container of food that is not potentially hazardous (time/temperature control for safety food) may be ~~transferred~~ re-served from one consumer to another if:

1. The food is dispensed so that it is protected from contamination and the container is closed between uses such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

2. The food, such as crackers, salt or pepper, is in an unopened original package and maintained in sound condition.

Article 4
Destruction of Organisms of Public Health Concern

**2VAC5-585-700. Raw animal foods.***

A. Except as specified in subsections B, C, and D of this section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

1. 145°F (63°C) or above for 15 seconds for:

a. Raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service; and

b. Except as specified under subdivisions A 2 and 3 and ~~subsection~~ subsections B and C of this section, fish and meat including game animals commercially raised for food as specified under 2VAC5-585-330 A 1 and game animals under a voluntary inspection program as specified under 2VAC5-585-330 A 2;

2. 155°F (68°C) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under 2VAC5-585-330 A 1, and game animals under a voluntary inspection program as specified under 2VAC5-585-330 A 2; and raw eggs that are not prepared as specified under subdivision A 1 a of this section:

| Minimum | |
|---|---|
| Temperature °F (°C) | Time |
| 145 (63) | 3 minutes |
| 150 (66) | 1 minute |
| 158 (70) | <1 second (instantaneous) |

3. 165°F (74°C) or above for 15 seconds for poultry, wild game animals as specified under 2VAC5-585-330 A 3, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, or poultry.

B. Whole ~~beef roasts and corned beef roasts, pork roasts,~~ meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

1. In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature; and

| Oven Type | Oven Temperature Based on Roast Weight | |
|---|---|---|
| | Less than 10 lbs (4.5 kg) | 10 lbs (4.5 kg) or more |
| Still Dry | 350°F (177°C) or more | 250°F (121°C) or more |
| Convection | 325°F (163°C) or more | 250°F (121°C) or more |
| High Humidity[1] | 250°F (121°C) or less | 250°F (121°C) or less |

[1]Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity

2. As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature.

| Temperature °F (°C) | Time[1] in Minutes | Temperature °F (°C) | Time[1] in Seconds |
|---|---|---|---|
| 130 (54.4) | 112 | 147 (63.9) | 134 |
| 131 (55.0) | 89 | 149 (65.0) | 85 |
| 133 (56.1) | 56 | 151 (66.1) | 54 |
| 135 (57.2) | 36 | 153 (67.2) | 34 |
| 136 (57.8) | 28 | 155 (68.3) | 22 |
| 138 (58.9) | 18 | 157 (69.4) | 14 |
| 140 (60.0) | 12 | 158 (70.0) | 0 |
| 142 (61.1) | 8 | | |
| 144 (62.2) | 5 | | |
| 145 (62.8) | 4 | | |

[1]Holding time may include postoven heat rise.

C. A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

1. The food establishment serves a population that is not a highly susceptible population;

2. The steak is labeled, as specified under 2VAC5-585-270 E, to indicate that it meets the definition of "whole-muscle, intact beef"; and

3. The steak is cooked on both the top and bottom to a surface temperature of 145°F (63°C) or above and a cooked color change is achieved on all external surfaces.

D. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks

as specified in subsection C of this section, may be served or offered for sale in a ready-to-eat form if:

1. As specified under subdivisions 3 a and 3 b of 2VAC5-585-950, the food establishment serves a population that is not a highly susceptible population; and

2. The consumer is informed as specified under 2VAC5-585-930 that to ensure its safety, the food should be cooked as specified under subsection A or B of this section; or

3. The department grants a variance from subsection A or B of this section as specified in 2VAC5-585-3540 based on a HACCP plan that:

a. Is submitted by the operator and approved as specified under 2VAC5-585-3541;

b. Documents scientific data or other information that shows that a lesser time and temperature regimen results in a safe food; and

c. Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

**2VAC5-585-730. Parasite destruction.***

A. Except as specified in subsection B of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish ~~other than molluscan shellfish~~ shall be:

1. Frozen and stored at a temperature of -4°F (-20°C) or below for a minimum of 168 hours (seven days) in a freezer; ~~or~~

2. Frozen at -31°F (-35°C) or below until solid and stored at -31°F (-35°C) or below for a minimum of 15 hours; or

3. Frozen at -31°F (-35°C) or below until solid and stored at -4°F (-20°C) or below for a minimum of 24 hours.

~~B. If the fish are tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under subsection A of this section.~~

B. Subsection A of this section does not apply to:

1. Molluscan shellfish,

2. Tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin, Northern); or

3. Aquacultured fish, such as salmon, that:

a. If raised in open water, are raised in net pens, or

b. Are raised in land-based operations such as ponds or tanks, and

c. Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.

**2VAC5-585-740. Records; creation and retention.**

A. Except as specified in 2VAC5-585-730 B and subsection B of this section, if raw, marinated, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.

B. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 2VAC5-585-730 may substitute for the records specified under subsection A of this section.

C. If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in 2VAC5-585-730 B 3, a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 2VAC5-585-730 B 3 shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.

**2VAC5-585-750. ~~Reheating; preparation for immediate service.~~ (Repealed.)**

~~Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.~~

**2VAC5-585-760. Reheating for hot holding.***

A. Except as specified under subsections B, C and E of this section, potentially hazardous food (time/temperature control for safety food) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach at least 165°F (74°C) for 15 seconds.

B. Except as specified under subsection C of this section, potentially hazardous food (time/temperature control for safety food) reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) and the food is rotated or stirred, covered, and allowed to stand covered two minutes after reheating.

C. Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 135°F (57°C) for hot holding.

D. Reheating for hot holding shall be done rapidly and the time the food is between the temperature specified under 2VAC5-585-820 A 2 and ~~165°F (74°C)~~ the temperatures specified under subsections A through C of this section may not exceed two hours.

E. Remaining unsliced portions of meat roasts that are cooked as specified under 2VAC5-585-700 B may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 2VAC5-585-700 B.

**2VAC5-585-780. Potentially hazardous food, slacking.**

Frozen potentially hazardous food (time/temperature control for safety food) that is slacked to moderate the temperature shall be held:

1. Under refrigeration that maintains the food temperature at 41°F (5°C) or less, or at 45°F (7°C) or less as specified under 2VAC5-585-820 A 2 b; or

2. At any temperature if the food remains frozen.

**2VAC5-585-790. Thawing.**

Except as specified in subdivision 4 of this section, potentially hazardous food (time/temperature control for safety food) shall be thawed:

1. Under refrigeration that maintains the food temperature at 41°F (5°C) or less, or at 45°F (7°C) or less as specified under 2VAC5-585-820 A 2 b; or

2. Completely submerged under running water:

a. At a water temperature of 70°F (21°C) or below;

b. With sufficient water velocity to agitate and float off loose particles in an overflow; and

c. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F (5°C), or 45°F (7°C) as specified under 2VAC5-585-820 A 2 b; or

d. For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under 2VAC5-585-700 A or B to be above 41°F (5°C), or 45°F (7°C) as specified under 2VAC5-585-820 A 2 b, for more than four hours including:

(1) The time the food is exposed to the running water and the time needed for preparation for cooking; or

(2) The time it takes under refrigeration to lower the food temperature to 41°F (5°C), or 45°F (7°C) as specified under 2VAC5-585-820 A 2 b;

3. As part of a cooking process if the food that is frozen is:

a. Cooked as specified under 2VAC5-585-700 A or B or 2VAC5-585-710; or

b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

4. Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

**2VAC5-585-800. Cooling.***

A. Cooked potentially hazardous food (time/temperature control for safety food) shall be cooled:

1. Within two hours, from 135°F (57°C) to 70°F (21°C); and

2. Within a total of six hours, from 135°F (57°C) to 41°F (5°C) or less, or to 45°F (7°C) or less as specified under 2VAC5-585-820 A 2 b.

B. Potentially hazardous food (time/temperature control for safety food) shall be cooled within four hours to 41°F (5°C) or less, or to 45°F (7°C) or less as specified under 2VAC5-585-820 A 2 b if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

C. Except as specified in subsection D of this section, a potentially hazardous food (time/temperature control for safety food) received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier as specified in 2VAC5-585-340 B, shall be cooled within four hours to 41°F (5°C) or less, or 45°F (7°C) or less as specified under of 2VAC5-585-820 A 2 b.

D. Raw shell eggs shall be received as specified under 2VAC5-585-340 C and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.

**2VAC5-585-820. Potentially hazardous food; hot and cold holding.***

A. Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 2VAC5-585-850, potentially hazardous food (time/temperature control for safety food) shall be maintained:

1. At 135°F (57°C) or above, except that roasts cooked to a temperature and for a time specified in 2VAC5-585-700 B or reheated as specified in 2VAC5-585-760 E may be held at a temperature of 130°F (54°C) or above; or

2. At a temperature specified in the following:

a. 41°F (5°C) or less; or

b. 45°F (7°C) or between 45°F (7°C) and 41°F (5°C) in existing refrigeration equipment that is not capable of maintaining the food at 41°F (5°C) or less if:

(1) The equipment is in place and in use in the food establishment; and

(2) Before January 1, 2012, the equipment is upgraded or replaced to maintain food at a temperature of 41°F (5°C) or less.

B. Shell eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.

C. Potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form may be maintained outside the temperature control requirements, as specified in subsection A of this section, while contained within specially designed equipment that complies with the design and construction requirements as specified under subdivision 5 of 2VAC5-585-1230.

**2VAC5-585-830. Ready to eat, potentially hazardous food; date marking.***

A. Except when packaging food using a reduced oxygen packaging method as specified under 2VAC5-585-870 and except as specified in ~~subsection~~ subsections D and E of this section, refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and held in a food establishment for more than 24 hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded based on the temperature and time combinations specified below. The day of preparation shall be counted as Day 1.

1. 41°F (5°C) or less for a maximum of seven days; or

2. 45°F (7°C) or between 41°F (5°C) and 45°F (7°C) for a maximum of four days in existing refrigeration equipment that is not capable of maintaining the food at 41°F (5°C) or less if:

a. The equipment is in place and in use in the food establishment; and

b. Before January 1, 2012, the equipment is upgraded or replaced to maintain food at a temperature of 41°F (5°C) or less.

B. Except as specified in subsections D ~~and E~~ through F of this section, refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in subsection A of this section and:

1. The day the original container is opened in the food establishment shall be counted as Day 1; and

2. The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

C. A refrigerated, ready-to-eat potentially hazardous food ~~that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in subsection A or B of this section, or by an alternative method acceptable to the department~~ (time/temperature control for safety food) ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

~~D. Subsections A and B of this section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.~~

~~E. Subsection B of this section does not apply to the following when the face has been cut, but the remaining portion is whole and intact:~~

~~1. Fermented sausages produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated" and that retain the original casing on the product;~~

~~2. Shelf stable, dry, fermented sausages; and~~

~~3. Shelf stable salt cured products such as prosciutto and Parma (ham) produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated."~~

~~F. A refrigerated, ready to eat, potentially hazardous food ingredient or a portion of a refrigerated, ready to eat, potentially hazardous food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest prepared or first prepared ingredient.~~

D. A date marking system that meets the criteria specified in subsections A and B of this section may include:

1. Using a method approved by the regulatory authority for refrigerated, ready-to-eat potentially hazardous food (time/temperature control for safety food) that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft-serve mix or milk in a dispensing machine;

2. Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in subsection A of this section;

3. Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date of day by which the food

must be consumed on the premises, sold, or discarded as specified under subsection B of this section; or

4. Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.

E. Subsections A and B of this section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

F. Subsection B of this section does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

1. Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR Part 110, Current good manufacturing practice in manufacturing, packing, or holding human food;

2. Hard cheeses containing not more than 39% moisture as defined in 21 CFR Part 133, Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;

3. Semi-soft cheese containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR Part 133, Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and Monterey jack;

4. Cultured dairy products as defined in 21 CFR Part 131, Milk and cream, such as yogurt, sour cream, and buttermilk;

5. Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products as defined in 21 CFR Part 114, Acidified foods;

6. Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in 9 CFR Part 317, Labeling, marking devices, and containers, and which retain the original casing on the product; and

7. Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR Part 317, Labeling, marking devices, and containers.

**2VAC5-585-850. Time as a public health control.***

A. Except as specified under subsection ~~B~~ D of this section, if time ~~only, rather than time in conjunction with temperature,~~ without temperature control is used as the public health control for a working supply of potentially hazardous food (time/temperature control for safety food) before cooking, or for ready-to-eat potentially hazardous food (time/temperature control for safety food) that is displayed or held for sale or service ~~for immediate consumption~~:

1. Written procedures shall be prepared in advance, maintained in the food establishment, and made available to the regulatory authority upon request that specify:

a. Methods of compliance with subdivision B 1 through 4 or C 1 through 5 of this section; and

b. Methods of compliance with 2VAC5-585-800 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

B. If time without temperature control is used as the public health control up to a maximum of 4 hours:

1. The food shall have an initial temperature of 41°F (5°C) or less when removed from cold holding temperature control, or 135°F (57°C) or greater when removed from hot-holding temperature control;

~~1.~~ 2. The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;

~~2.~~ 3. The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from temperature control; and

~~3.~~ 4. The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded~~; and~~ .

~~4. Written procedures shall be maintained in the food establishment and made available to the department upon request, that ensure compliance with:~~

~~a. Subdivisions 1 through 4 of this subsection; and~~

~~b. 2VAC5-585-800 for food that is prepared, cooked, and refrigerated before time is used as a public health control.~~

~~B. In a food establishment that serves a highly susceptible population, time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs.~~

C. If time without temperature control is used as the public health control up to a maximum of six hours:

1. The food shall have an initial temperature of 41°F (5°C) or less when removed from temperature control and the food temperature may not exceed 70°F (21°C) within a maximum time period of six hours;

2. The food shall be monitored to ensure the warmest portion of the food does not exceed 70°F (21°C) during the six-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 70°F (21°C) during the six-hour holding period;

3. The food shall be marked or otherwise identified to indicate:

a. The time when the food is removed from 41°F (5°C) or less cold holding temperature control, and

b. The time that is six hours past the point in time when the food is removed from 41°F (5°C) or less cold holding temperature control;

4. The food shall be:

a. Discarded if the temperature of the foods exceeds 70°F (21°C), or

b. Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six hours from the point in time when the food is removed from 41°F (5°C) or less cold holding temperature control; and

5. The food in unmarked containers or packages, or marked with a time that exceeds the six-hour limit shall be discarded.

D. A food establishment that serves a highly susceptible population may not use time as specified under subsections A, B, or C of this section as the public health control for raw eggs.

**2VAC5-585-860. Variance requirement.***

A food establishment shall obtain a variance from the department as specified in 2VAC5-585-3540 and 2VAC5-585-3541 before:

1. Smoking food as a method of food preservation rather than as a method of flavor enhancement;

2. Curing food;

3. Using food additives or adding components such as vinegar:

a. As a method of food preservation rather than as a method of flavor enhancement; or

b. To render a food so that it is not potentially hazardous;

4. Packaging food using a reduced oxygen packaging method except as specified under 2VAC5-585-870 where a barrier to Clostridium botulinum in addition to refrigeration exists;

5. Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;

6. Custom processing animals that are for personal use as food and not for sale or service in a food establishment; or

7. Sprouting seeds or beans; or

~~7.~~ 8. Preparing food by another method that is determined by the ~~department~~ regulatory authority to require a variance.

**2VAC5-585-870. Reduced oxygen packaging; criteria.***

~~A. Except for a food establishment that obtains a variance as specified under 2VAC5-585-860, a food establishment that packages food using a reduced oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of Clostridium botulinum.~~

~~B. A food establishment that packages food using a reduced oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under subdivision 4 of 2VAC5-585-3630 and that:~~

~~1. Identifies the food to be packaged;~~

~~2. Limits the food packaged to a food that does not support the growth of Clostridium botulinum because it complies with one of the following:~~

~~a. Has an $a_w$ of 0.91 or less;~~

~~b. Has a pH of 4.6 or less;~~

~~c. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, Use of Food Ingredients and Sources of Radiation, and is received in an intact package; or~~

~~d. Is a food with a high level of competing organisms such as raw meat or raw poultry;~~

~~3. Specifies methods for maintaining food at 41°F (5°C) or below;~~

~~4. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:~~

~~a. Maintain the food at 41°F (5°C) or below; and~~

~~b. For food held at refrigeration temperatures, discard the food if within 14 calendar days of its packaging it is not served for on premises consumption, or consumed if served or sold for off premises consumption;~~

~~5. Limits the refrigerated shelf life to no more than 14 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;~~

~~6. Includes operational procedures that:~~

~~a. Prohibit contacting food with bare hands;~~

~~b. Identify a designated area and the method by which:~~

~~(1) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and~~

~~(2) Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation; and~~

~~c. Delineate cleaning and sanitization procedures for food-contact surfaces; and~~

~~7. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:~~

~~a. Concepts required for a safe operation;~~

~~b. Equipment and facilities; and~~

~~c. Procedures specified under subdivision 6 of this subsection and subdivision 4 of 2VAC5-585-3630.~~

~~C. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.~~

A. Except for a food establishment that obtains a variance as specified under 2VAC5-585-860 and except as specified under subsections C and E of this section, a food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method shall ensure that there are at least two barriers in place to control the growth and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes.

B. A food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen method shall have a HACCP plan that contains the following information specified under subdivision 4 of 2VAC5-585-3630:

1. Identifies food to be packaged;

2. Except as specified in subsections C and E and as specified in subsection D of this section, requires that the packaged food shall be maintained at 41°F (5°C) or less and meet at least one of the following criteria:

a. Has an $A_w$ of 0.91 or less,

b. Has a pH of 4.6 or less,

c. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, Use of food ingredients and sources of radiation, and is received in an intact package, or

d. Is a food with a high level of competing organisms such as raw meat or raw poultry;

3. Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

a. Maintain food at 41°F (5°C) or below, and

b. Discard the food within 14 calendar days of its packaging if it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

4. Limits the refrigerated shelf life to no more than 14 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

5. Includes operational procedures that:

a. Prohibit contacting food with bare hands;

b. Identify a designated work area and the method by which:

(1) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and

(2) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and

c. Delineate cleaning and sanitization procedures for food contact surfaces; and

6. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

a. Concepts required for safe operation;

b. Equipment and facilities; and

c. Procedures specified under subdivision 5 of this subsection and 2VAC5-585-3630 D.

C. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

D. Except as specified in subsection C of this section, a food establishment may package food using a cook-chill or sous-vide process without obtaining a variance if:

1. The food establishment implements a HACCP plan that contains the information as specified under 2VAC5-585-3630 D;

2. The food is:

a. Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the bagged product to another business entity or the consumer;

b. Cooked to heat all parts of the food to a temperature and for a time as specified under 2VAC5-585-700;

c. Protected from contamination after cooking as specified in 2VAC5-585-450 through 2VAC5-585-690;

d. Placed in a package or bag with an oxygen barrier and sealed before cooking, or placed in a package or bag and sealed immediately after cooking, and before reaching a temperature below 135°F (57°C);

e. Cooled to 41°F (5°C) in the sealed package or bag as specified under 2VAC5-585-800, and subsequently;

(1) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C) and held at that temperature until consumed or discarded within 30 days after the date of preparation;

(2) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C), removed from refrigeration equipment that maintains a 34°F (1°C) food temperature and then held at 41°F (5°C) or less for no more than 72 hours, at which time the food must be consumed or discarded;

(3) Cooled to 38°F (3°C) or less within 24 hours of reaching 41°F (5°C) and held there for no more than 72 hours from packaging, at which time the food must be consumed or discarded; or

(4) Held frozen with no shelf-life restriction while frozen until consumed or used;

g. If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation; and

h. Labeled with the product name and the date packaged; and

3. The records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan, are maintained and are:

a. Made available to the regulatory authority upon request; and

b. Held for six months; and

4. Written operational procedures as specified under subdivision B 5 of this section and a training program as specified under subdivision B 6 of this section are implemented.

E. A food establishment may package cheese using a reduced oxygen packaging method without obtaining a variance:

1. If it limits the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150, Hard Cheeses, 21 CFR 133.169, Pasteurized process cheese, or 21 CFR 133.187, Semi-soft cheeses;

2. If it has a HACCP plan that contains the information specified in 2VAC5-585-3630 D;

3. Except as specified under subdivisions B 2, B 3 b, and B 4, complies with subsection B of this section;

4. If it labels the package on the principal display panel with a "use by" date that does not exceed 30 days or the original manufacturer's "sell by" or "use by" date, whichever comes first; and

5. If it discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.

**2VAC5-585-900. Food labels.**

A. Food packaged in a food establishment shall be labeled as specified in law, including 21 CFR Part 101, Food Labeling, and 9 CFR Part 317, Labeling, Marking Devices, and Containers.

B. Label information shall include:

1. The common name of the food, or absent a common name, an adequately descriptive identity statement;

2. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

3. An accurate declaration of the quantity of contents;

4. The name and place of business of the manufacturer, packer, or distributor; and

5. The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.

~~5.~~ 6. Except as exempted in the Federal Food, Drug, and Cosmetic Act 21 USC § 343(q) (3) through (5), nutrition labeling as specified in 21 CFR Part 101, Food Labeling, and 9 CFR Part 317, Subpart B, Nutrition Labeling.

~~6.~~ 7. For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.

C. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

1. The manufacturer's or processor's label that was provided with the food; or

2. A card, sign, or other method of notification that includes the information specified under subdivisions B 1, 2 and 5 of this section.

D. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

1. A health, nutrient content, or other claim is not made;

2. There are no state or local laws requiring labeling; and

3. The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

Article 8
Special Requirements for Highly Susceptible Populations

**2VAC5-585-950. Pasteurized foods and prohibited food.***

In a food establishment that serves a highly susceptible population:

1. The following criteria apply to juice:

a. For the purposes of subdivision 1 of this section only, children who are age 9 or less and receive food in a school, day care setting or similar facility that provides custodial care are included as highly susceptible populations;

b. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR 101.17(g), Food Labeling, or packaged juice or beverage containing juice, that bears a warning label as specified under subdivision 2 of 2VAC5-585-765 may not be served or offered for sale; and

c. Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified in subdivisions 2 through 5 of 2VAC5-585-3630 and as specified under 21 CFR Part 120, Hazard Analysis And Critical Control Point (HACCP) Systems, Subpart B, Pathogen Reduction, 120.24, Process Controls.

2. Pasteurized shell eggs ~~or pasteurized liquid, frozen, or dry eggs~~ or egg products shall be substituted for raw shell eggs in the preparation of:

a. Foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages; and

b. Except as specified in subdivision ~~5~~ 6 of this section, recipes in which more than one egg is broken and the eggs are combined.

3. The following foods may not be served or offered for sale in a ready-to-eat form:

a. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

b. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue; and

c. Raw seed sprouts.

4. Food employees may not contact ready-to-eat food as specified in 2VAC5-585-450 B.

5. Time only, as the public health control as specified under 2VAC5-585-850, may not be used for raw eggs.

~~5.~~ 6. Subdivision 2 b of this section does not apply if:

a. The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 2VAC5-585-700 A 1, and served immediately, such as an omelet, soufflé, or scrambled eggs;

b. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

c. The preparation of the food is conducted under a HACCP plan that:

(1) Identifies the food to be prepared;

(2) Prohibits contacting ready-to-eat food with bare hands;

(3) Includes specifications and practices that ensure:

(a) Salmonella ~~Enteritidis~~ enteritidis growth is controlled before and after cooking; and

(b) Salmonella ~~Enteritidis~~ enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 2VAC5-585-700 A 2;

~~(4)~~ d. Contains the information specified under subdivision 4 of 2VAC5-585-3630 including procedures that:

~~(a)~~ (1) Control cross contamination of ready-to-eat food with raw eggs; and

~~(b)~~ (2) Delineate cleaning and sanitization procedures for food-contact surfaces; and

~~(5)~~ e. Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

7. Except as specified in subdivision 8 of this section, food may be reserved as specified under 2VAC5-585-680 B 1 and 2.

8. Foods may not be reserved under the following conditions:

1. Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or

protective environment isolation may not be reserved to others outside.

2. Packages of food from any patients, clients, or other consumers should not be reserved to persons in protective environment isolation.

**2VAC5-585-980. Lead ~~in ceramic, china, and crystal utensils,~~ use limitation.**

A. Ceramic, china, crystal utensils, and decorative utensils such as hand-painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

| Utensil Category | Ceramic Article Description | Maximum Lead (mg/L) |
|---|---|---|
| ~~Hot~~ Beverage Mugs, Cups, Pitchers | Coffee Mugs | 0.5 |
| Large Hollowware (excluding pitchers) | Bowls ≥1.1 ~~L~~ Liter (1.16 ~~qt~~) Quart) | 1.0 |
| Small Hollowware (excluding cups and mugs) | Bowls <1.1 ~~L~~ Liter (1.16 ~~qt~~) Quart) | 2.0 |
| Flat ~~Utensils~~ Tableware | Plates, Saucers | 3.0 |

B. Pewter alloys containing lead in excess of 0.05% may not be used as a food contact surface.

C. Solder and flux containing lead in excess of 0.2% may not be used as a food contact surface.

**2VAC5-585-1020. ~~Lead in pewter alloys, use limitation.~~ (Repealed.)**

~~Pewter alloys containing lead in excess of 0.05% may not be used as a food contact surface.~~

**2VAC5-585-1030. ~~Lead in solder and flux, use limitation.~~ (Repealed.)**

~~Solder and flux containing lead in excess of 0.2% may not be used as a food contact surface.~~

**2VAC5-585-1200. Pressure measuring devices, mechanical warewashing equipment.**

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of one pound per square inch (seven kilopascals) or smaller and shall be accurate to ± ~~two~~ 2 pounds per square inch (± 14 kilopascals) ~~in the 15-25 pounds per square inch (100-170 kilopascals) range~~ in the range indicated on the manufacturer's data plate.

**2VAC5-585-1230. Dispensing equipment, protection of equipment and food.**

In equipment that dispenses or vends liquid food or ice in unpackaged form:

1. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food~~;~~.

2. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed~~;~~.

3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

b. Available for self-service during hours when it is not under the full-time supervision of a food employee~~; and~~.

4. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

5. Dispensing equipment in which potentially hazardous food (time/temperature control for safety food) in homogenous liquid form is maintained outside of the temperature control requirements as specified in 2VAC5-585-820 C shall:

a. Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; and

b. Conform to the requirements for this equipment as specified in NSF/ANSI 18-2006 Manual Food and Beverage Dispensing Equipment.

**2VAC5-585-1260. Beverage tubing, separation.**

~~Beverage~~ Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. ~~This section does not apply to cold plates that are constructed integrally with an ice storage bin.~~

**2VAC5-585-1310. Vending machines, automatic shutoff.***

A. A machine vending potentially hazardous food (time/temperature control for safety food) shall have an automatic control that prevents the machine from vending food:

1. If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Part III (2VAC5-585-260 et seq.) of this chapter; and

2. If a condition specified under subdivision 1 of this subsection occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Part III.

B. When the automatic shutoff within a machine vending potentially hazardous food (time/temperature control for safety food) is activated:

1. In a refrigerated vending machine, the ambient temperature may not exceed 41°F (5°C) or 45°F (7°C) as specified under 2VAC5-585-820 A 2 for more than 30 minutes immediately after the machine is filled, serviced, or restocked; or

2. In a hot holding vending machine, the ambient temperature may not be less than 135°F (57°C) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.

**2VAC5-585-1420. Case lot handling ~~equipment~~ apparatuses, movability.**

~~Equipment~~ Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

**2VAC5-585-1440. ~~Food equipment, certification and classification.~~ (Repealed.)**

~~Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program will be deemed to comply with Articles 1 (2VAC5-585-960 et seq.) and 2 (2VAC5-585-1080 et seq.) of this part.~~

**2VAC5-585-1550. Fixed equipment, spacing or sealing.**

A. Equipment that is fixed because it is not easily movable shall be installed so that it is:

1. Spaced to allow access for cleaning along the sides, behind, and above the equipment;

2. Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1/32 inch or one millimeter; or

3. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

B. ~~Table-mounted~~ Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

1. Sealed to the table; or

2. Elevated on legs as specified under 2VAC5-585-1560 D.

**2VAC5-585-1560. Fixed equipment, elevation or sealing.**

A. Except as specified in ~~subsection~~ subsections B and C of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six-inch (15-centimeter) clearance between the floor and the equipment.

B. If no part of the floor under the floor-mounted equipment is more than six inches (15 centimeters) from the point of cleaning access, the clearance space may be only four inches (10 centimeters).

C. This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

D. Except as specified in subsection E of this section, ~~table-mounted~~ counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a four-inch (10-centimeter) clearance between the table and the equipment.

E. The clearance space between the table and ~~table-mounted~~ counter-mounted equipment may be:

1. Three inches (7.5 centimeters) if the horizontal distance of the table top under the equipment is no more than 20 inches (50 centimeters) from the point of access for cleaning; or

2. Two inches (5 centimeters) if the horizontal distance of the table top under the equipment is no more than three inches (7.5 centimeters) from the point of access for cleaning.

**2VAC5-585-1690. Mechanical warewashing equipment, sanitization pressure.**

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine ~~may not be less than 15 pounds per square inch (100 kilopascals) or more than 25 pounds per square inch (170 kilopascals) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve~~, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than five pounds per square inch (35 kilopascals) or more than 30 pounds per square inch (200 kilopascals).

Article 7
Sanitization of Equipment and Utensils

**2VAC5-585-1880. ~~Food-contact surfaces and utensils.~~ (Repealed.)**

~~Equipment food-contact surfaces and utensils shall be sanitized.~~

**2VAC5-585-1980. Food-contact surfaces.**

Lubricants as specified in 2VAC5-585-3420 shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

**2VAC5-585-2040. Preset tableware.**

~~If tableware is preset:~~

~~1. It shall be protected from contamination by being wrapped, covered, or inverted;~~

~~2. Exposed, unused settings shall be removed when a consumer is seated; or~~

~~3. Exposed, unused settings shall be cleaned and sanitized before further use if the settings are not removed when a consumer is seated.~~

A. Tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted.

B. When tableware is preset, exposed, unused settings shall be:

1. Removed when a consumer is seated; or

2. Cleaned and sanitized before further use if the settings are not removed when a consumer is seated.

**2VAC5-585-2190. Handwashing ~~facility, installation~~ sink, water temperature, and flow.**

A. A handwashing ~~lavatory~~ sink shall be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet.

B. A steam mixing valve may not be used at a handwashing ~~lavatory~~ sink.

C. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

**2VAC5-585-2230. Handwashing ~~facilities~~ sinks, numbers and capacities.***

A. Except as specified in subsections B and C of this section, at least one handwashing ~~lavatory~~ sink, or the number of handwashing ~~lavatories~~ sinks necessary for their convenient use by employees in areas specified under 2VAC5-585-2280, and not fewer than the number of handwashing ~~lavatories~~ sinks required by law shall be provided.

B. If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing ~~lavatories~~ sinks in a food establishment that has at least one handwashing ~~lavatory~~ sink.

C. If approved, when food exposure is limited and handwashing ~~lavatories~~ sinks are not conveniently available, such as in some mobile or temporary food establishments or at some vending machine locations, employees may use chemically-treated towelettes for handwashing.

**2VAC5-585-2280. Handwashing ~~facilities~~ sinks, locations.***

A handwashing ~~facility~~ sink shall be located:

1. To be readily accessible for use by employees in food preparation, food dispensing, and warewashing areas; and

2. In, or immediately adjacent to, toilet rooms.

**2VAC5-585-2310. Using a handwashing ~~facility~~ sink.**

A. A handwashing ~~facility~~ sink shall be maintained so that it is accessible at all times for employee use.

B. A handwashing ~~facility~~ sink may not be used for purposes other than handwashing.

C. An automatic handwashing ~~facility~~ sink shall be used in accordance with manufacturer's instructions.

**2VAC5-585-2510. ~~Establishment drainage system.~~ (Repealed.)**

~~Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under 2VAC5-585-2180 A.~~

**2VAC5-585-2520. Backflow prevention.***

A. Except as specified in subsections B ~~and~~, C, and D of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.

B. Subsection A of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

~~B.~~ C. If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet ~~(1.5 m)~~ (1.5 meters) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

~~C.~~ D. If allowed by law, a warewashing or culinary sink may have a direct connection.

Article 5
Refuse, Recyclables, and Returnables

**2VAC5-585-2590. ~~Indoor storage area.~~ (Repealed.)**

~~If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under 2VAC5-585-2790, 2VAC5-585-2810 through 2VAC5-585-2880, 2VAC5-585-2930, and 2VAC5-585-2940.~~

**2VAC5-585-2630. Receptacles in vending machines.**

~~A~~ Except for a receptacle for a beverage bottle crown closures, a refuse receptacle may not be located within a vending machine~~, except that a receptacle for beverage bottle crown closures may be located within a vending machine~~.

Part VI
Physical Facilities

Article 1
Materials for Construction and Repair

**2VAC5-585-2790. Indoor areas; surface characteristics.**

A. Except as specified in subsection B of this section, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

1. Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;

2. Closely woven and easily cleanable carpet for carpeted areas; and

3. Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

B. In a temporary food establishment:

1. A floor may be concrete, if graded to drain, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other ~~suitable~~ approved materials that are effectively treated to control dust and mud; and

2. Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

Article 2
Design, Construction, and Installation

**2VAC5-585-2810. Floors, walls, and ceilings - cleanability.**

Except as specified under 2VAC5-585-2840~~, the floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that~~ and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

**2VAC5-585-2920. Toilet rooms, enclosed.**

~~A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door except that this requirement does not apply to a toilet room that is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall.~~

Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.

**2VAC5-585-2950. Outdoor food vending areas, overhead protection.**

~~If located outside, a machine used to vend food shall be provided with overhead protection except that machines vending canned beverages need not meet this requirement.~~

Except for machines that vend canned beverages, if located outside, a machine used to vend food shall be provided with overhead protection.

**2VAC5-585-2960. Outdoor servicing areas, overhead protection.**

~~Servicing areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.~~

Except for areas used only for the loading of water or the discharge of sewage or other liquid waste, through the use of a closed system of hoses, servicing areas shall be provided with overhead protection.

Article 3
Numbers and Capacities

**2VAC5-585-3010. ~~Handwashing lavatories, minimum number.~~ (Repealed.)**

~~Handwashing lavatories shall be provided as specified under 2VAC5-585-2230.~~

**2VAC5-585-3020. Handwashing cleanser, availability.**

Each handwashing ~~lavatory~~ sink or group of two adjacent ~~lavatories~~ handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

**2VAC5-585-3030. Hand drying provision.**

Each handwashing ~~lavatory~~ sink or group of adjacent ~~lavatories~~ handwashing sinks shall be provided with:

1. Individual, disposable towels;

2. A continuous towel system that supplies the user with a clean towel; or

3. A heated-air hand drying device.

**2VAC5-585-3040. Handwashing aids and devices, use restrictions.**

A sink used for food preparation or utensil washing may not be provided with the handwashing aids and devices required for a handwashing ~~lavatory~~ sink as specified under 2VAC5-585-3020 and 2VAC5-585-3030 and 2VAC5-585-2650 C.

**2VAC5-585-3045. Handwashing signage.**

A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing ~~lavatories~~ sinks used by food employees and shall be clearly visible to food employees.

**2VAC5-585-3050. ~~Disposable towels, waste receptacle.~~ (Repealed.)**

~~A handwashing lavatory or group of adjacent lavatories that is provided with disposable towels shall be provided with a waste receptacle as specified under 2VAC5-585-2650 C.~~

**2VAC5-585-3060. ~~Toilets and urinals, minimum number.~~ (Repealed.)**

~~Toilets and urinals shall be provided as specified under 2VAC5-585-2240.~~

**2VAC5-585-3080. Lighting, intensity.**

The light intensity shall be:

1. At least 10 foot candles ~~(110 lux)~~ (108 lux) at a distance of 30 inches (75 cm) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;

2. At least 20 foot candles ~~(220 lux)~~ (215 lux):

a. At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;

b. Inside equipment such as reach-in and under-counter refrigerators;

c. At a distance of 30 inches (75 cm) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

3. At least 50 foot candles (540 lux) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

**2VAC5-585-3110. ~~Service sinks, availability.~~ (Repealed.)**

~~A service sink or curbed cleaning facility shall be provided as specified under 2VAC5-585-2250.~~

Article 4
Location and Placement

**2VAC5-585-3120. ~~Handwashing lavatories, conveniently located.~~ (Repealed.)**

~~Handwashing lavatories shall be conveniently located as specified under 2VAC5-585-2280.~~

**2VAC5-585-3160. ~~Refuse, recyclables, and returnables - receptacles, waste handling units, and designated storage areas.~~ (Repealed.)**

~~Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under 2VAC5-585-2680.~~

**2VAC5-585-3180. Cleaning, frequency and restrictions.**

A. The physical facilities shall be cleaned as often as necessary to keep them clean.

B. ~~Cleaning~~ Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing. ~~This requirement does not apply to cleaning that is necessary due to a spill or other accident.~~

**2VAC5-585-3240. ~~Maintaining and using handwashing lavatories.~~ Cleaning of plumbing fixtures.**

~~Handwashing lavatories shall be kept~~ Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean~~,~~ and maintained and used as specified under 2VAC5-585-2310.

**2VAC5-585-3360. Conditions of use.***

A. Poisonous or toxic materials shall be:

1. Used according to:

a. Law and this chapter;

b. Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment;

c. The conditions of certification, if certification is required, for use of the pest control materials; and

d. Additional conditions that may be established by the department; and

2. Applied so that:

a. A hazard to employees or other persons is not constituted; and

b. Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide, this is achieved by:

(1) Removing the items;

(2) Covering the items with impermeable covers; or

(3) Taking other appropriate preventive actions; and

(4) Cleaning and sanitizing equipment and utensils after the application.

B. A restricted use pesticide shall be applied only by an applicator certified as defined in §§ ~~3.1-249.51, 3.1-249.52, and 3.1-249.53 E~~ 3.2-3929, 3.2-3930, and 3.2-3931 of the Code of Virginia (Virginia Pesticide Control Act) or a person under the direct supervision of a certified applicator.

**2VAC5-585-3460. Medicines - restriction and storage.***

A. ~~Only~~ Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment. ~~This section does not apply to medicines that are stored or displayed for retail sale.~~

B. Medicines that are in a food establishment for the employees' use shall be labeled as specified under 2VAC5-585-3320 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

**2VAC5-585-3860. Documenting information and observations.**

The authorized representative of the commissioner shall document on an inspection report form:

1. Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, and personnel certificates that may be required; and

2. Specific factual observations of violative conditions or other deviations from this chapter that require correction by the establishment operator including:

a. Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this chapter specified under 2VAC5-585-60;

b. Failure of food employees and the person in charge to demonstrate their knowledge of their responsibility to report a disease or medical condition as specified under ~~2VAC5-585-110 and 2VAC5-585-120~~ 2VAC5-585-80 B and D;

c. Nonconformance with critical items of this chapter;

d. Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified under 2VAC5-585-60;

e. Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified under subdivision 4 f of 2VAC5-585-3630; and

f. Nonconformance with critical limits of a HACCP plan.

Article 5
Prevention of Foodborne Disease Transmission by Employees

**2VAC5-585-4040. Investigation and control, obtaining information: personal history of illness, medical examination, and specimen analysis.**

The department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

1. Securing a confidential medical history of the employee suspected of transmitting disease or making other investigations as deemed appropriate; and

2. Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.

**2VAC5-585-4050. Restriction or exclusion of food employee.**

Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the department may request that the suspected food employee, or conditional employee, or operator institute one of the following control measures:

1. Restricting the food employee or conditional employee; or

2. Excluding the food employee or conditional employee.

**2VAC5-585-4070. Release of food employee from restriction or exclusion.**

The department shall release a food employee or conditional employee from restriction or exclusion according to law and the ~~following conditions:~~ conditions specified under 2VAC5-585-100.

~~1. A food employee who was infected with Salmonella typhi if the food employee's stools are negative for S. typhi~~

~~based on testing of at least three consecutive stool specimen cultures that are taken:~~

~~a. Not earlier than one month after onset;~~

~~b. At least 48 hours after discontinuance of antibiotics; and~~

~~c. At least 24 hours apart; and~~

~~2. If one of the cultures taken as specified in subdivision 1 of this section is positive, repeat cultures are taken at intervals of one month until at least three consecutive negative stool specimen cultures are obtained.~~

~~3. A food employee who was infected with Shigella spp. or Shiga toxin-producing Escherichia coli if the employee's stools are negative for Shigella spp. or Shiga toxin-producing Escherichia coli based on testing of two consecutive stool specimen cultures that are taken:~~

~~a. Not earlier than 48 hours after discontinuance of antibiotics; and~~

~~b. At least 24 hours apart.~~

~~4. A food employee who was infected with hepatitis A virus if:~~

~~a. Symptoms cease; or~~

~~b. At least two blood tests show falling liver enzymes.~~

DOCUMENTS INCORPORATED BY REFERENCE (2VAC5-585)

Approved Drug Products with Therapeutic Equivalence Evaluations (updated daily), 25th Edition, available from the U.S. Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, Office of Pharmaceutical Science, Office of Generic Drugs at http://www.fda.gov/cder/ob/default.htm.

~~7 CFR Parts 56 and 59, January 2006, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.~~

~~9 CFR Parts 301, 308, 317, 319, 352, 354, 362, 381, 424, and 590, January 2006, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.~~

~~21 CFR Parts 70, 101, 113, 114, 120, 129 186, 21 CFR 1030.10, and 1240.60(d), April 2006, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.~~

~~40 CFR Parts 141, 152 and 40 CFR 180.940, and 185 and 40 CFR, July 2005, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.~~

~~50 CFR Part 17, October 2005, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.~~

~~Federal Food, Drug and Cosmetic Act, as amended through December 31, 2004, 21 USC §§ 321, 342, 343, 348 and 376, published by the U.S. Government Printing Office, 732 North Capitol St., NW, Washington, DC 20401.~~

Grade "A" Pasteurized Milk Ordinance, 2003 Revision, published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-626), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

Grade "A" Condensed and Dry Milk Ordinance, 1995 Revision, published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-626), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

Interstate Certified Shellfish Shippers List~~,~~ (updated monthly), published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood (HFS-417), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

~~National Shellfish Sanitation Program Manual of Operations, 1995 Revision, published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood (HFS-417), 5100 Paint Branch Parkway, College Park, MD 20740-3835.~~

~~Virginia Waterworks Regulations, 12VAC5-590, May 2006, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219.~~

~~Virginia Statewide Building Code, 13VAC5-63, November 2005, Virginia Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219.~~

National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish (2007), published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Office of Seafood (HFS-417), 5100 Paint Branch Parkway, College Park, MD 20740-3835.

NSF/ANSI 18-2006 Manual Food and Beverage Dispensing Equipment, American National Standard, published by NSF International, 789 North Dixboro Road, P.O. Box 130140, Ann Arbor, Michigan 48113-0140.

VA.R. Doc. No. R09-1653; Filed April 17, 2009, 11:09 a.m.

# TITLE 9. ENVIRONMENT

## VIRGINIA WASTE MANAGEMENT BOARD

### Forms

NOTICE: The following forms have been filed by the Virginia Waste Management Board. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, VA 23218, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the forms may be obtained from Cindy Berndt, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23218, telephone 804-698-4378.

Title of Regulation: **9VAC20-80. Solid Waste Management Regulations.**

FORMS (9VAC20-80)

Open Dump Evaluation Criteria Part I-Flood Plains, DWM Form SW-4-1.

Open Dump Evaluation Criteria Part II-Surface Water, DWM Form SW-4-2.

Open Dump Evaluation Criteria Part III-Groundwater, DWM Form SW-4-3.

Open Dump Evaluation Criteria Part IV-Disease Vectors, DWM Form SW-4-4.

Open Dump Evaluation Criteria Part V-Open Burning, DWM Form SW-4-5.

Open Dump Evaluation Criteria Part VI-Safety: Landfill Gas, DWM Form SW-4-6.

Open Dump Evaluation Criteria Part VII-Safety: Fires, DWM Form SW-4-7.

Open Dump Evaluation Criteria Part VIII-Safety: Bird Hazard, DWM Form SW-4-8.

Solid Waste Management Facility Permit Applicant's Disclosure Form, DWM Form DISC-01.

Solid Waste Management Facility Permit Applicant's Disclosure Form-Key Personnel, DWM Form DISC-02.

Request for Local Government Certification, DWM Form SW-11-1.

Solid Waste Part A ~~Permit~~ Application, ~~DWM From~~ Form SW-7-3 (rev. 4/09).

Solid Waste Information and Assessment Program-Reporting Table, DEQ Form 50-25 (rev. 2/05)

**Solid Waste Part A Application, Form SW 7-3**

| DEQ Virginia Department of Environmental Quality | Solid Waste Permit No. | |
|---|---|---|
| | (If applying for new permit DEQ will issue Permit No.) | |

| | | | |
|---|---|---|---|
| Facility Name: | | Type of Landfill: | |
| Facility Location: (Latitude, Longitude, and USGS Quad Map) | | | |
| Contact Person: | | Contact Number: | |

| | | | |
|---|---|---|---|
| Owner Name, Address, and Phone: | | Operator Name, Address, and Phone: | |
| Total Property Acreage: | | Facility Boundary Acreage: | |
| WMUB Acreage: | | Total Number of Borings: | |
| Maximum Elevation (AMSL): | | Total Capacity (cubic yards): | |
| Lowest Basegrade elevation (AMSL): | | Daily Maximum Disposal Limit: | |

| | |
|---|---|
| Answer the following questions by entering "yes", "no", or a numeric response, as applicable | |
| 1. Is the landfill located in a 100 year flood plain? | |
| 2. Is the landfill located in a geologically stable area? | |
| 3. The following distances are the shortest measured distances from any disposal or leachate storage area and must be reported in feet | |
| a. Distance to any residence, school, daycare center, hospital, nursing home or recreational park area in existence at the time of application | |
| i. Residence | |
| ii. School | |
| iii. Daycare center | |
| iv. Hospital | |
| v. Nursing home | |
| vi. Recreational park area | |
| b. Distance from any perennial stream or river | |
| c. Distance from the Facility Boundary | |
| d. Distance from any well, spring or other ground water source of drinking water in existence at the time of application | |
| e. Distance from the nearest edge of the right-of-way of any interstate or primary highway | |
| f. Distance from the nearest edge of right-of-way of any other highway or city street | |

DEQ Form SW 7-3 1 Revised April 8, 2009

| | |
|---|---|
| 4. Does the proposed landfill include any of the following site characteristics? | |
| a. Excessive slopes (greater than 33%) | |
| b. Lack of daily cover materials | |
| c. Springs, seeps, or other ground water intrusion into the site | |
| d. The presence of gas, water, sewage, or electrical or other transmission lines under the site | |
| e. The prior existence on the site of an open dump, unpermitted landfill, lagoon, or similar unit, even if such a unit is closed | |
| 5. Groundwater monitoring | |
| a. The landfill has the ability to conduct groundwater monitoring in accordance with 9 VAC 20-80-300 | |
| b. The landfill has the ability to characterize the rate and direction of ground water flow within the uppermost aquifer | |
| c. The landfill has the ability to characterize and define any releases from the landfill so as to determine what corrective actions are necessary | |
| d. The landfill has the ability to perform corrective action as necessary | |
| Stamp Professional Geologist or Professional Engineer in space provided, meaning to the best of my knowledge, information and belief, the answers to question #5 are, in my professional opinion, in compliance with applicable laws, codes, and ordinances. | |
| 6. Is the landfill located in a tidal or non-tidal wetland? (Yes or No) | |
| 7. Additional restrictions for Sanitary Landfills | |
| a. Distance to existing surface or ground water public water supply intake or reservoir that are downgradient of the landfill (in miles) | |
| b. Distance to existing surface or ground water public water supply intake or reservoir that are upgradient of the landfill (in miles) | |
| c. Is the landfill located in an area vunerable to flooding caused by dam failures? | |
| d. Is the landfill located over a sinkhole or within 100 feet of a solution cavern? | |
| e. Is the landfill located over a fault that has had displacement in Holocene time? | |
| f. Distance from a fault that has had displacement in Holocene time | |
| g. Is the landfill located within a seismic impact zone? | |
| h. Distance from any airport runway end used by turbojet or piston-type aircraft | |
| i. If the answer to #6 is "yes" list the total number of non-tidal wetalnd acres to be impacted | |
| j. Is the landfill located in a park or recreational area, wildlife management area or area designated by the federal or state agency as the critical habitat of any endangered species? | |

| Attachments. The following attachments must be submitted in the order prescribed, as required. |
|---|
| Attachment I: Cover Letter, Area Map, and Site Location Map |
| Attachment II: Disclosure Statements (DEQ Forms DISC-01 and DISC-02) |
| Attachment III: Local Government Certification (DEQ Form SW-11-1) |
| Attachment IV: Public Participation Documentation |
| Attachment V: Disposal Capacity Guarantee Certification and Documentation |
| Attachment VI: Host Agreement Certification and Documentation |
| Attachment VII: Demonstration of Need |
| Attachment VIII: Key Map and Near-Vicinity Map |
| Attachment IX: Proof of Ownership Documents |
| Attachment X: Hydrogeological and Geotechnical Report (must be certified by P.E. or P.G.) |
| Attachment XI: Location of Borings and Boring Logs |
| Attachment XII: Laboratory and Field Data |
| Attachment XIII: Materials Volume Calculations |
| Attachment XIV: Geologic Maps, Orthogonal Cross-Sections, and Potentiometric Surface Maps |
| Attachment XV: VDOT Adequacy Report and Approval Letter |
| Attachment XVI: Landfill Impact Statement |
| Attachment XVII: Certification and Documentation of Adjacent Property Owner Notification |
| Attachment XVIII: Respective Pages of the Local or Regional Solid Waste Management Plan |
| Attachment XIX: Correspondences to and from FAA, Local Aviation Authority, Local Airport, and Regional Map |
| Attachment XX: FEMA Flood Insurance Rate Map |
| Attachment XXI: Wetland Delineation Map and Copies of Wetland and Stream Impact Permits from ACOE and DEQ |
| Attachment XXII: Preliminary Settlement, Stability, Seismic Impact, and Liquefaction Analysis |
| Attachment XXIII: Cover Materials Commitment Letter |

| Responsible Official Signature: | | | |
|---|---|---|---|
| I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. | | | |
| Name: | | Title: | |
| Signature: | | | Date: |



VA.R. Doc. No. R09-1916; Filed April 16, 2009, 12:00 p.m.

## STATE WATER CONTROL BOARD

### Forms

NOTICE: The following forms have been filed by the State Water Control Board. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, VA 23218, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the forms may be obtained from Cindy Berndt, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23218, telephone 804-698-4378.

Title of Regulation: **9VAC25-580. Underground Storage Tanks: Technical Standards and Corrective Action Requirements.**

FORMS (9VAC25-580)

Notification for Underground Storage Tanks (USTs), Virginia DEQ Water Form ~~7530-1 (eff. 7/94)~~ 7530-2 (rev. 01-03).

Notification Form, EPA Form (50FR 46602).

# Notification for Underground Storage Tanks (USTs)

Virginia DEQ Water Form 7530-2

(See reverse for mailing instructions) Rev. (01/03)

**STATE USE ONLY**

ID Number

Date Received

Date Entered

Entered By

Comments

## PART I: PURPOSE OF NOTIFICATION

✓ **Check all that apply:**

- ☐ New (not previously registered) facility
- ☐ New tank(s) at previously registered facility
- ☐ Change in tanks (e.g., upgrade)
- ☐ Change in piping (e.g., upgrade)
- ☐ Temporary closure
- ☐ Tank removal or closure
- ☐ Piping removal or closure
- ☐ Other (specify):
- ☐ Change in tank contents
- ☐ New owner
- ☐ Change in owner address

## PART II: OWNERSHIP OF TANKS

A. Owner Name

B. Owner Address

C. City, State, Zip

D. Name of Contact Person

E. Title of Contact Person

F. Phone Number ( ) Fax Number ( )

G. E-mail Address

H. Name of Previous Owner

## PART III: LOCATION OF TANKS

A. Facility Name

B. Facility Street Address (P.O. Box not acceptable)

C. City, Zip

D. County or Municipality where Facility is Located

E. Name of Contact Person

F. Title of Contact Person

G. Phone Number ( ) Fax Number ( )

H. E-mail Address

## PART IV: TYPE OF OWNER

- ☐ Federal government
- ☐ State government
- ☐ Local government
- ☐ Commercial
- ☐ Private

## PART V: TYPE OF FACILITY

- ☐ Retail gas station
- ☐ Petroleum distributor
- ☐ Local government
- ☐ Federal non-military
- ☐ Federal military
- ☐ State government
- ☐ Commercial (non-resale)
- ☐ Industrial
- ☐ Other _____
- ☐ Residence
- ☐ Farm

## PART VI: FINANCIAL RESPONSIBILITY

The tank owner has met the financial responsibility requirements contained in 9 VAC 25-590-10 et seq. using the following methods/mechanisms

- ☐ Self Insurance
- ☐ Guarantee
- ☐ Insurance
- ☐ Surety Bond
- ☐ Letter of Credit
- ☐ Trust Fund
- ☐ Virginia Petroleum Storage Tank Fund

## PART VII: OWNER CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I understand that the owner of the underground storage tanks hereby registered is responsible for compliance with the requirements of Virginia Regulations 9 VAC 25-580-10 et seq. and federal regulation 40 CFR Part 280, among other requirements. I warrant and represent that I am the owner or that I have the authority to sign this certification on behalf of the owner. I understand that this notification form is sufficient evidence to establish ownership of tanks subject to 9 VAC 25-580-10 et seq.

Name and Title (Type or Print) Signature Date

## PART VIII: INSTALLER CERTIFICATION

I certify that the installation of this tank was performed in accordance with all federal, state and local installation requirements. I warrant and represent that I am the installer or that I have the authority to sign this certification on behalf of the installer.

Name and Title (Type or Print) Signature Date

Company Name Address Telephone Number

## PART IX: TANK DESCRIPTION FOR NEW INSTALLATIONS AND AMENDMENTS

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Owner Tank Identification Number** | | | | | | | | | | |
| **DEQ Tank Identification Number** | | | | | | | | | | |
| **Tank Status** | ☐ New Tank ☐ Amendment | | ☐ New Tank ☐ Amendment | | ☐ New Tank ☐ Amendment | | ☐ New Tank ☐ Amendment | | ☐ New Tank ☐ Amendment | |
| **Date of Installation (MM/DD/YYYY)** | | | | | | | | | | |
| **Date of Amendment (MM/DD/YYYY)** | | | | | | | | | | |
| **Tank Capacity (Gallons)** | | | | | | | | | | |
| **Substance stored** (if hazardous, include CERCLA name and/or CAS number) | | | | | | | | | | |
| **Material of Construction** (√ all that apply) | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping |
| Fiberglass Reinforced Plastic | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Coated and Cathodically Protected/STI-P3® | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Double Walled | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Impressed Current System Steel | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Composite (Steel Clad with Fiberglass)/ACT 100 ® | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Lined Interior | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Polyethylene Tank Jacket | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Concrete | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Excavation Liner | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Asphalt Coated or Bare Steel | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Secondary Containment | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Polyflexible piping | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Galvanized Steel | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Other (specify) | | | | | | | | | | |
| Has tank/piping been repaired? | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Piping Type** | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping |
| Safe Suction (No Check Valve at Tank) | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| U.S. Suction (Check Valve at Tank) | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Pressure | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Gravity Fed | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| **Release Detection** | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping |
| Manual Tank Gauging | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Tightness Testing | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Inventory Control | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Automatic Tank Gauging | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Vapor Monitoring | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Groundwater Monitoring | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Interstitial Monitoring-Double Walled | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Interstitial Monitoring-Secondary Containment | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Automatic Line Leak Detectors | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Statistical Inventory Reconciliation | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Other (specify) | | | | | | | | | | |
| **Spill Containment & Overfill Prevention** | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping |
| Spill Containment/Bucket | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Overfill Automatic Shutoff | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Overfill Alarm | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Overfill Ball Float Valve | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |

| PART X: TANK CLOSURE, REMOVAL OR CHANGE IN SERVICE | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Owner Tank Identification Number (assigned or used by owner)** | | | | | | | | | | |
| **DEQ Tank Identification Number (assigned by DEQ)** | | | | | | | | | | |
| **Tank and Piping Status** | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping |
| Removal | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Closure in Place | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Filled with Inert Material | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Describe Inert Material | | | | | | | | | | |
| Temporary Closure | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Change in Service | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Date of Installation (MM/DD/YYYY)** | | | | | | | | | | |
| **Tank Capacity (Gallons)** | | | | | | | | | | |
| **Substance Stored** (if hazardous, include CERCLA name and/or CAS number) | | | | | | | | | | |
| **Material of Construction** (√ all that apply) | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping | Tank | Piping |
| Fiberglass Reinforced Plastic | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Coated and Cathodically Protected/STI-P3® | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Double Walled | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Impressed Current System Steel | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Composite (Steel Clad with Fiberglass)/ACT 100® | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Lined Interior | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Polyethylene Tank Jacket | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Concrete | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Excavation Liner | ☐ | | ☐ | | ☐ | | ☐ | | ☐ | |
| Asphalt Coated or Bare Steel | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| Secondary Containment | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Polyflexible Piping | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Galvanized Steel | | ☐ | | ☐ | | ☐ | | ☐ | | ☐ |
| Other (specify) | | | | | | | | | | |
| Unknown | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| **Date Last Used (MM/DD/YYYY)** | | | | | | | | | | |
| **Date Closed (MM/DD/YYYY)** | | | | | | | | | | |
| **Closure Assessment Completed** (Please submit site map, soil sampling results, chain of custody for all samples, copy of building permit, and disposal manifest with this form). | ☐ Yes ☐ No | | ☐ Yes ☐ No | | ☐ Yes ☐ No | | ☐ Yes ☐ No | | ☐ Yes ☐ No | |
| **Evidence of a Leak Detected** | ☐ Yes ☐ No | | ☐ Yes ☐ No | | ☐ Yes ☐ No | | ☐ Yes ☐ No | | ☐ Yes ☐ No | |

## Virginia Department of Environmental Quality Regional Offices

**Valley Region**
4411 Early Road
P.O. Box 3000
Harrisonburg, VA 22801
(540) 574-7800 PH
(540) 574-7844 FAX

**Northern Region**
13901 Crown Court
Woodbridge, VA 22193
(703) 583-3800 PH
(703) 583-3821 FAX

**Piedmont Region**
4949-A Cox Road
Glen Allen, VA 23060
(804) 527-5020 PH
(804) 527-5106 FAX

**West Central Region**
3019 Peters Creek Road
Roanoke, VA 24019
(540) 562-6700 PH
(540) 562-6860 FAX

**Southwest Region**
355 Deadmore St.
P.O. Box 1688
Abingdon, VA 24212
(276) 676-4800 PH
(276) 676-4899 FAX

**South Central Region**
7705 Timberlake Rd.
Lynchburg, VA 24502
(434) 582-5120 PH
(434) 582-5125 FAX

**Tidewater Region**
5636 Southern Blvd.
Virginia Beach, VA 23462
(757) 518-2000 PH
(757) 518-2009 FAX

**Mail notifications to the DEQ Regional Office serving the city or county where the USTs are located.**

| Regional Offices | | Counties and Cities |
|---|---|---|
| Northern Regional Office | Counties | Arlington, Caroline, Culpeper, Fairfax, Fauquier, King George, Loudoun, Madison, Orange, Prince William, Rappahannock, Spotsylvania, Stafford, Louisa |
| | Cities | Alexandria, Falls Church, Fairfax, Fredericksburg, Manassas, Manassas Park |
| Piedmont Regional Office | Counties | Amelia, Brunswick, Charles City, Chesterfield, Dinwiddie, Essex, Gloucester, Goochland, Greensville, Hanover, Henrico, King and Queen, King William, Lancaster, Mathews, Middlesex, New Kent, Northumberland, Powhatan, Prince George, Richmond, Surry, Sussex, Westmoreland |
| | Cities | Colonial Heights, Emporia, Hopewell, Petersburg, Richmond |
| South Central Regional Office | Counties | Amherst, Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Halifax, Lunenburg, Mecklenburg, Nottoway, Prince Edward, Pittsylvania |
| | Cities | Danville, Lynchburg |
| Valley Regional Office | Counties | Albemarle, Augusta, Bath, Clarke, Fluvanna, Frederick, Greene, Highland, Nelson, Page, Rockbridge, Rockingham, Shenandoah, Warren |
| | Cities | Buena Vista, Charlottesville, Harrisonburg, Lexington, Staunton, Waynesboro, Winchester |
| Southwest Regional Office | Counties | Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe |
| | Cities | Bristol, Galax, Norton |
| West Central Regional Office | Counties | Alleghany, Bedford, Botetourt, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski, Roanoke, Bedford |
| | Cities | Clifton Forge, Covington, Martinsville, Radford, Roanoke, Salem |
| Tidewater Regional Office | Counties | Accomack, Isle of Wight, James City, Northampton, Southampton, York |
| | Cities | Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Poquoson, Suffolk, Virginia Beach, Williamsburg |

VA.R. Doc. No. R09-1915; Filed April 16, 2009, 11:50 a.m.

# TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

## STATE CORPORATION COMMISSION

### Proposed Regulation

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 that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **10VAC5-10. Delegation of Certain Authority to the Commissioner of the Bureau of Financial Institutions (amending 10VAC5-10-10).**

Statutory Authority: §§ 12.1-13 and 12.1-16 of the Code of Virginia.

Public Hearing Information: A public hearing will be scheduled upon request.

Public Comments: Public comments may be submitted until 5 p.m. on June 15, 2009.

Agency Contact: Nicholas C. Kyrus, Deputy Commissioner, Bureau of Financial Institutions, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9657, FAX (804) 371-9416, or email nick.kyrus@scc.virginia.gov.

Summary:

*The proposed amendments delegate additional authority to the Commissioner of Financial Institutions to grant or deny mortgage loan originator licenses and set the amount of surety bonds required for such licensure.*

AT RICHMOND, APRIL 8, 2009

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2009-00081

Ex Parte: In re: Powers delegated
to the Commissioner of Financial
Institutions

ORDER TO TAKE NOTICE

WHEREAS § 12.1-16 of the Code of Virginia provides, among other things, for delegation by the State Corporation Commission ("Commission") to the Commissioner of Financial Institutions ("Commissioner") of its duties under certain laws; and

WHEREAS the Commission has previously delegated various powers and duties to the Commissioner pursuant to this statute, which delegations currently appear in the Virginia Administrative Code at 10 VAC 5-10-10; and

WHEREAS the Commission now proposes to delegate certain additional authority to the Commissioner in order to promote the efficient administration of Title 6.1 of the Code of Virginia;

IT IS THEREFORE ORDERED THAT:

(1) The proposed amended regulation entitled "Powers Delegated to Commissioner of Financial Institutions" is appended hereto and made part of the record herein.

(2) On or before June 15, 2009, any person desiring to comment on the proposed amended regulation shall file written comments containing a reference to Case No. BFI-2009-00081 with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: http://www.scc.virginia.gov/case.

(3) The proposed amended regulation shall be posted on the Commission's website at http://www.scc.virginia.gov/case.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed amended regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Commissioner of Financial Institutions.

**10VAC5-10-10. Powers delegated to Commissioner of Financial Institutions.**

A. The State Corporation Commission has delegated to the Commissioner of Financial Institutions the authority to exercise its powers and to act for it in the following matters:

1. To grant or deny petitions relating to service by an individual as a director of more than one financial institution. (§ 6.1-2.7 of the Code of Virginia.)

2. To grant a certificate of authority to a bank formed for the purpose of its being acquired under the provisions of Chapter 14 (§ 6.1-390 et seq.) of Title 6.1 of the Code of Virginia, or for the purpose of facilitating the consolidation of banks or the acquisition by merger of a bank pursuant to any provision of Title 6.1 of the Code of Virginia. (§§ 6.1-13 and 6.1-43 of the Code of Virginia.)

3. To grant or deny authority to a bank, or to a trust subsidiary, to engage in the trust business or exercise trust powers. (§§ 6.1-16 and 6.1-32.5 of the Code of Virginia.)

4. To approve an office of a trust subsidiary; to authorize a trust company to establish an additional office; to authorize a state bank or trust company to establish or acquire a trust office in another state; and to deny an application by a state

bank to establish a branch or relocate an authorized office in Virginia. (§§ 6.1-32.6, 6.1-32.21, 6.1-32.33 and 6.1-39.3 of the Code of Virginia.) To approve the establishment, acquisition, maintenance, and operation of branches of state banks in states other than Virginia. (§§ 6.1-44.3 and 6.1-44.17 of the Code of Virginia.)

5. To permit a state bank to operate or advertise a branch office under a name that is not identical to the bank's own name. (§ 6.1-41 of the Code of Virginia.)

6. To object to an application or notice by an out-of-state trust institution or an out-of-state bank to establish or acquire a trust office or branch in Virginia, upon finding that the filing requirements and the conditions for approval prescribed by law are not fulfilled. (§§ 6.1-32.38 and 6.1-32.39; 6.1-44.6 and 6.1-44.7; 6.1-44.19 and 6.1-44.20 of the Code of Virginia.)

7. To grant approval for directors' meetings of a bank or trust company to be held less frequently than monthly. (§ 6.1-52 of the Code of Virginia; 10VAC5-22-20.)

8. To grant approval for the investing of more than 50% of the aggregate amount of a bank's capital stock, surplus, and undivided profits in its bank building and premises; and to permit the payment of dividends while such investment exceeds 50% of capital, surplus, and undivided profits. (§ 6.1-57 of the Code of Virginia.)

9. To consent to a bank's investment in more than one service corporation. (§ 6.1-58 of the Code of Virginia.)

10. To give permission for the aggregate investment of more than 50% of a bank's capital stock and permanent surplus in the stock, securities, or obligations of controlled-subsidiary and bank service corporations. (§ 6.1-58.1 of the Code of Virginia.)

11. To give written consent and approval for a bank to hold the possession of certain real estate for a longer period than 10 years. (Subdivision 4 of § 6.1-59 of the Code of Virginia.)

12. To approve the issuance by a bank of capital notes and debentures, so that such notes and debentures may qualify as surplus for the purpose of calculating the legal lending limit of a bank. (§ 6.1-61 of the Code of Virginia.)

13. To give written approval in advance for a bank or trust company to pledge its assets as security for certain temporary purposes. (§ 6.1-80 of the Code of Virginia.)

14. To require any bank to prepare and submit such reports and material as he may deem necessary to protect and promote the public interest. (§ 6.1-93 of the Code of Virginia.)

15. To approve the issuance of stock in a savings institution in exchange for property or services valued at an amount not less than the aggregate value of the shares issued. (§§ 6.1-194.11 and 6.1-194.113 of the Code of Virginia.)

16. To reduce temporarily the reserve requirements for a savings institution upon a finding that such reduction is in the best interest of the institution and its members. (§ 6.1-194.23 of the Code of Virginia.)

17. To grant a certificate of authority to a savings institution formed solely for the purpose of facilitating the merger or acquisition of savings institutions pursuant to any provision of Title 6.1 of the Code of Virginia.

18. To grant or deny authority to a state association, a state savings bank or a foreign savings institution to establish a branch office, or other office or facility where deposits are accepted (§§ 6.1-194.26 and 6.1-194.119 of the Code of Virginia), or to change the location of a main or branch office. (§§ 6.1-194.28 and 6.1-194.121 of the Code of Virginia.)

19. To cause a special examination of a savings institution to be made. (§ 6.1-194.84:1 of the Code of Virginia.)

20. To grant or deny authority to a savings institution to exercise fiduciary powers. (§§ 6.1-195.77 et seq. and 6.1-194.138 of the Code of Virginia.)

21. To grant or deny approval to a credit union to maintain a service facility or office (other than a main office). (§ 6.1-225.20 of the Code of Virginia.)

22. To make such findings as are required by §§ 6.1-225.23 and 6.1-225.23:1 of the Code of Virginia relating to fields of membership of credit unions and the expansion of such fields of membership.

23. To approve the investment of credit union funds in certain stock, securities and other obligations. (Subdivision 8 of § ~~6.1-25.57~~ 6.1-225.57 of the Code of Virginia.)

24. To grant or deny authority to an industrial loan association to relocate its office. (§ 6.1-233 of the Code of Virginia.)

25. To grant or deny licenses pursuant to Chapter 6 (§ 6.1-244 et seq.) of Title 6.1 of the Code of Virginia. (§ 6.1-256.1 of the Code of Virginia.)

26. To grant or deny licenses to engage in the business of selling money orders or the business of money transmission, or both, and approve or disapprove acquisitions of ownership interests in licensees. (§§ 6.1-371 and 6.1-378.2 of the Code of Virginia.)

27. To grant or deny licenses to operate ~~non-profit debt~~ credit counseling agencies. ~~(§ 6.1-363.1~~ (§ 6.1-363.7 of the Code of Virginia.)

28. To grant or deny licenses to engage in business as a mortgage lender and/or mortgage broker, and prescribe conditions under which exclusive agents of licensees may

act as mortgage brokers without a license and approve or disapprove individuals as qualified exclusive agents of licensees. (§§ 6.1-410 and 6.1-415 of the Code of Virginia.)

29. To grant or deny permission to a mortgage lender or mortgage broker licensee to relocate an office or open an additional office and approve or disapprove acquisitions of ownership interests in licensees. (§§ 6.1-416 and 6.1-416.1 of the Code of Virginia.)

30. To grant or deny licenses to engage in business as a mortgage loan originator, and set the amount of surety bond required for such licensure. (§§ 6.1-431.4 and 6.1-431.7 of the Code of Virginia.)

31. To enter into cooperative agreements with appropriate regulatory authorities for the examination of out-of-state bank holding companies and their subsidiaries and out-of-state savings institution holding companies and their subsidiaries and for the accomplishment of other duties imposed on the commission by Article 11 (§ 6.1-194.96 et seq.) of Chapter 3.01 and by Chapter 15 (§ 6.1-398 et seq.) of Title 6.1 of the Code of Virginia.

~~31.~~ 32. To prescribe the form and content of all applications, documents, undertakings, papers, and information required to be submitted to the commission under Title 6.1 of the Code of Virginia.

~~32.~~ 33. To make all investigations and examinations, give all notices, and shorten, waive, or extend any time period within which any action of the commission must or may be taken or performed under Title 6.1 of the Code of Virginia.

B. In the performance of the duties hereby delegated to him, the commissioner shall have the power and authority to make all findings and determinations permitted or required by law.

C. The foregoing delegations of authority shall be effective until revoked by order of the commission. All actions taken by the Commissioner of Financial Institutions pursuant to the authority granted here are subject to review by the commission in accordance with the Rules of Practice and Procedure of the State Corporation Commission. Each delegation set forth in a numbered subdivision of subsection A of this section shall be severable from all others.

VA.R. Doc. No. R09-1875; Filed April 15, 2009, 10:23 a.m.

## Proposed Regulation

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 that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **10VAC5-110. Credit Counseling (adding 10VAC5-110-30).**

Statutory Authority: §§ 6.1-363.15 and 12.1-13 of the Code of Virginia.

Public Hearing Information: A public hearing will be scheduled upon request.

Public Comments: Public comments may be submitted until 5 p.m. on May 20, 2009.

Agency Contact: Gerald Fallen, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9699, FAX (804) 371-9416, or email gerald.fallen@scc.virginia.gov.

Summary:

*The proposed amendments prescribe the annual fees to be paid by credit counseling agencies licensed under Chapter 10.2 (§ 6.1-363.2 et seq.) of Title 6.1 of the Code of Virginia. The fees defray the costs of examination, supervision, and regulation of licensees by the Bureau of Financial Institutions.*

AT RICHMOND, APRIL 17, 2009

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2009-00276

Ex Parte: In re: annual fees for
licensed credit counseling agencies

ORDER TO TAKE NOTICE

Section 6.1-363.14 of the Credit Counseling Act, § 6.1-363.2 et seq. of the Code of Virginia, requires licensed credit counseling agencies to pay an annual fee calculated in accordance with a schedule set by the State Corporation Commission ("Commission").

The Commission, based upon information supplied by the Staff of the Bureau of Financial Institutions, now proposes to promulgate a regulation setting a schedule of annual fees that will promote the efficient and effective examination, supervision, and regulation of licensed credit counseling agencies.

IT IS THEREFORE ORDERED THAT:

(1) The proposed regulation, entitled "Schedule of Annual Fees for the Examination, Supervision, and Regulation of Credit Counseling Agencies," is appended hereto and made a part of the record herein.

(2) Comments or requests for a hearing on the proposed regulation must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before May 20, 2009. Requests for hearing shall state why a hearing is necessary and why the issues

cannot be adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2009-00276.

Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: http://www.scc.virginia.gov/case.

(3) The proposed regulation shall be posted on the Commission's website at http://www.scc.virginia.gov/case.

(4) AN ATTESTED COPY hereof, including a copy of the proposed regulation, shall be sent by the Commission's Division of Information Resources to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, including a copy of the proposed regulation, to all licensed credit counseling agencies and such other interested parties as he may designate.

**10VAC5-110-30. Schedule of annual fees for the examination, supervision, and regulation of credit counseling agencies.**

Pursuant to § 6.1-363.14 of the Code of Virginia, the commission sets the following schedule of annual fees to be paid by persons licensed under Chapter 10.2 (§ 6.1-363.2 et seq.) of Title 6.1 of the Code of Virginia. The fees are to defray the costs of examination, supervision, and regulation of licensees by the Bureau of Financial Institutions.

SCHEDULE

The annual fee shall be $500 plus the following additional amount based on the total number of debt management plans maintained in Virginia as of December 31 of the calendar year preceding the year of assessment:

| Total Number of Debt Management Plans | Amount |
|---|---|
| Less than 501 | $5.00 per debt management plan |
| 501 to 1,000 | $4.00 per debt management plan |
| 1,001 to 2,000 | $3.00 per debt management plan |
| 2,001 to 3,000 | $2.50 per debt management plan |
| Over 3,000 | $2.00 per debt management plan |

The fee assessed using the above schedule shall be rounded down to the nearest whole dollar.

Fees shall be assessed on or before June 1 for the current calendar year. The fee shall be paid on or before July 1.

The annual report, due March 25 each year, of each licensee provides the basis for its assessment. In cases where a license has been granted between January 1 and March 25 of the year of assessment, the licensee's annual fee shall be $250.

Fees prescribed and assessed by this schedule are apart from, and do not include, the reimbursement for expenses permitted by subsection B of § 6.1-363.14 of the Code of Virginia.

VA.R. Doc. No. R09-1919; Filed April 21, 2009, 1:41 p.m.

# TITLE 11. GAMING

## VIRGINIA RACING COMMISSION

### Final Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 22 of the Code of Virginia, which exempts agency action relating to the types of pari-mutuel wagering pools available for live or simulcast horse racing.

Title of Regulation: **11VAC10-20. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering (amending 11VAC10-20-330).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: June 1, 2009.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

*The amendment lifts the restriction on trifecta wagering being offered on races in which horses with common ties have been uncoupled for wagering purposes. The amendment will make the regulations in Virginia more consistent with those of other jurisdictions in the Mid-Atlantic region.*

**11VAC10-20-330. Multiple wagering.**

A. Generally. Daily double, quinella, exacta, trifecta, quinella double, pick (n), twin trifecta, and superfecta pari-mutuel wagering pools shall be considered "multiple wagering." In any race or races, the daily double, quinella, exacta, trifecta, quinella double, pick (n), twin trifecta, and superfecta pools are treated separately and the distribution of the pools are calculated independently of each other. The "net pool" to be distributed shall be all sums wagered in the pool, less retainage and breakage, as defined elsewhere.

B. Daily double pools. The daily double wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first in the two races specified as the daily double. If either of the selections fails to win, the pari-mutuel ticket is void, except as otherwise provided. The amount wagered on the winning combination, the horse or wagering interest which finishes first in the first race coupled with the horse or wagering interest finishing first in the second race of the daily double, is deducted from the net pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning daily double. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to daily double pools:

1. If there is a dead heat for first including two different wagering interests in one of the two daily double races, the daily double pool is distributed as if it were a place pool, with one-half of the net pool allocated to wagers combining the single winner of one daily double race and one of the wagering interests involved in the dead heat in the other daily double race, and with the other one-half of the net pool allocated to the wagers combining the single winner of one daily double race and the other wagering interest involved in the dead heat in the other daily double race.

2. If there are dead heats for first involving different wagering interests in each of the daily double races which result in winning combinations, the net pool shall be allocated equally to the winning combinations after first deducting from the net pool the amount wagered on all winning combinations for proportionate allocation to the winning daily double combinations.

3. If no daily double ticket is sold combining the horse or wagering interest which finishes first in one of the daily double races, the daily double pool is distributed as if it were a win pool, with the net pool allocated to wagering combinations which include the horse or wagering interest which finished first in one of the daily double races.

4. If no daily double ticket is sold combining the horses or wagering interests which finish first in both the first and second race of the daily double, then the winning combinations for distribution of the daily double profit shall be that combining the horses or wagering interests which finished second in each of the daily double races.

5. If, after daily double wagering has begun, a horse not coupled with another as a wagering interest in the first race of the daily double is excused by the stewards or is prevented from obtaining a fair start, then daily double wagers combining the horse shall be deducted from the daily double pool and shall be promptly refunded.

6. If, after the first race of the daily double has been run, a horse not coupled with another as a wagering interest in the second race of the daily double is excused by the stewards or prevented from obtaining a fair start, then daily double wagers combining the winner of the first daily double race with the horse, which was excused or was prevented from obtaining a fair start, shall be allocated a consolation daily double.

7. Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or wagering interest scheduled to start in the second daily double race, the quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with the horse prevented from racing in the second daily double race. The return to the holder includes the amount wagered and the profit. The consolation payoff shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

8. If for any reason the first race of the daily double is cancelled and declared "no contest" a full and complete refund shall be promptly made of the daily double pool.

9. If for any reason the second race of the daily double is cancelled and declared "no contest," the net daily double pool shall be paid to the holders of daily double tickets which include the winner of the first race. If no such ticket is sold, then the net daily double pool shall be paid to the holders of daily double tickets which include the second place horse. If no daily double tickets were sold on the second place horse, then the licensee shall make a prompt refund.

C. Quinella pools. The quinella wager is the purchase of a pari-mutuel ticket to select the first two horses to finish in the race. The order in which the horses finish is immaterial. The amount wagered on the winning combination, the first two finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit. The net pool is divided by the amount wagered on the winning combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the quinella pools:

1. If there is a dead heat for first between horses including two different wagering interests, the net quinella pool is distributed as if no dead heat occurred. If there is a dead heat among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and the pool is allocated to wagers combining any of the three horses finishing in the dead heat for first.

2. If there is a dead heat for second between horses including two different wagering interests, the net quinella pool is distributed as if it were a place pool and it is allocated to wagers combining the first finisher with either horse finishing in a dead heat for second. If the dead heat is

among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining the first horse with each of the three horses finishing in a dead heat for second.

3. If horses representing a single wagering interest finish first and second, the net quinella pool shall be allocated to wagers combining the single wagering interest with the horse or wagering interest with the horses or wagering interest which finishes third.

4. If no quinella ticket is sold combining the first finisher with one of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second.

5. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the two horses which finished in the dead heat for second.

6. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, or combining the two horses which finished in a dead heat for second, the net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining any of the first three finishers with any other horses.

7. If no quinella ticket is sold combining the first two finishers, then the net quinella pool shall be distributed as if it were a place pool and it is allocated to wagers combining the first finisher with any other horses and to wagers combining the second finisher with any other horse.

8. If no quinella ticket is sold combining horses or wagering interests as would require distribution, a full and complete refund shall be made of the entire quinella pool.

9. If a horse is excused by the stewards, no further quinella tickets shall be issued designating that horse, and all quinella tickets previously issued designating that horse shall be refunded and deducted from the gross pool.

D. Exacta pools. The exacta wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first and second in a race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first and the horse finishing second, in exact order, is the amount to be deducted from the net exacta pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning exacta combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the exacta pool:

1. If no ticket is sold on the winning combination of an exacta pool, the net exacta pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and holders of tickets selecting the second place horse to finish second.

2. If there is a dead heat between two horses for first place, the net exacta pool shall be calculated and distributed as a place pool, one-half of the net exacta pool being distributed to holders of tickets selecting each of the horses in the dead heat to finish first with the other horse to finish second.

In case of a dead heat between two horses for second place, the net exacta pool shall be calculated as a place pool, one-half of the net exacta pool being distributed to holders of tickets selecting the horse to finish first and one horse in the dead heat, and the other one-half being distributed to holders selecting the horse to finish first and the other horse in the dead heat.

3. If there is a dead heat for second place and if no ticket is sold on one of the two winning combinations, the entire net exacta pool shall be calculated as a win pool and distributed to holders of the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the net exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

4. If an entry finishes first and second, or mutuel field horses finish first and second, the net pool shall be distributed to holders of tickets selecting the entry to win combined with the horses having finished third.

5. If no ticket is sold that would require distribution of an exacta pool, the licensee shall make a complete and full refund of the exacta pool.

6. If a horse is excused by the stewards, no further exacta tickets shall be issued designating that horse, and all exacta tickets previously issued designating that horse shall be refunded and deducted from the gross pool.

E. Trifecta pools. The trifecta wager is purchase of a pari-mutuel ticket to select the three horses that will finish first, second, and third in a race. Payment of the ticket shall be made only to the holder who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first, the horse finishing second, and the horse finishing third, in exact order, is deducted from the pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning combination. The return to the holder includes the amount wagered and the profit.

1. If no ticket is sold on the winning combination, the net trifecta pool shall be distributed equally among holders of tickets designating the first two horses in order.

2. If no ticket is sold designating, in order, the first two horses, the net trifecta pool shall be distributed equally among holders of tickets designating the horse to finish first.

3. If no ticket is sold designating the first horse to win, the net trifecta pool shall be distributed equally among holders of tickets designating the second and third horses in order. If no such ticket is sold, then the licensee shall make a prompt refund.

4. If less than three horses finish, the payout shall be made on tickets selecting the actual finishing horses, in order, ignoring the balance of the selection.

5. If there is a dead heat, all trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position involved in the dead heat, shall be winning tickets. The net trifecta pool shall be calculated as a place pool.

~~6. The uncoupling for wagering purposes of horses having common ties is prohibited in races upon which trifecta wagering is conducted except for stakes, futurities, and other special events.~~

~~7.~~ 6. If a horse is excused by the stewards, no further trifecta tickets shall be issued designating that horse, and all trifecta tickets previously issued designating the horse shall be refunded and deducted from the gross pool.

F. Quinella double pools. The quinella double requires selection of the first two finishers, irrespective of order, in each of two specified races.

1. The net quinella double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

a. If a coupled entry or mutuel field finishes as the first two contestants in either race, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate wagering interest in the official order of finish for that race, as well as the first two finishers in the alternate quinella double race; otherwise

b. As a single price pool to those who selected the first two finishers in each of the two quinella double races; but if there are no such wagers, then

c. As a profit split to those who selected the first two finishers in either of the two quinella double races; but if there are no such wagers on one of those races, then

d. As a single price pool to those who selected the first two finishers in the one covered quinella double race; but if there were no such wagers, then

e. The entire pool shall be refunded on quinella double wagers for those races.

2. If there is a dead heat for first in either of the two quinella double races involving:

a. Horses representing the same wagering interest, the quinella double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate wagering interest in the official order of finish for that race.

b. Horses representing two wagering interests, the quinella double pool shall be distributed as if no dead heat occurred.

c. Horses representing three or more wagering interests, the quinella double pool shall be distributed as a profit split.

3. If there is a dead heat for second in either of the quinella double races involving horses representing the same wagering interest, the quinella double pool shall be distributed as if no dead heat occurred.

4. If there is a dead heat for second in either of the quinella double races involving horses representing two or more wagering interests, the quinella double pool shall be distributed as profit split.

5. Should a wagering interest in the first half of the quinella double be scratched prior to the first quinella pool race being declared official, all money wagered on combinations including the scratched wagering interest shall be deducted from the quinella double pool and refunded.

6. Should a wagering interest in the second half of the quinella double be scratched prior to the close of wagering on the first quinella double contest, all money wagered on combinations including the scratched wagering interest shall be deducted from the quinella double pool and refunded.

7. Should a wagering interest in the second half of the quinella double be scratched after the close of wagering on the first quinella double race, all wagers combining the winning combination in the first race with a combination including the scratched wagering interest in the second race shall be allocated a consolation payout. In calculating the consolation payout, the net quinella double pool shall be divided by the total amount wagered on the winning combination in the first race and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first race combined with a combination

including the scratched wagering interest in the second race to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net quinella double pool before calculation and distribution of the winning quinella double payout. In the event of a dead heat involving separate wagering interests, the net quinella double pool shall be distributed as a profit split.

8. If either of the quinella double races is cancelled prior to the first quinella double race or the first quinella double race is declared "no contest," the entire quinella double pool shall be refunded on quinella double wagers for those races.

9. If the second quinella double race is cancelled or declared "no contest" after the conclusion of the first quinella double race, the net quinella double pool shall be distributed as a single price pool to wagers selecting the winning combination in the first quinella double race. If there are no wagers selecting the winning combination in the first quinella double race, the entire quinella double pool shall be refunded on quinella double wagers for those races.

G. Pick (n) pools. The pick (n) pool requires selection of the first-place finisher in each of a designated number of races. The licensee must obtain approval from the commission or its executive secretary concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in subdivision 1 of this subsection and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the commission or its executive secretary.

1. The pick (n) pool shall be apportioned under one of the following methods:

a. Method 1, pick (n) with carryover. The net pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the remainder shall be added to the carryover.

b. Method 2, pick (n) with minor pool and carryover. The major share of the net pick (n) pool and carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the major share shall be added to the carryover.

c. Method 3, pick (n) with no minor pool and no carryover. The net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

d. Method 4, pick (n) with minor pool and no carryover. The major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If the greatest number of first-place finishers selected is one, the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

e. Method 5, pick (n) with minor pool and no carryover. The major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) races, based on the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) races, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) races. If there are no winning wagers, the pool is refunded.

f. Method 6, pick (n) with minor pool, jackpot, major carryover and jackpot carryover. Predetermined percentages of the net pick (n) pool shall be set aside as a major pool, minor pool, and jackpot pool. The major share of the net pick (n) pool and the major carryover, if any, shall be distributed to those who selected the first-place finisher of each of the pick (n) races, based on the official order of finish. If there are no tickets selecting

the first-place finisher in each of the pick (n) races, the major net pool shall be added to the major carryover. If there is only one single ticket selecting the first-place finisher of each of the pick (n) races, based on the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the major net pool and the major carryover, if any. If more than one ticket selects the first-place finisher of each of the pick (n) races, the jackpot net pool shall be added to the jackpot carryover. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of pick (n) races, based on the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor net pool of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) races.

2. If there is a dead heat for first in any of the pick (n) races involving:

a. Horses representing the same wagering interest, the pick (n) pool shall be distributed as if no dead heat occurred.

b. Horses representing two or more wagering interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

3. Should a wagering interest in any of the pick (n) races be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host track for the race at the close of wagering on that race, shall be substituted for the scratched wagering interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the wagering interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted wagering interests which became winners as a result of the substitution, in addition to the normal winning combination. When the condition of the racecourse warrants a change of racing surface in any of the legs of a pick (n) with four or more races included, and such change has not been known to the public prior to the close of wagering for the pick (n) pool, the stewards shall declare the changed leg(s) an "all win" race(s) for pick (n) wagering purposes only. An "all win" race(s) will assign the winner of that race(s) to each pick (n) ticket holder as their selection for that race.

4. The pick (n) pool shall be cancelled and pick (n) wagers for the individual performance shall be refunded if:

a. At least two races included as part of a pick three are cancelled or declared "no contest."

b. At least three races included as part of a pick four, pick five or pick six are cancelled or declared "no contest."

c. At least four races included as part of a pick seven, pick eight or pick nine are cancelled or declared "no contest."

d. At least five races included as part of a pick 10 are cancelled or declared "no contest."

5. If at least one race included as part of a pick (n) is cancelled or declared "no contest," but not more than the number specified in subdivision 4 of this subsection, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races for that program. The distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

6. The pick (n) carryover may be capped at a designated level approved by the commission so that if, at the close of any program, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this chapter. After the pick (n) carryover is frozen, 100% of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) races for that program.

7. A licensee may request permission from the commission to distribute the pick (n) carryover on a specific program. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and program for the distribution.

8. Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) races, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races. The pick (n) carryover shall be designated for distribution on a specified date and program only under the following circumstances:

a. Upon approval from the commission as provided in subdivision 7 of this subsection;

b. Upon approval from the commission when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued;

c. On the closing program of a race meeting.

9. If, for any reason, the pick (n) carryover must be held to the corresponding pick (n) pool to a subsequent race

meeting, the carryover shall be deposited in an interest-bearing account approved by the commission. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool on a date and program of the race meeting designated by the commission.

10. With the approval of the commission, a licensee may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

11. Providing information to any person regarding the covered combinations, amounts wagered on specific combinations, number of tickets sold or number of live tickets remaining is strictly prohibited. This chapter shall not prohibit necessary communication between totalizator and mutuel employees for processing of pool data.

12. The licensee may suspend previously approved pick (n) wagering with the approval of the commission. Any carryover shall be held until the suspended pick (n) wagering is reinstated. The licensee may request approval of a pick (n) wager or separate wagering pool for specific programs.

H. Superfecta pools. The superfecta pool requires selection of the first four finishers, in their exact order, for a single race.

1. The net superfecta pool shall be distributed to winning wagers in the following precedence based upon the official order of finish:

a. As a single price pool to those whose combination finished in correct sequence as the first four wagering interests; but if there are no such wagers, then

b. As a single price pool to those whose combination included, in correct sequence, the first three wagering interests; but if there are no such wagers, then

c. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there are no such wagers, then

d. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there are no such wagers, then

e. The entire pool shall be refunded on superfecta wagers for that race.

2. If less than four wagering interests finish and the race is declared official, payouts will be made based upon the order of finish of those wagering interests completing the race. The balance of any selection beyond the number of wagering interests completing the race shall be ignored.

3. If there is a dead heat for first involving:

a. Horses representing four or more wagering interests, all of the wagering combinations selecting four wagering interests which correspond with any of the wagering interests involved in the dead heat shall share in a profit split.

b. Horses representing three wagering interests, all of the wagering combinations selecting the three dead-heated wagering interests, irrespective of order, along with the fourth-place wagering interest shall share in a profit split.

c. Horses representing two wagering interests, both of the wagering combinations selecting the two dead-heated wagering interests, irrespective of order, along with the third and fourth-place wagering interests shall share in a profit split.

4. If there is a dead heat for second involving:

a. Horses representing three or more wagering interests, all of the wagering combinations correctly selecting the winner combined with any of the three wagering interests involved in the dead heat for second shall share in a profit split.

b. Horses representing two wagering interests, all of the wagering combinations correctly selecting the winner, the two dead-heated wagering interests, irrespective of order, and the fourth-place wagering interest shall share in a profit split.

5. If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the wagering interests involved in the dead heat for fourth shall share in a profit split.

6. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the wagering interests involved in the dead heat for fourth shall share in a profit split.

I. Twin trifecta pools. The twin trifecta pool requires selection of the first three finishers in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the second-half twin trifecta pool. The tickets may be exchanged only at attended windows prior to the second twin trifecta race. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payout. Both of the designated twin trifecta races shall be included in only one twin trifecta pool.

1. After wagering closes for the first-half of the twin trifecta and retainage has been deducted from the pool, the net pool shall then be divided into separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.

2. In the first twin trifecta race only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

a. As a single price pool to those whose combination finished in correct sequence as the first three wagering interests; but if there is no winning wager, then

b. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there is no winning wager, then

c. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there is no winning wager, then

d. The entire twin trifecta pool shall be refunded to twin trifecta wagers for that race and the second-half race shall be cancelled.

3. If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In this case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carryover pool.

4. Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

a. As a single price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first three wagering interests; but if there are no winning tickets, then

b. The entire second-half twin trifecta pool for that race shall be added to any existing carryover moneys and retained for the corresponding second-half twin trifecta pool of the next consecutive program.

5. If a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

6. Should a wagering interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched wagering shall be refunded.

7. Should a wagering interest in the second-half of the twin trifecta be scratched, announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched wagering interest. If tickets have not been exchanged prior to the close of wagering of the second twin trifecta race, the ticket holder forfeits all rights to the second-half twin trifecta pool. However, if the scratch in the second-half of the twin trifecta occurs five minutes or less prior to post time, then the licensee shall have discretion to cancel all twin trifecta wagers and make a prompt refund.

8. If, due to a late scratch, the number of wagering interests in the second-half of the twin trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that contest as a single price pool, but not the twin trifecta carryover.

9. If there is a dead heat or multiple dead heats in either the first or second-half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a wagering interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

a. The first-half of the twin trifecta, the payout shall be calculated as a profit split; and

b. The second-half of the twin trifecta, the payout shall be calculated as a single price pool.

10. If either of the twin trifecta races are cancelled prior to the first twin trifecta race or the first twin trifecta race is declared "no contest," the entire twin trifecta pool shall be refunded in twin trifecta wagers for that race and the second-half shall be cancelled.

11. If the second-half twin trifecta race is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that race as a single price pool, but not twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subdivision 3 of this subsection.

12. The twin trifecta carryover may be capped at a designated level approved by the commission so that if, at the close of any program, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or distributed under other provisions of this chapter. After the twin trifecta carryover is frozen, 100% of the net twin trifecta pool for each individual race shall be distributed to winners of the first-half of the twin trifecta pool.

13. A written request for permission to distribute the twin trifecta carryover on a specific program may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived and the intended date and program for the distribution.

14. Should the twin trifecta carryover be designated for distribution on a specified date and program, the following precedence will be followed in determining winning tickets

for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

a. As a single price pool to those whose combination finished in correct sequence as the first three wagering interests; but if there are no such wagers, then

b. As a single price pool to those whose combination included, in correct sequence, the first two wagering interests; but if there are no such wagers, then

c. As a single price pool to those whose combination correctly selected the first-place wagering interest only; but if there are no such wagers, then

d. As a single price pool to holders of valid exchange tickets.

e. As a single price pool to holders of outstanding first-half winning tickets.

15. During a program designated by the commission to distribute the twin trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of wagering interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first, second or third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first and second-place wagering interests. If there are no wagers correctly selecting the first and second place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place wagering interest only. If there are no wagers selecting the first-place wagering interest only in the first-half of the twin trifecta, all first-half tickets will become winners and will receive 100% of that day's net twin trifecta pool and any existing twin trifecta carryover.

16. The twin trifecta carryover shall be designated for distribution on a specified date and program only under the following circumstances:

a. Upon written approval from the commission as provided in subdivision 14 of this subsection.

b. Upon written approval from the commission when there is a change in the carryover cap or when the twin trifecta is discontinued.

c. On the closing program of the race meeting.

17. If, for any reason, the twin trifecta carryover must be held over to the corresponding twin trifecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carryover plus accrued interest shall then be added to the second-half twin trifecta pool of the following meet on a date and program so designated by the commission.

18. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

19. The licensee must obtain written approval from the commission concerning the scheduling of twin trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved twin trifecta format require prior approval from the commission.

VA.R. Doc. No. R09-1931; Filed April 22, 2009, 11:31 a.m.

## Proposed Regulation

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 2.2-4002 of the Code of Virginia (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the commission.

Title of Regulation: **11VAC10-110. Entries (amending 11VAC10-110-90).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418, or email david.lermond@vrc.virginia.gov.

Summary:

*The proposed admendments lift the requirement that horses with common ties through ownership must be coupled in thoroughbred stakes races with purse amounts of $50,000 or higher. These amendments will make the regulations in Virginia more consistent with those of other jurisdictions in the Mid-Atlantic region.*

**11VAC10-110-90. Coupling.**

All horses entered in the same race and owned wholly or partially by the same owner or spouse ~~or other common ownership ties~~ shall be joined as a mutuel entry and shall constitute a single wagering interest, except as provided for in subdivision 7 of this section. No trainer shall enter more than two horses in ~~a~~ an overnight race ~~except in split races. No trainer of any horse shall have any ownership interest or lease interest in any other horse in the same race unless such horses~~

~~are coupled as a single wagering interest~~. The following provisions shall apply to mutuel entries:

1. The racing secretary shall be responsible for coupling entries for wagering purposes;

2. No more than two horses having common ties through ownership, which would result in a mutuel entry and a single wagering interest, may be entered in an overnight race;

3. When two horses having common ties through ownership are entered in an overnight race, preference shall be given to the horse with the earliest preference date or the most stars;

4. Two horses having common ties through ownership shall not start as a mutuel entry in an overnight race to the exclusion of another horse nor shall a trainer be permitted to run two horses in a race to the exclusion of another horse;

5. The racing secretary shall be responsible for assigning horses to the mutuel field when the number of wagering interests exceeds the numbering capacity of the ~~totalizator system~~ infield tote board; ~~and~~

6. ~~The uncoupling of two horses having common ties through training is subject to the approval of the trainer.~~ In an overnight race, the racing secretary may uncouple entries having common ties through training; and

7. In any thoroughbred stakes race with added or guaranteed money of $50,000 or more, the racing secretary may uncouple mutuel entries of horses sharing common ties through training or ownership or both.

VA.R. Doc. No. R09-1929; Filed April 22, 2009, 11:32 a.m.

# TITLE 13. HOUSING

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

### Proposed Regulation

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: **13VAC10-40. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income (amending 13VAC10-40-20, 13VAC10-40-40, 13VAC10-40-50, 13VAC10-40-120, 13VAC10-40-130, 13VAC10-40-140, 13VAC10-40-160, 13VAC10-40-170, 13VAC10-40-220).**

Statutory Authority: § 36-55.30.3 of the Code of Virginia.

Public Hearing Information:

May 19, 2009 - 10 a.m. - Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA

Public Comments: Public comments may be submitted until 5 p.m. on May 18, 2009.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540 or email judson.mckellar@vhda.com.

Summary:

To address potential sale of single family mortgage loans to investors, the amended regulations provide that:

1. The authority may apply the tax exempt financing requirements and restrictions (e.g. first-time homebuyer restrictions, maximum incomes and maximum sales price) to mortgage loans that are not financed with tax exempt bonds;

2. Investor underwriting guidelines that are more stringent than authority guidelines will apply to loans investors will purchase; and

3. The reservation period (currently 60 days) may be shortened to meet investor loan delivery deadlines.

The following amendments are proposed to the FHA Plus program:

1. The authority's FHA Plus second loan may be combined with an FHA first mortgage loan financed by a lender other than VHDA;

2. Flexibility is provided to lower the maximum amount of the FHA Plus second loan below the standard 5.0% of the lesser of appraised value or sales price;

3. If the authority is not making the FHA first mortgage loan, the authority may require that the FHA Plus first loan meet the authority's underwriting guidelines;

4. Flexibility is provided to impose more stringent underwriting criteria on the FHA Plus second loan than are applicable to the FHA Plus first loan;

5. The authority may charge an origination fee and/or a discount point on the FHA plus loan in an amount determined by the executive director to be necessary to compensate the authority for originating, processing, and closing the FHA plus loan, if the first deed of trust is to be financed by another lender;

6. The sum of all liens may not exceed 100% the cost to acquire the property (the cost to acquire the property is the sales price plus allowable borrower paid closing costs, discount points, and prepaid expenses); and

7. The FHA insured first mortgage when combined with the FHA plus second mortgage and any other liens may not result in cash back to the borrower.

In underwriting FHA, VA, and RD loans, the authority may impose its more stringent borrower's employment, income, and credit requirement on loans that otherwise would be subject only to the applicable insurer or guarantor's requirements.

In order to address investor requirements, the regulations are amended to provide that the authority's single family mortgage loans are assumable only if permitted by the authority. For example, Fannie Mae guidelines do not permit loans to be assumed. An exception is provided for loans (such as FHA loans) that are assumable in accordance with insurer or guarantor guidelines or applicable law.

The authority may require that the company issuing private mortgage insurance insuring an authority mortgage loan have a Moody's Investors Service Insurance Financial Strength rating not lower than Aa3 or a Standard & Poor's Ratings Services Financial Strength rating not lower than AA-.

The authority may impose a minimum credit score requirement for borrowers if the authority determines that such a requirement is standard and customary in the single family mortgage loan industry and is necessary to protect the authority's financial interests.

**13VAC10-40-20. Origination and servicing of mortgage loans.**

A. The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall, except as noted in subsection G of this section, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment and housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this section, be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent and to continue to be so approved, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia and be licensed as a mortgage lender or broker, as applicable, under the Virginia Mortgage Lender and Broker Act as set forth in Chapter 16 (§ 6.1-408 et seq.) of Title 6.1 of the Code of Virginia (including nonprofit corporations that may be exempt from licensing when making mortgage loans on their own behalf under subdivision 4 of § 6.1-411 of the Code of Virginia); provided, however, that such licensing requirement shall not apply to persons exempt from licensure under:

a. Subdivision 2 of § 6.1-411 of the Code of Virginia (any person subject to the general supervision of or subject to examination by the Commissioner of the Bureau of Financial Institutions of the Virginia State Corporation Commission);

b. Subdivision 3 of § 6.1-411 of the Code of Virginia (any lender authorized to engage in business as a bank, savings institution or credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia, and subsidiaries and affiliates of such entities, which lender, subsidiary or affiliate is subject to the general supervision or regulation of or subject to audit or examination by a regulatory body or agency of the United States, any state or territory of the United States, or the District of Columbia); or

c. Subdivision 5 of § 6.1-411 of the Code of Virginia (agencies of the federal government, or any state or municipal government, or any quasi-governmental agency making or brokering mortgage loans under the specific authority of the laws of any state or the United States).

2. Have a net worth equal to or in excess of $500,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;

3. Have a staff with demonstrated ability and experience in mortgage loan origination, underwriting, processing and closing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant);

4. To be approved as an originating agent, have a physical office located in Virginia that is open to the general public during commercially reasonable business hours, staffed with individuals qualified to take mortgage loan applications, and to which the general public may physically go to make an application for a mortgage loan;

5. To be approved as an originating agent, be eligible to, and have a staff qualified to (as set forth in subdivision 3 of this subsection), originate mortgage loans under all of the authority's single-family mortgage loan programs (not including the Rural Development loan program);

6. Have a fidelity bond and mortgage errors and omissions coverage in an amount at least equal to $500,000 and provide the authority a certificate from the insurance carrier naming the authority as a party in interest to the bond, or the policies or bonds shall name the authority as one of the parties insured. The policy's deductible clause may be for any amount up to the greater of $100,000 or 5.0% of the face amount of the policy;

7. Have a past history of satisfactory performance in the authority's and other mortgage lenders', insurers', guarantors' and investors' mortgage programs that, in the determination of the executive director, demonstrates that the applicant will be capable of meeting its obligations under the authority's programs, and provided further that, any applicant that has been previously terminated as an originating by the Authority shall not be eligible to reapply for 24 months after the effective date of such termination; and

8. Meet such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

~~Notwithstanding the foregoing, any applicant that has been approved and has entered into a servicing or origination agreement as of November 13, 2007, but that does not meet the above requirements, shall have until March 31, 2009, to comply with such requirements.~~

Notwithstanding the foregoing, in the event that the executive director determines that it is reasonable or necessary (after taking into consideration the number of existing origination and servicing agents, the current and expected level of loan production and demand for mortgage loans, and the current and expected resources available to the authority to make mortgage loans) to cease approving additional originating and servicing agents, the authority may at any time decline to accept further applications and to approve applications previously submitted.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into both an originating agreement and a servicing agreement.

Once such agreements are executed, continued participation in the authority's programs shall be subject to the terms and conditions in such agreements.

For the purposes of this chapter, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted or the context indicates otherwise. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans.

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;

2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;

3. The cost and difficulty of administration of the allocation of funds;

4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;

2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. This chapter constitutes a portion of the originating guide of the authority. The ~~processing~~ originating guide and all exhibits and other documents referenced herein are not included in, and shall not be deemed to be a part of this chapter. The executive director is authorized to prepare and from time to time revise ~~a processing~~ an originating guide and a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the origination, closing and servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the ~~processing~~ originating guide and the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide (including the ~~processing~~ originating guide) and the servicing guide.

D. The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and this chapter.

If the applicant and the application for a mortgage loan meet the requirements of the Act and this chapter, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the servicing guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. The executive director may, in his discretion, delegate to one or more originating agents all or some of the responsibility for underwriting, issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The executive director may delegate to one or more servicing agents all or some of the responsibility for underwriting and issuing commitments for the assumption of existing authority mortgage loans without prior review and approval by the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority at such time as the authority may require. If the executive director determines that a mortgage loan does not comply with any requirement under the originating guide, the applicable originating agreement, the Act or this chapter for which the originating agent was delegated responsibility, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;

2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;

3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and

4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under this chapter as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of this chapter requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

**13VAC10-40-40. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended ("the tax code").**

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds (as well as requirements and restrictions on the assumption of mortgage loans so financed). In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower or the borrowers and the dwelling are described below as well as the procedures to be performed. The originating agent will perform these procedures and evaluate a borrower's or borrowers' eligibility prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this originating guide.

The executive director may apply some or all of the above-referenced tax exempt bond requirements and restrictions to authority mortgage loans that are not funded with tax exempt bonds if the executive director determines that such requirement and restrictions are necessary to enable the authority to effectively and efficiently allocate its current and anticipated financial resources so as to best meet the current and future housing needs of the citizens throughout the Commonwealth.

**13VAC10-40-50. Eligible borrowers.**

A. In order to be considered eligible for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

1. Each applicant must not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents (see subsection B of this section);

2. Each applicant must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as described in 13VAC10-40-200) after the date of the closing of the mortgage loan (see subsection C of this section);

3. Each applicant must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing (see subsection D of this section);

4. Each applicant must have contracted to purchase an eligible dwelling (see 13VAC10-40-60, Eligible dwellings);

5. Each applicant must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. The applicant or applicants must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (see 13VAC10-40-100, Maximum gross income);

7. Each applicant must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met (see 13VAC10-40-140, Loan assumptions); and

8. Each applicant must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

B. An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see 13VAC10-40-70, Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in subdivision 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. "Present ownership interest" includes:

a. A fee simple interest,

b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,

c. The interest of a tenant shareholder in a cooperative,

d. A life estate,

e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

a. A remainder interest,

b. An ordinary lease with or without an option to purchase,

c. A mere expectancy to inherit an interest in a principal residence,

d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. To verify that each eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that an eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding each eligible borrower's prior residency by reviewing any information including the credit report and the tax returns furnished by each eligible borrower for consistency, and make a determination that on the basis of its review each borrower has not had present ownership interest in a principal residence at any time during the

three-year period prior to the anticipated date of the loan closing.

C. Each eligible borrower must intend at the time of closing to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of each eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. Each eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated ~~by~~ at the ~~verification and update of information form)~~ closing of the mortgage loan) and as part of the attachment to the deed of trust.

1. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where more than 15% of the total living area is to be used primarily in a trade or business.

2. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to an eligible borrower. Each eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

3. Only such land as is reasonably necessary to maintain the basic liveability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres: (i) if the land is owned free and clear and is not being financed by the loan, the lot may be as large as five acres, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed, (iii) local city and county ordinances which require more acreage will be taken into consideration, or (iv) if the lot size is determined by the authority, based upon objective information provided by the borrower, to be usual and customary in the area for comparably priced homes.

4. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with each eligible borrower's federal income tax returns and the credit report, and the originating agent must, based on such review, make a determination that each borrower has not used any previous residence or any portion thereof primarily in any trade or business.

5. The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower or borrowers during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower or borrowers are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with this requirement.

D. Mortgage loans may be made only to an eligible borrower who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which an eligible borrower is liable or which was incurred on behalf of an eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) each eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Based upon such

review, the originating agent shall make a determination that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of any borrower and that each borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Any eligible borrower may not have more than one outstanding authority first mortgage loan.

**13VAC10-40-120. Mortgage insurance requirements.**

Unless the loan is an FHA, VA or Rural Development loan, the borrower or borrowers are required to purchase at time of loan closing full private mortgage insurance (in an amount equal to the percentage of the loan that exceeds 80% of the lesser or sales price or appraised value of the property or such higher percentage as the executive director may determine is necessary to protect the authority's financial interests) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance, unless an alternative payment plan is approved by the authority. If the authority requires FHA, VA or Rural Development insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee has been obtained or subject to the condition that such FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee be obtained. In the event that the authority purchases an FHA, VA or Rural Development loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or Rural Development loans), full private mortgage insurance as described above is required unless waived by the authority.

The executive director may waive the requirements for private mortgage insurance in the preceding paragraph for a loan having a principal amount in excess of 80% of the lesser of sales price or appraised value of the property to be financed if the applicant satisfies the criteria set forth in subdivisions 11 through 17 of 13VAC10-40-230 or if the executive director otherwise determines that the financial integrity of the program is protected by the financial strength of the applicant or applicants or the terms of the financing.

If the executive director determines it to be necessary to protect the authority's financial interests, the executive director may require that the company issuing such private mortgage insurance have a Moody's Investors Service Insurance Financial Strength rating not lower than Aa3 or a Standard & Poor's Ratings Services Financial Strength rating not lower than AA-.

**13VAC10-40-130. Underwriting.**

A. In general, to be eligible for authority financing, an applicant or applicants must satisfy the following underwriting criteria which demonstrate the willingness and ability to repay the mortgage debt and adequately maintain the financed property.

1. The applicant or applicants must document the receipt of a stable current income which indicates that the applicant or applicants will receive future income which is sufficient to enable the timely repayment of the mortgage loan as well as other existing obligations and living expenses.

2. The applicant or, in the case of multiple applicants, the applicants individually and collectively must possess a credit history which reflects the ability to successfully meet financial obligations and a willingness to repay obligations in accordance with established credit repayment terms.

3. An applicant having a foreclosure instituted by the authority on his property financed by an authority mortgage loan will not be eligible for a mortgage loan hereunder. The authority will consider previous foreclosures (other than on authority financed loans) on an exception basis based upon circumstances surrounding the cause of the foreclosure, length of time since the foreclosure, the applicant's subsequent credit history and overall financial stability. Under no circumstances will an applicant be considered for an authority loan within three years from the date of the foreclosure. The authority has complete discretion to decline to finance a loan when a previous foreclosure is involved.

4. The applicant or applicants must document that sufficient funds will be available for required down payment and closing costs.

a. The terms and sources of any loan to be used as a source for down payment or closing costs must be reviewed and approved in advance of loan approval by the authority.

b. Sweat equity, the imputed value of services performed by an eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence, generally is not an acceptable source of funds for down payment and closing costs. Any sweat equity allowance must be approved by the authority prior to loan approval.

5. Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed. If there is a substantial increase in such expenses, the applicant or applicants must demonstrate his ability to pay the additional expenses.

6. All applicants are encouraged to attend a home ownership educational program to be better prepared to deal with the home buying process and the responsibilities related to homeownership. The authority may require all applicants applying for certain authority loan programs to complete an authority approved homeownership education program prior to loan approval.

B. In addition to the requirements set forth in subsection A of this section, the following requirements must be met in order to satisfy the authority's underwriting requirements for conventional loans. However, additional or more stringent requirements may be imposed (i) by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required ~~or~~; (ii) on loans as described in the last paragraph of 13VAC10-40-120; or (iii) on loans that may be sold by the authority to an investor (including, without limitation, Fannie Mae, Freddie Mac, and Ginnie Mae) in which case such additional or more stringent requirements of the investor will apply.

1. The following rules apply to the authority's employment and income requirement.

a. Employment for the preceding two-year period must be documented. Education or training for employment during this two-year period shall be considered in satisfaction of this requirement if such education or training is related to an applicant's current line of work and adequate future income can be anticipated because such education and training will expand the applicant's job opportunities. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See 13VAC10-40-50 C.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. The following rules apply to income derived from sources other than primary employment.

(1) When considering alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant or applicants for a loan.

(2) When considering social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant or applicants for a loan.

(3) All part-time employment must be continuous for a minimum of 24 months, except that the authority may consider part-time employment that is continuous for more than 12 months but less than 24 months if such part-time employment is of a stable nature and is likely to continue after closing of the mortgage loan.

(4) Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. The following rules apply to each applicant's credit:

a. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references and history are considered to be important requirements in order to obtain an authority loan. The executive director may impose a minimum credit score requirement if the executive director determines that such a requirement is standard and customary in the single family mortgage loan industry and is necessary to protect the authority's financial interests.

b. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy. The authority has complete discretion to decline a loan when a bankruptcy is involved.

c. An applicant is required to submit a written explanation for all judgments and collections. In most cases, judgments and collections must be paid before an applicant will be considered for an authority loan.

3. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the

property and to determine whether the dwelling is eligible for the mortgage loan requested.

4. The applicant or applicants satisfy the authority's minimum income requirement for financing if the monthly principal and interest (at the rate determined by the authority), tax, insurance ("PITI") and other additional monthly fees such as condominium association fees (excluding unit utility charges), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly debt payments with more than 10 months duration (and payments on debts lasting less than 10 months, if making such payments will adversely affect the applicant's or applicants' ability to make mortgage loan payments in the months following loan closing) do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. If either of the percentages set forth are exceeded, compensating factors may be used by the authority, in its sole discretion, to approve the mortgage loan.

5. Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit an applicant to borrow funds for this purpose unless approved in advance by the authority. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

6. The applicant may receive a gift from only a relative, employer or nonprofit entity not involved in the transfer or financing of the property. The individual(s) making the gift must provide a letter to the authority confirming that the transfer of funds is a gift with no obligation on the part of an applicant to repay the funds at any time. The party making the gift must submit proof that the funds are available. The executive director may approve gifts from other sources provided the executive director determines that such transfer of funds to the applicant is not subject to repayment by the applicant and is not made in consideration of any past or future obligation of the applicant or in consideration of any terms of the property transfer or mortgage loan transaction.

7. Seller contributions for settlement or financing costs (including closing costs, discount points and upfront mortgage insurance premiums) may not exceed the lesser of 6.0% of the sales price or the amount permitted by the applicable mortgage insurer guidelines.

C. The following rules are applicable to FHA loans only.

1. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in 13VAC10-40-30 through 13VAC10-40-100 hereof remain in effect due to treasury restrictions or authority policy. In addition, the executive director may impose one or more of the requirements of subsection B of this section to FHA loans on the same or less stringent basis as they apply to the authority's conventional loans if the executive director determines that such requirements are necessary to protect its financial interests.

2. The applicant's or applicants' mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

D. The following rules are applicable to VA loans only.

1. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements (including those described in 13VAC10-40-30 through 13VAC10-40-100) remain in effect due to treasury restrictions or authority policy. In addition, the executive director may impose one or more of the requirements of subsection B of this section to VA loans on the same or less stringent basis as they apply to the authority's conventional loans if the executive director determines that such requirements are necessary to protect its financial interests.

2. The funding fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

3. VA certificates of reasonable value (CRV's) are acceptable in lieu of an appraisal.

E. The following rules are applicable to Rural Development loans only.

1. The authority will normally accept Rural Development underwriting requirements and property standards for Rural Development loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in 13VAC10-40-30 through 13VAC10-40-100 remain in effect due to treasury restrictions or authority policy. In addition, the executive director may impose one or more of the requirements of subsection B of this section to Rural Development loans on the same or less stringent basis as they apply to the authority's conventional loans if the executive director determines that such requirements are necessary to protect its financial interests.

2. The Rural Development guarantee fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

F. With respect to FHA, VA, RD and conventional loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's or borrowers' monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see 13VAC10-40-180 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain insurer or guarantor requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on insurer or guarantor guidelines then in effect (see also subsection C, D or E of this section, as applicable).

G. Unlike the program described in subsection E of this section which permits a direct buydown of the borrower's or borrowers' monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

**13VAC10-40-140. Loan assumptions.**

A. VHDA ~~currently permits~~ may from time to time, in its discretion, permit assumptions of all or some of its single family mortgage loans ~~provided that certain~~, subject to satisfaction of the applicable requirements in this section; provided, however, that assumptions shall be permitted when required by the mortgage insurer or guarantor rules or applicable law if the applicable requirements in this section are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross income for the person or persons assuming a loan shall be 100% of the applicable median family income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross income shall be 115% of the applicable median family income (140% for a residence in a targeted area) and if assumed by a household of fewer than three persons, the maximum gross income shall be 100% of the applicable median family income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross income for the person or persons assuming loans shall be the highest percentage, as then in effect under 13VAC10-40-100 A, of applicable median family income for the number or persons to occupy the dwelling upon assumption of the mortgage loan, unless otherwise provided in the deed of trust. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

1. The following rules apply to assumptions of conventional loans, if permitted by the authority.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross income requirement in 13VAC10-40-140 A

(2) 13VAC10-40-50 C (Principal residence requirement)

(3) 13VAC10-40-130 (Authority underwriting requirements)

(4) 13VAC10-40-50 B (Three-year requirement)

(5) 13VAC10-40-60 B (Acquisition cost requirements)

(6) 13VAC10-40-120 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross income requirement in 13VAC10-40-140 A

(2) 13VAC10-40-50 C (Principal residence requirements)

(3) 13VAC10-40-130 (Authority underwriting requirements)

(4) 13VAC10-40-120 (Mortgage insurance requirements).

2. The following rules apply to assumptions of FHA, VA or Rural Development loans, if permitted by the authority.

a. For assumptions of FHA, VA or Rural Development loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions, if applicable, must be met:

(1) Maximum gross income requirement in this 13VAC10-40-140 A

(2) 13VAC10-40-50 C (Principal residence requirement)

(3) 13VAC10-40-50 B (Three-year requirement)

(4) 13VAC10-40-60 B (Acquisition cost requirements).

In addition, all applicable FHA, VA or Rural Development underwriting requirements, if any, must be met.

b. For assumptions of FHA, VA or Rural Development loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA, VA or Rural Development underwriting requirements, if any, must be met.

B. ~~Upon receipt from an originating agent or servicing agent of an application package for~~ If the authority will permit an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance, submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1).

**13VAC10-40-160. Reservations/fees.**

A. The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates are also nontransferable. However, if the applicant can document circumstances beyond the applicant's control constituting good cause, the executive director may permit such substitution and transfer. Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline; provided, however, the foregoing time periods may be shortened by the executive director as he deems necessary if the mortgage loan is to be sold by the authority to an investor (including, without limitation, Fannie Mae, Freddie Mac, and Ginnie Mae). Locked-in interest rates on all loans, including those on which there may be a VA Guaranty, cannot be reduced under any circumstances.

B. The applicant or applicants, including an applicant or applicants for a loan to be guaranteed by VA, may request a second reservation if the first has expired or has been cancelled. If the second reservation is made within 12 months of the date of the original reservation, the interest rate will be the greater of (i) the locked-in rate or (ii) the current rate offered by the authority at the time of the second reservation. However, if the applicant can document circumstances beyond the applicant's control constituting good cause, the executive director may waive the requirement in the preceding sentence.

C. The originating agent or field originator shall collect a nonrefundable reservation fee in such amount and according to such procedures as the authority may require from time to time. Under no circumstances is this fee refundable. A second reservation fee must be collected for a second reservation. No substitutions of applicants or properties are permitted.

D. The following other fees shall be collected.

1. In connection with the origination and closing of the loan, the originating agent shall collect at closing or, at the authority's option, simultaneously with the acceptance of the authority's commitment, an amount equal to 1.0% of the loan amount (please note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only); provided, however, that the executive director may require the payment of an additional fee not in excess of 1.0% of the loan amount in the case of a step loan (i.e., a loan on which the initial interest rate is to be increased to a new interest rate after a fixed period of time). If the loan does not close, then the origination fee shall be waived.

2. The originating agent shall collect at the time of closing an amount equal to 1.0% of the loan amount.

If the executive director determines that the financial integrity of the program is protected by an adjustment to the rate of interest charged to the applicant or applicants or otherwise, the authority may provide the applicant or applicants with the option of an alternative fee requirement.

**13VAC10-40-170. Commitment ~~(Exhibit J)~~.**

A. Upon approval of the applicant or applicants, the authority will send a mortgage loan commitment to the borrower or borrowers in care of the originating agent. The originating agent shall ask the borrower or borrowers to indicate acceptance of the mortgage loan commitment by signing and returning it to the originating agent prior to settlement.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant or applicants before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant or applicants and approved by the authority. If an additional commitment is issued to an applicant or applicants, the interest rate may be higher than the rate offered in the original commitment and additional

fees may be charged. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant or applicants must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

**13VAC10-40-220. FHA plus program.**

A. Notwithstanding anything to the contrary herein, the authority may make loans secured by second deed of trust liens ("second loans") to provide downpayment and closing cost assistance to an eligible borrower or borrowers who are obtaining FHA loans secured by first deed of trust liens. Such first deed of trust liens must be financed by the authority; provided that the authority may, in its discretion, permit such first deeds of trust to be financed by other lenders, subject to such terms and conditions as the executive director shall determine to be necessary to protect the financial integrity of the FHA plus program. Second loans shall not be available to a borrower or borrowers if the FHA loan is being made under the FHA buydown program or is subject to a step adjustment in the interest rate thereon or is subject to a reduced interest rate due to the financial support of the authority.

B. The second loans shall not be insured by mortgage insurance; accordingly, the requirements of 13VAC10-40-120 regarding mortgage insurance shall not be applicable to the second loan.

C. The requirements of 13VAC10-40-110 regarding calculation of maximum loan amount shall not be applicable to the second loan. In order to be eligible for a second loan, the borrower or borrowers must obtain an FHA loan for the maximum loan amount permitted by FHA. The principal amount of the second loan shall not exceed 5.0% of the lesser of the sales price or appraised value, or such lesser percentage as may be determined by the executive director to protect the financial integrity of the FHA plus program.

In no event shall the combined FHA loan and the second loan amount exceed (i) the sum of the lesser of the sales price or appraised value plus closing costs and fees to be paid by borrower or (ii) the authority's maximum allowable sales price. The sum of all liens may not exceed 100% of the cost to acquire the property. The cost to acquire the property is the sales price plus allowable borrower paid closing costs, discount points and prepaid expenses.

Verified liquid funds (funds other than gifts, loans or retirement accounts) in an amount not less than 1.0% of the sales price must be: (i) contributed by the borrower or borrowers towards closing costs or prepaid items; (ii) retained by the borrower or borrowers as cash reserves after closing; or (iii) contributed and retained by the borrower or borrowers for the purposes of clauses (i) and (ii), respectively. ~~At the closing, the borrower or borrowers may not receive any loan proceeds in excess of the amount of funds paid by the borrower or borrowers prior to closing.~~ The FHA-insured first mortgage when combined with the FHA plus second mortgage and any other liens may not result in cash back to the borrower.

D. If the authority is not making the FHA loan secured by the first deed of trust lien, the authority may require that, as a condition of financing the FHA plus loan, the FHA loan secured by the first deed of trust lien meet the authority's requirements applicable to FHA loans. With respect to underwriting, ~~no additional~~ more stringent requirements or criteria ~~other~~ than those applicable to the FHA loan ~~shall~~ may be imposed on the second loan if the executive director determines such more stringent requirements or criteria are necessary to protect the financial integrity of the FHA plus program.

E. The second mortgage loan shall be assumable on the same terms and conditions as the FHA loan.

F. No origination fee or discount point shall be collected on the second loan; provided, however, that the authority may charge an origination fee and/or a discount point in an amount determined by the executive director to be necessary to compensate the authority for originating, processing, and closing the FHA plus loan, if the first deed of trust is to be financed by another lender.

G. Upon approval of the applicant or applicants, the authority will issue a mortgage loan commitment pursuant to 13VAC10-40-170. The mortgage loan commitment will include the terms and conditions of the FHA loan and the second loan and ~~an addendum setting~~ will set forth additional terms and conditions applicable to the second loan. Also enclosed in the commitment package will be other documents necessary to close the second loan.

VA.R. Doc. No. R09-1911; Filed April 21, 2009, 12:20 p.m.

## Proposed Regulation

Title of Regulation: **13VAC10-180. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (adding 13VAC10-180-120).**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Information:

May 26, 2009 - 10 a.m. - Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA

Public Comments: Public comments may be submitted until 5 p.m. on May 26, 2009.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere

Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, or email judson.mckellar@vhda.com.

Summary:

*The proposed amendments to the authority's rules and regulations for the allocation of low-income housing tax credits will add a new section to the regulations that will govern the award of funds made available to the authority pursuant to the American Recovery and Investment Act of 2009, PL-155, to low-income housing tax credit developments. The American Recovery and Reinvestment Act of 2009 (i) includes funds to be allocated to the authority from the U.S. Department of Housing and Urban Development under a program called the tax credit assistance program to facilitate the production of developments awarded low-income housing tax credits in federal fiscal years 2007, 2008 and 2009 and (ii) permits the authority to monetize credits by exchanging eligible credits for cash grants, which can be used by the authority to finance the construction or acquisition and rehabilitation of qualified low-income buildings.*

**13VAC10-180-120. Application for Tax Credit Assistance Funds and Credit Exchange Funds.**

The American Recovery and Reinvestment Act of 2009 (Recovery Act), PL 111-5 (i) includes funds to be allocated to housing credit agencies from HUD under a program called the tax credit assistance program (TCAP) to facilitate the production of developments awarded low-income housing tax credits in fiscal years 2007, 2008, and 2009, and (ii) permits the authority to monetize credits by exchanging eligible credits for cash grants, which can be used by the authority to finance the construction or acquisition and rehabilitation of qualified low-income buildings.

Application for TCAP funds and credit exchange funds shall be filed with the authority on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the Recovery Act, the IRC, and this chapter and to make an award of TCAP funds or credit exchange funds in accordance with this chapter. The executive director may establish criteria and assumptions to be used by the applicant in the calculation of the amounts of tax credits, TCAP funds, and credit exchange funds in the application; and any such criteria and assumptions may be indicated on the application form or instructions made available by the authority to applicants. Each applicant for TCAP funds and credit exchange funds shall commit in the application to comply with all federal requirements applicable to such funds.

The executive director may divide the amount of TCAP funds into separate pools and each separate pool may be further divided into separate tiers. The division of such pools and tiers may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors deemed appropriate to best meet the housing needs of the Commonwealth. Proposed developments to be financed by certain tax-exempt bonds and eligible to receive credits pursuant to 13VAC10-180-100 that apply for TCAP funds will be scored and ranked pursuant to the requirements of 13VAC10-180-60 with all other applications applying for TCAP funds and credits. Such developments may be placed in pools with other applicants for TCAP funds or may be put in their own separate pool as the executive director deems appropriate.

For each application that may receive an award of tax credits and either TCAP funds or credit exchange funds or both, the executive director shall determine the amount, as of the date of the deadline for submission of applications for such funds, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. The executive director may substitute TCAP funds for some or all of the credit exchange funds in the application or credit exchange funds for some or all of the TCAP funds requested in the application in such amounts as determined by the executive director to maximize the number of developments or units that are expected to benefit from the equity provided by tax credit investors. Any TCAP funds and credit exchange funds awarded to a proposed development shall be in the form of a grant or, if requested by the borrower, a loan. Such grant or loan shall (i) be subordinate to all other unrelated third-party financing for the construction or acquisition and rehabilitation of the development; (ii) be secured by a deed of trust for the full amount of the grant or loan during the compliance period; and (iii) provided no conditions exist that would result in default under the deed of trust, be forgiven by the authority in part each year on a pro rata basis based upon the length of the extended use period.

Any tax credit developments that have received a reservation of tax credits pursuant to 13VAC10-180-60 in calendar years 2007 and 2008 may request the authority to exchange their tax credit allocation for credit exchange funds in an amount not to exceed the lesser of (i) $.85 per $1.00 of credit exchanged or (ii) the tax credit equity amount shown in their allocation application.

The executive director may place conditions and limitations on the availability and use of the grant or loan deemed necessary to comply with the provisions of the Recovery Act and the IRC. The executive director may also prescribe such deadlines for accomplishing certain milestones established by the executive director in the acquisition, construction or rehabilitation of the developments deemed necessary or desirable to ensure full use of TCAP funds and credit

exchange funds within the timeframes established by the Recovery Act.

VA.R. Doc. No. R09-1920; Filed April 20, 2009, 2:38 p.m.

# TITLE 14. INSURANCE

## STATE CORPORATION COMMISSION

### Final Regulation

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 that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **14VAC5-170. Rules Governing Minimum Standards for Medicare Supplement Policies (amending 14VAC5-170-20, 14VAC5-170-30, 14VAC5-170-50, 14VAC5-170-60, 14VAC5-170-70, 14VAC5-170-80, 14VAC5-170-150; adding 14VAC5-170-75, 14VAC5-170-85, 14VAC5-170-215).**

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

Effective Date: May 21, 2009.

Agency Contact: Althelia Battle, Principal Insurance Market Examiner, State Corporation Commission, Bureau of Insurance, 1300 East Main Street, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9154, FAX (804) 371-9944, or email al.battle@scc.virginia.gov.

Summary:

*The purpose of the amendments is to incorporate related provisions of the federal Medicare Improvements for Patients and Providers Act of 2008 (MIPAA) and the Genetic Information Nondiscrimination Act of 2008 (GINA). Amendments, including the addition of three new sections to accommodate these federal laws are necessary to maintain certification of Virginia's state regulatory programs. Amendments were also made to reflect the 2009 deductible and copayment amounts under Medicare. Technical amendments were made to the proposed regulations in sections 14VAC5-170-30, 14VAC5-170-70, 14VAC5-170-75, 14VAC5-170-80, 14VAC5-170-85 and 14VAC5-170-150 to include language that references policies "with an effective date for coverage on or after June 1, 2010." The purpose of these technical amendments is to clarify that issuers can sell policies to seniors with the new benefit packages prior to June 1, 2010, providing that those policies have an effective date on or after June 1, 2010. Amendments were also made in 14VAC5-170-70 and 14VAC5-170-150 to correct cross-references and to clarify plan applicability dates.*

AT RICHMOND, APRIL 21, 2009

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2009-00034

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

ORDER ADOPTING REVISIONS TO RULES

By Order entered herein March 10, 2009, all interested persons were ordered to take notice that subsequent to April 15, 2009, the State Corporation Commission ("Commission") would consider the entry of an order adopting revisions proposed by the Bureau of Insurance ("Bureau") to the Commission's Rules Governing Minimum Standards for Medicare Supplement Policies ("Rules"), set forth in Chapter 170 of Title 14 of the Virginia Administrative Code, unless on or before April 15, 2009, any person objecting to the adoption of the proposed revisions filed a request for hearing with the Clerk of the Commission (the "Clerk").

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before April 15, 2009.

No request for hearing was filed with the Clerk. Comments were filed on April 16, 2009, by America's Health Insurance Plans. These comments were not timely filed. Nonetheless, the Bureau considered these comments and filed Statements of Position on April 20, 2009, in response. The Bureau recommends that the proposed Rules be amended at 14 VAC 5-170-70 and 14 VAC 5-170-150 in response to these comments.

The Bureau also received some technical amendments from the National Association of Insurance Commissioners ("NAIC") which were incorporated into the NAIC Model Act. The NAIC recommended that these same technical amendments be incorporated into each state's regulations. The Bureau therefore recommends that the proposed Rules be amended at 14 VAC 5-170-30, 14 VAC 5-170-70, 14 VAC 5-170-75, 14 VAC 5-170-80, 14 VAC 5-170-85 and 14 VAC 5-170-150 to include language that references policies "with an effective date for coverage on or after June 1, 2010." The purpose of these technical amendments is to clarify that issuers can sell policies to seniors with the new benefit packages prior to June 1, 2010, provided that those policies have an effective date on or after June 1, 2010.

The revisions to the Rules are necessary as a result of the passage of the federal Medicare Improvements for Patients

and Providers Act of 2008 and the Genetic Information Nondiscrimination Act of 2008. Revisions to accommodate these federal laws are necessary to maintain certification of Virginia's state regulatory programs.

THE COMMISSION, having considered the proposed revisions, filed comments, the Bureau's Statements of Position, and the Bureau's recommendation for additional amendments, is of the opinion that the attached revisions to the Rules should be adopted.

THEREFORE IT IS ORDERED THAT:

(1) The revisions to Chapter 170 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Minimum Standards for Medicare Supplement Policies," amended at 14 VAC 5-170-20, 14 VAC 5-170-30, 14 VAC 5-170-50 through 14 VAC 170-80, and 14 VAC 5-170-150, and add new sections at 14 VAC 5-170-75, 14 VAC 5-170-85 and 14 VAC 5-170-215, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective May 21, 2009.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Jacqueline K. Cunningham, Deputy Commissioner, Bureau of Insurance, State Corporation Commission, who forthwith shall give further notice of the adoption of the revisions to the Rules by mailing a copy of this Order, including a clean copy of the attached final revised Rules, to all insurers licensed by the Commission to write accident and sickness insurance in the Commonwealth of Virginia, and certain interested parties designated by the Bureau of Insurance.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached revised Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) The Commission's Division of Information Resources shall make available this Order and the attached revisions to the Rules available on the Commission's website, http://www.scc.virginia.gov/case.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements in paragraph (2) of this Order.

**14VAC5-170-20. Applicability and scope.**

A. Except as otherwise specifically provided in 14VAC5-170-60, 14VAC5-170-110, 14VAC5-170-120, 14VAC5-170-150 and 14VAC5-170-200, this chapter shall apply to:

1. All Medicare supplement policies delivered or issued for delivery in this Commonwealth on or after ~~January 1, 2006~~ May 21, 2009; and

2. All certificates issued under group Medicare supplement policies for which certificates have been delivered or issued for delivery in this Commonwealth.

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

**14VAC5-170-30. Definitions.**

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

"1990 standardized Medicare supplement benefit plan," "1990 standardized benefit plan" or "1990 plan" means a group or individual policy of Medicare supplement insurance issued on or after July 30, 1992, and [ with an effective date for coverage ] prior to June 1, 2010, and includes Medicare supplement insurance policies and certificates renewed on or after that date that are not replaced by the issuer at the request of the insured.

"2010 standardized Medicare supplement benefit plan," "2010 standardized benefit plan" or "2010 plan" means a group or individual policy of Medicare supplement insurance issued [ with an effective date for coverage ] on or after June 1, 2010.

"Applicant" means:

1. In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and

2. In the case of a group Medicare supplement policy, the proposed certificateholder.

"Attained age rating" means a premium structure under which premiums are based on the covered individual's age at the time of application of the policy or certificate, and for which premiums increase based on the covered individual's increase in age during the life of the policy or certificate.

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

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

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

"Community rating" means a premium structure under which premium rates are the same for all covered individuals of all ages in a given area.

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

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

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act of 1935 (Medicare) (42 USC § 1395 et seq.);

4. Title XIX of the Social Security Act of 1935 (Medicaid) (42 USC § 1396 et seq.), other than coverage consisting solely of benefits under § 1928;

5. Chapter 55 of Title 10 of the United States Code (CHAMPUS) (10 USC§§ 1071-1107);

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under the Federal Employees Health Benefits Act of 1959 (5 USC §§ 8901-8914);

9. A public health plan as defined in federal regulation; and

10. A health benefit plan under § 5(e) of the Peace Corps Act of 1961 (22 USC § 2504(e)).

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

1. Coverage only for accident or disability income insurance, or any combination thereof;

2. Coverage issued as a supplement to liability insurance;

3. Liability insurance, including general liability insurance and automobile liability insurance;

4. Workers' compensation or similar insurance;

5. Automobile medical expense insurance;

6. Credit-only insurance;

7. Coverage for on-site medical clinics; and

8. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

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

1. Limited scope dental or vision benefits;

2. Benefits for long-term care, nursing home care, home health care, community-based care or any combination thereof; and

3. Such other similar, limited benefits as are specified in federal regulations.

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

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

2. Hospital indemnity or other fixed indemnity insurance.

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

1. Medicare supplement health insurance as defined under § 1882(g)(1) of the Social Security Act of 1935 (42 USC § 1395ss);

2. Coverage supplemental to the coverage provided under Chapter 55 of Title 10 of the United States Code (10 USC §§ 1071-1107); and

3. Similar supplemental coverage provided to coverage under a group health plan.

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

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

"Issue age rating" means a premium structure based upon the covered individual's age at the time of purchase of the policy or certificate. Under an issue age rating structure, premiums do not increase due to the covered individual's increase in age during the life of the policy or certificate.

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

"Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Act (42 USC § 1395 et seq.), as then constituted or later amended.

"Medicare Advantage plan" means a plan of coverage for health benefits under Medicare Part C as defined in § 1859 (42 USC § 1395w-28(b)(1) of the Social Security Act, and includes:

1. Coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans;

2. Medical savings account plans coupled with a contribution into a Medicare Advantage medical savings account; and

3. Medicare Advantage private fee-for-service plans.

"Medicare supplement policy" means a group or individual policy of accident and sickness insurance or a subscriber contract of health service plans or health maintenance organizations, other than a policy issued pursuant to a contract under § 1876 of the federal Social Security Act of 1935 (42 USC § 1395 et seq.) or an issued policy under a demonstration project specified in 42 USC § 1395ss(g)(1), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. "Medicare supplement policy" does not include Medicare Advantage plans established under Medicare Part C, Outpatient Prescription Drug plans established under Medicare Part D, or any Health Care Prepayment Plan that provides benefits pursuant to an agreement under § 1833(a)(1)(A) of the Social Security Act.

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

"Prestandardized Medicare supplement benefit plan," "prestandardized benefit plan" or "prestandardized plan" means a group or individual policy of Medicare supplement insurance issued prior to July 30, 1992.

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

**14VAC5-170-50. Policy provisions.**

A. Except for permitted preexisting condition clauses as described in 14VAC5-170-60 B 1 ~~and~~ , 14VAC5-170-70 B 1 and 14VAC5-170-75 B 1, no policy or certificate may be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

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

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

D. 1. Subject to 14VAC5-170-60 B 4, 5 and 7 and 14VAC5-170-70 B 4 and 5, a Medicare supplement policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006, shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

2. A Medicare supplement policy with benefits for outpatient prescription drugs shall not be issued after December 31, 2005.

3. After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs shall not be renewed after the policyholder enrolls in Medicare Part D unless:

a. The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of individual's coverage under a Part D plan; and

b. Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable.

**14VAC5-170-60. Minimum benefit standards for prestandardized Medicare supplement benefits plan policies or certificates issued for delivery prior to July 30, 1992.**

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

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

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

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

3. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing

amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible ~~amount and copayment percentage factors~~ , copayment or coinsurance amounts. Premiums may be modified to correspond with such changes.

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

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

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

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

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

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

(2) An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in ~~subsection C of this section~~ 14VAC5-170-75 C.

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

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

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

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

6. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

7. If a Medicare supplement policy is modified to eliminate an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 USC § 1395w-101), the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this subsection.

C. Minimum benefit standards.

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

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

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

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

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

6. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible $100;

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

**14VAC5-170-70. Benefit standards for 1990 Medicare supplement policies ~~or certificates issued or~~ delivered on or after July 30, 1992, and prior to June 1, 2010.**

A. The following standards are applicable to all Medicare supplement benefit plan policies or certificates delivered or issued for delivery in this Commonwealth on or after July 30, 1992, and [ with an effective date for coverage ] prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit standards.

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

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

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

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

4. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

5. Each Medicare supplement policy shall be guaranteed renewable.

a. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

b. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

c. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subdivision 5 e of this subsection, the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):

(1) Provides for continuation of the benefits contained in the group policy; or

(2) Provides for benefits that otherwise meet the requirements of this subsection.

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

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

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

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

f. If a Medicare supplement policy is modified to eliminate an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 USC § 1395w-101), the modified policy shall be deemed to satisfy the guaranteed renewal requirements of this subdivision 5.

6. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

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

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

c. Each Medicare supplement policy or certificate shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder or certificateholder is entitled to benefits under § 226 (b) of the Social Security Act (42 USC § 426) and is covered under a group health plan (as defined in § 1862(b)(1)(A)(v) of the Social Security Act (42 USC § 1395y)). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder or certificateholder provides notice of loss of coverage within 90 days after the date of the loss.

d. Reinstitution of coverages as described in subdivisions 7 b and c of this subsection:

(1) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

(2) Shall provide for reinstituted coverage that is substantially equivalent to coverage in effect before the date of such suspension. If the suspended Medicare supplement policy provided coverage for outpatient prescription drugs, reinstitution of the policy for Medicare Part D enrollees shall be without coverage for outpatient prescription drugs and shall otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension; and

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

8. If an issuer makes a written offer to the Medicare supplement policyholders or certificateholders of one or more of its plans, to exchange during a specified period from his 1990 standardized plan (as described in [ ~~14VAC5-170-70~~ 14VAC5-170-80 ] ) to a 2010 standardized plan (as described in [ ~~14VAC5-170-75~~ 14VAC5-170-85 ] ), the offer and subsequent exchange shall comply with the following requirements:

a. An issuer need not provide justification to the commission if the insured replaces a 1990 standardized policy or certificate with an issue age rated 2010 standardized policy or certificate at the insured's original issue age and duration. If an insured's policy or certificate to be replaced is priced on an issue age rate schedule at the time of such offer, the rate charged to the insured for the new exchanged policy shall recognize the policy reserve buildup, due to the prefunding inherent in the use of an issue age rate basis, for the benefit of the insured. The method proposed to be used by an issuer shall be filed with the commission in accordance with § 38.2-316 of the Code of Virginia.

b. The rating class of the new policy or certificate shall be the class closest to the insured's class of the replaced coverage.

c. An issuer may not apply new preexisting condition limitations or a new incontestability period to the new policy for those benefits contained in the exchanged 1990 standardized policy or certificate of the insured, but may apply preexisting condition limitations of no more than six months to any added benefits contained in the new 2010 standardized policy or certificate not contained in the exchanged policy.

d. The new policy or certificate shall be offered to all policyholders or certificateholders within a given plan, except where the offer of issue would be in violation of state or federal law.

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

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

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

3. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days;

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

5. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount of Medicare Eligible Expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

D. Standards for additional benefits. The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by 14VAC5-170-80.

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

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

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

4. Eighty percent of the Medicare Part B excess charges. Coverage for 80% of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

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

6. Basic outpatient prescription drug benefit. Coverage for 50% of outpatient prescription drug charges, after a $250 calendar year deductible, to a maximum of $1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The basic outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

7. Extended outpatient prescription drug benefit. Coverage for 50% of outpatient prescription drug charges, after a $250 calendar year deductible to a maximum of $3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare. The extended outpatient prescription drug benefit may be included for sale or issuance in a Medicare supplement policy until January 1, 2006.

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

9. Preventive medical care benefit. Coverage for the following preventive health services not covered by Medicare:

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

b. Preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

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

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

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

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

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

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

"At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four

hours in a 24-hour period of services provided by a care provider is one visit.

b. Coverage requirements and limitations:

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

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

(3) Coverage is limited to:

(a) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

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

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

(d) Seven visits in any one week;

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

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

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

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

c. Coverage is excluded for:

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

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

E. Standards for Plans K and L.

1. Standardized Medicare supplement benefit plan "K" shall consist of the following:

a. Coverage of 100% of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period;

b. Coverage of 100% of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

c. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to lifetime maximum benefit of an additional 365 days;

d. Medicare Part A deductible: Coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subdivision 1 j of this subsection;

e. Skilled nursing facility care: Coverage for 50% of the coinsurance amount for each day used from the 21st day through the 100th day in a Medicare benefit period for post hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subdivision 1 j of this subsection;

f. Hospice care: Coverage for 50% of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subdivision 1 j of this subsection;

g. Coverage for 50%, under Medicare Part A or B, of the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in subdivision 1 j of this subsection;

h. Except for coverage provided in subdivision 1 j of this subsection, coverage for 50% of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in subdivision 1 j of this subsection;

i. Coverage of 100% of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

j. Coverage of 100% of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of $4,000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

2. Standardized Medicare supplement benefit plan "L" shall consist of the following:

a. The benefits described in subdivisions 1 a, b, c and i of this subsection;

b. The benefit described in subdivisions 1 d, e, f, g and h of this subsection, but substituting 75% for 50%; and

c. The benefit described in subdivision 1 j of this subsection, but substituting $2,000 for $4,000 indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

**14VAC5-170-75. Benefit standards for 2010 Medicare supplement policies delivered on or after June 1, 2010.**

A. The following standards are applicable to all Medicare supplement benefit plan policies or certificates delivered or issued for delivery in this Commonwealth [ with an effective date for coverage ] on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued [ ~~before~~ with an effective date for coverage prior to ] June 1, 2010, remain subject to the requirements of 14VAC5-170-70.

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

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

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

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

4. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

5. Each Medicare supplement policy shall be guaranteed renewable.

a. The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

b. The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

c. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided in subdivision 5 e of this subsection, the issuer shall offer certificateholders an individual Medicare supplement policy which, at the option of the certificateholder:

(1) Provides for continuation of the benefits contained in the group policy; or

(2) Provides for benefits that otherwise meet the requirements of this subsection.

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

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

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

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

6. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss that commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

7. a. A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period not to exceed 24 months in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or

certificate within 90 days after the date the individual becomes entitled to assistance.

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

c. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under § 226 (b) of the Social Security Act and is covered under a group health plan as defined in § 1862 (b)(1)(A)(v) of the Social Security Act. If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

d. Reinstitution of coverages as described in subdivisions 7 b and c of this subsection:

(1) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

(2) Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

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

C. Standards for basic (core) benefits common to Medicare supplement insurance benefit plans A, B, C, D, F, F with High Deductible, G, M and N. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it.

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

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

3. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

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

5. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible; and

6. Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

D. Standards for additional benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by 14VAC5-170-85.

1. Medicare Part A deductible: Coverage for 100% of the Medicare Part A inpatient hospital deductible amount per benefit period.

2. Medicare Part A deductible: Coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period.

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

4. Medicare Part B deductible: Coverage for 100% of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

5. 100% of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

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

**14VAC5-170-80. Standard ~~Medicare supplement benefit~~ plans for 1990 Medicare supplement policies delivered on or after July 30, 1992, and prior to June 1, 2010.**

A. The following standard Medicare supplement benefit plans are applicable to all Medicare supplement benefit plan policies or certificates delivered or issued for delivery in this Commonwealth on or after July 30, 1992, and [ with an effective date for coverage ] prior to June 1, 2010. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic core benefits, as defined in 14VAC5-170-70 C.

B. No groups, packages or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this Commonwealth, except as may be permitted in subsection G of this section and 14VAC5-170-90.

C. Benefit plans shall be uniform in structure, language, designation, and format to the standard benefit plans "A" through "L" listed in this subsection and conform to the definitions in 14VAC5-170-30. Each benefit shall be structured in accordance with the format provided in 14VAC5-170-70 C, D, or E and list the benefits in the order shown in this subsection. For purposes of this section, "structure, language, and format" means style, arrangement and overall content of a benefit.

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

E. Make-up of benefit plans:

1. Standardized Medicare supplement benefit plan "A" shall be limited to the basic (core) benefits common to all benefit plans, as defined in 14VAC5-170-70 C.

2. Standardized Medicare supplement benefit plan "B" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible as defined in 14VAC5-170-70 D 1.

3. Standardized Medicare supplement benefit plan "C" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-70 D 1, 2, 3, and 8 respectively.

4. Standardized Medicare supplement benefit plan "D" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in 14VAC5-170-70 D 1, 2, 8, and 10 respectively.

5. Standardized Medicare supplement benefit plan "E" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in 14VAC5-170-70 D 1, 2, 8, and 9 respectively.

6. Standardized Medicare supplement benefit plan "F" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-70 D 1, 2, 3, 5, and 8 respectively.

7. Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-70 D 1, 2, 3, 5, and 8 respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy and shall be in addition to any other specific benefit deductibles. The calendar year deductible shall be $1,500 for 1998 and 1999. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending on August 31st of the preceding year and rounded to the nearest multiple of $10.

8. Standardized Medicare supplement benefit plan "G" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, 80% of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home

recovery benefit as defined in 14VAC5-170-70 D 1, 2, 4, 8, and 10 respectively.

9. Standardized Medicare supplement benefit plan "H" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit and medically necessary emergency care in a foreign country as defined in 14VAC5-170-70 D 1, 2, 6, and 8 respectively. The basic prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

10. Standardized Medicare supplement benefit plan "I" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in 14VAC5-170-70 D 1, 2, 5, 6, 8, and 10 respectively. The basic prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

11. Standardized Medicare supplement benefit plan "J" shall include only the following: The core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in 14VAC5-170-70 D 1, 2, 3, 5, 7, 8, 9, and 10 respectively. The extended prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

12. Standardized Medicare supplement benefit high deductible plan "J" shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefits as defined in 14VAC5-170-70 C, plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit, and at-home recovery benefit as defined in 14VAC5-170-70 D 1, 2, 3, 5, 7, 8, 9, and 10 respectively. The annual high deductible plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy and shall be in addition to any other specific benefit deductibles. The calendar year deductible shall be $1,500 for 1998 and 1999. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending on August 31st of the preceding year and rounded to the nearest multiple of $10. The extended outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005.

F. Make-up of two Medicare supplement plans mandated by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 USC § 1395w-101):

1. Standardized Medicare supplement benefit plan "K" shall consist of only those benefits described in 14VAC5-170-70 E 1.

2. Standardized Medicare supplement benefit plan "L" shall consist of only those benefits described in 14VAC5-170-70 E 2.

G. New or innovative benefits. An issuer may, with the prior approval of the State Corporation Commission, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner that is consistent with the goal of simplification of Medicare supplement policies. After December 31, 2005, the innovative benefit shall not include an outpatient prescription drug benefit.

**14VAC5-170-85. Standard plans for 2010 standardized Medicare supplement policies delivered on or after June 1, 2010.**

A. The following standard plans are applicable to all Medicare supplement benefit plan policies or certificates delivered or issued for delivery in this Commonwealth [ with an effective date for coverage ] on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued [ with an effective date for coverage ] before June 1, 2010, remain subject to the requirements of 14VAC5-170-80.

B. 1. An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in 14VAC5-170-75 C.

2. If an issuer makes available any of the additional benefits described in 14VAC5-170-75 D, or offers standardized benefit Plans K or L (as described in subdivisions F 8 and 9 of this section), then the issuer shall make available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in

subdivision 1 of this subsection, a policy form or certificate form containing either standardized benefit Plan C (as described in subdivision F 3 of this section) or standardized benefit Plan F (as described in subdivision F 5 of this section).

C. No groups, packages or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in this Commonwealth, except as may be permitted in subsection G of this section and 14VAC5-170-90.

D. Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in this subsection and conform to the definitions in 14VAC5-170-30. Each benefit shall be structured in accordance with the format provided in 14VAC5-170-75 C and D; or, in the case of plans K or L, in subdivision F 8 or 9 of this section and list the benefits in the order shown. For purposes of this section, the term "structure, language, and format" means style, arrangement and overall content of a benefit.

E. In addition to the benefit plan designations required in subsection D of this section, an issuer may use other designations to the extent permitted by law.

F. Make-up of 2010 standardized benefit plans:

1. Standardized Medicare supplement benefit Plan A shall include only the basic (core) benefits as defined in 14VAC5-170-75 C.

2. Standardized Medicare supplement benefit Plan B shall include only the basic (core) benefit as defined in 14VAC5-170-75 C, plus 100% of the Medicare Part A deductible as defined in 14VAC5-170-75 D 1.

3. Standardized Medicare supplement benefit Plan C shall include only the basic (core) benefit as defined in 14VAC5-170-75 C, plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-75 D 1, 3, 4 and 6, respectively.

4. Standardized Medicare supplement benefit Plan D shall include only the basic (core) benefit as defined in 14VAC5-170-75 C, plus 100% of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in an foreign country as defined in 14VAC5-170-75 D 1, 3 and 6, respectively.

5. Standardized Medicare supplement benefit Plan F shall include only the basic (core) benefit as defined in 14VAC5-170-75 C, plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-75 D 1, 3, 4, 5 and 6, respectively.

6. Standardized Medicare supplement benefit Plan F With High Deductible shall include only 100% of covered expenses following the payment of the annual deductible as defined in subdivision 6 b of this subsection.

a. The basic (core) benefit as defined in 14VAC5-170-75 C, plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B deductible, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-75 D 1, 3, 4, 5 and 6, respectively.

b. The annual deductible in Plan F With High Deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be $1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of $10.

7. Standardized Medicare supplement benefit Plan G shall include only the basic (core) benefit as defined in 14VAC5-170-75 C, plus 100% of the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-75 D 1, 3, 5 and 6, respectively.

8. Standardized Medicare supplement benefit Plan K is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

a. Part A hospital coinsurance 61st through 90th days: Coverage of 100% of the Part A hospital coinsurance amount for each day used from the 61st through the 90th day in any Medicare benefit period;

b. Part A hospital coinsurance, 91st through 150th days: Coverage of 100% of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the 91st through the 150th day in any Medicare benefit period;

c. Part A hospitalization after 150 days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100% of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

d. Medicare Part A deductible: Coverage for 50% of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subdivision j of this subsection;

e. Skilled nursing facility care: Coverage for 50% of the coinsurance amount for each day used from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subdivision 8 j of this subsection;

f. Hospice care: Coverage for 50% of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subdivision 8 j of this subsection;

g. Blood: Coverage for 50%, under Medicare Part A or B, of the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in subdivision 8 j of this subsection;

h. Part B cost sharing: Except for coverage provided in subdivision 8 i of this subsection, coverage for 50% of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in subdivision 8 j of this subsection;

i. Part B preventive services: Coverage of 100% of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

j. Cost sharing after out-of-pocket limits: Coverage of 100% of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of $4,000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

9. Standardized Medicare supplement benefit Plan L is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

a. The benefits described in subdivisions 8 a, b, c and i of this subsection;

b. The benefit described in subdivisions 8 d, e, f, g and h of this subsection, but substituting 75% for 50%; and

c. The benefit described in subdivision 8 j of this subsection, but substituting $2,000 for $4,000.

10. Standardized Medicare supplement benefit Plan M shall include only the basic (core) benefit as defined in 14VAC5-170-75 C, plus 50% of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-75 D 2, 3 and 6, respectively.

11. Standardized Medicare supplement benefit Plan N shall include only the basic (core) benefit as defined in 14VAC5-170-75 C, plus 100% of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in 14VAC5-170-75 D 1, 3 and 6, respectively, with copayments in the following amounts:

a. The lesser of $20 or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialists); and

b. The lesser of $50 or the Medicare Part B coinsurance or copayment for each covered emergency room visit; however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

G. New or innovative benefits. An issuer may, with the prior approval of the commission, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan.

**14VAC5-170-150. Required disclosure provisions.**

A. General rules.

1. Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of such provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age. Medicare supplement policies or certificates which are attained age rated shall include a clear and prominent statement, in at least 14 point type, disclosing that premiums will increase due to changes in age and the frequency under which such changes will occur.

2. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare

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

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

4. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

5. Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificateholder shall have the right to return the policy or certificate within 30 days of its delivery and to have all premiums made for the policy refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.

6. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to a person or persons eligible for Medicare shall provide to those applicants a Guide to Health Insurance for People with Medicare in the form developed jointly by the National Association of Insurance Commissioners and the Centers for Medicare and Medicaid Services and in a type size no smaller than 12 point type. Delivery of the guide shall be made whether or not such policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this chapter. Except in the case of direct response issuers, delivery of the guide shall be made to the applicant at the time of application and acknowledgement of receipt of the guide shall be obtained by the issuer. Direct response issuers shall deliver the guide to the applicant upon request but not later than at the time the policy is delivered.

For the purposes of this section, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing.

B. Notice requirements.

1. As soon as practicable, but no later than 30 days prior to the annual effective date of any Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the State Corporation Commission. The notice shall:

a. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate; and

b. Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare.

2. The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

3. Such notices shall not contain or be accompanied by any solicitation.

C. Issuers shall comply with any notice requirements of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 USC § 1395w-101).

D. Outline of coverage requirements for Medicare Supplement Policies.

1. Issuers shall provide an outline of coverage to all applicants at the time the application is presented to the prospective applicant and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant; and

2. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany such policy or certificate when it is delivered and contain the following statement, in no less than 12 point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

3. The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the

issuer. The outline of coverage shall be in the language and format prescribed below in no less than 12 point type. All plans ~~A through L~~ shall be shown on the cover page, and the plan(s) that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

4. The following items shall be included in the outline of coverage in the order prescribed in the following table.

~~Rev. 8/05~~

~~[COMPANY NAME]~~

~~Outline of Medicare Supplement Coverage Cover Page: 1 of 2 Benefit Plan(s) _____ [insert letter(s) of plan(s) being offered]~~

~~*These charts show the benefits included in each of the Standard Medicare Supplemental plans. Every company must make available Plan "A." Some plans may not be available in your state.~~

~~See outlines of coverages section for details about all plans.~~

~~Basic Benefits: For Plans A—J.~~

~~Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.~~

~~Medical Expenses: Part B coinsurance (generally 20% of Medicare approved expenses) or copayments for hospital outpatient services.~~

~~Blood: First three pints of blood each year.~~

| ~~A~~ | ~~B~~ | ~~C~~ | ~~D~~ | ~~E~~ | ~~F~~ | ~~F*~~ | ~~G~~ | ~~H~~ | ~~I~~ | ~~J~~ | ~~J*~~ |
|---|---|---|---|---|---|---|---|---|---|---|---|
| ~~Basic Benefit~~ | ~~Basic Benefit~~ | ~~Basic Benefit~~ | ~~Basic Benefit~~ | ~~Basic Benefit~~ | ~~Basic Benefit~~ | | ~~Basic Benefit~~ | ~~Basic Benefit~~ | ~~Basic Benefit~~ | ~~Basic Benefit~~ | |
| | | ~~Skilled Nursing Facility Coinsurance~~ | ~~Skilled Nursing Facility Coinsurance~~ | ~~Skilled Nursing Facility Coinsurance~~ | ~~Skilled Nursing Facility Coinsurance~~ | | ~~Skilled Nursing Facility Coinsurance~~ | ~~Skilled Nursing Facility Coinsurance~~ | ~~Skilled Nursing Facility Coinsurance~~ | ~~Skilled Nursing Facility Coinsurance~~ | |
| | ~~Part A Deductible~~ | ~~Part A Deductible~~ | ~~Part A Deductible~~ | ~~Part A Deductible~~ | ~~Part A Deductible~~ | | ~~Part A Deductible~~ | ~~Part A Deductible~~ | ~~Part A Deductible~~ | ~~Part A Deductible~~ | |
| | | ~~Part B Deductible~~ | | | ~~Part B Deductible~~ | | | | | ~~Part B Deductible~~ | |
| | | | | | ~~Part B Excess (100%)~~ | | ~~Part B Excess (80%)~~ | | ~~Part B Excess (100%)~~ | ~~Part B Excess (100%)~~ | |
| | | ~~Foreign Travel Emergency~~ | ~~Foreign Travel Emergency~~ | ~~Foreign Travel Emergency~~ | ~~Foreign Travel Emergency~~ | | ~~Foreign Travel Emergency~~ | ~~Foreign Travel Emergency~~ | ~~Foreign Travel Emergency~~ | ~~Foreign Travel Emergency~~ | |
| | | | ~~At Home Recovery~~ | | | | ~~At Home Recovery~~ | | ~~At Home Recovery~~ | ~~At Home Recovery~~ | |
| | | | | ~~Preventive Care not covered by Medicare~~ | | | | | | ~~Preventive Care not covered by Medicare~~ | |

~~*Plans F and J also have an option called a high deductible Plan F and a high deductible Plan J. These high deductible plans pay the same benefits as Plans F and J after one has paid a calendar year $1,730 deductible. Benefits from high deductible Plans F and J will not begin until out-of-pocket expenses exceed $1,730. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.~~

~~[COMPANY NAME]~~
~~Outline of Medicare Supplement Coverage-Cover Page 2~~

~~Basic Benefits for Plans K and L include similar services as plans A-J, but cost-sharing for the basic benefits is at different levels.~~

| ~~J~~ | ~~K**~~ | ~~L**~~ |
|---|---|---|
| ~~Basic Benefits~~ | ~~100% of Part A Hospitalization Coinsurance plus coverage for 365 days after Medicare benefits end~~<br>~~50% Hospice cost-sharing~~<br>~~50% of Medicare-eligible expenses for the first three pints of blood~~<br>~~50% Part B Coinsurance, except 100% Coinsurance for Part B Preventive Services~~ | ~~100% of Part A Hospitalization Coinsurance plus coverage for 365 days after Medicare benefits end~~<br>~~75% Hospice cost-sharing~~<br>~~75% of Medicare-eligible expenses for the first three pints of blood~~<br>~~75% Part B Coinsurance, except 100% Coinsurance for Part B Preventive Services~~ |
| ~~Skilled Nursing Facility Coinsurance~~ | ~~50% Skilled Nursing Facility Coinsurance~~ | ~~75% Skilled Nursing Facility Coinsurance~~ |
| ~~Part A Deductible~~ | ~~50% Part A Deductible~~ | ~~75% Part A Deductible~~ |
| ~~Part B Deductible~~ | | |
| ~~Part B Excess (100%)~~ | | |
| ~~Foreign Travel Emergency~~ | | |
| ~~At-Home Recovery~~ | | |
| ~~Preventive Care NOT covered by Medicare~~ | | |
| | ~~$4,000 Out of Pocket Annual Limit***~~ | ~~$2,000 Out of Pocket Annual Limit***~~ |

~~**Plans K and L provide for different cost-sharing for items and services than Plans A – J.~~

~~Once you reach the annual limit, the plan pays 100% of the Medicare copayments, coinsurance, and deductibles for the rest of the calendar year. The out-of-pocket annual limit does NOT include charges from your provider that exceed Medicare-approved amounts, called "Excess Charges." You will be responsible for paying excess charges.~~

~~***The out-of-pocket annual limit will increase each year for inflation.~~

~~See Outlines of Coverage for details and exceptions.~~

**Benefit Chart of Medicare Supplement Plans Sold [ with Effective Dates ] on or after June 1, 2010**

This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan A available.

Some plans may not be available in your state.

Plans E, H, I and J are no longer available for sale after June 1, 2010. [ [This sentence shall not appear after June 1, 2011.] ]

**Basic benefits:**

Hospitalization – Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical expenses – Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or copayments.

Blood – First three pints of blood each year.

Hospice – Part A coinsurance.

| A | B | C | D | F | F* | G | K | L | M | N |
|---|---|---|---|---|---|---|---|---|---|---|
| Basic, including 100% Part B coinsurance | Basic, including 100% Part B coinsurance | Basic, including 100% Part B coinsurance | Basic, including 100% Part B coinsurance | Basic, including 100% Part B coinsurance* | | Basic, including 100% Part B coinsurance | Hospitalization and preventive care paid at 100%; other basic benefits paid at 50% | Hospitalization and preventive care paid at 100%; other basic benefits paid at 75% | Basic, including 100% Part B coinsurance | Basic, including 100% Part B coinsurance, except up to $20 copayment for office visit, and up to $50 copayment for ER |
| | | Skilled nursing facility coinsurance | Skilled nursing facility coinsurance | Skilled nursing facility coinsurance | | Skilled nursing facility coinsurance | 50% skilled nursing facility coinsurance | 75% skilled nursing facility coinsurance | Skilled nursing facility coinsurance | Skilled nursing facility coinsurance |
| | Part A deductible | Part A deductible | Part A deductible | Part A deductible | | Part A deductible | 50% Part A deductible | 75% Part A deductible | 50% Part A deductible | Part A deductible |
| | | Part B deductible | | Part B deductible | | | | | | |
| | | | | Part B excess (100%) | | Part B excess (100%) | | | | |
| | | Foreign travel emergency | Foreign travel emergency | Foreign travel emergency | | Foreign travel emergency | | | Foreign travel emergency | Foreign travel emergency |
| | | | | | | | Out-of-pocket limit $4,620; paid at 100% after limit reached | Out-of-pocket limit $2,310; paid at 100% after limit reached | | |

*Plan F also has an option called a high deductible Plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year $2,000 deductible. Benefits from high deductible Plan F will not begin until out-of-pocket expenses exceed $2,000. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

**PREMIUM INFORMATION**

Boldface Type

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this Commonwealth. [If the premium is based on attained age of the insured, include the following information:

1. When premiums will change;

2. The current premium for all ages;

3. A statement that premiums for other Medicare Supplement policies that are issue age or community rated do not increase due to changes in your age; and

4. A statement that while the cost of this policy at the covered individual's present age may be lower than the cost of a Medicare supplement policy that is based on issue age or community rated, it is important to compare the potential cost of these policies over the life of the policy.]

**DISCLOSURES**

Boldface Type

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010, have different benefits and premiums. Plans E, H, I and J are no longer available for sale after June 1, 2010. [ [This paragraph shall not appear after June 1, 2011.] ]

**READ YOUR POLICY VERY CAREFULLY**

Boldface Type

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

**RIGHT TO RETURN POLICY**

Boldface Type

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

**POLICY REPLACEMENT**

Boldface Type

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

**NOTICE**

Boldface Type

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult "Medicare & You" for more details.

**COMPLETE ANSWERS ARE VERY IMPORTANT**

Boldface Type

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to ~~14VAC5-170-80~~ 14VAC5-170-85.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the State Corporation Commission.]

~~Rev. 8/05~~

PLAN A
MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | $0 | ~~$912~~ $1,068 (Part A Deductible) |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0** |
| Beyond the Additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | $0 | Up to ~~$114~~ $133.50 a day |
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | ~~$0~~ Medicare copayment/coinsurance | ~~Balance~~ $0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN A
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ~~$110~~ $135 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B ~~Deductible~~ deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |

~~Rev. 8/05~~

PLAN B
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | ~~$912~~ $1,068 (Part A Deductible) | $0 |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0** |
| Beyond the Additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | $0 | Up to ~~$114~~ $133.50 a day |
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | ~~$0~~ Medicare copayment/coinsurance | ~~Balance~~ $0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN B
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed ~~$110~~ $135 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** - | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |

~~Rev. 8/05~~

PLAN C
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | ~~$912~~ $,1068 (Part A Deductible) | $0 |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare eligible expenses | $0** |
| Beyond the additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | Up to ~~$114~~ $133.50 a day | $0 |
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | ~~$0~~ Medicare copayment/coinsurance | ~~Balance~~ $0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN C
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed ~~$110~~ $135 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B ~~Deductible~~ deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | ~~$110~~ $135 (Part B Deductible) | $0 |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | ~~$110~~ $135 (Part B Deductible) | $0 |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** - | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | ~~$110~~ $135 (Part B Deductible) | $0 |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |

OTHER BENEFITS—NOT COVERED BY MEDICARE

| | | | |
|---|---|---|---|
| **FOREIGN TRAVEL** - NOT COVERED BY MEDICARE | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |

| | | | |
|---|---|---|---|
| Remainder of Charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

~~Rev. 8/05~~

PLAN D
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | ~~$912~~ $1,068 (Part A Deductible) | $0 |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0** |
| Beyond the Additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | Up to ~~$114~~ $133.50 a day | $0 |
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | ~~$0~~ Medicare copayment/coinsurance | ~~Balance~~ $0 |

**NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN D
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed ~~$110~~ $135 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** - | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| ~~AT HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE~~ | | | |

| | | | |
|---|---|---|---|
| ~~Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan~~ | | | |
| ~~Benefit for each visit~~ | ~~$0~~ | ~~Actual charges to $40 a visit~~ | ~~Balance~~ |
| ~~Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)~~ | ~~$0~~ | ~~Up to the number of Medicare approved visits not to exceed 7 each week~~ | |
| ~~Calendar year maximum~~ | ~~$0~~ | ~~$1,600~~ | |

OTHER BENEFITS—NOT COVERED BY MEDICARE

| | | | |
|---|---|---|---|
| **FOREIGN TRAVEL -**<br>NOT COVERED BY MEDICARE<br>Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

~~Rev. 8/05~~

~~PLAN E~~
~~MEDICARE (PART A) HOSPITAL SERVICES PER BENEFIT PERIOD~~

~~*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.~~

| ~~SERVICES~~ | ~~MEDICARE PAYS~~ | ~~PLAN PAYS~~ | ~~YOU PAY~~ |
|---|---|---|---|
| ~~**HOSPITALIZATION***~~<br>~~Semiprivate room and board, general nursing and miscellaneous services and supplies~~ | | | |
| ~~First 60 days~~ | ~~All but $912~~ | ~~$912 (Part A Deductible)~~ | ~~$0~~ |
| ~~61st thru 90th day~~ | ~~All but $228 a day~~ | ~~$228 a day~~ | ~~$0~~ |
| ~~91st day and after:~~ | | | |
| ~~While using 60 lifetime reserve days~~ | ~~All but $456 a day~~ | ~~$456 a day~~ | ~~$0~~ |
| ~~Once lifetime reserve days are used:~~ | | | |
| ~~Additional 365 days~~ | ~~$0~~ | ~~100% of Medicare eligible expenses~~ | ~~$0~~ |
| ~~Beyond the additional 365 days~~ | ~~$0~~ | ~~$0~~ | ~~All costs~~ |
| ~~**SKILLED NURSING FACILITY CARE***~~<br>~~You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare approved~~ | | | |

| | | | |
|---|---|---|---|
| facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but $114 a day | Up to $114 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | $0 | Balance |

PLAN E

MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR

*Once you have been billed $110 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** – | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

~~PARTS A & B~~

| ~~SERVICES~~ | ~~MEDICARE PAYS~~ | ~~PLAN PAYS~~ | ~~YOU PAY~~ |
|---|---|---|---|
| ~~**HOME HEALTH CARE**~~<br>~~MEDICARE-APPROVED SERVICES~~ | | | |
| ~~Medically necessary skilled care services and medical supplies~~ | ~~100%~~ | ~~$0~~ | ~~$0~~ |
| ~~Durable medical equipment~~ | | | |
| ~~First $110 of Medicare-Approved Amounts*~~ | ~~$0~~ | ~~$0~~ | ~~$110 (Part B Deductible)~~ |
| ~~Remainder of Medicare-Approved Amounts~~ | ~~80%~~ | ~~20%~~ | ~~$0~~ |

~~Rev. 8/05~~

~~PLAN E~~
~~OTHER BENEFITS—NOT COVERED BY MEDICARE~~

| | | | |
|---|---|---|---|
| ~~**FOREIGN TRAVEL -**~~<br>~~NOT COVERED BY MEDICARE~~ | | | |
| ~~Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA~~ | | | |
| ~~First $250 each calendar year~~ | ~~$0~~ | ~~$0~~ | ~~$250~~ |
| ~~Remainder of Charges~~ | ~~$0~~ | ~~80% to a lifetime maximum benefit of $50,000~~ | ~~20% and amounts over the $50,000 lifetime maximum~~ |
| ~~*****PREVENTIVE MEDICAL CARE BENEFIT -**~~<br>~~NOT COVERED BY MEDICARE~~ | | | |
| ~~Some annual physical and preventive tests and services administered or ordered by your doctor when not covered by Medicare~~ | | | |
| ~~First $120 each calendar year~~ | ~~$0~~ | ~~$120~~ | ~~$0~~ |
| ~~Additional charges~~ | ~~$0~~ | ~~$0~~ | ~~All costs~~ |

~~***Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.~~

~~Rev. 8/05~~

PLAN F or HIGH DEDUCTIBLE PLAN F
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year ~~$1730~~ $2,000 deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are ~~$1730~~ $2,000. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

| SERVICES | MEDICARE PAYS | AFTER YOU PAY ~~$1730~~ $2,000 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO ~~$1730~~ $2,000 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | ~~$912~~ $1,068 (Part A Deductible) | $0 |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0** |
| Beyond the Additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | Up to ~~$114~~ $133.50 a day | $0 |
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | ~~$0~~ Medicare copayment/coinsurance | ~~Balance~~ $0 |

**__NOTICE:__ When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN F or HIGH DEDUCTIBLE PLAN F
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ~~$110~~ $135 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year ~~$1730~~ $2,000 deductible. Benefits from the high deductible plan F will not begin until out-of-pocket expenses are ~~$1730~~ $2,000. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

| SERVICES | MEDICARE PAYS | AFTER YOU PAY ~~$1730~~ $2,000 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO ~~$1730~~ $2,000 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved amounts* | $0 | ~~$110~~ $135 (Part B Deductible) | $0 |
| Remainder of Medicare-Approved amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare Approved Amounts) | $0 | 100% | $0 |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | ~~$110~~ $135 (Part B Deductible) | $0 |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** - | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $2,000 DEDUCTIBLE,** PLAN PAYS | IN ADDITON TO $2,000 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |

| | | | |
|---|---|---|---|
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | ~~$110~~ $135 (Part B Deductible) | $0 |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| | | | |
|---|---|---|---|
| **FOREIGN TRAVEL -** NOT COVERED BY MEDICARE | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

~~Rev. 8/05~~

PLAN G
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | ~~$912~~ $1,068 (Part A Deductible) | $0 |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0** |
| Beyond the Additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | Up to ~~$114~~ $133.50 a day | $0 |

| | | | |
|---|---|---|---|
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | ~~$0~~ Medicare copayment/coinsurance | ~~Balance~~ $0 |

**~~NOTICE:~~ When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN G
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed ~~$110~~ $135 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | ~~80%~~ 100% | ~~20%~~ $0 |
| **BLOOD** | | | |
| First 3 pints | $0 | All costs | $0 |
| Next ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** - | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE**<br>MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts* | $0 | $0 | ~~$110~~ $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| ~~AT HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE~~ | | | |
| ~~Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan~~ | | | |
| ~~Benefit for each visit~~ | ~~$0~~ | ~~Actual charges to $40 a visit~~ | ~~Balance~~ |
| ~~Number of visits covered (must be received within 8 weeks of last Medicare approved visit)~~ | ~~$0~~ | ~~Up to the number of Medicare approved visits not to exceed 7 each week~~ | |
| ~~Calendar year maximum~~ | ~~$0~~ | ~~$1,600~~ | |

OTHER BENEFITS—NOT COVERED BY MEDICARE

| | | | |
|---|---|---|---|
| **FOREIGN TRAVEL -**<br>NOT COVERED BY MEDICARE | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

~~Rev. 8/05~~

~~PLAN H~~

~~MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD~~

~~*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.~~

| ~~SERVICES~~ | ~~MEDICARE PAYS~~ | ~~PLAN PAYS~~ | ~~YOU PAY~~ |
|---|---|---|---|
| ~~**HOSPITALIZATION***~~ | | | |
| ~~Semiprivate room and board, general nursing and miscellaneous services and supplies~~ | | | |

| | | | |
|---|---|---|---|
| First 60 days | All but $912 | $912 (Part A Deductible) | $0 |
| 61st thru 90th day | All but $228 a day | $228 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but $456 a day | $456 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| Beyond the additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but $114 a day | Up to $114 a day | $0 |
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | $0 | Balance |

PLAN H

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed $110 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |

| | | | |
|---|---|---|---|
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | 0% | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES -** | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |

OTHER BENEFITS - NOT COVERED BY MEDICARE

| | | | |
|---|---|---|---|
| **FOREIGN TRAVEL -** NOT COVERED BY MEDICARE | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

Rev. 8/05

PLAN I
MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $912 | $912 (Part A Deductible) | $0 |
| 61st thru 90th day | All but $228 a day | $228 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but $456 a day | $456 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| Beyond the additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but $114 a day | Up to $114 a day | $0 |
| 101st day and after | $0 | $0 | All Costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | $0 | Balance |

PLAN I
MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR

*Once you have been billed $110 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL | | | |

| | | | |
|---|---|---|---|
| TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | 100% | $0 |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES -** | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First $110 of Medicare-Approved Amounts* | $0 | $0 | $110 (Part B Deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE | | | |
| Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare-approved a Home Care Treatment Plan | | | |
| Benefit for each visit | $0 | Actual charges to $40 a visit | Balance |
| Number of visits covered (must be received within 8 weeks of last Medicare-Approved visit) | $0 | Up to the number of Medicare-Approved visits not to exceed 7 each week | |

| | | | |
|---|---|---|---|
| Calendar year maximum | $0 | $1,600 | |

OTHER BENEFITS – NOT COVERED BY MEDICARE

| | | | |
|---|---|---|---|
| **FOREIGN TRAVEL – NOT COVERED BY MEDICARE** | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

Rev. 8/05

PLAN J or HIGH DEDUCTIBLE PLAN J
MEDICARE (PART A) – HOSPITAL SERVICES – PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same benefits as Plan J after one has paid a calendar year $1730 deductible. Benefits from high deductible plan J will not begin until out of pocket expenses are $1730. Out of pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $912 | $912 (Part A deductible) | $0 |
| 61st thru 90th day | All but $228 a day | $228 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but $456 a day | $456 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| Beyond the Additional 365 days | $0 | $0 | All Costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but $114 a day | Up to $114 a day | $0 |
| 101st day and after | $0 | $0 | All Costs |

| | | | |
|---|---|---|---|
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited coinsurance for outpatient drugs and inpatient respite care | $0 | Balance |

Rev. 8/05

PLAN J or HIGH DEDUCTIBLE PLAN J
MEDICARE (PART B) – MEDICAL SERVICES – PER CALENDAR YEAR

*Once you have been billed $110 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same benefits as Plan J after one has paid a calendar year $1730 deductible. Benefits from high deductible plan J will not begin until out-of-pocket expenses are $1730. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1730 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1730 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** – IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First $110 of Medicare-Approved Amounts* | $0 | $110 (Part B deductible) | $0 |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | 100% | $0 |
| **BLOOD** | | | |
| First 3 pints | $0 | All Costs | $0 |
| Next $110 of Medicare-Approved Amounts* | $0 | $110 (Part B deductible) | $0 |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES** – | | | |

| | | | |
|---|---|---|---|
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First $110 of Medicare-Approved Amounts* | $0 | $110 (Part B Deductible) | $0 |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| AT-HOME RECOVERY SERVICES - NOT COVERED BY MEDICARE | | | |
| Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan | | | |
| Benefit for each visit | $0 | Actual charges to $40 a visit | Balance |
| Number of visits covered (must be received within 8 weeks of last Medicare-Approved visit) | $0 | Up to the number of Medicare-Approved visits not to exceed 7 each week | |
| Calendar year maximum | $0 | $1,600 | |

PLAN J or HIGH DEDUCTIBLE PLAN J
OTHER BENEFITS – NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1730 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1730 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL -** NOT COVERED BY MEDICARE | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |
| ***PREVENTIVE MEDICAL CARE BENEFIT - NOT COVERED BY MEDICARE | | | |

| | | | |
|---|---|---|---|
| ~~Some annual physical and preventive tests and services administered or ordered by your doctor when not covered by Medicare~~ | | | |
| ~~First $120 each calendar year~~ | ~~$0~~ | ~~$120~~ | ~~$0~~ |
| ~~Additional charges~~ | ~~$0~~ | ~~$0~~ | ~~All costs~~ |

~~***Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.~~

~~Eff. 8/05~~

PLAN K

*You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of ~~$4000~~ $4,620 each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|---|---|---|---|
| **HOSPITALIZATION**** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | ~~$456~~ $534 (50% of Part A deductible) | ~~$456~~ $534 (50% of Part A deductible)♦ |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare eligible expenses | $0*** |
| Beyond the additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE**** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |

| | | | |
|---|---|---|---|
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | Up to ~~$57~~ $66.75 a day | Up to ~~$57~~ $66.75 a day♦ |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 50% | 50%♦ |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | ~~Generally, most Medicare eligible expenses for out patient drugs and inpatient respite care~~ All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | 50% of copayment/coinsurance ~~or copayments~~ | 50% of Medicare copayment/coinsurance ~~or copayments~~♦ |

***__NOTICE:__ When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever the amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN K
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

****Once you have been billed ~~$110~~ $135 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts**** | $0 | $0 | ~~$110~~ $135 (Part B deductible)****♦ |
| Preventive Benefits for Medicare covered services | Generally 75% or more of Medicare-approved amounts | Remainder of Medicare-approved amounts | All costs above Medicare-approved amounts |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 10% | Generally 10%♦ |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All costs (and they do not count toward annual out-of-pocket limit of ~~$4000)*~~ $4620)* |
| **BLOOD** | | | |

| | | | |
|---|---|---|---|
| First 3 pints | $0 | 50% | 50%♦ |
| Next ~~$110~~ $135 of Medicare Approved Amounts**** | $0 | $0 | ~~$110~~ $135 (Part B deductible)****♦ |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 10% | Generally 10%♦ |
| **CLINICAL LABORATORY SERVICES -** | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to ~~$4000~~ $4,620 per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts***** | $0 | $0 | ~~$110~~ $135 (Part B deductible)♦ |
| Remainder of Medicare-Approved Amounts | 80% | 10% | 10%♦ |

*****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

~~Eff. 8/05~~

PLAN L

*You will pay one-fourth of the cost-sharing of some covered services until you reach the annual out-of-pocket limit of ~~$2000~~ $2,310 each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|---|---|---|---|
| **HOSPITALIZATION**** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but ~~$912~~ $1,068 | ~~$684~~ $808.50 (75% of Part A deductible) | ~~$228~~ $267 (25% of Part A deductible)♦ |
| 61st thru 90th day | All but ~~$228~~ $267 a day | ~~$228~~ $267 a day | $0 |

| | | | |
|---|---|---|---|
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but ~~$456~~ $534 a day | ~~$456~~ $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare eligible expenses | $0*** |
| Beyond the additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE**** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but ~~$114~~ $133.50 a day | Up to ~~$85.50~~ $100.13 a day | Up to ~~$28.50~~ $33.38 a day♦ |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 75% | 25%♦ |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| ~~Available as long as your doctor certifies you are terminally ill and you elect to receive these services~~ You must meet Medicare's requirements, including a doctor's certification of terminal illness. | ~~Generally, most Medicare eligible expenses for out-patient drugs and inpatient respite care~~ All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | 75% of copayment/coinsurance ~~or copayments~~ | 25% of copayment/coinsurance ~~or copayments~~♦ |

*****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charge and the amount Medicare would have paid.

PLAN L
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

****Once you have been billed ~~$110~~ $135 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL | | | |

| | | | |
|---|---|---|---|
| TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts**** | $0 | $0 | ~~$110~~ $135 (Part B deductible)****♦ |
| Preventive Benefits for Medicare covered services | Generally 75% or more of Medicare-approved amounts | Remainder of Medicare-approved amounts | All costs above Medicare-approved amounts |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 15% | Generally 5%♦ |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All costs (and they do not count toward annual out-of-pocket limit of ~~$2000)*~~ $2,310)* |
| **BLOOD** | | | |
| First 3 pints | $0 | 75% | 25%♦ |
| Next ~~$110~~ $135 of Medicare Approved Amounts**** | $0 | $0 | ~~$110~~ $135 (Part B deductible)♦ |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 15% | Generally 5%♦ |
| **CLINICAL LABORATORY SERVICES -** | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to ~~$2000~~ $2,310 per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY* |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First ~~$110~~ $135 of Medicare-Approved Amounts***** | $0 | $0 | ~~$110~~ $135 (Part B deductible)♦ |
| Remainder of Medicare-Approved Amounts | 80% | 15% | 5%♦ |

*****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

PLAN M
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $1,068 | $534 (50% of Part A deductible) | $534 (50% of Part A deductible) |
| 61st thru 90th day | All but $267 a day | $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but $534 a day | $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare eligible expenses | $0** |
| Beyond the additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but $133.50 a day | Up to $133.50 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | Medicare copayment/coinsurance | $0 |

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charge and the amount Medicare would have paid.

PLAN M
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $135 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First $135 of Medicare-Approved Amounts* | $0 | $0 | $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Generally 20% | $0 |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $135 of Medicare Approved Amounts* | $0 | $0 | $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES -** | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |
| First $135 of Medicare-Approved Amounts* | $0 | $0 | $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |

OTHER BENEFITS—NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL -** NOT COVERED BY MEDICARE | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |

| | | | |
|---|---|---|---|
| Remainder of Charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

PLAN N
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** | | | |
| Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $1,068 | $1,068 (Part A deductible) | $0 |
| 61st thru 90th day | All but $267 a day | $267 a day | $0 |
| 91st day and after: | | | |
| While using 60 lifetime reserve days | All but $534 a day | $534 a day | $0 |
| Once lifetime reserve days are used: | | | |
| Additional 365 days | $0 | 100% of Medicare eligible expenses | $0** |
| Beyond the additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE*** | | | |
| You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th day | All but $133.50 a day | Up to $133.50 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** | | | |
| You must meet Medicare's requirements, including a doctor's certification of terminal illness. | All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care | Medicare copayment/coinsurance | $0 |

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "core benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charge and the amount Medicare would have paid.

PLAN N
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $135 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES** - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment | | | |
| First $135 of Medicare-Approved Amounts* | $0 | $0 | $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | Generally 80% | Balance, other than up to $20 per office visit and up to $50 per emergency room visit. The copayment of up to $50 is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense. | Up to$20 per office visit and up to $50 per emergency visit. The copayment of up to $50 is waived if the insured is admitted to any hospital and the emergency room visit is covered as a Medicare Part A expense. |
| **PART B EXCESS CHARGES** | | | |
| (Above Medicare-Approved Amounts) | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $135 of Medicare Approved Amounts* | $0 | $0 | $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES -** | | | |
| TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

PARTS A & B

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE-APPROVED SERVICES | | | |
| Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| Durable medical equipment | | | |

| | | | |
|---|---|---|---|
| First $135 of Medicare-Approved Amounts* | $0 | $0 | $135 (Part B deductible) |
| Remainder of Medicare-Approved Amounts | 80% | 20% | $0 |

OTHER BENEFITS—NOT COVERED BY MEDICARE

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL -** NOT COVERED BY MEDICARE | | | |
| Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum benefit of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

E. Notice regarding policies or certificates which are not Medicare supplement policies.

1. Any accident and sickness insurance policy or certificate issued for delivery in this Commonwealth to persons eligible for Medicare, other than a Medicare supplement policy, a policy issued pursuant to a contract under § 1876 of the federal Social Security Act (42 USC § 1395 et seq.), a disability income policy, or other policy identified in 14VAC5-170-20 B, shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice shall be in no less than 12 point type and shall contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company."

2. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in subdivision 1 of this subsection shall disclose, using the applicable statement in Appendix C, the extent to which the policy duplicates Medicare. The disclosure statement shall be provided as a part of, or together with, the application for the policy or certificate.

F. Notice requirements for attained age rated Medicare supplement policies or certificates. Issuers of Medicare supplement policies or certificates which use attained age rating shall provide a notice to all prospective applicants at the time the application is presented, and except for direct response policies or certificates, shall obtain an acknowledgement of receipt of the notice from the applicant. The notice shall be in no less than 12 point type and shall contain the information included in Appendix D. The notice shall be provided as part of, or together with, the application for the policy or certificate.

**14VAC5-170-215. Prohibition against use of genetic information and requests for genetic testing.**

A. An issuer of a Medicare supplement policy or certificate:

1. Shall not deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a preexisting condition) on the basis of the genetic information with respect to such individual; and

2. Shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

B. Nothing in subsection A of this section shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from:

1. Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

2. Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group).

C. An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

D. Subsection C of this section shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under Part C of Title XI and § 264 of the Health Insurance Portability and Accountability Act of 1996) and consistent with subsection A of this section.

E. For purposes of carrying out subsection D of this section, an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

F. Notwithstanding subsection C of this section, an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

1. The request is made pursuant to research that complies with 45 CFR Part 46, and any applicable state or local law or regulations for the protection of human subjects in research.

2. The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that:

a. Compliance with the request is voluntary; and

b. Noncompliance will have no effect on enrollment status or premium or contribution amounts.

3. No genetic information collected or acquired under this subsection shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

4. The issuer notifies the U.S. Secretary of Health and Human Services in writing that the issuer is conducting activities pursuant to the exception provided for under this subsection, including a description of the activities conducted.

5. The issuer complies with such other conditions as the U.S. Secretary of Health and Human Services may by regulation require for activities conducted under this subsection.

G. An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

H. An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

I. If an issuer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of subsection H of this section if such request, requirement, or purchase is not in violation of subsection G of this section.

J. For the purposes of this section only:

1. "Issuer of a Medicare supplement policy or certificate" includes third-party administrator, or other person acting for or on behalf of such issuer.

2. "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

3. "Genetic information" means, with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by a pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term "genetic information" does not include information about the sex or age of any individual.

4. "Genetic services" means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.

5. "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

6. "Underwriting purposes" means:

a. Rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy;

b. The computation of premium or contribution amounts under the policy;

c. The application of any preexisting condition exclusion under the policy; and

d. Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

VA.R. Doc. No. R09-1737; Filed April 22, 2009, 11:43 a.m.

# TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

## DEPARTMENT OF HEALTH PROFESSIONS

### Final Regulation

REGISTRAR'S NOTICE: The Department of Health Professions is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Health Professions will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC76-40. Regulations Governing Emergency Contact Information (amending 18VAC76-40-20).**

Statutory Authority: §§ 54.1-2400 and 54.1-2506.1 of the Code of Virginia.

Effective Date: July 1, 2009.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4688, FAX (804) 527-4475, or email elaine.yeatts@dhp.virginia.gov.

Summary:

*The current regulation states that emergency contact information provided by a health care professional is used only in the event of a public health emergency or for the purpose of disseminating notification of a public health emergency. The amendment extends the use of such information for the dissemination of public health information or for providing information related to serving during a public health emergency.*

**18VAC76-40-20. Emergency contact information.**

A. Upon a request from the department, a person or entity listed in 18VAC76-40-10 shall be required to report the following information for contact in the event of a public health emergency or for dissemination of public health information:

1. A telephone number at which he may be contacted during weekday business hours (8 a.m. to 5 p.m.);

2. A telephone number at which he may be contacted during nonbusiness hours (5 p.m. to 8 a.m. weekdays and on weekends or holidays);

3. A fax number at which he may be sent information concerning the emergency; and

4. An e-mail address at which he may be sent information concerning the emergency.

B. A person or entity shall only be required to report those fax numbers or e-mail addresses to which he has direct access.

C. Information collected for the purpose of disseminating notification of a public health emergency or public health information or providing information related to serving during a public health emergency shall not be published or made available for any other purpose.

VA.R. Doc. No. R09-1863; Filed April 22, 2009, 10:17 a.m.

## BOARD OF OPTOMETRY

### Final Regulation

REGISTRAR'S NOTICE: The Board of Optometry is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Optometry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC105-20. Regulations Governing the Practice of Optometry (amending 18VAC105-20-60).**

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

Effective Date: July 1, 2009.

Agency Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4426, FAX (804) 527-4466, or email elizabeth.carter@dhp.virginia.gov.

Summary:

*In compliance with Chapter 687 of the 2009 Acts of Assembly, the Board of Optometry has amended its regulations relating to the responsibility of the licensee or registrant to provide current addresses. Every licensee and registrant is required to provide an address of record for use by the board, and is permitted to provide a second address to be used as the public address. If a second*

*address is not provided, the address of record becomes the public address. Regulations are amended to use the statutory terminology of address of record and to clarify that the regulant has a responsibility to notify the board within 30 days if there is a change in the address of record or the public address, if different from the address of record.*

**18VAC105-20-60. Renewal of licensure; reinstatement; renewal fees.**

A. Every person authorized by the board to practice optometry shall, on or before December 31 of every year, submit a completed renewal application and pay the prescribed annual licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address of record and the public address, if different from the address of record. All changes of ~~mailing~~ address or name shall be furnished to the board within 30 days after the change occurs. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address of record given and shall not relieve the licensee of the obligation to comply.

C. The license of every person who does not return the completed form and fee by December 31 of each year may be renewed for up to one year by paying the prescribed renewal fee and late fee, provided the requirements of 18VAC105-20-70 have been met. After December 31, a license that has not been renewed is lapsed. Practicing optometry in Virginia with a lapsed license may subject the licensee to disciplinary action and additional fines by the board.

D. An optometrist whose license has been lapsed for more than one year and who wishes to resume practice in Virginia shall apply for reinstatement. The executive director may grant reinstatement provided that:

1. The applicant can demonstrate continuing competence;

2. The applicant has satisfied current requirements for continuing education for the period in which the license has been lapsed, not to exceed two years; and

3. The applicant has paid the prescribed reinstatement application fee.

E. The board may require an applicant who has allowed his license to expire and who cannot demonstrate continuing competency to pass all or parts of the board-approved examinations.

VA.R. Doc. No. R09-1862; Filed April 22, 2009, 10:17 a.m.

## BOARD OF PHYSICAL THERAPY

### Final Regulation

Title of Regulation: **18VAC112-20. Regulations Governing the Practice of Physical Therapy (amending 18VAC112-20-90, 18VAC112-20-130, 18VAC112-20-131, 18VAC112-20-150; adding 18VAC112-20-81).**

Statutory Authority: §§ 54.1-2400 and 54.1-3482.1 of the Code of Virginia.

Effective Date: June 10, 2009.

Agency Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4424, FAX (804) 527-4413, or email lisa.hahn@dhp.virginia.gov.

Summary:

*The amendments (i) establish the qualifications and application requirements for certification in direct access; (ii) set out the responsibility for the physical therapist to obtain the medical release and patient consent required by the statute; (iii) establish a biennial renewal of certification with continuing education hours; and (iv) establish the fees for direct access certification.*

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.

**18VAC112-20-81. Requirements for direct access certification.**

A. An applicant for certification to provide services to patients without a referral as specified in § 54.1-3482.1 of the Code of Virginia shall hold an active, unrestricted license as a physical therapist in Virginia and shall submit evidence satisfactory to the board that he has one of the following qualifications:

1. Completion of a doctor of physical therapy program approved by the American Physical Therapy Association;

2. Completion of a transitional program in physical therapy as recognized by the board; or

3. At least three years of postlicensure, active practice with evidence of 15 contact hours of continuing education in medical screening or differential diagnosis, including passage of a postcourse examination. The required continuing education shall be offered by a provider or sponsor listed as approved by the board in 18VAC112-20-131 and may be face-to-face or online education courses.

B. In addition to the evidence of qualification for certification required in subsection A of this section, an applicant seeking direct access certification shall submit to the board:

1. A completed application as provided by the board;

2. Any additional documentation as may be required by the board to determine eligibility of the applicant; and

3. The application fee as specified in 18VAC112-20-150.

**18VAC112-20-90. General responsibilities.**

A. The physical therapist shall be responsible for managing all aspects of the physical therapy care of each patient and shall provide:

1. The initial evaluation for each patient and its documentation in the patient record; and

2. Periodic evaluations prior to patient discharge, including documentation of the patient's response to therapeutic intervention.

B. The physical therapist shall communicate the overall plan of care to the patient or his legally authorized representative and shall also communicate with a referring doctor of medicine, osteopathy, chiropractic, podiatry, or dental surgery, nurse practitioner or physician assistant to the extent required by § 54.1-3482 of the Code of Virginia.

C. A physical therapist assistant may assist the physical therapist in performing selected components of physical therapy intervention to include treatment, measurement and data collection, but not to include the performance of an evaluation as defined in 18VAC112-20-10.

D. A physical therapist assistant's visits to a patient may be made under general supervision.

E. A physical therapist providing services with a direct access certification as specified in § 54.1-3482 of the Code of Virginia shall utilize the Direct Access Patient Attestation and Medical Release Form prescribed by the board or otherwise include in the patient record the information, attestation and written consent required by subsection B of § 54.1-3482 of the Code of Virginia.

**18VAC112-20-130. Biennial renewal of license and certification.**

A. A physical therapist and physical therapist assistant who intends to continue practice shall renew his license biennially by December 31 in each even-numbered year and pay to the board the renewal fee prescribed in 18VAC112-20-150.

B. A licensee whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18VAC112-20-150.

C. In order to renew an active license, a licensee shall be required to:

1. Complete a minimum of 160 hours of active practice in the preceding two years; and

2. Comply with continuing competency requirements set forth in 18VAC112-20-131.

D. In order to renew a direct access certification, a licensee shall be required to:

1. Hold an active, unrestricted license as a physical therapist; and

2. Comply with continuing education requirements set forth in 18VAC112-20-131 I.

**18VAC112-20-131. Continued competency requirements for renewal of an active license.**

A. In order to renew an active license biennially after December 31, 2003, a physical therapist or a physical therapist assistant shall complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. In choosing continuing learning activities or courses, the licensee shall consider the following: (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

B. To document the required hours, the licensee shall maintain the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of the following:

1. A minimum of 15 of the contact hours required for physical therapists and 10 of the contact hours required for physical therapist assistants shall be in Type 1 face-to-face courses. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the clinical practice of physical therapy and approved or provided by one of the following organizations or any of its components:

a. The Virginia Physical Therapy Association;

b. The American Physical Therapy Association;

c. Local, state or federal government agencies;

d. Regionally accredited colleges and universities;

e. Health care organizations accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

f. The American Medical Association - Category I Continuing Medical Education course; and

g. The National Athletic Trainers Association.

2. No more than 15 of the contact hours required for physical therapists and 20 of the contact hours required for physical therapist assistants may be Type 2 activities or courses, which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. Type 2 activities may include but not be limited to consultation with colleagues, independent study, and research or writing on subjects related to practice.

3. Documentation of specialty certification by the American Physical Therapy Association may be provided as evidence of completion of continuing competency requirements for the biennium in which initial certification or recertification occurs.

C. A licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure in Virginia.

D. The licensee shall retain his records on the completed form with all supporting documentation for a period of four years following the renewal of an active license.

E. The licensees selected in a random audit conducted by the board shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

G. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

H. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

I. Physical therapists holding certification to provide direct access without a referral shall include four contact hours as part of the required 30 contact hours of continuing education in courses related to clinical practice in a direct access setting.

**18VAC112-20-150. Fees.**

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Licensure by examination.

1. The application fee shall be $140 for a physical therapist and $100 for a physical therapist assistant.

2. The fees for taking all required examinations shall be paid directly to the examination services.

C. Licensure by endorsement. The fee for licensure by endorsement shall be $140 for a physical therapist and $100 for a physical therapist assistant.

D. Licensure renewal and reinstatement.

1. The fee for active license renewal for a physical therapist shall be $135 and for a physical therapist assistant shall be $70 and shall be due by December 31 in each even-numbered year. From January 1, 2006, through December 31, 2006, the fee for active license renewal fee shall be $60 for a physical therapist and $30 for a physical therapist assistant.

2. A fee of $25 for a physical therapist assistant and $50 for a physical therapist for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.

3. The fee for reinstatement of a license that has expired for two or more years shall be $180 for a physical therapist and $120 for a physical therapist assistant and shall be submitted with an application for licensure reinstatement.

E. Other fees.

1. The fee for an application for reinstatement of a license that has been revoked shall be $1,000.

2. The fee for a duplicate license shall be $5, and the fee for a duplicate wall certificate shall be $15.

3. The fee for a returned check shall be $35.

4. The fee for a letter of good standing/verification to another jurisdiction shall be $10.

F. Direct access certification fees.

1. The application fee shall be $75 for a physical therapist to obtain certification to provide services without a referral.

2. The fee for renewal on a direct access certification shall be $35 and shall be due by December 31 in each even-numbered year.

3. A fee of $15 for processing a late renewal of certification within one renewal cycle shall be paid in addition to the renewal fee.

NOTICE: The forms used in administering the above regulation are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS (18VAC112-20)

Application for Licensure by Examination to Practice as a Physical Therapist/Physical Therapist Assistant (rev. 9/07).

Application for Licensure by Endorsement to Practice Physical Therapy as a Physical Therapist/Physical Therapist Assistant (rev. 12/07).

Application for Reinstatement of Licensure to Practice Physical Therapy as a Physical Therapist/Physical Therapist Assistant (rev. 8/07).

Instructions for Licensure by Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of an American/Approved Program) (rev. 11/07).

Instructions for Licensure by Endorsement to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of a Non-American/Nonapproved Program) (rev. 11/07).

Instructions for Licensure by Examination to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of an American/Approved Program) (rev. 8/07).

Instructions for Licensure by Examination to Practice as a Physical Therapist or Physical Therapist Assistant (Graduate of a Non-American/Nonapproved Program) (rev. 8/07).

Instructions - Reinstatement of Licensure to Practice as a Physical Therapist/Physical Therapist Assistant (rev. 4/08).

Traineeship Application, Statement of Authorization (rev. 8/07).

Traineeship Application, Statement of Authorization (1,000-hour traineeship) (rev. 8/07).

Traineeship Application, Statement of Authorization, Relicensure (480-hour traineeship) (rev. 12/07).

Form #L, Certificate of Physical Therapy Education (rev. 7/08).

Continued Competency and Assessment Form (rev. 7/08).

480 Traineeship Completion Form (rev. 12/07).

Instructions – Direct Access Certification (rev. [ ~~4/08)~~ 4/09) ].

Application for Direct Access Certification (rev. [ ~~4/08)~~ 4/09) ].

Patient Attestation Form (rev. 7/07).

Rev. 04/6/09

# INSTRUCTIONS
## Direct Access Certification

(This form has been designed for use as a checklist)



**APPLICANTS APPLYING FOR THE DIRECT ACCESS CERTIFICATION MUST HOLD A CURRENT/ACTIVE VIRGINIA PHYSICAL THERAPIST LICENSE.**

Upon receipt of the license application, an acknowledgement letter is sent to the applicant advising the applicant of the status of the application. Upon receipt of all required documentation/information the application licensing process takes approximately three to five business days.

**Record Retention Procedures** - an application will remain in process no longer than one (1) year. If, at the end of one (1) year, a license/certification is not issued, the application file is **destroyed.** In order for the applicant to pursue licensure/certification the applicant shall reapply for licensure/certification, submit fees, required documentation, and meet the qualifications for licensure/certification in effect at the time of the new application.

☐ 1. **THE 2-PAGE APPLICATION FOR DIRECT ACCESS CERTIFICATION - This application will not be considered until all sections have been completed.** If you answered yes to questions #6 on page (2) two of the application, attach your original criminal history records; a certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision; and any other information you wish to have considered with your application (i.e., information on the status of incarceration, parole, or probation; reference letters; documentation of rehabilitation; etc.).

☐ 2. **PROOF OF PROFESSIONAL EDUCATION - OFFICIAL** transcript from your school to include school seal, date of graduation and program completed. **No transcript required if originally licensed in Virginia with Doctorate of Physical Therapy (DPT) or if applying by experience.**

☐ 3. **FEES** – All fees are non-refundable. The fee for certification is $75.00. Check or money order made payable to the Treasurer of Virginia. Attach the fee to page 2 of the application and submit to the Virginia Board of Physical Therapy. ***Applications received without the fee and/or fees received without an application will be returned to the sender.***

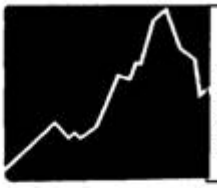
**DOCUMENTATION FOR EXPERIENCE ONLY APPLICANTS**
**(MUST complete #1, #3, and #4)**

☐ 4. **VERIFICATION OF 15 CONTACT HOURS**– Provide evidence of completion of at least 15 contact hours of continuing education in medical screening or differential diagnosis, with a post-course examination, offered by a provider approved by the Board.

**PLEASE NOTE:**

1. A licensed physical therapist who has obtained a certificate of authorization pursuant to §54.1-3482.1 may evaluate and treat a patient for no more than 14 consecutive business days after evaluation without a referral under specific conditions as outlined in § 54.1-3482.
2. **FAXED DOCUMENTS ARE NOT ACCEPTABLE.**
3. Only original documents will be accepted.
4. Applications altered in any way may not be accepted.

04/5/09
DIRECT ACCESS



**COMMONWEALTH OF VIRGINIA**
**Board of Physical Therapy**

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

website: www.dhp.virginia.gov
e-mail: PTBoard@dhp.virginia.gov
phone: 804-367-4674

## Application for Direct Access Certification

**Application Fee - $75.00** ALL FEES ARE NON-REFUNDABLE
**Check or money order made payable to the Treasurer of Virginia**
ALL APPLICANTS MUST HOLD A CURRENT/ACTIVE
VIRGINIA PHYSICAL THERAPIST LICENSE
**MARK ONLY ONE BOX**

- ☐ **Doctorate of Physical Therapy** (No transcript required if originally licensed by VA with DPT)
- ☐ **Transitional Doctorate of Physical Therapy** (Official Transcript Required)
- ☐ **Experience, at least three (3) years of full time experience**(Verification of 15 contact hours –CEUs Required)

**1. Legal Full Name (Please Print or Type)**

| Name | | | Physical Therapist License No. 2305 - |
|---|---|---|---|
| Mailing Address | City | State | ZIP Code |
| Physical Street Address (If mailing address is a PO Box) | City | State | ZIP Code |
| E-Mail Address | Date of Birth ____ ____ ____ Month Day Year | | Social Security No. or VA Control No.* |
| Graduation Date ____ ____ ____ Month Day Year | Degree (Official Transcript required) | School, City, State | |
| Home Phone: | Work Phone: | Mobile Phone: | |

Submit address changes in writing immediately. Attach check or money order made payable to the Treasurer of Virginia. Applications will not be processed without the fee or vice versa. Incomplete applications **WILL BE RETURNED.** Applications will remain in process no longer than **one (1) year**. If, at the end of one (1) year, a license is not issued, the application file is **destroyed**. An applicant shall reapply for licensure, submit fees, required documentation, and meet the qualifications for licensure in effect at the time of the new application.

**APPLICANTS DO NOT USE SPACES BELOW THIS LINE – FOR OFFICE USE ONLY**

APPROVED BY_____

| CLASS | LICENSE NUMBER | PENDING NUMBER | FEE | HOW REG. | BASE STATE |
|---|---|---|---|---|---|
| | | | | | |

*In accordance with §54.1-116 Code of Virginia, you are required to submit your Social Security Number or your control number** issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided by law. Federal and state law requires that this number be shared with other state agencies for child support enforcement activities. NO LICENSE WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS. **In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure to DMV of your Social Security Number will be required to obtain this number.

2. **EXPERIENCE ONLY APPLICANTS. Do you have at least three (3) years of post-licensure active practice? Yes ___ or No ___. If "Yes"** provide evidence of completion of at least 15 contact hours of continuing education in medical screening or differential diagnosis, with a post-course examination, offered by a provider approved by the Board.

**QUESTIONS MUST BE ANSWERED.** If any of the following questions (**3-7**) is answered **yes**, explain and substantiate with documentation. Letters must be submitted by your attorney regarding malpractice suits.

| | YES | NO |
|---|---|---|
| 3. Have you ever been convicted of a violation of /or pled Nolo Contendere to any federal, state or local statute, regulation, or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? **Including** convictions for driving under the influence; excluding traffic violations. Attach your original criminal history record, a certified copy of any final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree, or case decision, and any other information you wish to be considered with your application (i.e. information on the status of incarceration, parole, or probation, reference letters documentation of rehabilitation, etc.). | ____ | ____ |
| 4. Have you ever had any of the following disciplinary actions taken against your license to practice PT or any such actions pending? (a) suspension / revocation / denied (b) probation (c) reprimand/cease and desist (d) had your practice monitored (e) monetary penalty? If **yes**, submit notices, orders, etc., from the regulatory authority authorized to take such actions. | ____ | ____ |
| 5. Have you had any malpractice suits brought against you in the last ten years? If so, how many? _____Provide details. Letters must be submitted by your attorney regarding malpractice suits. | ____ | ____ |
| 6. Have you been physically or emotionally dependent upon the use of alcohol/ drugs or treated by, consulted with, or been under the care of a professional for any substance abuse within the last two years? If **yes**, please provide a letter from the treating professional, on letterhead, to include diagnosis, treatment, prognosis and fitness to practice. | ____ | ____ |
| 7. Do you have a physical disease, mental disorder, or any condition, which could affect your performance of professional duties? If **yes**, please provide a letter from the treating professional, on letterhead, to include diagnosis, treatment, prognosis and fitness to practice. | ____ | ____ |

8. **AFFIDAVIT OF APPLICANT** **(THIS SECTION MUST BE NOTARIZED)**

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents. I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Physical Therapy any information, files or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension, or revocation of my license to practice physical therapy in the Commonwealth of Virginia.

I have read and understand the Virginia Board of Physical Therapy statutes and regulations governing the practice of physical therapy.

_____
**Signature of Applicant**

City/County of _____ State of _____

Subscribed and sworn to before me this _____ day of _____ 20_____.

My Commission expires _____ Notary Number _____.

_____
Signature of Notary Public

**NOTARY SEAL**

VA.R. Doc. No. R08-857; Filed April 10, 2009, 8:55 a.m.

## BOARD OF SOCIAL WORK

### Final Regulation

REGISTRAR'S NOTICE: The Board of Social Work is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Social Work will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work (amending 18VAC140-20-100).**

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

Effective Date: July 1, 2009.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4488, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

Summary:

*In compliance with Chapter 687 of the 2009 Acts of Assembly, the Board of Social Work has amended its regulations relating to the responsibility of the licensee or registrant to provide current addresses. Every licensee and registrant is required to provide an address of record for use by the board, and is permitted to provide a second address to be used as the public address. If a second address is not provided, the address of record becomes the public address. Regulations are amended to use the statutory terminology of address of record and to clarify that the regulant has a responsibility to notify the board within 30 days if there is a change in the address of record or the public address, if different from the address of record.*

**18VAC140-20-100. Licensure renewal.**

A. All licensees shall renew their licenses on or before June 30 of each odd-numbered year and pay the renewal fee prescribed by the board.

B. Beginning with the 2003 renewal, licensees who wish to maintain an active license shall pay the appropriate fee and document on the renewal form compliance with the continued competency requirements prescribed in 18VAC140-20-105. Newly licensed individuals are not required to document continuing education on the first renewal date following initial licensure.

C. A licensee who wishes to place his license in inactive status may do so upon payment of a fee equal to one-half of the biennial license renewal fee as indicated on the renewal form. No person shall practice social work or clinical social work in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in 18VAC140-20-110.

D. ~~Failure to receive a renewal notice from the board shall not relieve the licensee from the renewal requirement~~ Each licensee shall furnish the board his current address of record. All notices required by law or by this chapter to be mailed by the board to any such licensee shall be validly given when mailed to the latest address of record given by the licensee. Any change in the address of record or the public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

VA.R. Doc. No. R09-1927; Filed April 22, 2009, 10:17 a.m.

# TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

## COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

### Proposed Regulation

Title of Regulation: **24VAC35-60. Ignition Interlock Program Regulations (adding 24VAC35-60-10 through 24VAC35-60-110).**

Statutory Authority: § 18.2-270.2 of the Code of Virginia.

Public Hearing Information:

May 13, 2009 - 10 a.m. - General Assembly Building, 910 Capitol Street, 3rd Floor East Conference Room, Richmond, VA

Public Comments: Public comments may be submitted until July 10, 2009.

Agency Contact: Richard L. Foy, Technical Instructor, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email rfoy.vasap@state.va.us.

Basis: Section 18.2-271.2 of the Code of Virginia establishes the Commission on Virginia Alcohol Safety Action Program (VASAP) in the legislative branch of state government. Section 18.2-270.2 A directs the Executive Director of the Commission on VASAP or his designee to certify ignition interlock systems in the Commonwealth and to adopt regulations and forms for the installation, maintenance and certification of such ignition interlock systems.

Purpose: Presently, there are no existing ignition interlock regulations. These new regulations are required by § 18.2-270.2 of the Code of Virginia. Section 18.2-271.1 of the Code of Virginia requires persons convicted of a first offense DUI

(who had a blood alcohol concentration of 0.15 or above), and persons convicted of a second or subsequent DUI, to have an ignition interlock device installed on their vehicle(s) as a condition of issuance of a restricted driver's license. Ignition interlocks prevent drivers from starting their vehicles if they have been drinking. This protects the safety of the offender, his family, and the public. Interlocks also serve a probationary function by recording on the unit's data chip the driving activities of probationers. This regulation is designed to ensure that the interlock devices installed in Virginia are reliable, accurate, and properly installed. Furthermore, it ensures that interlock service centers are easily accessible to all Virginia citizens and that quality service is provided in a timely manner.

Substance: The new regulations will provide information regarding the certification of ignition interlock devices and ignition interlock service providers in Virginia. Procedures for the installation, maintenance, and removal of ignition interlock devices will be outlined as well as requirements for reporting and recordkeeping.

Issues: These regulations provide detailed information and outline performance standards for the Commonwealth's ignition interlock program. Information about what interlock companies need to do to conduct business is included so that multiple vendors can potentially operate in the state, thereby giving customers more options. The regulations further ensure that both the public and ignition interlock service providers are aware of the commission's performance expectations and the potential consequences of noncompliance. The regulations provide a mechanism for the government to award contracts to qualifying companies and to cancel contracts with companies that do not meet minimum standards. These provisions should result in better service provision to the citizens of the Commonwealth. No apparent disadvantages to the public or the government are noted; however, provisions in the regulations that prohibit interlock companies from subcontracting installations might bar some interested businesses in Virginia from doing contract work for interlock vendors.

The Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Commission on Virginia Alcohol Safety Action Program proposes to establish regulations for the ignition interlock program that has been operating since 1994. While most of the proposed rules have already been followed in practice, a number of new fees are proposed.

Result of Analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs.

Estimated Economic Impact. The Code of Virginia[1] requires persons with certain DUI convictions to have installed an ignition interlock device on their vehicles as a condition of restricted driving privileges. Installation, maintenance, and certification of ignition interlock systems have been administered without regulations since 1994 based on the language in the Code of Virginia, interlock RFP and vendor contract. The proposed regulations will establish rules addressing the ignition interlock program.

According to the Commission on Virginia Alcohol Safety Action Program (VASAP) the proposed regulations, for the most part, have already been followed in practice. The parts of the proposed regulations that address policy and procedures already in effect are not expected to create any immediate economic impact as they have been already in place since 1994. Probably the main economic effect of these changes will be the ease of access to and improved clarity of the policies and procedures regarding ignition interlock program. Among others, the proposed regulations address issues such as approval, cancellation, suspension, and revocation of manufacturers, services providers, and ignition interlock devices; device specifications; device installation procedures; calibration an monitoring visits; device removal; maintenance of records and reporting by service providers.

VASAP indicates that the main change included in the regulations is the establishment of numerous fees. The proposed fees are a $250 application fee, a contract review fee, a service center fee, a fee for VASAP, and a fee for local serving ASAP.[2] With the exception of the application fee, the amounts of fees are not specified in the proposed regulations.

The $250 application fee will be collected from vendors wishing to conduct business in Virginia to cover the costs of processing required paperwork, evaluating potential vendors, and contracting. The total revenues generated by this fee will depend on the number of vendor applications which is not expected to be many.

Even though the amount of the contract review fee is not specified in the regulations, VASAP is planning to collect $250 annually from vendors to cover the costs of overseeing them to ensure their compliance with the state law, agency regulations, and their contract. Similarly, the total revenues from this fee will depend on the number of vendors doing business in Virginia which is not expected to be many.

The planned amount of the service center fee is $75 annually per facility to cover the costs of yearly compliance audits and site visits. This fee will be paid by the vendor. There were a total of 23 service facilities in 2008 which implies that $1,725 would have been collected from the vendor.

The proposed changes also establish a fee for VASAP on each offender. The planned fee for VASAP is $10 per month per offender with an ignition interlock device installed until the device is removed. Last year there were 4,137 devices installed in Virginia which would result in approximately $496,440 in annual revenues (assuming no devices were

uninstalled and all were installed at the beginning of the year).

Finally, proposed changes establish a monthly fee for local ASAP on each offender. In practice, a $5 fee has been sent to local ASAP to cover their administrative costs for this program. Although not specified in the regulations, VASAP plans to increase this fee from $5 per month to $10 per month per offender with an ignition interlock device installed until the device is removed. This fee would generate the same amount of revenues as the previous fee discussed.

In general, collecting revenues from the entities who are responsible for generating costs would prevent economic externalities and help support the free market dynamics working toward an efficient allocation of economic resources. However, the proposed regulations with the exception of one fee do not specify the amount of fees that will eventually be imposed. Thus, there is not enough information on whether the fees imposed in practice will be commensurate with the costs they intended to cover and be economically beneficial.

Businesses and Entities Affected. The proposed regulations apply to ignition interlock manufacturers, vendors, service providers, and offenders with an ignition interlock installed on their vehicles. In 2008, there were 4,137 devices installed in Virginia by one vendor with 23 facilities.

Localities Particularly Affected. The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment. Since most of the regulations proposed have already been in effect in practice, no significant economic effect is expected upon promulgation of these already enforced provisions. The proposed establishment of fees, on the other hand, could have an impact on the demand for labor through changing compliance costs and new revenues. However, the proposed regulations do not specify the amount of fees. Also, who will eventually end up paying the proposed fees cannot be determined from the limited information available. It may or may not be possible for service providers to pass on the fees to the offenders, or the vendor depending on the specifics of the contractual arrangements or other market factors.

Effects on the Use and Value of Private Property. While the ignition interlock program has a direct effect on the use and value of vehicles, the main change in the proposed regulations is the establishment of authority to impose fees which are not believed to have a direct effect on the use and value of private property. The additional fees imposed may affect the asset value of the service centers or the vendor depending on who will eventually absorb the additional fees.

Small Businesses: Costs and Other Effects. The proposed regulations are not believed to have an effect on small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed regulations are not believed to have an effect on small businesses.

Real Estate Development Costs. The proposed regulations are not believed to have an effect on real estate development costs.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

[1] Section 18.2-271.1

[2] The proposed regulations do not address the installation and monthly monitoring fee that will be paid by the offender to the service provider.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Commission on VASAP concurs with the economic impact analysis. With regard to the section entitled "Projected Impact on Employment," it is not the desire of the commission to publish associated fee schedules in the regulations, and in the alternative, to address fees contractually with participating vendors. This will permit the commission to be more responsive to changing market conditions without requiring the frequent issuance of new regulations when a change in fees is warranted. The portion of fees required to be submitted to the Commission on VASAP and the local ASAPs will be made by the vendor.

Summary:

*The proposed regulation provides information regarding the certification of service providers and ignition interlock devices in Virginia. Procedures for the installation,*

*maintenance, and removal of ignition interlock devices are outlined as well as requirements for reporting and recordkeeping.*

CHAPTER 60
IGNITION INTERLOCK PROGRAM REGULATIONS

**24VAC35-60-10. Purpose.**

The purpose of these regulations is to establish a set of standards for the Commonwealth of Virginia's ignition interlock program. Authority to issue these regulations is granted to the Executive Director of the Commission on Virginia Alcohol Safety Action Program (VASAP) or authorized designee by § 18.2-270.2 of the Code of Virginia.

**24VAC35-60-20. Definitions.**

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

"Alcohol" means ethyl alcohol, also called ethanol ($C_2H_5OH$).

"BAC" or "blood alcohol concentration" means the amount of alcohol in an offender's blood or breath as determined by chemical analysis, which shall be measured by the number of grams of alcohol per 100 milliliters of blood, or 210 liters of breath.

"Breath test" means an analysis of the breath alcohol concentration of a deep lung breath sample.

"Calibration" means the process that ensures an accurate alcohol concentration reading is being obtained on the ignition interlock device.

"Commission" means the Commission on Virginia Alcohol Safety Action Program (VASAP).

"Deep lung breath sample," also known as "alveolar breath sample," means an air sample that is the last portion of a prolonged, uninterrupted exhalation and that gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined. "Alveolar" refers to the aveoli, which are the smallest air passages in the lungs, surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.

"Device" means a breath alcohol ignition interlock device.

"Device certification" means the testing and approval process required by the Commission on Virginia Alcohol Safety Action Program (VASAP).

"DMV" means the Virginia Department of Motor Vehicles.

"Fail point" means the point at which the breath alcohol level of 0.02% is met.

"Free restart" means the ability to start the engine again within a preset period of time without completion of another breath test, when the condition exists where a breath test is successfully completed and the motor vehicle is started, but then the engine stops for any reason (including stalling).

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures an offender's blood alcohol concentration; (ii) prevents a motor vehicle ignition from starting if the offender's blood alcohol concentration is at or above the fail point; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol concentration during ignition, attempted ignition, and rolling retest.

"Interlock event" means vehicle operator activity that is recorded by the ignition interlock to include, but not limited to, vehicle starts and attempted starts, rolling retests, breath tests, lockouts, ignition shutoffs, power outages, and interlock tampering.

"Licensing" means the process of determining that a service center meets the requirements set by the Commission on VASAP.

"Lockout" means the ability of the ignition interlock device to prevent a motor vehicle's engine from starting.

"Manufacturer" means the actual maker of the ignition interlock device who assembles the product and distributes it to service providers.

"Motor vehicle" means every vehicle as defined in § 46.2-100 of the Code of Virginia, that is self-propelled, or designed for self-propulsion, to exclude bicycles, electric power-assisted mobility devices, electric powered-assisted bicycles, and mopeds.

"Offender" means the individual required by the court or the Department of Motor Vehicles to drive only motor vehicles that have certified ignition interlock devices installed.

"Permanent lockout" means a feature of the ignition interlock device in which a motor vehicle will not start until the ignition interlock device is reset by a service provider.

"Retest" means an additional opportunity to provide a deep lung breath sample below the alcohol fail point.

"Rolling retest" means a test of the offender's blood alcohol concentration required at random intervals during operation of the motor vehicle, which triggers the sounding of the horn and flashing of lights if (i) the test indicates that the offender has a blood alcohol concentration that is at or above the fail point or (ii) the offender fails to take the test.

"Service center" means the physical location where the service provider installs, calibrates, and removes the ignition interlock device on the offender's vehicle.

"Service provider" means the authorized supplier and installer of the approved ignition interlock devices. In some cases, the service provider may also be a manufacturer of an ignition interlock device.

"Tampering" means an unlawful act or attempt to disable or circumvent the legal operation of the ignition interlock device to include providing samples other than the natural breath of the offender, starting the motor vehicle without using the ignition switch, any other act intended to start the motor vehicle without first taking and passing a breath test, or physically tampering with the device to disable or otherwise disconnect the device from its power source.

"Temporary lockout" means a feature of the ignition interlock device that will not allow the motor vehicle to start for a preset time period after a breath test result indicates a BAC at or above the fail point.

"Vendor certification" means the process of determining that a vendor has been approved to provide services in the Commonwealth of Virginia.

"Violation" means an event, such as a breath test indicating a BAC at or above the fail point upon initial startup, a refusal to provide a rolling retest deep lung breath sample, a rolling retest with a BAC at or above the fail point, or tampering, which breaches the guidelines for use of the interlock device.

"Violation reset" means a feature of the ignition interlock device in which a service reminder is activated due to a violation.

**24VAC35-60-30. When ignition interlock devices are required.**

Ignition interlock devices are required:

1. When ordered by a court of proper jurisdiction pursuant to § 18.2-270.1 of the Code of Virginia; or

2. When administratively enforced by DMV pursuant to § 46.2-391.01 of the Code of Virginia.

**24VAC35-60-40. Approval of manufacturers and service providers.**

A. The commission shall issue a request for proposals (RFPs) in compliance with the state procurement procedures to contract with ignition interlock service providers for the services and commodities required for the implementation and maintenance of the Commonwealth's ignition interlock program. Contracts will be for three years with an optional two-year renewal.

B. Integrity of the Ignition Interlock Program shall be upheld by restricting the delivery of interlock client service to the actual provider of the product (authorized service provider), thereby effectively preventing the extension of subcontracts to other persons or businesses who lack long-term investment, long-term experience, or in-depth knowledge of product and service, potentially resulting in a higher likelihood of neglect of duty or illegal exchange of funds. Denial of subcontracting of the interlock service to the consumer is an integral part of protecting the chain of evidence for court testimony and evidentiary procedures.

C. Each service provider seeking to contract with the commission shall submit:

1. Evidence of a strong background in the development and maintenance of a statewide ignition interlock service program and evidence of operational programs in other states. The service provider must be dedicated to the installation and maintenance of ignition interlock devices and must supply and train staff and service center supervisors to assure good customer service and compliance with all contract requirements. Any personnel hired to install, calibrate, or inspect ignition interlock devices may not have ever been convicted of a felony or a crime substantially related to the qualifications, functions, and duties associated with the installation and inspection of the devices, or within a five-year period prior to hiring been convicted of a misdemeanor potentially punishable by confinement. The service provider must be able to ensure that technicians are trained and available to testify in court if required for noncompliance hearings.

2. A description of the service provider's present or planned provisions for distribution of the device in Virginia including all locations in the state where the device may be installed, serviced, repaired, calibrated, inspected, and monitored. Each facility shall be approved by the Commission on VASAP prior to its use and meet the following criteria:

a. Must pay an annual review fee to the Commission on VASAP.

b. Must comply with all local business license and zoning regulations, and with all federal, state, and local health, fire, and building code requirements.

c. Must meet the offender's physical needs for access.

d. Must maintain offender records in a manner that complies with federal confidentiality guidelines.

In addition, all services must be available statewide within a 50-mile drive to the home location of all residents of the Commonwealth.

3. Documentation of insurance covering product liability, including coverage in Virginia, with a minimum policy limit of $1 million per occurrence, and $3 million aggregate total. The service provider shall provide a signed statement from the manufacturer holding harmless the Commonwealth of Virginia, the commission, and its members, employees, and agents from all claims, demands, and actions, as a result of damage or injury to persons or property that may arise, directly or indirectly, out of any

act or omission by the manufacturer or their service provider relating to the installation, service, repair, use, and/or removal of an ignition interlock device.

4. Documentation that the service provider will provide a full-time state ignition interlock coordinator who will work exclusively with the Virginia interlock program and reside in the Richmond, Virginia area. Among other duties, the coordinator will be expected to (i) respond promptly to any problems in the field, (ii) testify in court upon request, and (iii) assist and provide training to VASAP staff.

D. Provided that all vendor and device certification requirements are met, the commission shall contract with those manufacturers or service providers, and may approve multiple makes and models of ignition interlock devices for use in the Commonwealth.

**24VAC35-60-50. Fees.**

A. All potential service providers desiring to conduct business in the Commonwealth of Virginia's ignition interlock program shall submit a $250 nonrefundable application fee.

B. The Commission on VASAP will establish by contract the following additional fees to be paid by the service provider:

1. Annual contract review fee to the Commission on VASAP.

2. Annual review fee for each service center to the Commission on VASAP.

3. Monthly fee to the Commission on VASAP for each offender with an ignition interlock installed until the device is removed.

4. Monthly fee to the local servicing ASAP for each offender with an ignition interlock device installed until the device is removed.

C. All service providers shall create and maintain an indigency fund for offenders who are eligible for a reduction in fees based upon a declaration of indigency by the court and approval by the commission.

**24VAC35-60-60. Cancellation, suspension, and revocation of manufacturers, service providers, and ignition interlock devices.**

A. The commission may cancel, suspend, or revoke certification of an ignition interlock device and/or its manufacturer and service provider for the following reasons:

1. When there is a voluntary request by a manufacturer to cancel certification of a device.

2. When a device is discontinued by the manufacturer.

3. When the manufacturer's liability insurance is terminated or cancelled.

4. When the manufacturer or service provider attempts to conceal its true ownership.

5. When materially false or inaccurate information is provided relating to a device's performance standards.

6. When there are defects in design, materials, or workmanship causing repeated failures of a device.

7. When the manufacturer or service provider knowingly permits nonqualified service technicians to perform work.

8. When a manufacturer or service provider assists users with circumventing or tampering with a device.

9. When service or the submission of required reports is not provided in a timely manner.

10. When required fees are not paid to the commission or local programs.

11. When there is a pattern of substandard customer service.

12. When the manufacturer or service provider interferes with or obstructs a site review or investigation by the commission.

13. When there are any other violations of the provisions contained in the Code of Virginia, commission regulations, or the ignition interlock contract.

14. When a manufacturer or service provider solicits the employment of another manufacturer's or service provider's technician, facility manager, or state ignition interlock coordinator.

15. When a manufacturer or service provider solicits business outside of the VASAP, or otherwise solicits individual ASAP branches through operational incentives, gratuities, or any other personal incentives.

16. When a manufacturer or service provider solicits business via direct influence or marketing to judicial, court, or DMV personnel.

B. If such cancellation, suspension, or revocation occurs, the manufacturer or service provider may request (within 15 days of notification) a hearing with the commission to contest the decision. Should the cancellation, suspension, or revocation be upheld, the manufacturer or service provider shall remain responsible for removal of all devices from customers' motor vehicles, and will bear the costs associated with the required removal and installation of a new approved device.

**24VAC35-60-70. Ignition interlock device specifications.**

A. All ignition interlock devices used pursuant to §§ 18.2-270.1 and 46.2-391.01 of the Code of Virginia must be approved by the commission. The commission shall maintain a list of approved ignition interlock devices.

B. Each service provider seeking to contract with the commission shall submit:

1. The name and address of the ignition interlock device manufacturer.

2. The name and model number of the ignition interlock device.

3. A detailed description of the device including drawings, schematics, wiring protocols, and instructions for its installation and operation.

C. The manufacturer or service provider shall provide to the commission, for distribution to the local ASAPs, literature promoting its device.

D. The manufacturer or service provider shall provide certification from an independent laboratory that its ignition interlock device has been tested in accordance with the latest model specifications published in the Federal Register by the National Highway Traffic Safety Administration, and that the ignition interlock device meets or exceeds those specifications. Included with the certification report should be the name and location of the testing laboratory, the address and phone number of the testing laboratory, a description of the tests performed, copies of the data and results of the testing procedures, and the names and qualifications of the individuals performing the tests.

E. If a device is submitted for approval by a service provider other than the manufacturer, the submitting party shall submit a notarized affidavit from the manufacturer of the device certifying that the submitting party is an authorized manufacturer's representative.

F. All ignition interlock devices will be required to meet the model specifications for Breath Alcohol Ignition Interlock Devices (BAIID) as set forth in the most recent model specifications published in the Federal Register by the National Highway Traffic Safety Administration (NHTSA). At a minimum, the following specifications will be met:

1. The ignition interlock device shall work accurately and reliably in an unsupervised environment, at minimal inconvenience to others, and without impeding the safe operation of the motor vehicle.

2. The ignition interlock device shall be able to analyze a specimen of alveolar breath for alcohol concentration, correlate accurately with established measures of blood alcohol concentration, and be calibrated according to the manufacturer's specifications.

3. The ignition interlock device shall be alcohol specific, using an electrochemical fuel cell that reacts to and measures ethanol, minimizing positive results from any other substance.

4. The ignition interlock device shall indicate when a sufficient sample of breath has been collected and shall indicate this by audible or visual means.

5. The ignition interlock device shall detect and record a BAC that is at or above the fail point for each ignition, attempted ignition, and rolling retest.

6. The results of the test shall be noted through the use of green, yellow, and red signals or similar pass/fail indicators. No digital blood alcohol concentration shall be indicated to the offender.

7. The ignition interlock device shall lock out an offender when a BAC at or above the fail point is detected.

8. The ignition interlock device shall have the ability to prevent the normal operation of the motor vehicle by an offender who fails to retest.

9. The ignition interlock device shall have the ability to perform a permanent lockout if the offender fails to appear for a scheduled monitoring appointment after the applicable five-day grace period.

10. The ignition interlock device shall automatically purge alcohol before allowing subsequent analyses.

11. The ignition interlock device shall issue a warning of an impending lockout.

12. The ignition interlock device shall be capable of random retesting and timed retesting.

13. The ignition interlock device shall warn the offender of upcoming service appointments for three days prior to the appointment. Should the offender fail to appear, the device shall lock out on the fifth day after the scheduled appointment, and the motor vehicle shall not be operable until the service provider has reset the device.

14. The internal memory of the ignition interlock device shall be capable of recording and storing a minimum of 500 interlock events and shall enter a service reminder if the memory reaches 90% of capacity.

15. The ignition interlock device shall be designed and installed in such manner as to minimize opportunities to be tampered with, altered, bypassed, or circumvented. The ignition interlock device shall not spontaneously bypass the ignition system nor shall it be able to be made operational by any mechanical means of providing air to simulate alveolar breath. Any bogus breath anti-circumvention features used to pass laboratory testing of the ignition interlock device shall be turned on.

16. The ignition interlock device shall be capable of recording and providing evidence of any actual or attempted tampering, alteration, bypass, or circumvention.

17. The ignition interlock device must operate at temperatures between -20 and 70 degrees Celsius.

18. The ignition interlock device shall operate up to altitudes of 2.5 km above sea level.

19. The readings of the ignition interlock device shall not be affected by humidity, dust, electromagnetic interference, smoke, exhaust fumes, food substance, or normal automobile vibration.

20. The operation of the ignition interlock device shall not be affected by normal fluctuations of power source voltage.

G. All ignition interlock devices that have been approved by the commission shall have affixed a warning label with the following language: "Any person tampering with or attempting to circumvent this ignition interlock system shall be guilty of a Class 1 misdemeanor and, upon conviction, be subject to a fine or incarceration or both." The cost and supply of the warning labels to be affixed to the ignition interlock devices shall be borne by the manufacturer or service provider. The manufacturer or service provider shall submit to the commission a prototype of the warning label for approval.

H. For initial startup of the motor vehicle:

1. The ignition interlock device shall enable the ignition relay after the successful completion of a breath alcohol test.

2. The device shall allow two minutes to elapse between the time the ignition is enabled and the start of the motor vehicle.

3. The ignition interlock device shall allow the motor vehicle to be restarted within two minutes of the engine being stopped without requiring an additional test.

4. If the initial test results in a lockout due to the offender's BAC level, the ignition interlock device shall not allow an additional attempt for five minutes.

5. If the offender's BAC is at or above the fail point on the second retest, the machine shall lock out for an additional 15 minutes and shall do so thereafter for each failed retest. A violation reset message shall instruct the offender to return the ignition interlock device to the service provider for servicing within five days.

6. If the ignition interlock device is not reset within five days, a permanent lockout will occur.

I. A rolling retest feature is required for all ignition interlock devices.

1. An ignition interlock device shall require a rolling retest within the first 10 to 20 minutes after the start of the motor vehicle and randomly thereafter at least once every 20 to 40 minutes as long as the motor vehicle is in operation.

2. The ignition interlock device shall produce a visual and audible signal of the need to produce a breath sample for the rolling retest. The offender shall have six minutes in which to provide the required rolling retest breath sample.

3. A free restart shall not apply if the ignition interlock device was awaiting a rolling retest that was not delivered.

4. Any deep lung breath sample at or above the fail point or any failure to provide a rolling retest deep lung breath sample within the required time, shall activate the motor vehicle's horn and cause the motor vehicle's headlights, parking lights, or emergency lights to flash until the engine is shut off by the offender.

5. Once the vehicle has been turned off, all prestart requirements shall become applicable.

6. The violations reset message shall instruct the offender to return the ignition interlock device to the service provider for servicing within five days.

7. If the ignition interlock device is not reset within five days, a permanent lockout will occur.

J. Additional technical specifications for the operation and installation of the ignition interlock device may be described in the contract between the commission and the service provider.

**24VAC35-60-80. Ignition interlock device installation.**

A. No offender who has a case pending in the court system shall have an interlock installed in Virginia unless enrolled in, and monitored by, the ASAP program in the area where the case originated. This enables VASAP to maintain consistency in policy and use of ignition interlock devices in the Commonwealth, and allows for a consistent pattern of instruction to the service provider.

B. The ignition interlock device must be installed by a manufacturer or authorized service provider within 30 days of the date of the court order; if not, the service provider will notify the ASAP.

C. All agreements between the service provider and the offender shall be in the form of a contract and be signed by the service provider and the offender. Copies of the written contract shall be retained by the service provider with a copy given to the offender and the local ASAP office.

D. Prior to installation of the ignition interlock device, offenders must provide to the service provider:

1. Photo identification.

2. The name and policy number of their automobile insurance.

3. The vehicle identification number (VIN) of all motor vehicles owned or routinely driven by the offender, and a statement disclosing the names of all other operators of the motor vehicles owned or driven by the offender.

4. A notarized affidavit from the registered owner of the vehicle granting permission to install the device if the car is not registered to the offender.

5. Written authorization from the commission if the air volume requirement, blow pressure, or anti-circumvention features of the ignition interlock device are to be lowered or disabled in order to compensate for an offender's diminished lung capacity.

E. Under no circumstances shall an offender be permitted to observe the installation of the device.

F. The service provider must inspect all motor vehicles prior to installation of the device to ensure that they are in acceptable mechanical and electrical condition. Under no circumstances shall staff of the authorized service provider install any device until, and unless, the motor vehicle is approved following the inspection.

G. Each installation shall include all of the tamper-resistant features required by the service provider such as unique seals, epoxies, or resins at all openings and exposed electrical connections.

H. An oral, written, or video orientation to the ignition interlock device will be developed and delivered by the service provider to the offender and other persons who may drive the motor vehicle, including information on the use and maintenance of the device as well as all service center locations, and procedures for regular and emergency servicing. A demonstration interlock will be available at each installation site for use in the training of customers.

I. If, during the installation, the offender fails to pass the initial breath test, the installation will be halted and the ASAP notified.

J. The manufacturer and/or service provider must maintain a toll-free 24-hour emergency phone service that may be used to request assistance in the event of failure of the ignition interlock device or motor vehicle problems related to operation of the ignition interlock device. The assistance provided by the authorized service provider shall include technical information and aid in obtaining towing or roadside service. The expense of towing and roadside service shall be borne by the offender unless it is determined by the service center technician that the ignition interlock device failed through no fault of the offender, in which case the manufacturer or service provider will be responsible for applicable expenses. The ignition interlock device shall be made functional within 48 hours of the call for assistance or the ignition interlock device shall be replaced.

K. At the time of device installation, a service provider may charge an installation fee. The maximum permissible cost for installation shall be set by the Commission on VASAP through contract, and service providers will not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft or damage. No installation fees shall be collected from the user until such services have been provided.

L. The manufacturer or service provider must provide indigent service to those offenders who are eligible for a reduction in fees based upon a declaration of indigence by the court and approval by the commission.

M. No later than the first service appointment, the offender must provide to the service provider a statement from every licensed driver who will be driving the offender's motor vehicle acknowledging their understanding of the requirements of the use of the ignition interlock device.

**24VAC35-60-90. Calibration and monitoring visit.**

A. The offender must present photo identification to the service provider for all required services.

B. The service provider must:

1. Provide service/monitoring of the ignition interlock device every 30 days; the offender will be given a five-day grace period to have the device inspected.

2. Calibrate the ignition interlock device at each service appointment using a dry gas reference sample.

3. Retrieve data from the ignition interlock device data log for the previous period and electronically submit it to the local ASAP within 24 hours of calibration.

4. Record the odometer reading of the motor vehicle in which the ignition interlock device is installed.

5. Check the ignition interlock device and wiring for signs of circumvention or tampering, and electronically report to the local ASAP any violation within 24 hours of servicing.

6. Collect the monthly monitoring fee from the offender.

C. All malfunctions of the ignition interlock device will be repaired or the ignition interlock device replaced by the service provider within 48 hours at no additional expense to the offender. If it is shown that the malfunction is due to mistreatment by the offender, and the offender has not purchased optional insurance, then the offender will be responsible for applicable repair fees.

D. A certified technician shall be available at the service center during specified hours to answer questions and to deal with any mechanical concerns that may arise with a motor vehicle as a result of the ignition interlock device.

E. The ignition interlock device shall record, at a minimum, the following data:

1. The time and date of each failed breath test;

2. The time and date of each passed breath test;

3. The breath alcohol level of each test; and

4. The time and date of any attempt to tamper or circumvent the ignition interlock device.

F. At the time of device calibration, a service provider may charge a monthly monitoring fee. The maximum permissible cost for monitoring and calibration shall be set by the Commission on VASAP through contract, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for VASAP administrative support and offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft or damage. Fees for the first monthly monitoring and calibration visit will be collected from the user in advance at the time of installation and monthly thereafter as such services are rendered.

**24VAC35-60-100. Ignition interlock device removal.**

A. Prior to removal of the ignition interlock device, the service provider must receive written authorization from the ASAP.

B. Offenders may not have their ignition interlock device removed or replaced by another manufacturer without written authorization from the ASAP.

C. If, at the time of removal, the service provider notices any failed tests that have not been backed up by a successful test within 10-15 minutes of the original test, the ASAP will be notified for approval before the removal is made.

D. Once the interlock has been removed, the service provider will send an authorized removal report to the ASAP via fax, email, or online database, documenting that the ignition interlock device has been removed and that all fees have been paid. Once verification of an authorized removal has been received by the ASAP, DMV will be notified that the offender has successfully completed the interlock requirements.

E. Whenever an ignition interlock device is removed, all components of the motor vehicle altered by the installation or servicing of the ignition interlock device must be restored to their original, preinstallation condition and removed in such a manner as not to impair the safe operation of the vehicle. All severed wires must be permanently reconnected (soldered) and insulated with heat shrink tubing or its equivalent.

F. No fee shall be charged to the offender for removal of the ignition interlock device.

**24VAC35-60-110. Records and reporting.**

A. The service provider shall be subject to announced or unannounced site reviews for the purpose of inspecting the facilities and offender records. Access to all service provider locations, records, and financial information shall be provided to any member of the commission staff for the purpose of verifying compliance with state law, commission regulations, and the service provider agreement.

B. In accordance with federal confidentiality guidelines, all personal and medical information provided to the service provider regarding offenders shall be kept confidential, maintained in individual offender files and secured within a lockable filing cabinet at the offender's service center. This filing cabinet shall remain locked during any period that the service center is unattended by a service provider employee.

C. Within 24 hours of installing an interlock, the service provider will provide the ASAP with an installation report that includes:

1. The name, address, and telephone number of the offender;

2. The owner, make, model, year, vehicle identification number, license plate number, and registration information of the motor vehicle; and

3. The serial number of the ignition interlock device installed.

D. Within 24 hours after performing a monitoring/calibration check, the service provider shall submit to the local ASAP all data generated to include:

1. Name of the offender whose device was monitored.

2. Name, address, and telephone number of the monitoring official.

3. Date of monitoring/calibration.

4. Motor vehicle make, model, year, identification number, and odometer.

5. Number of miles driven during the monitoring period.

6. Make, model, and serial number of the ignition interlock device.

7. Any change out of the device (handset and/or control box) and reason for the change out.

8. Any data indicating that the offender has attempted to start or drive the motor vehicle with a positive BAC at or above the fail point.

9. Any attempts to alter, tamper, circumvent, bypass, or otherwise remove the device.

10. Any noncompliance with conditions of the ASAP or interlock program.

11. Any offender concerns.

12. All charges incurred for the monitoring visit.

13. Date of next scheduled monitoring visit.

E. In addition, the service provider must have available monthly reports detailing:

1. All installations during the period covered.

2. All calibrations performed during the period, by date and offender name, detailing any unit replacements made during the monitoring period.

3. All datalogger information from each ignition interlock device.

4. Any evidence of misuse, abuse, or attempts to tamper with the ignition interlock device.

5. Any device failure due to material defect or improper installation.

6. A summary of all complaints received and corrective action taken.

F. The service provider shall be responsible for purchasing and providing necessary computer hardware and software to convey all data and information requested by the commission if such equipment is not already present at the commission office or local ASAP.

G. Reports shall be submitted to the local ASAP in the format specified by the Commission on VASAP.

VA.R. Doc. No. R09-1589; Filed April 17, 2009, 12:39 p.m.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Proposed Consent Order - City of Harrisonburg

An enforcement action has been proposed for the City of Harrisonburg for alleged violations in Rockingham County. A proposed consent order describes a settlement to resolve alleged unauthorized discharges to Seiberts Run/Blacks Run. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Steven W. Hetrick will accept comments by email swhetrick@deq.virginia.gov, FAX (540) 574-7878 or postal mail Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from May 11, 2009, to June 10, 2009.

### Proposed Consent Order - Paul Decorative Products, Inc.

An enforcement action has been proposed for Paul Decorative Products, Inc., for alleged violations at the Paul Decorative Products Facility located in Louisa County, Virginia. The consent order describes a settlement to resolve hazardous waste violations. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Stephanie Bellotti will accept comments by email, sabellotti@deq.virginia.gov, FAX (703) 583-3821, or postal mail, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from May 12, 2009, through June 11, 2009.

### Study to Restore Water Quality of the Recreation/Swimming Use of Morris Creek

Public meeting: May 20, 2009 at the Charles City County Government and School Board Administration Building Auditorium, 10900 Courthouse Road, Charles City, VA 23030. An afternoon public meeting will be held from 2 p.m. to 4 p.m. and the evening public meeting from 6 p.m. to 8 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing a study to restore water quality for an impaired creek in the area, a public comment opportunity, and two public meetings.

Meeting description: First public meetings on a study to restore water quality of the recreation/swimming use of Morris Creek, which is impaired due to bacterial violations.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in Morris Creek. This impairement spans approximately 7.73 stream miles in Charles City County. This stream is impaired for failure to meet the recreational (swimming) designated use because of bacterial water quality standard violations.

| Stream | County | Impairment Length (mi) | Impairment |
|---|---|---|---|
| Morris Creek | Charles City | 7.73 | Recreational (swimming) Use |

The study reports the current status of the Creek via sampling performed by the Virginia Department of Environmental Quality and the possible sources of bacterial contamination. The study recommends total maximum daily loads, or TMDLs, for the impaired Creek. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacterial levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by email, fax, or postal mail. Written comments should include the name, address, and telephone number of the person commenting and be received by DEQ during the comment period, which will expire on Thursday, June 18, 2009. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Margaret Smigo, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804)-527-5106, or email mjsmigo@deq.virginia.gov.

### Total Maximum Daily Load - South Fork Shenandoah River

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of total maximum daily loads (TMDLs) for the South Fork Shenandoah River in Rockingham and Page Counties. The South Fork Shenandoah River was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for bacteria and violations of the state's general (benthic) standard for aquatic life. The benthic and bacteria impairments on the South Fork Shenandoah extend for 59 miles from the confluence of the North and South Rivers downstream to Hawksbill Creek.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report. DEQ has developed a bacteria TMDL to address the recreational use impairment and is seeking comment on that draft. The draft report will be available for review and download from the DEQ website at: https://www.deq.virginia.gov/TMDLDataSearch/DraftReports.jspx beginning on or before May 18, 2009.

To address the aquatic life use impairment, DEQ conducted a stressor analysis, which identified sediment and phosphorus as the most probable stressors. Watershed modeling demonstrated that implementation of previously-developed upstream TMDLs for sediment and phosphorus would allow downstream water quality standards to be met without the development of a TMDL specific to the South Fork Shenandoah River mainstem. Based on these conclusions, a benthic TMDL was not developed for the South Fork Shenandoah River mainstem. In the 2010 305(b) and 303(d) Water Quality Assessment Integrated Report, DEQ intends to recategorize the South Fork Shenandoah River benthic impairment from EPA category 5A – an impaired water requiring a TMDL to EPA category 4A – an impaired water not requiring a TMDL, because a TMDL is already in place. DEQ is seeking comment on this action and the stressor analysis report.

The final public meeting on the development of this TMDL will be held on Monday, May 18, 2009, 7 p.m. at the Town of Shenandoah Community Center, 305 Second Street, Shenandoah, VA.

The public comment period for this meeting and the draft TMDL will end on June 18, 2009. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Robert Brent, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, or email rnbrent@deq.virginia.gov.

## DEPARTMENT OF ENVIRONMENTAL QUALITY AND DEPARTMENT OF MINES MINERALS AND ENERGY

### Environmental Cleanup Plan

Purpose of notice: The Department of Environmental Quality (DEQ) and the Department of Mines Minerals and Energy announce a public meeting to present a draft water quality cleanup plan (implementation plan) for Straight Creek and tributaries; Stone Creek, Ely Creek, Puckett Creek, Lick Branch, Baileys Trace, and Gin Creek in Lee County. The agencies invite public participation and comments for the purpose of reducing pollutants to Straight Creeks.

Public comment period: May 26, 2009, to June 26, 2009.

Public meeting: St. Charles Elementary School, which is located on Route 352 at St. Charles, Virginia, on May 26, 2009, from 6:30 p.m. to 8 p.m.

Meeting description: This is the third public meeting on development of a watershed cleanup plan (Implementation Plan).

Description of cleanup plan: DEQ has developed a total maximum daily load study, or a TMDL, for Straight Creek and its tributaries in Lee County, Virginia. A TMDL is the total amount of a pollutant a stream can contain and still meet water quality standards. The stream has bacteria contamination that threatens human health and other contaminates that have harmed the aquatic life in the stream. To restore water quality, contamination levels need to be reduced to the recommended TMDL amounts. The cleanup plan will define ways to reduce contamination. The draft water quality cleanup plan can be found at http://www.deq.virginia.gov/tmdl/iprpts.html.

The Straight Creek "impaired" stream segment includes about 38 miles of streams in the watershed. The entire length of Straight Creek from its headwaters to its confluence with North Fork Powell River is included. Stone Creek follows Route 421 west towards the Kentucky/Virginia state line. The TMDL study identifies sediment and conductivity/total dissolved solids as the stressors for aquatic life problems. The draft study proposes reductions in sedimentation, conductivity/total dissolved solids and bacteria so that the stream can meet the water quality standards.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period. DEQ also accepts written and oral comments at the public meeting announced in this notice. Additionally, information on implementation plans and how they are developed is available at the DEQ website.

Contact for additional information: Shelley D. Williams, Virginia Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email sdwilliams@deq.virginia.gov.

## STATE WATER CONTROL BOARD

### Proposed Consent Special Order - Hopson, LLC

An enforcement action has been proposed for Hopson, LLC alleged violations in Powhatan County, Virginia. The State Water Control Board proposes to issue a consent special order to Hopson, LLC to address noncompliance with state laws and the VWP regulations. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Cynthia Akers will accept comments by email ecakers@deq.virginia.gov, FAX (804) 527-5106 or postal mail Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from May 11, 2009, to June 12, 2009.

### Proposed Consent Order - LSF5 Cavalier Investments, LLC

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility.

Public comment period: May 11, 2009, to June 11, 2009.

Consent order description: The State Water Control Board proposes to issue a consent order to LSF5 Cavalier Investments, LLC., to address alleged violations of the regulations. The location of the UST facility where the alleged violations occurred is in Charlottesville, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: David C. Robinett, Department of Environmental Quality, Valley Regional Office, Post Office Box 3000, 4411 Early Road, Harrisonburg, VA 22801-9519, telephone (540) 574-7862, FAX (540) 574-7878, or email dcrobinett@deq.virginia.gov.

### Proposed Consent Order - Sunoco, Inc.

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility.

Public comment period: May 11, 2009, to June 11, 2009.

Consent order description: The State Water Control Board proposes to issue a consent order to Sunoco Inc. to address alleged violations of the regulations. The location of the UST facility where the alleged violations occurred is in Rockbridge County, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: David C. Robinett, Department of Environmental Quality, Valley Regional Office, Post Office Box 3000, 4411 Early Road, Harrisonburg, VA 22801-9519, telephone (540) 574-7862, FAX (540) 574-7878, or email dcrobinett@deq.virginia.gov.

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

### Filing Material for Publication in the Virginia Register of Regulations

Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the Virginia Register of Regulations. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track and emergency regulatory packages.