

LCB File No. R248-03

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON
PROPOSED REGULATION**

The Department of Business and Industry, Division of Insurance (Division), is proposing new regulations pertaining to insurer's financial reporting; investments; captive insurer's financial reporting; non-profit hospital, medical and dental service corporations' financial reporting; health maintenance organizations' financial reporting; dental care organizations' financial reporting and pre-paid limited health service organizations' financial reporting. A workshop has been set for 9:00 a.m., on January 30, 2004, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations.

- 1. Insurer's Financial Reporting.** The proposed regulation updates the price of the NAIC publications, adds a provision to allow home warranty insurers who are exempt from the actuarial opinion to file an attestation of its loss reserves, restores the provision granting an exemption to small domestic insurers from filing the NAIC statement with the NAIC and broadens the existing provision granting an exemption for small domestic insurers from filing the annual audited financial report. The proposed regulation amends chapter 680A of the Nevada Administrative Code (NAC).
- 2. Investments.** The proposed regulation outlines the treatment and reporting requirements of the investment securities as owned by domestic insurers and adopts the NAIC Securities Valuation Office Procedures Manual and includes the cost of the manual and the address of the Securities Valuation Office. The proposed regulation amends chapter 682A of the NAC.
- 3. Captive Insurers' Financial Reporting.** The proposed regulation updates and amends the captive insurers chapter to clarify and correct the financial reporting requirements of the domestic captive insurers. The proposed regulation amends chapter 694C of the NAC.
- 4. Non-Profit Hospital, Medical and Dental Service Corporations' Financial Reporting.** The proposed regulation adds new sections relating to the financial condition and the filing of financial reports by the non-profit health entities. The new sections are meant to clarify the requirements that the non-profit health insurer is subject to. The proposed regulation amends chapter 695B of the NAC.

5. **Health Maintenance Organizations’ Financial Reporting.** The proposed regulation updates and amends chapter 695C of the NAC to clarify and correct the financial reporting requirements of the domestic health maintenance organizations.
6. **Dental Care Organizations’ Financial Reporting.** The proposed regulation updates and amends chapter 695D of the NAC to clarify and correct the financial reporting requirements of the domestic dental care organizations.
7. **Pre-Paid Limited Health Service Organizations’ Financial Reporting.** The proposed regulation updates and amends chapter 695F of the NAC to clarify and correct the financial reporting requirements of the domestic pre-paid limited health service organizations.

A copy of this notice and the proposed regulations will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulations will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the **State of Nevada Register of Administrative Regulations** which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at **www.leg.state.nv.us**. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency’s mailing list for administrative regulations and posted at the following locations:

Department of Business and Industry
 Division of Insurance
 788 Fairview Drive, Suite 300
 Carson City, NV 89701

Department of Business and Industry
 Division of Insurance
 2501 East Sahara Avenue, Suite 302
 Las Vegas, NV 89104

Legislative Counsel Bureau
 Capitol Complex
 Carson City, NV 89710

Blasdel Building
 Capitol Complex
 Carson City, NV 89710

State Capitol
 Capitol Complex
 Carson City, NV 89710

Capitol Press Room
 State Capitol Basement
 Carson City, NV 89710

County Clerk
 Courthouse
 Carson City, NV 89710

Nevada State Library & Archives
 Capitol Complex
 Carson City, NV 89710

Carson City Library
900 North Roop Street
Carson City, NV 89701

Churchill County Library
553 South Maine Street
Fallon, NV 89406

Las Vegas Library
833 Las Vegas Blvd. North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
93 Main Street
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

Tonopah Public Library
171 Central Street
P.O. Box 449
Tonopah, NV 89049

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, NV 89419

Storey County Library
95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
ATTN: Reference
P.O. Box 2151
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

Members of the public who are disabled and require special accommodations or

assistance at the hearing are requested to notify the Commissioner's secretary in writing at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (775) 687-4270, extension 260.

DATED this _____ day of December, 2003.

By:

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R248-03

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

NOTICE OF INTENT TO ACT UPON REGULATIONS

**Notice of Hearing for the Adoption of Regulations
of the Department of Business and Industry, Division of Insurance**

The Department of Business and Industry, Division of Insurance (Division) will hold a public hearing at 9:00 a.m., on January 30, 2004, immediately following a public workshop, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested persons may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

**REGULATIONS FOR FINANCIAL REPORTING AND
HEALTH MAINTENANCE ORGANIZATIONS**

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The proposed regulation is needed to address the financial reporting requirements for health maintenance organizations.
2. The proposed regulation amends chapter 695C of the Nevada Administrative Code (NAC) by updating, correcting and clarifying the sections of this chapter relating to the financial reporting requirements of domestic health maintenance organizations.
3. Estimated economic effect of the regulation:

On the business, which is to be regulated: None
On the public: None
4. The Division will not incur any costs.
5. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.
6. The proposed regulation is not pursuant to federal law.
7. There are no federal regulations regarding these activities.

8. The proposed regulation does not require a new fee or increase of an existing fee.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Written submissions must be received by the Division on or before January 23, 2004. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the **State of Nevada Register of Administrative Regulations** which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Department of Business and Industry
Division of Insurance
788 Fairview Drive, Suite 300
Carson City, NV 89701

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Blasdel Building
Capitol Complex
Carson City, NV 89710

State Capitol
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Carson City, NV 89710

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Churchill County Library
553 South Maine Street
Fallon, NV 89406

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833 Las Vegas Blvd. North
Las Vegas, NV 89101

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1625 Library Lane
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

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85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
93 Main Street
P.O. Box 330
Pioche, NV 89043

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Tonopah Public Library
171 Central Street
P.O. Box 449
Tonopah, NV 89049

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, NV 89419

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95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
ATTN: Reference
P.O. Box 2151
Reno, NV 89505-2151

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950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

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writing at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (775) 687-4270, extension 260.

DATED this _____ day of December, 2003.

By:

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

LCB File No. R248-03

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**PROPOSED REGULATIONS FOR
HEALTH MAINTENANCE ORGANIZATIONS**

Explanation – Matter *italicized* is new, matter in ~~brackets/strikethrough~~ is material to be omitted.

Authority: NRS 679B.130 and NRS 695C.275

Section. 1. NAC 695C.120 is hereby amended as follows:

An application for a certificate of authority must be accompanied by all forms specifically required by chapter 695C of NRS and provided by the division and by:

1. All documents describing the financing and ownership of the organization, including financial statements and copies of any contracts made or to be made between any member of the governing board or committee, the officers of the corporation or partners of a partnership or association, or providers, and the proposed organization. The financial statements must depict a net worth of not less than \$1,500,000 for a health maintenance organization. All financial statements must be certified by an independent certified public accountant.

2. For a health maintenance organization, a surety bond or deposit of cash or securities to secure the debts of the health maintenance organization and for the protection of the enrollees in the amount of \$250,000 or more which is deposited with the commissioner. The bond must include a provision preventing cancellation except after written notice to the commissioner of not less than 90 days. A health maintenance organization which has made a deposit of securities pursuant to this subsection may withdraw them if it makes an equivalent deposit of cash, securities or a combination of cash and securities acceptable to the commissioner.

3. For a health maintenance organization, ~~fa~~ blanket fidelity ~~bond~~ *coverage* in an amount of not less than \$1,000,000 in the aggregate to cover every director, officer, partner and employee of the health maintenance organization who may receive, collect, disburse or invest funds in connection with the activities of the health maintenance organization.

4. A proposed plan of operation for the first 3 years of operation based on projected total income

and projected total expenses. The amounts stated for the cost of medical services and the use of them in the proposed plan must be certified by a qualified actuary. The plan must project income and expected costs allocated to:

- (a) Coverage for emergencies or medically necessary services rendered outside of the specified geographic area of service of the organization;
- (b) Per capita payments to primary physicians;
- (c) Fees to other providers of health care;
- (d) Supplemental benefits;
- (e) A contract of stop-loss insurance;
- (f) Expenses of administration; and
- (g) Amortization of necessary costs for the establishment of the organization.

Sec. 2. NAC 695C.124 is amended as follows:

1. Any person wishing to review an application for issuance of a certificate of authority for an organization shall submit a request to the division in writing. The application may be reviewed at the offices of the division at ~~[1665 Hot Springs Road]~~ *788 Fairview Drive, Suite 300*, Carson City, Nevada *89701-5491*, or a copy of the application may be requested. If a copy of the application is requested, money to reimburse the division for the cost of postage and of preparing the copy must be submitted with the request.

2. If any person wishes to be notified of a pending application or hearing concerning the denial of a certificate of authority, he must request in writing that he be placed on a list maintained by the division for this purpose.

Sec. 3. NAC 695C.130 is amended as follows:

1. Except as otherwise provided in this section, a health maintenance organization which receives a certificate of authority shall maintain and report on its financial statement filed with the commissioner pursuant to NRS 695C.210 a minimum net worth in an amount:

- (a) Equal to \$1,500,000; or
- (b) Equal to 2 percent of the first \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, plus 1 percent of the amount in excess of \$150,000,000 earned as revenue from premiums collected in the preceding 12-month period, whichever is greater.

2. In addition to the requirements set forth in subsection 1, a health maintenance organization which receives a certificate of authority shall maintain:

(a) A surety bond or deposit of cash or securities for the protection of enrollees of not less than \$250,000.

(b) A contract of stop-loss insurance as required by NAC 695C.135 for new health maintenance organizations.

(c) ~~[A-b]~~ Blanket fidelity ~~[bond]~~ *coverage* as required by NAC 695C.120 for new health maintenance organizations.

(d) The operating~~[, premium tax]~~ and insolvency reserves required for new health maintenance organizations.

3. If the commissioner determines that the financial condition of a health maintenance organization fails to comply with the conditions set forth in NRS 695C.090, he may require the organization to:

(a) Maintain a net worth that is greater than the amount required by subsection 1;

(b) Obtain a written guarantee from a business which has sufficient surplus and an adequate history of generating net income to guarantee the maintenance of the minimum net worth of the health maintenance organization required by subsection 1 and obtain approval of the written guarantee and guarantor from the commissioner; or

(c) Comply with paragraphs (a) and (b).

4. If a health maintenance organization proposes to make a material modification to its approved plan of operations, it shall submit a copy of its proposed modification to the commissioner. The commissioner may, as a condition of approval for the proposed modification by the health maintenance organization, require the health maintenance organization to increase the amount of reserves, deposits, bonds or minimum net worth it is required to maintain. The commissioner may, in making such a determination, consider the conditions set forth in NRS 695C.090.

Sec. 4. NAC 695C.135 is amended as follows:

1. Each health maintenance organization shall obtain a contract of insurance for the cost of providing basic health care services which exceed in the aggregate:

(a) For a health maintenance organization in operation for 2 years or less, \$30,000 per enrollee

per year;

(b) For a health maintenance organization in operation for more than 2 years which has a free surplus of \$2,000,000 or less, \$50,000 per enrollee per year;

(c) For a health maintenance organization in operation for more than 2 years which has a free surplus of more than \$2,000,000, \$100,000 per enrollee per year;

(d) For a health maintenance organization in operation for more than 3 years which has a free surplus of more than \$4,000,000, \$150,000 per enrollee per year; and

(e) For a health maintenance organization in operation for more than 5 years which has a free surplus of more than \$8,000,000, \$200,000 per enrollee per year.

2. The contract of insurance must include a provision that, in the case of the insolvency of the health maintenance organization, the insurer will pay all claims made by an enrollee for the period for which a premium has been paid to the health maintenance organization. The contract may have an aggregate limit of \$5,000,000 but must specifically provide for the:

(a) Continuation of benefits to enrollees for the period for which the subscribers have made prepayments to the health maintenance organization;

(b) Continuation of benefits for those enrollees confined in a medical facility or facility for the dependent at the time of the insolvency of the health maintenance organization until the enrollee is discharged from the facility; and

(c) Payment of a provider not affiliated with the health maintenance organization who provided medically necessary services, as described in the evidence of coverage, to an enrollee.

3. Any contract of insurance obtained by a health maintenance organization under this section may be canceled only after 90 days' written notice of the cancellation is given to the division by the health maintenance organization and its insurer.

4. As used in this section:

(a) "Basic health care services" includes hospitalization but excludes any benefits under an optional plan for dental, vision or pharmaceutical benefits.

(b) "Free surplus" means the ~~[sum held by the health maintenance organization in assets and investments authorized by chapter 695C of NRS as its surplus and for its uncovered expenditures]~~ *total capital and surplus less any restricted funds, as reported on the most recent National Association of Insurance Commissioners Annual Statement.*

Sec. 5. NAC 695C.270 is amended as follows:

1. Each organization shall file its annual report ~~[on the form designated “Health Maintenance Organizations, Association Edition,” by the National Association of Insurance Commissioners, as it existed on August 1, 1990. That form, which is hereby adopted by reference, may be obtained at a cost of \$18 from Global Financial Press, 1845 Walnut Street, Philadelphia, Pennsylvania 19103, telephone: (215) 977-7458. The organization shall follow the instructions accompanying that form.]~~ *on the most current form for annual statements for a health organization adopted by the National Association of Insurance Commissioners, and which is hereby adopted by reference. The annual report must be:*

(a) Completed in accordance with the current manual of instructions for that form;

(b) Filed with the National Association of Insurance Commissioners in an electronic format;

and

(c) Filed on or before March 1 of each year.

2. *If a foreign or alien health maintenance organization files a statement in an electronic format with the National Association of Insurance Commissioners, that statement will be deemed to have been filed with the commissioner if:*

(a) The foreign or alien health maintenance organization submits an affidavit or a copy of the signed Jurat page to the commissioner indicating that the statement has been so filed; and

(b) The affidavit or the Jurat page is accompanied by the applicable fees set forth in NRS 680B.010.

~~[2]~~3. Each organization shall include in its annual report the number and amount of claims of malpractice initiated against it during that year. The report must include claims made with or without legal process and the disposition, if any, of each claim.

~~[3]~~4. Each organization shall furnish a copy of any annual report it distributes to its enrollees to the division 30 days before that distribution with a notice of its intent to distribute it.

~~[4]~~5. If an organization is required by federal law to submit quarterly reports to the ~~[Office of Health Maintenance Organizations]~~ *Health Care Financing Administration – Centers for Medicare & Medicaid Services*, it shall submit copies of those reports to the division.

~~[5]~~6. ~~[If deemed appropriate, the commissioner will require that a financial statement be submitted to him more frequently than annually.]~~ *Each domestic health maintenance organization shall file a quarterly statement. [If a] A quarterly statement [is required, it] must be:*

(a) Filed on the most current form for quarterly statements for ~~[an]~~ *a health* organization adopted by the National Association of Insurance Commissioners; ~~[and]~~

(b) Completed in accordance with the *current* instruction~~[s]~~ *manual* ~~[accompanying]~~ *for* that form; *and*

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

7. If necessary to determine a foreign or an alien health maintenance organization's financial condition, fulfillment of contractual obligations and compliance with law, the commissioner may require the foreign or alien health maintenance organization to file a financial statement more frequently than annually. Such a statement must be:

(a) Filed on the most current form for a health organization adopted by the National Association of Insurance Commissioners;

(b) Completed in accordance with the current manual of instructions for that form; and

(c) Filed with National Association of Insurance Commissioners in electronic format.

~~[6]~~8. For a health maintenance organization, the *audited* financial statement of the organization filed pursuant to subsection 3 of NRS 695C.210 is a separate document from the annual statement required to be filed pursuant to paragraph (a) of subsection 2 of NRS 695C.210. For a provider-sponsored organization, the *audited* financial statement of the organization filed pursuant to subsection 3 of NAC 695C.360 is a separate document from the annual statement required to be filed pursuant to paragraph (a) of subsection 2 of NAC 695C.360. The *audited* financial statement filed pursuant to subsection 3 of NRS 695C.210 or subsection 3 of NAC 695C.360 must be:

*(a) ~~[F]~~ Filed for each individual organization not later than ~~[90 days]~~ *120 days* after the end of its fiscal year; and*

(b) Filed pursuant to the specifications and instructions adopted by the National Association of Insurance Commissioners, which is included in the annual statement instructions and adopted by reference in NAC679B.033.

Consolidated statements for organizations that are members of an insurance holding company *system* are not acceptable.

~~[7]~~9. The commissioner will, if appropriate, take disciplinary action pursuant to NRS 695C.340 or 695C.350 or NAC 695C.1286 or 695C.1288 against an organization which fails to file its financial statements on the prescribed forms, *in the prescribed format*, or by the prescribed date. The commissioner will grant, for good cause and upon advance written request, an extension for

filing a statement.

Sec. 6. NAC 695C.275 is amended as follows:

1. Each health maintenance organization which receives a certificate of authority shall include in its annual report submitted to the commissioner pursuant to NRS 695C.210 the quality and performance indicators selected for each calendar year by the state board of health. The board will select the indicators from the reporting set data domains set forth in *Technical Specifications, Health Plan Employer Data and Information Set* (HEDIS), volume 2, in the form most recently published by the National Committee for Quality Assurance (**NCQA**), unless the board gives notice that the most recent revision is not suitable for this state pursuant to subsection 2. Volume 2 of HEDIS may be obtained *at the current NCQA price* from the National Committee for Quality Assurance *at 1-888-275-7585 or by mail from [Publications Center, P.O. Box 533, Annapolis Junction, Maryland 20701-0533] NCQA, Attention: EPS, 2000 L Street, NW, Suite 500, Washington, DC 20036 or at www.ncqa.org. [for the price of \$245, plus a charge \$14 for shipping and handling.]*

2. The state board of health shall review each revision of the reporting set data domains ~~[adopted by reference pursuant to]~~ **noted in** subsection 1 to ensure their suitability for this state. If the board determines that a revision is not suitable for this state, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the board does not revise its determination, the board will, within 30 days after the hearing, give notice that the revision is not suitable for this state. If the board does not give such notice, the revision becomes part of the reporting set data domains adopted by reference pursuant to subsection 1.